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# Executive Orders

## EXECUTIVE ORDER EWE 85-35

WHEREAS, the governor and the legislature of Louisiana have declared that the improvement of education in this state is a priority; and

WHEREAS, many functions not directly involving education are now being administered by the state Department of Education; and

WHEREAS, it is incumbent upon the governor to make whatever changes that are possible to free the administrators of the Department of Education from non-education related duties; and

WHEREAS, the Food Distribution (Commodities) Program conducted by the United States Department of Agriculture is now being administered by the state Department of Education; and

WHEREAS, in a number of states the Food Distribution (Commodities) Program of the state is administered by departments other than education;

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

SECTION 1: The federal Food Distribution (Commodities) Program currently being administered by the state Department of Education is hereby transferred and assigned to the state Department of Agriculture.

SECTION 2: All personnel and all of the equipment assigned to the state Department of Education for use in the Food Distribution (Commodities) Program, including but not limited to trucks, refrigerated trailers, desks, chairs, filing cabinets, and computer software and terminals, and any maintenance contracts and leases, are transferred to the state Department of Agriculture.

SECTION 3: The effective date of this transfer shall be August 1, 1985.

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 9th day of July, 1985.

Edwin W. Edwards  
Governor of Louisiana

ATTEST BY  
THE GOVERNOR  
Jim Brown  
Secretary of State

## EXECUTIVE ORDER EWE 85-36

WHEREAS, by Act No. 715 of the 1979 Regular Session of the Legislature, and subsequent amendments thereto, the legislature has enacted the Louisiana Procurement Code to provide increased economy and safeguards in state procurement activities; and

WHEREAS, centralization of public procurement of supplies, services, and the like has proven beneficial to the state in both financial savings and record keeping; and

WHEREAS, the best interests of the state will be served by having as many state agencies as possible to have their purchasing handled through the central purchasing agency of the Division of Administration;

NOW THEREFORE I, EDWIN EDWARDS, Governor of the State of Louisiana, pursuant to R.S. 39:1572(B), do hereby order and direct the commissioner of administration to promul-

gate regulations to require the Department of Education to conduct procurement through the central purchasing agency of the Division of Administration. The provisions of this order shall apply only to R.S. 39:1572(B)(5).

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 9th day of July, 1985.

Edwin W. Edwards  
Governor of Louisiana

ATTEST BY  
THE GOVERNOR  
Jim Brown  
Secretary of State

## EXECUTIVE ORDER EWE 85-37

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

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

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

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

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

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

AMOUNT OF ALLOCATIONS	NAME OF ISSUER	NAME OF PROJECT
\$ 725,000	Industrial Revenue Bonds	Dr. Jack S. Resneck Project
\$ 750,000	La. Public Facilities Authority Industrial Revenue Bonds	JMT Properties, Inc. Project
\$ 900,000	Revenue Bonds	United Leasing Company Project

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

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

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

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

SECTION 6: This executive order shall be effective upon signature of the governor.

IN WITNESS WHEREOF, I have hereunder set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge on this 12th day of July, 1985.

Edwin W. Edwards  
Governor of Louisiana

ATTEST BY  
THE GOVERNOR  
Jim Brown  
Secretary of State

**EXECUTIVE ORDER EWE 85-38**

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

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

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

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

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

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

AMOUNT OF ALLOCATIONS	NAME OF ISSUER	NAME OF PROJECT
\$1,171,053	La. Public Facilities Authority Revenue Bonds	Westbank Physicians Professional Building Partnership Project
\$ 155,250	La. Agricultural Finance Authority Agricultural Revenue Bonds	Creole Fermentation Industries, Inc.
\$ 258,750	La. Agricultural Finance Authority Agricultural Revenue Bonds	Gilbert Gin Co., Inc.
\$ 67,000	La. Agricultural Finance Authority Agricultural Revenue Bonds	Larry Branch
\$ 150,000	La. Agricultural Finance Authority Agricultural Revenue Bonds	John M. Ammons
\$ 258,750	La. Agricultural Finance Authority Agricultural Revenue Bonds	Henry A. Logue

\$ 54,027	La. Agricultural Finance Authority Agricultural Revenue Bonds	J. A. McDaniel
\$ 68,000	La. Agricultural Finance Authority Agricultural Revenue Bonds	Joe L. Morris
\$ 41,291	La. Agricultural Finance Authority Agricultural Revenue Bonds	John M. Morris, Jr.
\$ 250,000	La. Agricultural Finance Authority Agricultural Revenue Bonds	Guy D. Pardue
\$ 75,000	La. Agricultural Finance Authority Agricultural Revenue Bonds	Dayton Waller, Jr., d/b/a Halifax Plantation
\$ 95,000	La. Agricultural Finance Authority Agricultural Revenue Bonds	C. Keith Capdepon, d/b/a Elkridge Plantation
\$ 82,901	La. Agricultural Finance Authority Agricultural Revenue Bonds	Jack P. Mabray, d/b/a Somerset Plantation
\$ 170,984	La. Agricultural Finance Authority Agricultural Revenue Bonds	E. R. McDonald & Sons, Inc.
\$ 336,788	La. Agricultural Finance Authority Agricultural Revenue Bonds	Texas Road Gin Company, Inc.
\$ 62,100	La. Agricultural Finance Authority Agricultural Revenue Bonds	Rex Kervin
\$ 277,025	La. Agricultural Finance Authority Agricultural Revenue Bonds	Robert Wayne Lewing and Delores Marlene Lewing
\$ 277,025	La. Agricultural Finance Authority Agricultural Revenue Bonds	James D. Seegers and Betty Jane Ebarb Seegers
\$ 151,975	La. Agricultural Finance Authority Agricultural Revenue Bonds	Alton Lewing and Maribeth Lewing

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

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

SECTION 4: Pursuant to Section 103(N)(12) of the Internal Revenue Code of 1954, as amended, the undersigned certi-

fies, under penalty of perjury, that the allocations granted hereby were not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

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

SECTION 6: This executive order shall be effective upon signature of the governor.

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

Edwin W. Edwards  
Governor of Louisiana

ATTEST BY  
THE GOVERNOR  
Jim Brown  
Secretary of State

### EXECUTIVE ORDER EWE 85-39

WHEREAS, the United States Department of Housing and Urban Development ("HUD") is authorized under Section 17 of the United States Housing Act of 1937 (the "Act") to make housing development grants ("HDG's") to states under certain conditions for new construction or substantial rehabilitation of real property to be used primarily for residential rental purposes; and

WHEREAS, the Louisiana Housing Finance Agency ("agency"), a corporate body politic and political subdivision of the State of Louisiana ("state") created under Chapter 3-A of Title 40 of the Louisiana Revised Statutes of 1950, as amended, is authorized to submit on behalf of the state applications for HDG's for and with the approval of municipalities located within the state; and

WHEREAS, HUD has awarded to the state three HDG's to be utilized for multifamily housing projects located in Kinder, Breaux Bridge and Tallulah; and

WHEREAS, HUD has conditioned the disbursement of the HDG's on an appropriate delegation agreement between the state and the agency so that the agency may assume all administrative responsibilities under certain grant agreements and letters of credit with respect to the aforementioned projects; and

WHEREAS, the Act authorizes the agency to execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under the Act with any federal or state governmental agency, public or private corporation, lending institution or other entity or person; and

WHEREAS, the Act authorizes the agency to accept federal, state, or private financial or technical assistance and to comply with any conditions for such assistance;

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

SECTION 1: The Louisiana Housing Finance Agency is hereby authorized and designated to act on behalf of the State of Louisiana under the provisions of the United States Housing Act of 1937 for the purpose of administering housing development grants awarded to the state in fiscal year 1985 with respect to multifamily projects located in Kinder, Breaux Bridge and Tallulah, Louisiana, pursuant to applications submitted to the U.S. Department of Housing and Urban Development.

SECTION 2: The Louisiana Housing Finance Agency shall evidence its acceptance of this authorization by an appropriate resolution adopted by its Board of Commissioners and upon the adoption of such a resolution, the same and this executive order shall jointly constitute a delegation agreement as required by HUD with respect to the aforementioned projects.

SECTION 3: This executive order shall be effective as of July 10, 1985.

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 25th day of July, 1985.

Edwin Edwards  
Governor of Louisiana

ATTEST BY  
THE GOVERNOR  
Jim Brown  
Secretary of State

### EXECUTIVE ORDER EWE 85-40

WHEREAS, the protection and promotion of the overall well being of the children of this state is of primary importance to this administration as the future of the state is largely dependent on the same; and

WHEREAS, many governmental programs and services are planned or have been implemented to meet the physical, emotional, and educational needs of our children; and

WHEREAS, cooperation and communication between providers and consumers of children's services are essential to achieve coordination of benefits and consistency of goals, thus maximizing the results of the programs and services;

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

SECTION 1: The Coordinating Council of Services for Children is created within the office of the governor.

SECTION 2: The council shall be composed of 20 members, as follows:

1. The secretary of the Department of Health and Human Resources, or her designee.
2. The assistant secretary of the Department of Public Safety and Corrections, office of juvenile services, or his designee.
3. The secretary of the Department of Labor, or his designee.
4. The secretary of the Department of Urban and Community Affairs, or her designee.
5. The superintendent of education, or his designee.
6. The commissioner of the Division of Administration, or her designee.
7. The executive director of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, or his designee.
8. One representative of the Office of the Governor.
9. The chairman of the Governor's Advisory Board on Juvenile Justice and Delinquency Prevention.
10. Eleven members shall be appointed by the governor as follows:

- a. One judge with juvenile jurisdiction.
- b. One district attorney.
- c. One sheriff.
- d. One representative from each of the eight state planning districts who has knowledge of and is concerned with the problems and issues related to children and youth.

SECTION 3: Each member appointed by the governor shall serve at the pleasure of the governor. Any vacancy occurring on the council shall be filled in the manner of the original appointment.

SECTION 4: The duties of the council are to:

1. Review the status of the recommendations of the governor's Commission on Children and Youth and to meet annually with the governor to give a progress report.

2. Review current policies relative to the concerns of children and youth.

3. Establish a comprehensive data base for the planning and dissemination of data.

4. Carry out long-range planning studies.

5. Coordinate all services to children and families by reviewing plans and programs for duplication and gaps in services.

6. Review appropriate agency budgets to set funding priorities and to make recommendations accordingly to the governor.

7. Monitor the progress of council recommendations.

8. Identify needs in children's service delivery programs and recommend necessary programs to meet these needs.

9. Work with the appropriate legislative committees to insure implementation of programs and adequate funding therefor.

10. Encourage joint planning and mutual decision making among agencies.

SECTION 5: The council may receive grants, donations, or gifts of money, equipment, supplies, and services from any public or private source to carry out its duties hereunder.

SECTION 6: The governor shall appoint the chairman of the council and the council may elect such other officers as it deems necessary.

SECTION 7: The council shall meet bimonthly and at other times on call of the chairman. A majority of the members shall constitute a quorum for the transaction of business.

SECTION 8: Members shall serve without compensation, but shall be reimbursed for actual travel expenses incurred at meetings of the council in accordance with regulations of the Division of Administration.

SECTION 9: This order shall remain in effect until amended or modified by the governor or until terminated by operation of law.

IN WITNESS WHEREOF, I have hereunder set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge on this 25th day of July, 1985.

Edwin Edwards  
Governor of Louisiana

ATTEST BY  
THE GOVERNOR  
Jim Brown  
Secretary of State

#### EXECUTIVE ORDER EWE 85-41

WHEREAS, infestation by the Southern Pine Beetle *Dendroctonus frontalis* (Zimm) has been discovered in approximately 30 parishes of the state; and

WHEREAS, this insect pest poses a severe threat of public disaster, namely the virtual destruction of the forests of Louisiana; and

WHEREAS, in accordance with L.R.S. 3:1654, the state entomologist of the Louisiana Department of Agriculture has prepared a list of dangerous crop and fruit pests, to include the Southern Pine Beetle; and

WHEREAS, the state entomologist has declared certain geographic areas under quarantine and has directed implementation of control measures to eradicate this insect pest; and

WHEREAS, the state entomologist has insufficient personnel to conduct the on premises inspections or the equipment to place the control measures in effect; and

WHEREAS, the Louisiana National Guard has both personnel and equipment suitable to conduct these operations;

NOW, THEREFORE, I, EDWIN W. EDWARDS, Gover-

nor of the State of Louisiana, do hereby order and direct as follows:

That the National Guard provide necessary manpower and equipment to assist in protection actions necessary to alleviate the destruction of Louisiana forests by the Southern Pine Beetle.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 1st day of August, A.D., 1985.

Edwin Edwards  
Governor of Louisiana

ATTEST BY  
THE GOVERNOR  
Jim Brown  
Secretary of State

## Emergency Rules

### DECLARATION OF EMERGENCY

#### Department of Agriculture Office of Agriculture and Environmental Sciences

Source: LSA 3:1651-1655 and Quarantine Rules and Regulations Promulgated by the State Entomologist and Commissioner of Agriculture, and published in the *Louisiana Register* on April 20, 1985.

Rule Title: Southern Pine Beetle Rule and Quarantine (Regulated Area)

Specific Reasons for Finding an Immediate Danger to the Public Health, Safety and Welfare

The state entomologist has evidence that the Southern Pine Beetle has seriously infested numerous areas of the state. Accordingly, this grave situation requires promulgation of an emergency rule to designate regulated areas, and to describe the recommended control measures to be taken in specific areas, in an effort to suppress this dangerous pest.

The further spread of the southern pine beetle throughout the forested areas of Louisiana will cause substantial financial damage to the Louisiana forest landowners and industry. Due to the warm semi-tropical climate in Louisiana, this pest may, if populations are allowed to continue to spread throughout the state, inflict even greater economic damage on an annual basis and may even kill most pine forest timber in Louisiana.

In view of the specific facts and reasons above mentioned, and in accordance with the constitutional and statutory authority of the commissioner of agriculture and the Louisiana Department of Agriculture (see R.S. 3:1651-1655), the state entomologist does hereby find that an immediate danger to the public health, safety and welfare exists and declares regulated areas for the southern pine beetle, as set forth in the emergency rule hereinafter adopted.

A copy of this emergency rule may be obtained by writing to: Dr. John W. Impson, State Entomologist, Louisiana Department of Agriculture, Box 44153, Baton Rouge, LA 70804.

Bob Odom  
Commissioner

## DECLARATION OF EMERGENCY

### Department of Agriculture Office of Agricultural and Environmental Sciences Feed Commission

Pursuant to the authority granted under R.S. 3:1892, the Feed Commission has exercised the emergency provision of the Administrative Procedure Act (R.S. 49:953(B)) to amend the following rules effective July 30, 1985.

LAC 7:10703(A)(4)(h) was amended to read as follows:

h. Exemptions

i. Guarantees for minerals are not required when there are no specific label claims and when the commercial feed contains less than six and one-half percent of the total of calcium, phosphorus, sodium and chloride. Except that all commercial feeds for dairy use sold in bulk shall be accompanied by a label stating the content of these materials.

\* \* \*

LAC 7:10721(F) was amended to read as follows:

F. In the case of a commercial feed which is distributed in this state only in packages of 10 pounds or less, an annual fee of \$100 shall be paid in lieu of the inspection fee provided in Subsection D of this Section.

LAC 7:10723 was amended to include Subsection C:

C. Penalties shall be assessed as provided for in R.S. 3:1900. If an official sample shows that feed ingredients bought by a feed manufacturer is deficient, any penalties resulting from this deficiency shall be paid by the supplier of the ingredients to the manufacturer that bought the ingredients.

LAC 7:10745(A)(2) was amended to read as follows:

2. The processed animal waste product contains any pathogenic organisms, drug residues, pesticide residues, harmful parasites or other toxic or deleterious substances above levels permitted by state regulations, Federal Food, Drug and Cosmetic Act, Section 406, 408, 409 and 706, or which could be harmful to animals, or which could result in residue in the tissue or by-products of animals above levels determined to be harmful.

Bob Odom  
Commissioner

## DECLARATION OF EMERGENCY

### Department of Commerce Office of Commerce and Industry

The Department of Commerce, Office of Commerce and Industry, is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953B, to implement a rule effective September 1, 1985. This rule will implement procedures for administering the Local Economic Development Support Fund authorized by Act 634 of the 1984 Legislature.

#### Local Economic Development Support Fund

1. Area of Service

All contractees shall provide evidence of membership by resolution from affected governmental bodies that services shall be provided to the area stipulated in the contract and/or by copy of charter and bylaws.

2. Staff

Contractee organization shall be directed by a full-time, paid professional economic developer.

3. Formula for distribution of monies

The monies shall be distributed on the basis of population, number of businesses within contracting area and number of services performed under the contract. Population shall have a weight of 30 percent, municipalities shall have a weight of 10 percent and number of businesses shall have a weight of 60 percent.

4. Scope of work

Scope of work shall be individually negotiated with each applicant from the following tasks but shall include at least 10 of the following:

- a. provide community data summaries on all applicable communities
- b. provide data on industrial parks on approved forms
- c. provide data on industrial sites on approved forms
- d. provide data on industrial buildings on approved forms
- e. report on annual inspection of industrial parks, sites and buildings
- f. develop an office space guide
- g. develop marketable properties
- h. develop acceptable sales teams
- i. develop promotional materials on areas and properties
- j. participate in C&I prospecting trips
- k. encourage development of local development corporations
- l. assist Ready Cities Program
- m. identify federal/state funding for constituency
- n. provide loan packaging
- o. provide financing assistance
- p. identify applicants and provide assistance for the SBIR program
- q. identify joint venture/licensing opportunities
- r. provide export assistance
- s. identify opportunities for establishing businesses
- t. maintain a library of entrepreneurial materials
- u. establish a computer link with C&I
- v. maintain a list of key loan officers in area lending institutions
- w. develop audio visual promos on applicable areas
- x. joint federal/state procurement assistance
- y. provide planning, zoning and subdivision technical assistance
- z. sponsor economic development seminars
- aa. sponsor/cosponsor national/international advertising
- bb. provide economic development infrastructure development
- cc. promote the increase of available venture capital
- dd. assist with mapping and technical assistance in the Enterprise Zone Program
- ee. prepare UDAG applications
- ff. provide quarterly report of plant locations, expansions, closings and layoffs

6. Reporting

All contractees shall submit a quarterly narrative and financial report to the Office of Commerce and Industry.

7. The following application shall be submitted to: Assistant Secretary, Department of Commerce, Office of Commerce and Industry, Box 94185, Baton Rouge, LA 70804-9185.

Applications for funding for FY 1985-1986 shall be submitted by 10 a.m. on August 26, 1985.

Requests for additional copies of the rules and the application and questions and comments should be addressed to: Nadia L. Goodman, Director, Policy and Planning, Office of Commerce and Industry, Box 94185, Baton Rouge, LA 70804-9185.

William T. Hackett  
Assistant Secretary

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

The State Board of Elementary and Secondary Education, at its meeting of July 25, 1985, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953B and adopted the following item as an emergency rule:

The board approved for one year, the following revised Elementary School Program of Studies and Minimum Time Requirements as presented by the department and amended by the board:

#### INTERIM SCHEDULE 1985-86 330-MINUTE INSTRUCTIONAL DAY

#### *Elementary School Program of Studies and Minimum Time Requirements*

Grades 1 through 8 shall adhere to the following minimum time requirements per subject area regardless of the organizational pattern of the school.

#### GRADES 1, 2, and 3

	Periods Per Week	Minimum Time	Refer to Bulletin:
Language Arts	5	165	1588
Mathematics	5	60	1609
Science & Social Studies	5	45	1613, 1601
Health and Physical Education	5	30	1596, 1597
Music, Arts and Crafts	5	30	1586, 1591
_____			
330 min.			

English as a second language may be offered as a part of Language Arts.

The optional state funded foreign language program may be offered for a maximum of 30 minutes per day in the subject area(s) designated by the local school system.

An articulated elementary foreign language program for 30 minutes daily in grades four through six shall be required for academically able students and shall be optional for all others.

An academically able student is defined as one who is functioning at grade level as determined by the local school system. For special education students identified in accordance with Bulletin 1508, *Pupil Appraisal Handbook*, the I.E.P. Committee shall determine the student's eligibility to receive foreign language instruction, provided the student is performing at grade level.

Implementation of the articulated foreign language program in grades four through six shall begin with grades four in school year 1985-86 and extend upward at least one grade each year.

#### GRADES 4, 5, and 6

	Periods Per Week	Minimum Time	Refer to Bulletin:
Language Arts	5	120	1588
Mathematics	5	60	1609
Social Studies	5	45	1601
Science	5	45	1613
Health and Physical Education	5	30	1596, 1597
Music, Arts and Crafts	5	30	1586, 1591
_____			
330 min.			

English as a second language may be offered as a part of Language Arts.

The mandated foreign language program at grade four shall be offered for 30 minutes per day in the subject area(s) designated

by the local school system, unless a waiver has been granted by the State Board of Elementary and Secondary Education.

The optional state funded foreign language program may be offered for a maximum of 30 minutes per day in the subject area(s) designated by the local school system.

An articulated elementary foreign language program shall be required in grades seven and eight for 150 minutes per week as a part of the Language Arts time for all academically able students, and shall be optional for all others.

An academically able student is defined as one who is functioning at grade level as determined by the local school system. For special education students identified in accordance with Bulletin 1508, *Pupil Appraisal Handbook*, the I.E.P. Committee shall determine the student's eligibility to receive foreign language instruction, provided the student is performing at grade level.

Implementation of the articulated foreign language program in grades seven and eight shall begin with grade seven in 1987-88 and grade eight in 1988-89.

#### GRADES 7 and 8 (6-Period Day Option)

	Periods Per Week	Minimum Time	Refer to Bulletin:
Language Arts	5	110	1589
Mathematics	5	55	1609
Social Studies (American Studies, Grade 7; La. Studies, Grade 8)	5	55	1604 1605
Science	5	55	1614, 1643
Health and Physical Education or Health and Physical Education and Electives	5	55	1596, 1597
_____			
330 min.			

This emergency adoption is necessary in order that the schedule will be in place for the 1985-86 school year.

James V. Soileau  
Executive Director

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

The State Board of Elementary and Secondary Education, at its meeting of July 25, 1985, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953B, and adopted the following item as an emergency rule:

The board extended for an additional year, the present policy on the employment of noncertified school personnel with an amendment to exclude speech, language and hearing specialists.

This emergency adoption is necessary in order to allow public school superintendents to hire teachers who have a minimum of a baccalaureate degree but who are not certified to fill teaching positions when a fully certified teacher is not available.

James V. Soileau  
Executive Director

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

The State Board of Elementary and Secondary Education, at its meeting of July 25, 1985, exercised those powers conferred



by the emergency provisions of the Administrative Procedure Act, R.S. 49:953B, and adopted the following item as an emergency rule:

The board approved the recommendations of the department that temporary certificates shall not be issued to speech, language and hearing specialists.

The emergency adoption is necessary in order that the policy will be in place for the 85-86 school year.

James V. Soileau  
Executive Director

### **DECLARATION OF EMERGENCY**

#### **Board of Elementary and Secondary Education**

The State Board of Elementary and Secondary Education, at its meeting of July 25, 1985, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953B, and adopted the following item as an emergency rule:

The board extended for one year, the present policy on temporary employment permits.

This emergency adoption is necessary in order that the local school systems that are experiencing a teacher shortage and cannot employ a regularly certified teacher may do so for the 1985-86 school year.

James V. Soileau  
Executive Director

### **DECLARATION OF EMERGENCY**

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

The Governor's Office of Elderly Affairs (GOEA) has exercised the emergency provision of the Administrative Procedure Act, R.S. 953-B to adopt the following amendment to the GOEA Policy Manual.

#### **RULE**

Effective September 20, 1985, Chapter 3 of the Subsection VI of Section 800 of the GOEA Policy Manual will be amended to read as follows:

#### **CHAPTER 3 DISPOSITION OF REPORTS**

A copy of the completed audit report and the management letter, if any, should be filed with the Governor's Office of Elderly Affairs and with the Legislative Auditor within 150 days of the close of the audit period. Failure to file a copy of an audit report with the Governor's Office of Elderly Affairs may result in delay or suspension of funding.

It is necessary to adopt this as an emergency rule to conform to proposed changes in Subsection IX of Section 800.

The Notice of Intent to implement this amendment to the GOEA Policy Manual is published 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. 49:953-B to adopt the following rule in the Aid to Families with Dependent Children and Refugee Cash Assistance Programs.

Current Aid to Families with Dependent Children and Refugee Cash Assistance Program guidelines require that grants be prorated from the application date if certification is effective the month of application. Budgetary limitations require the following changes so that levels of services in certain other departmental programs can be maintained.

#### **RULE**

Effective August 1, 1985, the Office of Family Security is changing its method of determining the effective date that Aid to Families with Dependent Children and Refugee Cash Assistance benefits are paid at initial certification when a case is certified effective the month of application. This rule provides that effective August 1, 1985, persons certified for AFDC or RCA benefits in the same month in which they apply will be paid effective the date the eligibility decision is made rather than effective the date of application.

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

### **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 implement the following emergency rule.

#### **RULE**

Effective August 1, 1985 the Department of Health and Human Resources, Office of Family Security, will freeze prices for durable medical equipment, supplies and prosthetic, and orthotic services at the 1984/85 levels. Payment for these items will be determined at the lesser of billed charges, area prevailing rate for FY 84/85 or the provider's price of record for FY 84/85.

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.

This emergency rule is necessary due to current budgetary constraints and to insure availability of funds to provide medically necessary services throughout the fiscal year.

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

### **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. 49:953-B to adopt the following rule in the General Assistance Program.

Current policy allows for the payment of General Assistance benefits to indigent persons who have either a temporary or a partial disability. Current budgetary limitations require the following changes so that levels of services in certain other departmental programs can be maintained.

#### **RULE**

Effective August 1, 1985, the Department of Health and Human Resources, Office of Family Security, will discontinue accepting applications for its General Assistance Program.

The benefits currently being paid under the General Assistance Program will be phased out with all expenditures being eliminated no later than June 30, 1986.

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

### **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 provisions of the Administrative Procedure Act, R.S. 49:953B to adopt the following rule in the Medical Assistance Program.

##### **Summary**

Current program policy provides for one pair of adult dentures every five years and a second pair within this period if there are extenuating circumstances, such as theft. This emergency rule will eliminate the provision for a second pair of adult dentures within the five-year period under any circumstances. Current budgetary limitations require that the following change be implemented in order that levels of services in other departmental programs may be maintained.

##### **Rule**

Effective August 1, 1985, the Medical Assistance Program will pay for only one pair of adult dentures within a five-year period. There are no provisions for exceptions to this policy.

##### **Regulatory Exception**

Implementation of this rule is subject to approval by the Health Care Financing Administration (HCFA) as required for all Title XIX policy changes. If disapproved by HCFA, the policy prior to this change shall remain in effect.

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

### **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 provisions of the Administrative Procedure Act, R.S. 49:953B to adopt the following rule in the Medical Assistance Program.

##### **Summary**

Chiropractic services is an optional program service under Title XIX (Medicaid) of the Social Security Act. The current program provides for up to six chiropractic services per recipient per calendar year. This emergency rule will eliminate program coverage for chiropractic services.

Current budgetary limitations require that the following change be implemented in order that levels of services in other departmental programs may be maintained.

##### **Rule**

Effective August 1, 1985, the Medical Assistance Program will eliminate program coverage for chiropractic services.

##### **Regulatory Exception**

Implementation of this rule is subject to approval by the Health Care Financing Administration (HCFA) as required for all Title XIX policy changes. If disapproved by HCFA, the policy prior to this change shall remain in effect.

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

### **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 provisions of the Administrative Procedure Act, R.S. 49:953B to adopt the following rule in the Medical Assistance Program.

##### **Summary**

The Medical Assistance Program currently reimburses in-state hospitals for outpatient services the lower of charges or costs except for laboratory services which are limited to the Medicare payment rate. Interim payment on a claim basis has historically been 100 percent of billed charges for all outpatient services until the Medicare fee schedule was implemented for laboratory services in October, 1984. Out-of-state hospitals are reimbursed 85 percent of billed charges with the same exception for laboratory services to be limited to Medicare's payment rate. This rulemaking would reduce interim payments to in-state hospitals and payments to out-of-state hospitals to 72 percent of billed charges with the exception of specific laboratory procedures which will continue to be limited to the Medicare payment rate. This will enhance congruency between interim claim payments and final reimbursement determined at cost settlement for each hospital. Services will not be reduced.

Current budgetary limitations require that the following changes be implemented in order that levels of services in certain other departmental programs may be maintained.

##### **Rule**

Effective for hospital outpatient services provided on or after August 1, 1985, interim reimbursement to in-state hospitals and reimbursement to out-of-state hospitals shall be 72 percent of billed charges. Outpatient laboratory services shall continue to be paid the lower of billed charges or the Medicare fee schedule rate for the service. Billed charges, in accordance with federal regulations, must be reasonable and may be either the customary charge of the supplier to all users or the prevailing charge in a locality for comparable services.

##### **Regulatory Exception**

Implementation of this rule is subject to approval by the Health Care Financing Administration (HCFA) as required for all Title XIX policy changes. If disapproved by HCFA, the policy prior to this change shall remain in effect.

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

### **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 provisions of the Administrative Procedure Act, R.S. 49:953B to adopt the following rule in the Medical Assistance Program.

##### **Summary**

The Medical Assistance Program currently exempts neonatal/pediatric intensive care unit, burn unit and transplant unit services from the target rate limitation applicable to inpatient hospital services. Reimbursement of these services is based on allowable costs in accordance with Medicare principles of reimbursement. Effective for cost reporting periods beginning August 1, 1985, these services shall be capped at three times the hospital's target rate per discharge applicable to all admissions.

Current budgetary limitations require that the following changes

be implemented in order that current levels of services in certain other departmental programs may be maintained.

**Rule**

Effective for cost reporting periods beginning August 1, 1985, the Medical Assistance Program shall amend the reimbursement methodology for inpatient hospital services to limit the allowable costs for neonatal/pediatric intensive care unit, burn unit and transplant unit services to three times the hospital's target rate per discharge. These costs shall no longer be passed through and reimbursed 100 percent (100%) of allowable costs in accordance with Medicare principles.

**Regulatory Exception**

Implementation of this rule is subject to approval by the Health Care Financing Administration (HCFA) as required for all Title XIX policy changes. If disapproved by HCFA, the policy prior to this change shall remain in effect.

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

**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 provisions of the Administrative Procedure Act, R.S. 49:953B to adopt the following rule in the Medical Assistance Program.

**Summary**

The Medical Assistance Program currently reimburses for hospital inpatient services under a target rate per discharge methodology which places a ceiling on the rate of increase in routine operating costs. The hospital's actual cost per discharge is compared to this target rate during the cost settlement process at each hospital's year end. If actual cost per discharge is less than the target rate, an incentive payment of 50 percent of the difference between the rates, not to exceed five percent of the target rate, is made. The provision for incentive payments above the provider's cost is being deleted from the reimbursement methodology. This provision does not affect those units "carved out" from the target rate limitation (neonatal and pediatric intensive care, burn unit and transplant services).

Current budgetary limitations require that the following changes be implemented in order that current levels of services in certain other departmental programs may be maintained.

**Rule**

Effective for cost reporting periods beginning on or after August 1, 1985, the Medical Assistance Program is amending its reimbursement methodology for inpatient hospital services to delete the provision for incentive payments when the hospital's actual costs do not exceed the target rate limitation. Hospitals shall be reimbursed for inpatient services the lower of costs or the target rate limitation amount.

**Regulatory Exception**

Implementation of this rule is subject to approval by the Health Care Financing Administration (HCFA) as required for all Title XIX policy changes. If disapproved by HCFA, the policy prior to this change shall remain in effect.

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

**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 provisions of the Administrative Procedure Act, R.S. 49:953B to adopt the following rule in the Medical Assistance Program.

**Summary**

The Medical Assistance Program currently reimburses inpatient services provided by out-of-state hospitals in accordance with that state's Medicaid reimbursement methodology. The majority of these providers are reimbursed either a per diem or a percentage of billed charges ranging from 85 to 95 percent. This frequently results in out-of-state providers being reimbursed more than in-state providers. Therefore, reimbursement to out-of-state providers is being amended for payment to be made at 72 percent of billed charges based on the current cost to charges ratio.

Current budgetary limitations require that the following change be implemented in order that current levels of services in certain other departmental programs may be maintained.

**Rule**

Effective August 1, 1985, the Medical Assistance Program shall amend the reimbursement methodology for out-of-state hospitals enrolled as Medicaid providers to provide that payment for inpatient services shall be 72 percent of billed charges.

**Regulatory Exception**

Implementation of this rule is subject to approval by the Health Care Financing Administration (HCFA) as required for all Title XIX policy changes. If disapproved by HCFA, the policy prior to this change shall remain in effect.

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

**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 provisions of the Administrative Procedure Act, R.S. 49:953B to adopt the following rule in the Medical Assistance Program.

**Summary**

Medical Assistance Program policy currently provides for additional inpatient hospital days when a recipient exhausts the 15 days per calendar year allowed under the service limitations if the need for additional days is due to a life-threatening emergency and the services are not available from a state charity hospital. The provision for additional days is being eliminated.

Current budgetary limitations require that the following change be implemented in order that current levels of services in certain other departmental programs may be maintained.

**Rule**

Effective August 1, 1985, the Medical Assistance Program shall amend the service limitations for inpatient hospital services to eliminate the provision for additional days beyond the 15-day limit. No exceptions to the limit of 15 inpatient hospital days per calendar year per recipient shall be allowed.

**Regulatory Exception**

Implementation of this rule is subject to approval by the Health Care Financing Administration (HCFA) as required for all Title XIX policy changes. If disapproved by HCFA, the policy prior to this change shall remain in effect.

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

## 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 implement the following emergency rule.

#### RULE

Effective August 1, 1985 the Department of Health and Human Resources, Office of Family Security will make payment for orthopedic shoes and/or shoe correction for recipients only when the shoes are attached to braces or when needed to protect gains from surgery or casting. Payment will not be made for orthopedic shoes/corrections for minor orthopedic problems i.e. pes planus, metatarsus adductus, and internal tibia torsion.

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.

This emergency rule is necessary due to current budgetary constraints and to insure availability of funds to provide medically necessary services throughout the fiscal year.

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

## 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 implement the following emergency rule.

#### RULE

Effective August 1, 1985 the Department of Health and Human Resources, Office of Family Security will reduce the personal care needs allowance for Medicaid recipients in skilled and ICF facilities from \$40 to \$25 (\$28 for grandfathered aged recipients). The reduction of personal care needs will terminate optional state supplementation payments of up to \$15 a month, effective August 1, 1985.

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.

This emergency rule is necessary due to current budgetary constraints and to insure availability of funds to provide medically necessary services throughout the fiscal year.

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

## DECLARATION OF EMERGENCY

### Department of Health and Human Resources Office of Preventive and Public Health Services Division of Regulatory Services

The Department of Health and Human Resources, Office of Preventive and Public Health Services, Division of Regulatory Services has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953 (B), to amend Chapter 13 of the State Sanitary Code relative to "Sewage and Refuse Disposal." The predominant changes brought about by these

amendments are to those sections of Chapter 13 which have a bearing on minimum lot size and related limitations dealing with the use of individual sewage disposal facilities.

These amendments are necessary (1) to relieve the severe economic burden previously imposed upon many citizens when property which could not conform to former requirements was effectively taken out of commerce; and, (2) to provide for immediate necessary compatibility between state and parish/local regulations.

A copy of the proposed rules may be obtained from Frank Deffes, Chief Sanitarian, 325 Loyola Avenue, Room 206, Box 60630, New Orleans, LA 70160.

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

## DECLARATION OF EMERGENCY

### Department of the Treasury Bond Commission

#### VACANCY GUIDELINES FOR MULTIFAMILY HOUSING DEVELOPMENTS (NEW CONSTRUCTION)

New multifamily housing applications whereby the vacancy rate in the area of the new construction equals or exceeds 20 percent, according to an acceptable vacancy study, will not be docketed for consideration. In parishes, or sections of parishes, for which no study has been completed, the developer will be required to arrange for a study indicating vacancy rates and such study will have to be acceptable to the issuer and the commission.

Inducements for new construction in areas that have more than 15 percent and less than 20 percent vacancy rates would be prohibited unless a specific feasibility study and vacancy rate study by the developer justifies such a development. Both studies would have to be completed no more than 90 days prior to inducement.

At the time of preliminary consideration by the Bond Commission acceptable vacancy rate studies as mentioned herein must be current up to 180 days.

New construction for special purpose needs (mainly elderly and handicapped housing) are exempt from these vacancy guidelines.

All new construction multifamily housing developments induced by an issuer prior to July 23, 1985, are exempt from these vacancy guidelines.

Please consider this formal notice of our action pursuant to LRS 49:953B, Administrative Procedure Act.

Mary Evelyn Parker  
State Treasurer and Chairman

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Pursuant to the emergency provisions of R.S. 49:953B the Louisiana Wildlife and Fisheries Commission gives notice that at its regularly scheduled meeting in Baton Rouge, LA on August 9, 1985, it adopted the following regulations establishing hunting season dates and bag limits for certain migratory birds:

(1) Doves: Framework-Sept. 1-Jan. 15  
(3-Way Split Permitted).

North Zone	Bag	Poss.
Sept. 1-18 (8 days)	12	24
Oct. 19-Dec. 1 (44 days)	12	24
Dec. 14-Dec. 31 (18 days)	12	24
Total: <b>70 days</b>		

### South Zone

Oct. 19-Dec. 1 (44 days) 12 24

Dec. 14-Jan. 8 (26 days) 12 24

Total: **60 days**

(2) Rails: Framework-Sept. 1-Jan. 20  
(2-Way Split Permitted).

Sept. 21-29 (9 days) 15 30

Nov. 9-Jan. 8 (61 days) 15 30

Total: **70 days**

(3) Gallinules: Framework-Sept. 1-Jan. 20  
(2-Way Split Permitted)

Sept. 21-29 (9 days) 15 30

Nov. 9-Jan. 8 (61 days) 15 30

Total: **70 days**

(4) Snipe: Framework-Sept. 1-Feb. 28  
(2-Way Split Permitted)

Nov. 9-Feb. 23 (107 days) 8 16

(5) Woodcock: Framework-Sept. 1-Feb. 28  
(2-Way Split Permitted)

Dec. 7-Feb. 9 (65 days)

(6) Teal: Framework-Sept. 1-Sept. 30  
(No Split Permitted)

Sept. 21-29 (9 days)

#### Shooting Hours:

Doves: 12:00 Noon to Sunset

Rails, Gallinules, Snipe and Woodcock: ½ hour before sunrise to sunset

September Teal Season: Sunrise to Sunset

This emergency action is necessary in establishing federal hunting regulations under time constraints set down by the U. S. Fish and Wildlife Service which do not allow normal public notice procedures as required by the Administrative Procedure Act.

Anyone requesting copies and/or further information concerning these regulations may contact Mr. Joe L. Herring, Office of Wildlife, Box 15570, Baton Rouge, LA 70895, phone (504) 342-5880.

J. Burton Angelle  
Secretary

# Rules

## RULE

### Department of Commerce Board of Certified Public Accountants

Notice is hereby given that the State Board of Certified Public Accountants of Louisiana pursuant to the authority vested in Section 75 of the Louisiana Revised Statutes, Title 37, Chapter 2, adopted August 1, 1985, the following rules:

1. LAC 11-9:2.3 (R.S. 37:72)—Revise paragraph for clarity.

2. LAC 11-9:5.4.2D (R.S. 37:75)—Amends paragraph to remove ambiguity by deleting "and are not otherwise available to the client."

3. LAC 11-9:6.5.4 (R.S. 37:75)—Amends this section to provide for evaluation for a fee by qualified reviewer of books and articles claimed for continuing education credit.

4. LAC 11-9:9.2.2 (R.S. 37:78)—Amends section to clarify the Board's position on credits received by examination only.

5. LAC 11-9:11.5 (R.S. 37:79)—Amends to remove ambiguity - adds "in addition to those courses required by Rule 9.2.2."

6. LAC 11-9:12.7 (R.S. 37:80)—Amends to add Rule 12.7 to provide a fee for returned checks. Renumber present 12.7 to 12.8.

7. LAC 11-9:13 (R.S. 37:80)—Amends to increase fees for examination, certification and licensing.

8. LAC 11-9:15.1.2 (R.S. 37:82)—Amends to conform fees in rules to fees in statutes.

9. LAC 11-9:15.1.3 (R.S. 37:82)—Revise to clarify requirement of active foreign certificate as a basis for reciprocity in Louisiana.

Present Rule	Renumbered
15.1.3	15.1.4
15.1.4	15.1.5
15.1.5	15.1.6
15.1.6	15.1.7

## REVISED RULES

Rule 2.3—Practice in Louisiana.

Practice in Louisiana means performing or offering to perform those services set forth in LRS 37:72A in Louisiana or for a Louisiana based client - regardless of the location of the performance of the engagement.

Rule 5.4.2—Records.

5.4.2D—A copy of the licensee's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records.

Rule 6.5.4—Published articles, books, etc.

A. Credit for published articles and books will be awarded in an amount determined by a Board representative provided the writing contributes to the professional competence of the licensee. The Board and author shall mutually approve this representative.

B. CPAs requesting this service will be charged a fee: the fee to be negotiated and agreed upon prior to the engagement.

C. The maximum credit for preparation of articles and books cannot exceed 25 percent of the three-year requirement under these rules.

D. Credit, if any, will be allowed only after the article or book is published.

Rule 9.2—Educational Requirements.

9.2.2—C. The Board does not recognize credit received for courses passed by examination without class attendance as satisfying the requirements for the courses enumerated in Rule 9.2.2B. The word "examination" as used herein means advance placement examinations, CLEP, ACT or other similar examinations. The Board will accept credit by examination toward the degree requirement for any course not required by Rule 9.2.2B.

D. If the degree does not carry with it such concentration as prescribed above, the candidate shall have taken and completed the courses enumerated above. Such courses shall be taken and completed in a university, college, night or extension school of recognized standing and approved by the Board. The provisions paragraph C of Rule 9.2.2 are applicable to this paragraph.

E. In the event that the degree does not carry with it the above concentration in accounting, the Board may, on good cause shown by the applicant, substitute other courses that in the Board's judgment meet the above requirements. Cause for substitution shall be submitted by applicant in affidavit form sworn to by the applicant and a representative of the university, college or other educational institution where the course was taken. The affidavit shall contain a course description and a comparison of the course content to that of the course for which substitution is requested.

F. If an applicant for the CPA examination has been in public practice on the professional staff of a CPA firm for four of the ten years immediately prior to the date of submitting the application, he will not be required to have met the requirements of Rule 9.2.2B above if:

1. he has successfully completed at least one course in each of the areas listed in Rule 9.2.2B, and
2. if his courses were taken at the undergraduate level he has successfully completed a total of 30 semester hours, or 40 quarter hours, in accounting and commercial law, and
3. each such course was taken and completed in a university, college, night or extension school of recognized standing and approved by the Board.

**Rule 11.5—Advanced Degree Experience Equivalency.**

A Master's degree, or a more advanced degree, with a concentration in accounting shall be considered equivalent to one year of experience obtained on the staff of a certified public accountant or firm of certified public accountants. As used herein, concentration in accounting shall mean at least 15 credit hours in accounting courses (auditing, theory, practice, managerial, tax) in addition to those courses required by Rule 9.2.2B, the contents of which are at a level higher than the contents of the advanced accounting, basic cost accounting, basic income tax accounting, and basic auditing provided for in Rule 9.2.2B, with at least three of the required 15 credit hours in accounting theory and practice and at least three credit hours in auditing.

**Rule 12.7—**A fee not to exceed \$25 will be assessed against each person who pays any obligation to the Board with an NSF check. Failure to pay the assessed fee within the notified period of time, shall cause the application to be returned.

Present Rule 12.7 renumbered 12.8.

**Rule 13—Fees and Service Charges for CPA Examination, Certification, Licensing (R.S. 37:80).**

13.1—Fees shall be assessed as follows:

CPA examination:

First time applicants	\$100
Reexamination all subjects	\$ 85
Parts not previously passed:	
One part	\$ 45
Two parts	\$ 55
Three parts	\$ 65
Service charge for refund of examination fee under Rule 12.5	\$ 20
Original certification	\$ 50
Original license	\$ 50*
Replacement certificate	\$ 50**

\*Candidates having passed the examination and meeting all other requirements for licensure must submit a complete application on forms prescribed by the Board and accompanied by all required supporting documentation within 30 days after the official release date of examination grades to avoid payment of additional fees. Applications that are incomplete or late are subject to the original license fee.

\*\*A replacement certificate shall be issued at the holder's request upon payment of fee and compliance with the following requirements:

A. In the event of a certificate which has been lost, the loss must be advertised in an appropriate newspaper for at least five times in 30 days and the request for replacement must be accompanied by sworn statement that the certificate is lost and that the loss has been advertised in accordance with this rule.

B. In the event of a certificate which has been mutilated, the mutilated certificate must be returned to the Board and if it is mutilated beyond the point of being able to be identified, the request must also be accompanied by a sworn statement that the returned document is, in fact, the certificate.

C. If the request for replacement is to have a change in the name in which the certificate is issued, the original certificate must be returned to the Board and the request must be accompanied by appropriate documentation of the name change.

**Rule 15.1.2—**Application for annual renewal of certified public accountant certificates and licenses shall be made on forms furnished by the Board and shall be accompanied by renewal fees fixed by the Board. The fee for annual renewal of a certificate shall not exceed \$50 and the fee for annual renewal of both certificate

and license shall not exceed \$100 in total. Reproduction of renewal forms shall not be accepted.

**Rule 15.1.3—**Holders of expiring certificates issued under R.S. 37:78 (A)(3)(b) must submit satisfactory documentation that their original certificate issued by another state is in good standing as described by the original state's laws and rules.

Harold W. Willem, Jr., C.P.A.  
Secretary

**RULE**

**Department of Commerce  
Real Estate Commission**

In accordance with the notice of intent published in the June 1985 Register, the Louisiana Real Estate Commission announces the adoption of the following rules, effective August 20, 1985:

LAC 11-15:33 Out-of-State Broker Cooperation

Proposed Amendments

§33.1 A Louisiana broker may cooperate with a licensed broker of another state on the appraisal, sale or lease of real property within the limits provided in the Louisiana Real Estate License Law, and under the following conditions:

§33.1.1 The appraisal, sale or lease of real property shall be handled under the direct supervision of a Louisiana broker who shall take full responsibility for all actions of the nonresident broker.

§33.1.3 In each instance herein where a Louisiana broker enters into a cooperating agreement with a nonresident broker for the appraisal, sale or lease of Louisiana real estate, the Louisiana broker must file two copies of the cooperating agreement with the Louisiana Real Estate Commission prior to the appraisal, sale or lease being made. A written cooperating agreement is required to be filed for each separate appraisal, sale or lease.

LAC 11-15:14 Advertising

Proposed Addition

§14.8 If, in any advertisement, the owner offers any prize, money, cash discount, free gift or other valuable consideration to a purchaser or lessee or any prospective purchaser or lessee, then said advertisement shall clearly disclose that any such prize, money, cash discount, free gift or other valuable consideration is being offered by the owner of the property and not the real estate broker.

LAC 11-15:27 Interstate Land Sales

Revisions and Additions

§27.1 Unless registered in Louisiana as hereinafter specified, no person, partnership, or corporation shall sell or offer for sale in Louisiana any interest in subdivided real estate located outside of this state which is divided or proposed to be divided into five or more lots, parcels, units or interests, at any time as part of a common promotional plan.

§27.2(k) Recent photographs of the subject real estate.

§27.4 The commission may require a personal inspection of the property by a person(s) designated by it to determine whether, in general, the property can be utilized as indicated by the subdivider. All such inspection expenses incurred shall be borne by the applicant who shall deposit with the inspector in advance a sum sufficient to cover such expenses.

Anna-Kathryn Williams  
Executive Director

**RULE**

**Board of Elementary and Secondary Education**

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

May 20, 1985 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, adopted as policy the rule listed below:  
Rule 3.01.51.t

The board adopted an amendment to Bulletin 741 to provide that adaptive physical education be accepted in the appropriate circumstances for Health and Physical Education I and II, and that Adaptive Physical Education III and IV be added as electives.

James V. Soileau  
Executive Director

## RULE

### Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published on May 20, 1985 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, adopted as policy the rule listed below:  
Rule 3.07.10.a

The board adopted the Louisiana State Plan for Adult Education, 1985-88.

James V. Soileau  
Executive Director

## RULE

### Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published on May 20, 1985 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, adopted as policy the rule listed below:  
Rule 3.01.07.jj

The board adopted the following alternate post-baccalaureate certification program for secondary teachers as submitted by the deans of the colleges of education to replace the interim program presently in board policy. Further, since this is an alternate program, the deans will have discretion on allowing the statutory requirement of the six hours of reading;

#### ALTERNATE POST-BACCALAUREATE CERTIFICATION FOR SECONDARY TEACHERS

Candidates for admission must have met the following:

1. Completed a baccalaureate degree from a regionally accredited institution with a major or other concentration in a teacher certification area.

2. Attained an overall grade point average (GPA) of at least 2.5 (4-point scale).

Certification requirements are as follows:

The recipient is expected to complete the following requirements:

1. General Education. A minimum of 12 semester hours in English and any additional course work deemed necessary by the school/department/college of education to complete the general education of a teacher.

2. Specialized Academic Education. Participant must complete all course work in the area of certification required by the school/department/college of education. In no case can this be less than the minimum requirements listed in Bulletin 746.

3. Professional Education. A minimum of 18 semester hours in professional education prescribed by the school/department/college of education in addition to nine semester hours in student teaching.

For candidates who are teaching, the student teaching requirement may be satisfied by successfully completing a minimum one-year internship with supervision provided by faculty in the college of education.

The internship must be completed in the area of certification.

4. Attained a score on the NTE (National Teacher Examinations) that meets state requirements for certification.

5. Other Requirements. Participant must meet any other statutory requirements for certification.

James V. Soileau  
Executive Director

## RULE

### Board of Elementary and Secondary Education

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

The board adopted an amendment to Bulletin 746, pages 14 and 20 and any other pages that outline general education requirements to add a footnote that reads: "Universities which wish to require three hours of computer science of students should require a minimum of six hours in mathematics and a minimum of nine hours in science."

James V. Soileau  
Executive Director

## RULE

### Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published on May 20, 1985 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, adopted as policy the rule listed below:  
Rule 3.01.51.u

The board adopted the following modification on pages 81, 82 and 85 of Bulletin 741 relative to the course Fine Arts Survey with a procedural block as follows:

On page 81, under 2.105.01, delete the line that reads . . . "Fine Arts Survey (Art) ½"

On page 82, add . . . Fine Arts

2.105.06 Fine Arts Course offerings shall be as follows:

Course Title	Units	Refer to Bulletin
Fine Arts Survey	1	1737

Add in a procedural block:

"Fine Arts Survey is to be taught one semester by a certified art teacher and the other semester by a certified music teacher. If one or both of these teachers are not available, the local education agency is authorized to select the most qualified teacher, preferably, one with a strong liberal arts of humanities background. Change standard number for foreign languages to 2.105.07."

On page 85, under 2.105.17, delete the line that reads . . . Fine Arts Survey (Music) ½

James V. Soileau  
Executive Director

## RULE

### Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published on April 20, 1985, and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, adopted as policy the rule listed below:  
Rule 3.01.51.w

The board adopted the following report of the Ad Hoc Committee on the 360 minute instructional day:

1. Amend Policy 2.037.09 in Bulletin 741 for grades 9-12 by deleting the procedural note that reads: "When adhering to a seven-period day, the additional 10 minutes of instructional time shall be added to the instructional day."

2. School systems that are operating on seven 50-minute periods will be exempt from the 360 minute instructional day requirement.

3. Amend Policy 2.038.01 in Bulletin 741 to read:  
"The maximum enrollment in a class or section in grades K-3 shall be 29 students and in grades 4-12, 33 students except in certain activity types of classes in which the teaching approach and the materials and equipment are appropriate for large groups. No teachers at the secondary level shall instruct more than 750 student hours per week, except those who teach the above classes." (The remainder of the sentence which reads as follows is to be deleted: "... and those who teach the extra 10 minutes in a seven-period day.")

4. Beginning with the 1985-86 school year for grades K-8, the maximum class size be reduced by one student each year until all teachers instruct no more than 750 student hours per week pending specific funding from the Legislature.

James V. Soileau  
Executive Director

## RULE

### Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published on May 20, 1985 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3; Act 455 of the Regular Session, adopted as policy the rule listed below:  
Rule 4.03.01

The board adopted the Annual Program Plan for the Administration of Vocational Education, FY 1986-88, including the four amendments presented by the department.

James V. Soileau  
Executive Director

## RULE

### Department of Environmental Quality Office of Air Quality and Nuclear Energy Air Quality Division

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:1051 et. seq., in particular Sections 1084 B(1) and in accordance with the Administrative Procedure Act, R.S. 49:950, the secretary, Department of Environmental Quality adopted the New Source Performance Standards.

The regulations adopted consist of Subparts A, D, Da, E, F, G, H, I, J, K, M, N, T, U, V, W, X, Y, Z, AA, BB, CC, DD, GG, HH, MM, UU, KK, NN, and PP and Test Methods 1, 2, 2A, 2B, 3, 4, 5, 5A, 6, 6A, 6B, 7, 7A, 7B, 9, 16, 16A, 17, 19, 20, 24, and 25.

The regulations limit the amount of air pollution that specific types of new and modified sources can emit. These standards are set to allow industrial growth while maintaining present air quality. These limits will be applied uniformly to all new stationary sources of the types covered by these regulations.

A copy of the rules may be obtained from Gus Von Bodungen, Louisiana Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Eighth Floor, State Land and Natural Resources Building, 625 North Fourth Street, Box 44096, Baton Rouge, LA 70804-4096, or phone 504/342-1206.

Patricia L. Norton  
Secretary

## RULE

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

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:1051 et seq., particularly Section 1084 B(1) and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et. seq., the secretary of the Department of Environmental Quality, Patricia L. Norton, adopted the following amendments to the Louisiana Air Quality Regulations.

These amendments incorporate EPA recommendations to ensure federal enforceability of the state regulations and will enable EPA to fully delegate the PSD program to the state.

## PART V

### PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY

#### 90.1 Applicability

(1) The provisions of this Part apply to major stationary sources and major modifications as provided in Section 90.9, except that no provision of this Part applies to Indian reservations meaning any federally recognized reservation established by treaty, agreement, executive order, or act of congress.

(2) An owner or operator of an existing major stationary source or an existing major modification who, as of the effective date of this Part, has been issued a permit under the federal program to prevent the significant deterioration of air quality, must also obtain a permit under the provisions of this Part if the source fails to comply with the terms and conditions of the federal permit.

#### 90.2 Definitions

For the purpose of this Part the terms below shall have the meaning specified herein as follows:

##### (1) Major stationary source

(i) any of the stationary sources of air pollutants listed in Table A of this Part which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under this Part;

(ii) notwithstanding the stationary source size specified in Section 90.2 (1)(i), any stationary source which emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under this Part; or

(iii) any physical change that would occur at a source not otherwise qualifying as a major stationary source under (i) and (ii) above if the change would constitute a major source by itself.

## TABLE A

- 1) Fossil fuel-fired steam electric plants of more than 250 million British thermal units (BTU) per hour heat input
- 2) Coal cleaning plants (with thermal dryers)
- 3) Kraft pulp mills
- 4) Portland cement plants
- 5) Primary zinc smelters



- 6) Iron and steel mill plants
- 7) Primary aluminum ore reduction plants
- 8) Primary copper smelters
- 9) Municipal incinerators capable of charging more than 250 tons of refuse per day
- 10) Hydrofluoric, sulfuric, and nitric acid plants
- 11) Petroleum refineries
- 12) Lime plants
- 13) Phosphate rock processing plants
- 14) Coke oven batteries
- 15) Sulfur recovery plants
- 16) Carbon black plants (furnace process)
- 17) Primary lead smelters
- 18) Fuel conversion plants
- 19) Sintering plants
- 20) Secondary metal production plants
- 21) Chemical process plants
- 22) Fossil fuel boilers (or combinations thereof) totaling more than 250 million BTU per hour heat input
- 23) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels
- 24) Taconite ore processing plants
- 25) Glass fiber processing plants
- 26) Charcoal production plants
  - (iv) a major source that is major for volatile organic compounds shall be considered major for ozone.

(2) *Major Modification*

(i) Any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under this Part.

(ii) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

(iii) A physical change or change in the method of operation shall not include:

(a) routine maintenance, repair, and replacement.

(b) use of an alternative fuel or raw material by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act.

(c) use of an alternative fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act.

(d) use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.

(e) use of an alternate fuel or raw material by a source which:

(1) the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit limitation which was established after January 6, 1975; or

(2) the source is approved to use under any permit issued by the state or EPA under a program to prevent the significant deterioration of air quality.

(f) an increase in the hours of operation or in the production rate, unless such change would be prohibited under any enforceable permit limitation which was established after January 6, 1975.

(g) any change in source ownership.

(3) *Net emissions increase*

(i) the amount by which the sum of the following exceeds zero:

(a) any increase in actual emissions from a particular physical change or change in the method of operation at a source; and

(b) any other increases and decreases in actual emissions

at the source that are contemporaneous with the particular change and are otherwise creditable.

(ii) an increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

(a) the date five years before construction on the particular change commences; and

(b) the date that the increase from the particular change occurs.

(iii) An increase or decrease in actual emissions is creditable only if it has not been relied on in issuing a permit for the source under a program to prevent significant deterioration of air quality, which permit is in effect when the increase in actual emissions from the particular change occurs.

(iv) An increase or decrease in actual emissions of sulfur dioxide or particulate matter which occurs before the applicable baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

(v) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(vi) A decrease in actual emissions is creditable only to the extent that:

(a) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(b) at and after the time of actual construction on the particular change begins, the decrease is enforceable as an allowable emission limit or as a condition of a permit issued under a program to prevent significant deterioration of air quality or under the Louisiana Air Quality Regulations; and

(c) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(vii) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(4) *Potential to emit*—the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable as an allowable emission limit or as a condition of a permit issued under a program to prevent the significant deterioration of air quality or under Louisiana Air Quality Regulations. Secondary emissions do not count in determining the potential to emit of a stationary source.

(5) *Stationary source*—any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under this Part.

(6) *Building, structure, facility, or installation*—all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "major group" (i.e., which have the same first two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Govern-

ment Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).

(7) *Emissions unit*—any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under this Part.

(8) *Construction*—any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

(9) *Commence*—as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(i) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(ii) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(10) *Necessary preconstruction approvals or permits*—those permits or approvals required under all applicable air quality control laws and regulations.

(11) *Begin actual construction*—means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.

(12) *Best available control technology*—an emissions limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to regulation under this Part which would be emitted from any proposed major stationary source or major modification which the administrative authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant.

In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by an applicable standard as set forth in Sections 111 and 112 of the Clean Air Act or the Louisiana New Source Performance Standards (LNSPS) and Louisiana Emission Standards for Hazardous Air Pollutants (LESHAP). If the administrative authority determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

(13) *Baseline concentration*

(i) That ambient concentration level which exists in the baseline area at the time of the applicable baseline date. A baseline concentration is determined for each pollutant for which a baseline date is established and shall include:

(a) The actual emissions representative of sources in ex-

istence on the applicable baseline date, except as provided in (ii) below.

(b) The allowable emissions of major stationary sources which commenced construction before January 6, 1975, but were not in operation by the applicable baseline date.

(ii) the following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(a) actual emissions from any major stationary source on which construction commenced after January 6, 1975; and

(b) actual emissions increases and decreases at any stationary source occurring after the baseline date.

(14) *Baseline date*—the earliest date after August 7, 1977 that:

(i) a major stationary source or major modification subject to the prevention of significant deterioration program submits a complete application under that program; or

(ii) a major stationary source or major modification subject to this regulation submits a complete application; or

(iii) the baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(a) the area in which the proposed source or modification would construct is designated as attainment or unclassifiable for the pollutant on the date of its complete application under the PSD program or under this regulation; and

(b) in the case of a major stationary source, the pollutant would be emitted in significant amounts, or in the case of a major modification there would be a significant net emissions increase of the pollutant;

(15) *Baseline area*—any area designated as attainment or unclassifiable in which the major source or major modification would construct or would have an air quality impact equal to or greater than 1  $\mu\text{g}/\text{m}^3$  (annual average) of the pollutant for which the baseline date is established.

All parishes are designated as attainment for all pollutants except the following parishes are designated non-attainment for ozone only.

Ascension	LaFourche
Beauregard	Orleans
Bossier	Point Coupee
Caddo	St. Bernard
Calcasieu	St. Charles
East Baton Rouge	St. James
Grant	St. John the Baptist
Iberville	St. Mary
Jefferson	West Baton Rouge
Lafayette	

(16) *Allowable emissions*—the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(i) the applicable standards as set forth in Sections 111 and 112 of the Clean Air Act and in the Louisiana New Source Performance Standards (LNSPS) and the Louisiana Emission Standards for Hazardous Air Pollutants (LESHAP);

(ii) the applicable Louisiana State Implementation Plan emissions limitations, including any with a future compliance date; or

(iii) the emissions rate specified as an enforceable permit condition under a permit issued under a program to prevent the significant deterioration of air quality or under the Louisiana Air Quality Regulations.

(17) *Secondary emissions*—emissions which occur as a

result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purposes of this Section, secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the stationary source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

- i) emissions from ships or trains coming to or from the new or modified stationary source; and
- ii) emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

(18) *Innovative control technology*—any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or nonair quality environmental impacts.

(19) *Fugitive emissions*—those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(20) *Actual emissions*—the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:

(i) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The administrative authority may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(ii) The administrative authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(iii) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(21) *Complete*—means in reference to an application for a permit, that the application contains all of the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the administrative authority from requesting or accepting any additional information.

(22) *Significant*

(i) in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Carbon monoxide: 100 tons per year (tpy)

Nitrogen oxides: 40 tpy

Sulfur dioxide: 40 tpy

Particulate matter: 25 tpy

Ozone: 40 tpy of volatile organic compounds

Lead: 0.6 tpy

Asbestos: 0.007 tpy

Beryllium: 0.0004 tpy

Mercury: 0.1 tpy

Vinyl chloride: 1 tpy

Fluorides: 3 tpy

Sulfuric acid mist: 7 tpy

Hydrogen sulfide (H<sub>2</sub>S): 10 tpy

Total reduced sulfur (including H<sub>2</sub>S): 10 tpy

Reduced sulfur compounds (including H<sub>2</sub>S): 10 tpy

(ii) *Significant* means, in reference to a net emissions increase or the potential of a source to emit a pollutant subject to regulation under the Clean Air Act that Paragraph 90.2 (22)(i) does not list any emission rate.

(iii) Notwithstanding Section 90.2 (22)(i), *significant* means any emissions rate or any net emissions increase associated with a major stationary source or major modification which would construct within 10 kilometers of a Class I area, and have an impact on such area equal to or greater than 1 ug/m<sup>3</sup>, (24-hour average).

(23) *Federal Land Manager*—means, with respect to any lands in the United States, the secretary of the department with authority over such lands.

(24) *Indian Reservation*—means any federally recognized reservation established by treaty, agreement, executive order, or act of congress.

(25) *Indian Governing Body*—means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

(26) *Adverse Impact on Visibility*—means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with:

(i) times of visitor's use of the federal Class I area; and

(ii) the frequency and timing of natural conditions that reduce visibility.

(27) *Administrative Authority*—the secretary, Department of Environmental Quality or his designee.

(28) *Best Available Retrofit Technology (BART)*—means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

(29) *Existing Stationary Facility*—means any of the stationary sources of air pollutants listed in Table A of this Part, including any reconstructed source, which was not in operation prior to August 7, 1962, and was in existence on August 7, 1977, and has the potential to emit 250 tons per year or more of any air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted.

(30) *Federal Class I Area*—means any federal land that is classified or reclassified "Class I."

(31) *Fixed Capital Cost*—means the capital needed to provide all of the depreciable components.

(32) *In Existence*—means that the owner or operator has obtained all necessary preconstruction approvals or permits required by federal, state, or local air pollution emissions and air quality laws or regulations and either has (1) begun, or caused to begin, a continuous program of physical on-site construction of the facility or (2) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the facility to be completed in a reasonable time.

(33) *Installation*—means for purposes of visibility, an identifiable piece of process equipment.

(34) *In Operation*—means engaged in activity related to the primary design function of the source.

(35) *Integral Vista*—means a view perceived from within the mandatory Class I federal area of a specific landmark or panorama located outside the boundary of the mandatory Class I federal area.

(36) *Mandatory Class I Federal Area*—means any international park, national wilderness area which exceeds 5,000 acres, national memorial park which exceeds 5,000 acres or national park which exceeds 6,000 acres, in existence on August 7, 1977 and may not be redesignated.

(37) *Natural Conditions*—includes naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast, or coloration.

(38) *Reasonably Attributable*—means attributable by visual observation or any other technique the state deems appropriate.

(39) *Reconstruction*—will be presumed to have taken place where the fixed capital cost of a new component exceeds 50 percent of the fixed capital cost of a comparable entirely new source. Any final decision as to whether reconstruction has occurred must be made in accordance with the provisions of 60.15(f)(1)-(3) of Part IV.

(40) *Significant Impairment*—means visibility impairment which, in the judgment of the administrative authority, interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the mandatory Class I federal area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of the visibility impairment, and how these factors correlate with (1) times of visitor use of the mandatory Class I federal area, and (2) the frequency and timing of natural conditions that reduce visibility.

(41) *Visibility Impairment*—means any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions.

(42) *Visibility in any Mandatory Class I Federal Area*—includes any integral vista associated with that area.

### 90.3 Area classification

(1) Louisiana is divided into three air quality control regions which are designated as the southern region (AQCR 106), northwest region (AQCR 022), and northeast region (AQCR 019). In Figure 2 the boundary lines of the air quality regions are shown.

(2) Each air quality control region is classified as Class II with the exception of those areas enumerated in Section 90.3(3).

#### (3) Restrictions on Area Classifications.

(i) The following area which was in existence on August 7, 1977, shall be Class I and may not be redesignated:

(a) Breton National Wildlife Refuge

### 90.4 Ambient air increments

In areas designated as Class I, II, or III, increases in pollutant concentration over the baseline concentration shall be limited to the following:

	Maximum allowable increase (Micrograms per cubic meter)
Class I	
Particulate matter:	
Annual geometric mean .....	5
24-hr maximum .....	10
Sulfur dioxide:	
Annual arithmetic mean .....	2
24-hr maximum .....	5
3-hr maximum .....	25

## Class II

Particulate matter:

Annual geometric mean .....	19
24-hr maximum .....	37

Sulfur dioxide:

Annual arithmetic mean .....	20
24-hr maximum .....	91
3-hr maximum .....	512

## Class III

Particulate matter:

Annual geometric mean .....	37
24-hr maximum .....	75

Sulfur dioxide:

Annual arithmetic mean .....	40
24-hr maximum .....	182
3-hr maximum .....	700

For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

### 90.5 Ambient air ceilings

No concentration of a pollutant shall exceed:

(1) The concentration permitted under the secondary ambient air quality standard (Table 1a); or

(2) The concentration permitted under the primary ambient air quality standard, whichever concentration is lowest for the pollutant for a period of exposure.

### 90.6 Exclusions from increment consumption

(1) The administrative authority shall exclude the following concentrations in determining compliance with a maximum allowable increase:

(i) concentrations attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) over the emissions from such sources before the effective date of such an order. No exclusion of such concentrations shall apply more than five years after the effective date of such an order;

(ii) concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan. No exclusion of such concentrations shall apply more than five years after the effective date of such plan;

(iii) concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources; and

(iv) the increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration.

### 90.7 Redesignation

Redesignation of areas of the state shall be in accordance with applicable state and federal laws.

### 90.8 Stack heights

(1) The degree of emission limitation required for control of any air pollutant under this Part shall not be affected in any manner by:

(i) so much of the stack height of any source as exceeds good engineering practice as provided in the Louisiana Air Quality Regulations; or

(ii) any other dispersion technique.

(2) Section 90.8(1) shall not apply with respect to stack heights in existence before December 31, 1970, or to dispersion techniques implemented before then.

## 90.9 Review of Major Stationary Sources and Major Modifications Applicability and Exemptions

(1) No major stationary source or major modification to which the requirements of this Part apply shall begin actual construction without a permit issued under this Part.

(2) The requirements of Sections 90.10 - 90.18 shall apply to any major stationary source and any major modification with respect to each pollutant subject to regulation under this Part that it would emit, except as this Section otherwise provides.

(3) The requirements of Sections 90.10 - 90.18 apply only to any major stationary source or major modification that would be constructed in an area designated as attainment or unclassifiable as specified in Section 90.2(15).

(4) The requirements of Sections 90.10 - 90.18 shall not apply to a particular major stationary source or major modification if:

(i) the major stationary source would be a nonprofit health or nonprofit educational institution or a major modification that would occur at such an institution; or

(ii) the source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

- (a) coal cleaning plants (with thermal dryers);
- (b) kraft pulp mills;
- (c) portland cement plants;
- (d) primary zinc smelters;
- (e) iron and steel mills;
- (f) primary aluminum ore reduction plants;
- (g) primary copper smelters;
- (h) municipal incinerators capable of charging more than 250 tons of refuse per day;
- (i) hydrofluoric, sulfuric, or nitric acid plants;
- (j) petroleum refineries;
- (k) lime plants;
- (l) phosphate rock processing plants;
- (m) coke oven batteries;
- (n) sulfur recovery plants;
- (o) carbon black plants (furnace process);
- (p) primary lead smelters;
- (q) fuel conversion plants;
- (r) sintering plants;
- (s) secondary metal production plants;
- (t) chemical process plants;
- (u) fossil fuel fired boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (v) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (w) taconite ore processing plants;
- (x) glass fiber processing plants;
- (y) charcoal production plants;
- (z) fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;
- (aa) any other stationary source category which, as of August 7, 1980, is being regulated under Sections 111 or 112 of the Clean Air Act or the Louisiana New Source Performance Standards (LNSPS) or Louisiana Emission Standards for Hazardous Air Pollutants (LESHAP); or

(iii) the source is a portable stationary source which has previously received a permit under this Part, if:

(a) the owner or operator proposes to relocate the source and emissions of the source at the new location would be temporary; and

(b) the emissions from the source would not exceed its allowable emissions; and

(c) the emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated; and

(d) reasonable notice is given to the administrative authority prior to the relocation identifying the proposed new location and probable duration of operation at that location. Such notice shall be given to the administrative authority not less than 10 days in advance of the proposed relocation unless a different time duration is previously approved by the administrative authority.

(5) The requirements of Sections 90.10 - 90.18 shall not apply to a major stationary source or major modification with respect to particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment as specified in Section 90.2 (15).

(6) The requirements of Sections 90.11, 90.13 and 90.15 shall not apply to a proposed major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from the source, or the net emissions increase of that pollutant from the modification would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.

(7) The requirements of Sections 90.11, 90.13 and 90.15 as they relate to any maximum allowable increase for a Class II area shall not apply to a modification of a major stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each pollutant subject to regulation under this Part from the modification after the application of best available control technology would be less than 50 tons per year.

(8) The administrative authority may exempt a proposed major stationary source or major modification from the requirements of Section 90.13 with respect to monitoring for a particular pollutant if:

(i) the emissions increase of the pollutant from the new stationary source or the net emissions increase of the pollutant from the modification would cause, in any area, air quality impacts less than the following amounts:

- carbon monoxide—575 ug/m<sup>3</sup>, 8-hour average;
- nitrogen dioxide—14 ug/m<sup>3</sup>, annual average;
- total suspended particulate—10 ug/m<sup>3</sup>, 24-hour average;
- sulfur dioxide—13 ug/m<sup>3</sup>, 24-hour average;
- ozone—no de minimis air quality level is provided for ozone.

However, any net increase of 100 tons per year or more of volatile organic compounds subject to PSD would be required to perform an ambient impact analysis, including the gathering of ambient air quality data;

- lead—0.1 ug/m<sup>3</sup>, 24-hour average;
- mercury—0.25 ug/m<sup>3</sup>, 24-hour average;
- beryllium—0.0005 ug/m<sup>3</sup>, 24-hour average;
- fluorides—0.25 ug/m<sup>3</sup>, 24-hour average;
- vinyl chloride—15 ug/m<sup>3</sup>, 24-hour average;
- total reduced sulfur—10 ug/m<sup>3</sup>, 1-hour average;
- hydrogen sulfide—0.04 ug/m<sup>3</sup>, 1-hour average;
- reduced sulfur compounds—10 ug/m<sup>3</sup>, 1-hour average; or

(ii) the concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in Section 90.9(8)(i); or

(iii) the pollutant is not listed in Section 90.9(8)(i).

## 90.10 Control technology evaluation

(1) A major stationary source or major modification shall meet each applicable emissions limitation under the Louisiana State Implementation Plan and each applicable emissions standard and standard of performance under the Louisiana New Source Per-

formance Standards (LNSPS), Louisiana Emission Standards for Hazardous Air Pollutants (LESHAP) and Sections 111 and 112 of the Clean Air Act.

(2) A new major stationary source shall apply best available control technology for each pollutant subject to regulation under this Part that it would have the potential to emit in significant amounts.

(3) A major modification shall apply best available control technology for each pollutant subject to regulation under this Part for which it would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

(4) For phased construction projects, the determination of best available control technology shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

#### 90.11 Source Impact Analysis

The owner or operator of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of:

(1) Any ambient air quality standard in any air quality control region; or

(2) Any applicable maximum allowable increase over the baseline concentration in any area.

#### 90.12 Air Quality Models

(1) All estimates of ambient concentrations required under this Part shall be based on the applicable and approved air quality models, data bases, and other requirements as specified and approved by the administrative authority prior to submission of the permit application.

#### 90.13 Air Quality Analysis

(1) Preapplication analysis.

(i) Any application for a permit under this Part shall contain an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

(a) for the source, each pollutant that it would have the potential to emit in a significant amount;

(b) for the modification, each pollutant for which it would result in a significant net emissions increase.

(ii) With respect to any such pollutant for which no ambient air quality standard exists, the analysis shall contain such air quality monitoring data as the administrative authority determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

(iii) With respect to any such pollutant (other than non-methane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

(iv) In general, the continuous air quality monitoring data that is required shall have been gathered over a period of at least one year and shall represent at least the year preceding receipt of the application, except that if the administrative authority determines that a complete and adequate analysis can be accomplished

with monitoring data gathered over a period shorter than one year (but not to be less than four months), the data that is required shall have been gathered over at least that shorter period.

(2) Post-construction monitoring. The owner or operator of a major stationary source or major modification shall, after construction of the stationary source or modification, conduct such ambient monitoring as the administrative authority determines is necessary to determine the effect emissions from the stationary source or modification may have, or are having, on air quality in any area.

(3) Operation of monitoring station. For purposes of satisfying Section 90.13, the installation and operation of monitoring stations shall be conducted in accordance with all applicable federal and state laws and regulations and quality assurance plans for such operations must be approved by the administrative authority prior to the plan's implementation.

#### 90.14 Source Information

The owner or operator of a proposed source or modification shall submit all information necessary to perform any analysis or make any determination required under this Part.

(1) With respect to a source or modification to which Section 90.10, 90.12 or 90.16 apply, such information shall include:

(i) a description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

(ii) a detailed schedule for construction of the source or modification; and

(iii) a detailed description as to what system of continuous emission reduction is planned for the source or modification, emission estimates, and any other information necessary to determine that best available control technology would be applied.

(2) Upon request of the administrative authority, the owner or operator shall also provide information on:

(i) the air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact; and

(ii) the air quality impacts, and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the source or modification would affect.

#### 90.15 Additional Impact Analyses

(1) The owner or operator shall provide an analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

(2) The owner or operator shall provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the source or modification.

(3) Where the air quality impact analysis required under this Part indicates that the issuance of a permit for major stationary source or major modification would result in the consumption of more than 50 percent of any available annual increment or 80 percent of any available short term increment, the applicant may be required by the administrative authority to submit to the Air Quality Division a report covering the following factors:

(i) the effects the proposed consumption would have upon the industrial and economic development within the impact area of the proposed source; and

(ii) any alternatives to the increment consumption, such as alternate siting of the proposed source or parts thereof or additional abatement of emissions.

(4) The report required pursuant to Paragraph (3) above, may be required in instances where the proposed major stationary source or major modification would result in an increment consumption less than that specified in said paragraph if the administrative authority finds that unusual circumstances exist in the area of the proposed major stationary source or major modification which warrant such a report. In such instances, the administrative authority shall notify the applicant in writing when such a report is required.

(5) **Visibility Monitoring.** The administrative authority may require monitoring of visibility in any federal Class I area near the proposed new stationary source or major modification for such purposes and by such means as the administrative authority deems necessary and appropriate.

#### 90.16 Source Impacting Federal Class I Areas—Additional Requirements

(1) **Notice to Federal Land Managers.** The administrative authority shall provide written notice of any permit application for a proposed major stationary source or major modification the emissions from which may affect a Class I area to the federal land manager, and the federal official charged with direct responsibility for management of any lands within any such area. The administrative authority shall provide such notice promptly after receiving the application. Such notification shall include a copy of all information relevant to the permit application and shall be given within 30 days of receipt and at least 60 days prior to any public hearing on the application for a permit to construct. Such notification shall include an analysis of the proposed source's anticipated impacts on the visibility in the federal Class I area. The administrative authority shall also provide the federal land manager and such federal officials with a copy of the preliminary determination report required under Section 90.17 of this Part, and shall make available to them any materials used in making that determination, promptly after the administrative authority makes such determination. Finally, the administrative authority shall also notify all affected federal land managers within 30 days of receipt of any advanced notifications of any such permit application.

(2) **Denial-impact on air quality related values.** The federal land manager of any such lands may demonstrate to the administrative authority that the emissions from a proposed source or modification would have an adverse impact on the air quality-related values (including visibility) of those lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the administrative authority concurs with such demonstration, then he shall not issue the permit.

(3) **Visibility Analysis.** The administrative authority shall consider any analysis performed by the federal land manager provided within 30 days of the notification and analysis required under Section 90.16(1) of this Part, that a proposed new major stationary source or major modification may have an adverse impact on visibility in any federal Class I area. Where the administrative authority finds that such an analysis does not demonstrate to the satisfaction of the administrative authority that an adverse impact on visibility will result in the federal Class I area, the administrative authority must, in the notice of public hearing on the permit application, either explain his decision or give notice as to where the explanation can be obtained.

(4) **Class I variances.** The owner or operator of a proposed source or modification may demonstrate to the federal land manager and the administrative authority that the emissions from such source or modification would have no adverse impact on the air quality related values of any such lands (including visibility), notwithstanding that the change in air quality resulting from emissions

from such source or modification would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the federal land manager concurs with such demonstration and he so certifies, the administrative authority may, provided the applicable requirements of this Part are otherwise met, issue the permit with such emission limitations as may be necessary to assure that emissions of sulfur dioxide and particulate matter would not exceed the following maximum allowable increases over baseline concentration for such pollutants:

	Maximum allowable increase (micrograms per cubic meter)
<b>Particulate matter:</b>	
Annual geometric mean .....	19
24-hour maximum .....	37
<b>Sulfur dioxide:</b>	
Annual arithmetic mean .....	20
24-hour maximum .....	91
3-hour maximum .....	325

#### 90.17 Public Participation

(1) The administrative authority shall notify the applicant within 60 days after receipt of the application as to the completeness of the application or any deficiency in the application or information submitted. In the event of such a deficiency, the date of receipt of the application shall be the date on which the administrative authority received all required information.

(2) Within one year after receipt of a complete application, the administrative authority shall:

(i) make a preliminary determination whether construction should be approved, approved with conditions, or disapproved; and

(ii) make available in at least one location in each region in which the proposed source would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination.

(3) Within 30 days after the administrative authority has made the preliminary determination, the administrative authority shall cause a public notice to be published once in the official journal of the state and once in a local newspaper or journal of general circulation in the region in which the proposed source would be constructed.

(i) the contents of the public notice shall be as follows:

(a) the name and address of the applicant;

(b) the nature and location of the proposed source or modification;

(c) the preliminary determination of the administrative authority;

(d) the degree of increment consumption that is expected from the source or modification;

(e) the opportunity to request a public hearing concerning the application;

(f) the opportunity and time periods to submit written public comments concerning the application; and

(g) the name and address of the person to whom public comments and requests for public hearings should be sent.

(4) A period of 30 days after the date of publication will be allowed for public comment. In those instances where the proposed major stationary source or major modification may effect the air quality of a neighboring state, the comment period for that state shall be 60 days from the date of publication.

(5) The administrative authority may, upon request of any interested person made during the comment period, hold a public hearing at which persons may appear and submit written or oral comments on the air quality impact of the source, alternatives to

it, the control technology required, and any other appropriate considerations.

(6) The administrative authority shall consider all written comments submitted within the comment period and all written or oral comments presented at any public hearing, if any, before making a final determination of the permit application.

(7) The administrative authority shall make all comments available for public inspection in the same locations where the administrative authority made available preconstruction information relating to the proposed source or modification.

(8) Within one year after receipt of a complete application, the administrative authority shall:

(i) make a final determination whether construction shall be approved, approved with conditions, or disapproved; and

(ii) notify the applicant in writing of the final determination and make such notification available for public inspection at the same locations where the administrative authority made available preconstruction information relating to the proposed source or modification.

#### 90.18 Source Obligation

(1) Any owner or operator who constructs or operates a source or modification not in accordance with the terms of any permit issued under this Part, or any owner or operator of a source or modification subject to this Part who commences construction after the effective date of these regulations without applying for and receiving a permit hereunder, shall be subject to appropriate enforcement action.

(2) A permit shall become invalid if construction is not commenced within 18 months after issuance of such permit, or if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The administrative authority may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

(3) The issuance of a permit hereunder shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the Louisiana State Implementation Plan and any other requirements under local, state, or federal law.

(4) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of Sections 90.10 - 90.18 shall apply to the source or modification as though construction had not yet commenced on the source or modification.

#### 90.19 Innovative Control Technology

(1) The owner or operator of a proposed major stationary source or major modification may request the administrative authority, in writing, to approve and permit a system of innovative control technology.

(2) The administrative authority may, with the consent of the governor(s) of other affected state(s), determine that the employment of a system of innovative control technology is permissible, if:

(i) the proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;

(ii) the owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under Section 90.10(2) by a date specified by the administrative authority. Such date shall not be later than four years from the time of startup or seven years from permit issuance;

(iii) the source or modification would meet the requirements equivalent to those in Sections 90.10 and 90.11 based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the administrative authority;

(iv) the source or modification would not before the date specified by the administrative authority;

(a) cause or contribute to a violation of an applicable ambient air quality standard; or

(b) impact any Class I area; or

(c) impact any area where an applicable increment is known to be violated;

(v) all other applicable requirements including those for public participation have been met.

(3) The administrative authority shall withdraw any approval to employ a system of innovative control technology made under this Section, if:

(i) the proposed system fails by the specified date to achieve the required continuous emissions reduction rate; or

(ii) the proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or

(iii) the administrative authority decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

(4) If a source or modification fails to meet the required level of continuous emissions reduction within the specified time period, or if the approval is withdrawn in accordance with Section 90.19(3) the administrative authority may allow the source or modification up to an additional three years to meet the requirement for the application of best available control technology through use of a demonstrated system of control.



FIGURE 2  
AIR QUALITY CONTROL REGIONS IN LOUISIANA



LOUISIANA

Southern Region

AQCR 106

Northwest Region

AQCR 022

Northeast Region

AQCR 019

SCALE - MILES

10 0 10 20 30 40 50

LOUISIANA GEOLOGICAL SURVEY 686

Patricia L. Norton  
Secretary

## RULE

### Department of Environmental Quality Office of Water Resources

Under the authority of the Louisiana Environmental Act, L.R.S. 30:1073 (J), 1096 (D), 1137 (I) and 1148 (A), and in accordance with the provisions in L.R.S. 49:950 et seq., the secretary of the Department of Environmental Quality, Patricia L. Norton, adopted the Notification Regulations and Procedures for Unauthorized Discharges on August 9, 1985. The effective date of these regulations will be November 19, 1985.

The secretary initiated rulemaking procedures to adopt this rule on May 13, 1985. Prior to the final adoption by the secretary, this rule was forwarded to, and found acceptable by, the Joint Committees on Natural Resources.

Persons requesting copies and/or further information concerning the rule may contact Ms. Laurinda Durr, Department of Environmental Quality, Water Pollution Control Division, Box 44091, Baton Rouge, LA 70804-4091.

Patricia L. Norton  
Secretary

## RULE

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

The Department of Health and Human Resources, Office of Family Security, adopts federal policy guidelines in the Disability Determination Program.

#### Summary

The Disability Determination Program operates under federal manuals and regulations as required for 100 percent federal financial participation. Because this program is totally funded by the federal government, the state has no policy options which effect individuals applying for disability benefits under Social Security.

This final rule adopts the Program Operational Manual System of the federal government as the official policy guide for determining disability under Social Security.

#### Rulemaking

## RULE

The official policy of the Disability Determinations Program shall be the federally produced and distributed Program Operational Manual System. Any changes in policy promulgated, in accordance with federal rulemaking procedures shall be the official policy of the Disability Determination Program.

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

## RULE

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

The Department of Health and Human Resources, Office of Family Security, shall implement the following rule.

## RULE

Effective September 1, 1985, the Office of Family Security, is amending the Title 19 State Plan to include the eligibility requirement of enumeration in the Adult Assistance and Medicaid Programs as required by Section 2651 of the Deficit Reduction Act of 1984 (Public Law 98-369). Verification of the applicant's/recipient's Social Security Number (SSN) shall be required. Applicants who apply for assistance on or after September 1, 1985, must provide or apply for a Social Security Number at application. Recip-

ients who became eligible before September 1, 1985, must provide or apply for their Social Security Number at redetermination of eligibility.

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

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

## RULE

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

The Department of Health and Human Resources, Office of Family Security, shall implement the following rule.

## RULE

Effective September 1, 1985, the Title XIX State Plan will be amended to include sanctions against Intermediate Care Facilities for the Handicapped.

#### PENALTIES FOR VIOLATIONS

1. A facility which violates any state or federal regulation or departmental rule where such violation poses a serious threat to the health, safety, rights, or welfare of a resident shall be liable to civil fines of \$100 per day for first violation and \$1,000 per day for confirmed repeat violations for each day that such violations continue. These civil fines shall be in addition to any criminal action which may be brought under other applicable laws.

2. Where the department has reasonable cause to believe that there has been a serious violation, the secretary shall give written notice by certified mail to the operator of the facility in question. The written notice shall specify the alleged violation, cite the legal authority which establishes such violations, and advise the operator that he has three days from receipt of the notice to request an appeal hearing. If no appeal is requested, the department shall assess civil fines as provided in Paragraph 1. The department shall forward its findings to the facility by certified mail, and any fines imposed shall commence as of the date such determination is received by the alleged violator.

3. If an appeal is requested on a timely basis, the department shall conduct an administrative hearing in accordance with the provisions of the Administrative Procedure Act. Such hearing must be held within one week of receipt of the request. The department shall review all relevant evidence and make its final written determination in the matter no later than three days after the administrative hearing is begun, provided that the hearing officials may continue the matter for good cause shown where such continuance will not jeopardize the health, safety, rights, or welfare of the facility's residents.

4. At the conclusion of an administrative hearing, the department shall make specific written findings as to each alleged violation. The agency's findings shall be mailed to the facility at the last known address by certified mail. Any fines imposed shall commence as of the date such agency findings are received by the alleged violator.

5. If the department's findings are adverse to the facility, it may request judicial review of such matter to the Nineteenth Judicial District Court within 15 days of receipt of such findings. Such appeal shall be suspensive.

The facility shall furnish, with the appeal, bond in the minimum amount of one and one-half times the amount of the fine imposed by the department. The bond furnished shall provide in substance, that it is furnished as security that the facility will prosecute its appeal, that any judgement against it will be paid or satisfied from the amount furnished or that otherwise the surety is li-

able for the amount assessed against the facility. The appeal shall be heard in a summary proceeding which shall be given precedence over other pending matters.

6. At the conclusion of the judicial review, the court shall enter an appropriate order either reversing or modifying the agency's findings or upholding the agency's findings. If the agency's findings are upheld, the court shall order the payments of all fines imposed.

7. The department is empowered to institute all necessary civil court action to collect fines imposed and not timely appealed. No facility may claim imposed fines as reimbursable costs, nor increase charges to residents as a result of such fines.

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

Emergency rulemaking has been invoked to implement this policy effective May 10, 1985. The Emergency Rule was necessary to insure the health, safety and welfare of residents of Intermediate Care Facilities for the Handicapped, to comply with federal regulations (42 CFR 442.400-516), and to provide for continuance of federal financial participation.

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

#### **RULE**

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

The Department of Health and Human Resources, Office of Family Security, shall implement the following rule.

#### **RULE**

Effective September 1, 1985, the Title XIX State Plan will be amended to require that a written plan of care developed specifically for each applicant must be reviewed and approved by the Office of Family Security prior to establishing the effective date of the applicant's medical certification in an Intermediate Care Facility for the Handicapped. If the plan of care is approved, the effective date of certification can be retroactive to the date all other eligibility factors were met.

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

Emergency rulemaking has been invoked to implement this policy effective May 10, 1985. The emergency rule was necessary to insure the health, safety, and welfare of residents of intermediate care facilities for the handicapped.

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

#### **RULE**

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

The Department of Health and Human Resources, Office of Management and Finance, Division of Policy, Planning and Evaluation has adopted the following change to the policies and guidelines for Section 1122 capital expenditure reviews effective August 20, 1985. This Rule substitutes for the section on appeal procedures in the Section 1122 Policies and Guidelines published in Volume 11, Number 4 of the *Louisiana Register*, April 20, 1985.

The Rule is as follows:

#### **APPEAL PROCEDURES**

In findings of nonconformity, DPPE will give the applicant an opportunity to request a fair hearing in writing. The written request for fair hearing, in order to be timely, must be received by DPPE within 30 days after the notification of nonconformity was received by the applicant and must be accompanied by a filing fee of \$500.

The hearing shall commence within 30 days after receipt of the written request for hearing (or later, at the option of the applicant) and shall be conducted by a hearing officer. Requests for extensions may be granted at the discretion of the hearing officer but shall not exceed 180 days from the date of notification of nonconformity. If the hearing is not concluded within this time, the findings of DHHR will be considered upheld.

Hearings shall be conducted by an agency or person, other than the DPPE, designated by the Governor for that purpose; provided, that no person (or agency) who has taken part in any prior consideration of or action upon the proposed capital expenditure may conduct such hearing. (However, the same hearing officer who presided over a hearing and remanded the matter to DPPE may hear a subsequent appeal of the same application if DPPE again makes a finding of nonconformity.)

The hearing officer shall have the power to administer oaths and affirmations, regulate the course of the hearings, set the time and place for continued hearings, fix the time for filing briefs and other documents, and direct the parties to appear and confer to consider the simplification of the issues.

The hearing shall be open to the public, but closed to television cameras, and shall be publicized through local newspapers and public information channels. The hearing officer shall have the authority to control the decorum of the hearing room.

Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs may be admitted and give probative effect. The rules of privilege recognized by law shall be given effect. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

All evidence, including records and documents in the possession of DHHR of which it desires to avail itself, shall be offered and made part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the parties before being received in evidence. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within DHHR's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed.

The hearing officer shall have the power to sign and issue subpoenas, or to direct DPPE to do so, in order to require attendance and the testimony by witnesses and to require the production of books, papers and other documentary evidence. The applicant is required to notify the hearing officer in writing at least 10 days in advance of the hearing of those witnesses whom he wishes to be subpoenaed. No subpoena shall be issued until the party (other than DPPE) who wishes to subpoena a witness first deposits with the hearing officer a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. DHHR may request issuance

of subpoenas without depositing said sum of money. The witness fee may be waived if the person is an employee of DHHR. Whenever any person summoned under this section neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, DHHR may apply to the judge of the district court for the district within which the person so summoned resides or is found, for an attachment against him as for a contempt. It shall be the duty of the judge to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him, to proceed to a hearing of the case; and upon such hearing, the judge shall have power to make such order as he shall deem proper, not inconsistent with the law for the punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience.

DHHR or any party to a Section 1122 proceeding may take the deposition of witnesses, within or without the state, in the same manner as provided by law for the taking of depositions in civil actions in courts of record. Depositions so taken shall be admissible in the Section 1122 proceeding at issue. The admission of such depositions may be objected to at the time of hearing and may be received in evidence or excluded from the evidence by the hearing officer in accordance with the rules of evidence provided in this Subsection.

The person proposing the capital expenditure, DHHR and any other agency which reviewed the application, and other interested parties, including members of the public and representatives of consumers of health services, shall be permitted to give testimony and present arguments at the hearing without formally intervening. Such testimony and arguments shall be presented after the testimony of the applicant and DHHR has been presented, or at the discretion of the hearing officer, at any other convenient time. When such testimony is presented, all parties may cross-examine the witness.

The following issues shall not be considered at a hearing:

1. The correctness, adequacy, or appropriateness of the standards, criteria, or plans against which the proposed expenditure was measured;
2. Whether the proposed expenditure is subject to review by DPPE; and
3. The inadmissibility of prior or pending applications which are unrelated to the application pending appeal.

The hearing officer may submit his own finding as to whether the proposed expenditure is consistent with the applicable standards, criteria, and plans, and in the case of a negative finding, his recommendation as to whether or not the Secretary should exclude from reimbursement expenses related to the proposed expenditure. The hearing officer may also reach such supplementary conclusion (e.g., on the question of adherence to procedural requirements) and submit such further recommendation as he deems appropriate.

A record of the fair hearing procedures shall be maintained. Copies of such record together with copies of all documents received in evidence shall be available to the parties, provided that any party who requests copies of such material may be required to bear the costs thereof.

The hearing officer shall notify all parties, in writing or on the record, of the day on which the hearing will conclude and of any changes thereto; provided, a hearing must be concluded in accordance with the time requirements specified in Paragraph 2 of this Subsection. As soon as practicable, but not more than 45 days after the conclusion of a hearing, the hearing officer shall send to the applicant, to DPPE, and any interested parties who participated in the hearing, and to other interested parties at the discre-

tion of the hearing officer, his decision and the reasons for the decision. Such decision shall be publicized by DPPE through local newspapers and public information channels.

In the event that the hearing officer fails to provide notice, as required above, within 45 days after the conclusion of a hearing, such failure to provide notice shall have the effect of a finding of conformity.

After rendering his decision, the hearing officer shall transmit the record of the hearing to DPPE.

Any decision of a hearing officer shall, to the extent that it reverses or revises the findings of nonconformity of DPPE, supersede the findings of DHHR.

Opponents of Section 1122 applicants who receive findings of conformity are not entitled to a fair hearing or to judicial review regarding said findings of conformity.

To the extent that any decision of a hearing officer requires that DHHR take further action, such action shall be completed by such date as the hearing officer may specify. Failure of DHHR to complete such action by such date shall have the effect of a finding of conformity of the proposed capital expenditure.

An applicant who fails to have the notification of nonconformity reversed shall forfeit his filing fee.

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

## RULE

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

The Department of Health and Human Resources, Office of Management and Finance, Division of Policy, Planning and Evaluation has adopted the following changes to the policies and guidelines for Section 1122 capital expenditure reviews effective August 20, 1985. The changes were made to the Rule published in Volume 11, Number 4 of the *Louisiana Register*, April 20, 1985. It amended:

1) The Introduction (page 1, paragraph 2) by deleting home health agencies from the list of health care facilities covered under Section 1122.

2) The section on Expenditure and Changes Subject to Review (page 5, paragraph 5) by adding a sentence to clarify information to be used in full review of reclassified beds. The sentence will read "The current need (and other criteria) for the proposal will be reevaluated in terms of the new proposal."

3) The section on Evidence of Obligation/Expiration of Approval by

a) Changing page 12, sentence 1 of #1a to read "Commencement of construction date. This date shall be no later than 12 months from the date of the notice of conformity or 18 months from such date if an extension to submit evidence of obligation was granted."

b) Changing page 12, sentence 1 of #1b to read "Vertical Construction date. This date shall be no later than 18 months from the date of Notice of Conformity or 24 months from such date if an extension to submit evidence of obligation was granted."

c) Changing #5., paragraph 1 on page 13 to read "... has been designated by the applicant/owner for the project."

d) adding paragraph 2 to #5 on page 13 to reiterate change 3b above.

"When a formal internal commitment of funds by a facility (or organization) for a force account expenditure is submitted as evidence of obligation for a project to be constructed, then vertical construction shall commence within 18 months from the date of

the Notice of Conformity or 24 months from such date if an extension to submit evidence of obligation was granted. A substantial completion date shall be given upon timely commencement of vertical construction. Vertical construction and substantial completion shall be documented in the manner required on page 12, 1 b-d."

These changes are for clarification only. They provide for no change in the agency's operating procedure.

The following policies and guidelines are adapted from the federal regulations (42 C.F.R. 100.101 et seq.) which are relative to Section 1122 of the Social Security Act.

#### INTRODUCTION

Section 1122 of the Social Security Act, as amended by Public Law 92-603, requires that a person who proposes to make a capital expenditure by or on behalf of a health care facility obtain prior approval by a designated planning agency in order to be reimbursed by Medicare and Medicaid for costs related to the capital expenditure. The purpose of the provision is to assure that federal funds are not used to support unnecessary capital expenditures by health care facilities.

For purposes of Section 1122, the term "health care facility" includes hospital, psychiatric hospitals, rehabilitation facilities, tuberculosis hospitals, skilled nursing facilities, kidney disease treatment centers (including free-standing hemodialysis units), intermediate care facilities, and ambulatory surgical facilities. Physicians' offices are excluded.

The state agency designated to carry out Section 1122 provisions in Louisiana is the Department of Health and Human Resources. The Division of Policy, Planning and Evaluation, of the Department of Health and Human Resources, will submit applications to other agencies for review, as deemed necessary.

Applications are to be submitted to: Division of Policy, Planning and Evaluation, 200 Lafayette Street, Suite 406, Baton Rouge, LA 70801, (504) 342-2001

#### DEFINITIONS

1. *Ambulatory Surgical Facility*: a facility which is not part of a hospital, which provides surgical treatment to patients not requiring hospitalization. The term does not include offices of private physicians or dentists, whether for individual or group practice.

2. *Approval*: a finding of conformity, which is a recommendation by the state agency to DHHS that a proposal is in conformity with the criteria, standards, and plans under which the proposal was reviewed.

#### EXPENDITURES AND CHANGES SUBJECT TO REVIEW

Proposals subject to review are those which are not properly chargeable as expenses of operation and maintenance, and which

(1) exceed \$600,000

OR

(2) change the bed capacity of the facility

OR

(3) substantially change the services of the facility.

Questions regarding appropriateness of review should be directed to DPPE (in writing) for an official determination.

In determining the total amount of a capital expenditure, DPPE shall consider the cost of studies, surveys, designs, plans, working drawings, specifications and other activities essential to the construction, acquisition, improvement, expansion or replacement of the plant and equipment relative to the expenditure.

Proposals for the acquisition of facilities or equipment by lease or comparable arrangement, or through donation, may be subject to review under Section 1122.

A substantial site change for a previously approved project is subject to full review. The current need (and other criteria) for the proposal will be reevaluated in terms of the new site.

A "reclassification" of 1122 approved beds with or without a capital expenditure, is subject to a full review. The current need (and other criteria) for the proposal will be reevaluated in terms of the new proposal. See "reclassification" definition.

A relocation of a previously approved and licensed facility within the same service area is subject to full review without a reevaluation of need. Other criteria will be reevaluated.

When a corporation owning a facility or a Section 1122 approval for a proposed facility, intends to sell or transfer over 25% of its stock, the corporation shall notify DPPE of the stock sale or transfer. Section 1122 findings of conformity (approvals) can neither be sold nor transferred. A majority stock sale or transfer of a corporation whose only or major asset is the Section 1122 finding of conformity shall be considered a transfer of the finding of conformity, which is prohibited. Such a sale or transfer shall make the approval invalid.

A lease of an approved, unconstructed facility is prohibited for Section 1122 purposes. Upon construction of the facility, the proposed lease shall be subject to review.

A capital expenditure for which the obligation is incurred by or on behalf of a health care facility after December 31, 1972 is subject to review under these provisions.

#### FAILURE TO PROVIDE TIMELY NOTICE

When DPPE determines that an applicant incurred an obligation for a proposed expenditure without providing 60 days timely notice, DPPE shall send written notification to the applicant, to DHHS, and to any other agency deemed appropriate, that timely notice was not provided. DHHS will make a determination as to whether a penalty should be imposed, and will notify the applicant and DPPE.

#### EVIDENCE OF OBLIGATION/EXPIRATION OF APPROVAL

Evidence of an obligation to make a capital expenditure must be received by DPPE within one year of the approval of the project (unless a six month extension has been granted), or the approval will expire.

The following documents are acceptable as evidence of an obligation for the specified types of proposals:

1. Construction projects.

A construction contract, enforceable under Louisiana law and duly executed by the appropriate parties is required. A construction contract must obligate a party to cause the capital asset to be constructed including provisions for:

a. Commencement of construction date. This date shall be no later than 12 months from the date of the notice of conformity or 18 months from such date if an extension to submit evidence of obligation was granted. The applicant shall submit a sworn affidavit from the contractor within 10 calendar days after construction begins showing that the construction has in fact begun. If documentation is not submitted in a timely manner, DPPE will presume that the contract is not an enforceable obligation and consider the finding of conformity expired.

b. Vertical construction date. This date shall be no later than 18 months from the date of the Notice of Conformity or 24 months from such date if an extension to submit evidence of obligation was granted. The applicant shall submit a sworn affidavit from the contractor within ten days after vertical construction date showing that vertical construction has in fact begun, and copies of construction progress reports substantiating vertical construction. If documentation is not submitted in a timely manner, DPPE will presume that the contract is no longer an enforceable obligation and will consider the finding of conformity expired. Vertical construction exists when all of the following conditions are met: (a) excavation of the foundation has begun; (b) the pilings for the foundation are driven; (c) the concrete for the foundation is poured; (d) the height of the structure is above ground level.

c. Substantial completion of construction by a specified date. The applicant shall submit a sworn affidavit from the contractor indicating substantial completion of the project, within 10 calendar days of the substantial completion date shown in the contract, and copies of construction progress reports required in construction contract as of that date. If documentation is not submitted in a timely manner, DPPE will presume that the contract is not an enforceable obligation, and consider the finding of conformity expired.

d. If commencement of construction, vertical construction or substantial construction is not completed by the dates specified in the construction contract, the individual possessing the Notice of Conformity shall submit written documentation to Division of Policy, Planning and Evaluation describing the reasons for the delays in construction and the appropriate revised construction dates as required in a, b, c above. The reasons to be considered are Acts of God, labor disputes, unavailability of building materials or other documented causes beyond the control of the applicant. Such documentation shall be duly executed by the parties who executed the construction contract. After review of such documentation, Division of Policy, Planning and Evaluation at its option may grant an extension for the submittal of the sworn affidavit.

2. *Acquisition of a facility without financing.*

The Act of Cash Sale shall be submitted.

3. *Acquisition of a facility with financing.*

A copy of the loan agreement or any other financial agreement shall be submitted. Loan guarantees and loan commitments do not meet requirements for evidence of obligation for such transactions.

4. *Lease of a facility.*

A copy of the legally executed lease shall be submitted.

5. *A formal internal commitment of funds by a facility (or organization) for a force account expenditure.*

Documentation shall be submitted from a financial institution verifying that a specific separate account (with funds equivalent to the amount of the proposed expenditure) has been designated by the applicant/owner for the project. In the case of a state-owned facility, an appropriation is considered a force account expenditure.

When a formal internal commitment of funds by a facility (or organization) for a force account expenditure is submitted as evidence of obligation for a project to be constructed, then vertical construction shall commence within 18 months from the date of the Notice of Conformity or 24 months from such date if an extension to submit evidence of obligation was granted. A substantial completion date shall be given upon timely commencement of vertical construction. Vertical construction and substantial completion shall be documented in the manner required on page 12, 1 b-d.

6. *Donated property.*

Documentation including the date on which the gift is completed, in accordance with applicable Louisiana law, shall be submitted.

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

## RULE

### Department of Health and Human Resources Office of Management and Finance

Effective August 20, 1985, the Department of Health and Human Resources, Office of Management and Finance, Division of Policy, Planning and Evaluation has amended that portion of the 1985-1990 State Health Plan which pertains to comprehensive physical rehabilitation facilities. The State Health Plan is man-

dated by Public Law 93-641 as amended by Public Law 96-79. The amendment replaces Resource Goal number 2 on occupancy rates for free-standing comprehensive physical rehabilitation facilities and for rehabilitation units of general hospitals.

This revision is located on page 9-82 of the current State Health Plan and shall read as follows:

#### 2. Occupancy Rate:

##### Free-standing Comprehensive Physical Rehabilitation Hospitals

A comprehensive physical rehabilitation hospital shall maintain annual occupancy rates relative to the number of beds in the facility:

0 - 49	- 50%
50 - 99	- 60%
100 - 199	- 70%
200 +	- 75%

In determining occupancy rates, beds used in the calculations include: (a.) licensed but not Section 1122 approved beds which are in use or could be put into use within 24 hours, and (b.) 1122 approved and licensed beds which are in use or could be put into use within 24 hours.

\*Beds that can be brought into service within 24 hours shall be construed to mean the appropriate number of beds in rooms originally constructed and equipped as hospital rooms that either (1) have not been converted to other uses, or (2) retain all essential nonmovable equipment and connections necessary for patient care in accordance with licensing standards. "Nonmovable" equipment shall include equipment which can be removed only through reconstruction or renovation.

For any additional comprehensive rehabilitation beds to be approved:

A. The bed to population ratio shall not exceed .325 per 1000 population.

AND

B. Either optimal occupancy must be reached by all free-standing comprehensive physical rehabilitation hospitals in all bed size categories or a 75 percent occupancy of all rehabilitation hospitals in the health planning district must be attained.

##### Rehabilitation Unit of a General Hospital

A rehabilitation unit of general hospital shall maintain annual occupancy rates relative to the number of beds in the facility:

0 - 49	- 50%
50 - 99	- 60%
100 - 199	- 70%
200 +	- 75%

In determining occupancy rates, beds used in the calculations include: (a.) licensed but not Section 1122 approved beds which are in use or could be put into use within 24 hours, and (b.) 1122 approved and licensed beds which are in use or could be put into use within 24 hours.

\*Beds that can be brought into service within 24 hours shall be construed to mean the appropriate number of beds in rooms originally constructed and equipped as hospital rooms that either (1) have not been converted to other uses, or (2) retain all essential nonmovable equipment and connections necessary for patient care in accordance with licensing standards. "Nonmovable" equipment shall include equipment which can be removed only through reconstruction or renovation.

For any additional comprehensive rehabilitation beds of a general hospital to be approved:

A. The bed to population ratio shall not exceed .325 per 1000 population.

AND

B. Either optimal occupancy must be reached by all rehabilitation units of general hospitals in all bed size categories or a

75 percent occupancy of all rehabilitation units of all general hospitals in the health planning district must be attained.

#### Adjustment

An existing rehabilitation hospital or rehabilitation unit of a general hospital which has operated at a level of 10 percent or more above its optimal occupancy, as determined by bed size category, for a period of 12 consecutive months will be allowed to add a number of beds that would bring its occupancy down to the optimal occupancy level for its bed size. The occupancy rate for the 12 consecutive months shall be determined by Division of Policy, Planning and Evaluation from the four most recent quarters of data due to have been reported by the hospital to the Division of Licensing and Certification.

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

### RULE

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

Effective August 20, 1985, the Department of Health and Human Resources, Office of Preventive and Public Health Services, Food and Drug Control Unit, in order to implement the provisions of LSA R.S. 40:601 et seq. is adopting these regulations to establish tolerances for pesticides in food. These regulations will make the Pesticide Tolerances in Food Regulations uniform with those of the federal government and comply with LSA R.S. 40:607(1) and LSA R.S. 40:611.

The Office of Preventive and Public Health Services of the Department of Health and Human Resources is adopting the following rule in order to make the Pesticide Tolerances in Food Regulations uniform with those of the federal government and to comply with LSA R.S. 40:607(1) and LSA R.S. 40:611. Towards that end, Section 2.310 of the Regulations Pertaining to Foods, Louisiana Food, Drug & Cosmetic Regulations of September, 1968 (the Red Book) is hereby added to provide as follows:

Section 2.310 Tolerances for Pesticides in Food. The Department of Health and Human Resources/OPPHS hereby adopts the federal regulations for Tolerances for Pesticides in Food administered by the Environmental Protection Agency, as found in 21 CFR 193 dated April 1, 1984.

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

### RULE

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

Effective August 20, 1985, the Department of Health and Human Resources, Office of Preventive and Public Health Services, Seafood Sanitation Unit, in order to implement the provisions of LSA R.S. 40:607(B) and 604 is adopting these additional regulations to amend the Food Regulations, of the Food, Drug and Cosmetic Regulations dated September, 1968 (the "Red Book"). This rule outlines the requirements or conditions for certification, decertification, or denial of certification of shellfish shippers handling shell-stock. This rule is necessary in order to prevent non-meritorious persons from receiving certification in the absence of formally established criteria.

A new Chapter entitled "Certification Requirements For Shellfish Shippers Handling and Selling Shell-Stock" shall be established, and 6.201-6.203 shall provide the rules for obtaining and maintaining certification as follows:

#### 6.201 Definitions

(a) *Shellfish*—The term as used in this rule includes fresh and fresh frozen oysters, clams and mussels.

(b) *Shell-Stock*—The term "Shell-stock" as used in this rule includes live, unshucked oysters, clams or mussels.

(c) *Shell-Stock Shipper*—Persons who grow, harvest, buy or sell shell-stock.

(d) *Shucker-Packer*—Shippers who shuck and pack shellfish. A shucker-packer may also act as a shell-stock shipper.

(e) *Repacker*—Shippers, other than original shucker-packer who pack shucked shellfish into containers for delivery to the consumer. A repacker may shuck shellfish if he has the necessary facilities.

(f) *Reshipper*—Shippers who tranship shucked stock in original containers, or shell-stock from certified shellfish shippers to other dealers or to final consumers, but who do not shuck or repack shellfish.

(g) *Certified Shellfish Shippers*—Any shell-stock shipper, shucker-packer, repacker, or reshipper who is certified by the Office of Preventive and Public Health Services for inclusion on the U.S. Food and Drug Administration's listing of approved shellfish shippers. Shellfish shippers shall be certified annually and shall file an application for recertification each year with the Office of Preventive and Public Health Services.

#### 6.202 Minimum Requirements That Shellfish Shippers Handling and Selling Shell-stock (Unshucked Shellfish) Must Abide By In Order to Receive Or Maintain Certification.

(a) Shellfish shippers shall handle or offer for sale to the public only shellfish that were harvested from waters currently approved by the state health officer as prescribed in Section 9:003 of the State Sanitary Code.

(b) Shellfish shippers shall keep accurate daily records of shellfish purchases and sales as prescribed in Section 9:003 of the State Sanitary Code.

(c) Shellfish shippers shall only handle shell stock that are properly tagged in accordance with the instructions given in Sections 9:050, 9:050-1 and 9:050-2 of the State Sanitary Code.

(d) Shellfish shippers shall refrigerate shell stock when the ambient temperature exceeds 50 F as required in Section 9:051 of the State Sanitary Code.

#### 6.203 Decertification Or Denial Of Certification Of Shellfish Shippers.

The certification of any shellfish shippers handling or making shipments of shell stock may be suspended or revoked for failing to comply with any one of the four basic requirements for maintaining certification previously listed.

An application for certification shall not be accepted from any individual or corporation previously found guilty in a civil or criminal proceeding of knowingly selling shellfish that were harvested from waters not approved for shellfish harvesting by the state health officer.

Any individual or corporation currently charged by any state or federal regulatory agency with harvesting or knowingly selling shellfish from waters not approved by the state health officer shall be ineligible for certification until all charges have been dismissed, or until found innocent of said charges.

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

### RULE

#### Department of Labor Office of Worker's Compensation Administration

#### RULE LWC-1 PURPOSE

The purpose of the rules and regulations is to define the re-

sponsibilities and rights of the employee, employer, and the carrier in the administration of worker's compensation in Louisiana.

The rules are intended to expedite the receipt of benefits by the injured worker; to insure that the proper rate of compensation is paid; to aid in the rehabilitation of the injured worker; to provide for collection of statistical data; to provide for review of safety plans and where necessary, to facilitate the resolution of disputes regarding benefits.

#### RULE LWC-2 DEFINITIONS

For the purposes of these rules, the following definitions apply:

(1) *Office* means the Office of Worker's Compensation Administration in the Louisiana Department of Labor.

(2) *Act* means the Louisiana Worker's Compensation Law, Chapter 10, Revised Statute 23.

(3) *Carrier*, unless otherwise indicated, includes insurance companies, self-insured employers and group self-insured employers.

(4) *Director* means the assistant secretary of labor responsible for worker's compensation administration.

(5) *Commissioner* means the commissioner of insurance for the State of Louisiana.

(6) *Medical Examiner* means any medical practitioner selected by the director for settling disputes.

(7) *Penalty* means the percentage of additional payment required by Section 1201 B of Act 1, 1983 Extraordinary Session.

(8) *Form* means the forms required for notification to the office required by the Act.

(9) *Rehabilitation* means the program designed to help an injured worker reenter the work force.

(10) *Employee Notice* means the notice the employer is required to keep posted in the work place.

(11) *Certificate* means the notice the office is required to give after its recommendation is rejected.

(12) *Clerk* means the clerks of the district courts in Louisiana.

(13) *Date of Filing*: The date of filing, reporting receipt in the office shall be the date the document is received in the office.

(14) *Days*: Days when used to determine a period allowed for filing shall mean the number of calendar days. If the final day of a time period falls on a Saturday, Sunday, holiday, or other day that the office is officially closed, then the period of filing shall be extended to the next day that the office is officially opened.

(15) *Document size*: All filings not on forms approved by the office shall be submitted on 8½" by 11" paper.

#### RULE LWC-3 ANNUAL REPORTS

All carriers writing worker's compensation insurance and all self-insured employers shall submit to the office by April 30, of each year an annual report on form LDOL-WC-1000 showing the amount of worker's compensation benefits paid in the previous calendar year.

Specific Authority: Act 29, 1983 Extraordinary Session S1447(A)

Law Implemented: July 1, 1983

History—New

#### RULE LWC-4 ASSESSMENTS

The annual report will be used by the director in determining an assessment for the administration of worker's compensation. The assessment shall be paid into the Office of Worker's Compensation Administrative Fund within 30 days from the date notice is served upon such carrier. If such amount is not paid within such period there may be assessed, for each 30 days the amount assessed remains unpaid, a civil penalty equal to 20 percent of the amount unpaid, which shall be due and collected at the same time as the unpaid part of the amount assessed.

Specific Authority: Act 29, 1983 Extraordinary Session S1447(E)

Law Implemented: July 1, 1983

History—New

#### RULE LWC-5 COMPLIANCE PENALTY

If any carrier fails to pay the amount assessed against it within 60 days from the time such notice is served upon it, the commissioner of insurance, upon being advised by the director, may suspend or revoke the authorization to insure compensation in accordance with the procedures of the insurance code.

Specific Authority: Act 29, 1983 Extraordinary session S1447(E)

Law Implemented: July 1, 1983

History—New

#### RULE LWC-6 RESTRICTED WORK NOTIFICATION

Every employer of more than 10 employees who is subject to record keeping under the provisions of USC Section 655 shall, within 90 days of any occupational death of an employee, any non-fatal occupational illness, or any non-fatal occupational injury involving either loss of consciousness, restriction of work or motion, transfer to another job, or medical treatment other than first aid, report to the statistical data section of the office on form OSHA-200.

Specific Authority: Act 1, 1983 Extraordinary Session S1292

Law Implemented: July 1, 1983

History—New

#### RULE LWC-7 DISPUTES—PHYSICAL CONDITION

If a dispute arises as to the physical condition of an employee, the director, upon application of any party, shall order an examination of the employee to be made by a medical practitioner selected and appointed by the director. The application shall set forth that it is for a physical examination in accordance with: Section 1123 and shall also set forth:

- the name of the employee
- the employee's social security number
- the date of the accident
- the name of the employer
- the insurance carrier, if any
- the nature of the dispute
- the type of examination requested

The fee of the examiner shall be fixed by the director. The medical examiner shall report his conclusions to the director and to the parties and such report shall be prima facie evidence of the facts in any subsequent proceedings under Chapter 10 of R.S. 23.

Specific Authority: Act 1, 1983, Extraordinary Session S1123

Law Implemented: July 1, 1983

History—New

#### RULE LWC-8 CLAIMS OF ATTORNEYS

Claims of attorneys for legal services arising under Chapter 10 of R.S. 23 except Section 1311 shall not be enforceable unless reviewed and approved by the director. The application shall set forth that it is a claim for payment for legal services as provided in Section 1141 and shall also set forth:

- the name of the employee
- the employee's social security number
- the date of the accident
- the name of the employer
- the insurance carrier, if any
- the amount of attorney's time expended
- the amount of staff's time expended
- any fee agreement between the attorney and employee
- any costs



any other information which will help the director reach a decision on the claim.

Specific Authority: Act 1, 1983 Extraordinary Session S1141

Law Implemented: July 1, 1983

History—New

Fees of attorneys will be approved based on an hourly rate of \$75 per hour and \$20 per hour for staff time.

#### RULE LWC-9 FEES FOR PHYSICIANS

Fees of physicians for services, treatment, or testimony under Chapter 10, shall not be enforceable unless agreed upon by all parties concerned or approved by the director. If the parties cannot agree upon the fees, then any party may file a request with the director setting forth that it is a request for approval of physician's fees under Section 1142 and shall also set forth:

the name of the employee

the employee's social security number

the date of the accident

the name of the employer

the insurance carrier, if any

the name and address of the physician

the telephone number of the physician

the nature of treatment

the fee charged

the fee suggested by the filing party

any other information which will help the Director to reach a decision on the matter.

Specific Authority: Act 1, 1983 Extraordinary Session S1142

Law Implemented: July 1, 1983

History—New

#### RULES LWC-10 TIME ALLOWED FOR PAYMENTS OF COMPENSATION

An interval of more than one month for payments of compensation under Chapter 10 of R.S. 23 must be approved by the director. The party requesting approval must file a request with the director setting forth that it is a request for extending the payment interval under Section 1201A and shall also set forth:

the name of the employee

the employee's social security number

the date of the accident

the name of the employer

the insurance carrier, if any

the interval of payment

the agreement of the employee, employer, and carrier to the request

any other information which will help the director to reach a decision on the matter.

Specific Authority: Act 1, 1983 Extraordinary Session S1201A

Law Implemented: July 1, 1983

History—New

#### RULE LWC-11 COMPENSATION PAYMENT CHANGES

Upon making the first payment of compensation and upon modification or suspension of payment for any cause, the carrier shall immediately notify the office with a copy to the employee. In the event of injury not resulting in death, use form LDOL-WC-1002. For any injury resulting in death, use form LDOL-WC-1010.

Specific Authority: Act 1, 1983 Extraordinary Session S1201G

Law Implemented: July 1, 1983

History—New

#### RULE LWC-12 FINAL PAYMENT NOTIFICATION

A claim shall be presumed to be reasonably controverted

in accordance with Section 1201(e) if the employer terminates temporary total disability because

(1) the employee has returned to work with wages equal to or greater than pre-injury wage

(2) the employee has returned to work at reduced wage

(3) the maximum period for payment of supplemental earnings benefits has expired

(4) the employee was able to resume employment at the same or greater wage (a medical report *must* be attached)

(5) the employee has moved, the checks are not being cashed, and the whereabouts of the employee are unknown.

Within 14 days after the final payment of compensation has been made, the carrier shall send a notice to the employer and the office on form LDOL-WC-1003.

Specific Authority: Act 1, 1983 Extraordinary Session S1201G

Law Implemented: July 1, 1983

History—New

#### RULE LWC-13 SUPPLEMENTAL EARNINGS BENEFITS LOSS REPORT

If there is medical evidence supporting an injured employee's ability to return to restricted work at a wage less than the employee's wage when injured, the wage differential should be treated as a compensable supplemental earnings benefits loss already reported to the carrier.

Any compensable supplemental earnings benefits loss shall be reported by the employee to the carrier within 30 days after the termination of the week for which such loss is claimed. Within ten days of notification of loss by the employee, the carrier shall report to the office on form LDOL-WC-1002. Within ten days after supplemental earnings benefits payments have ceased, the carrier shall report to the office on Form LDOL-WC-1003.

Specific Authority: Act 1, 1983 Extraordinary Session S1221(3)(a)

Law Implemented: July 1, 1983

History—New

#### RULE LWC-14 REHABILITATION SERVICES

##### 14.1 PURPOSE

The purpose of this Section of administrative rule is to implement the provisions of Section 1226 of Sub-part B of Chapter 10, R.S. 23. Establishing guidelines for the rehabilitation of injured employees.

##### 14.2 STATUTORY REQUIREMENTS

Sub-part B, Section 1226(A) requires that when an employee has suffered an injury covered by Chapter 10, R.S. 23 precludes the employee from earning wages equal to wages earned prior to the injury, the employee shall be entitled to prompt rehabilitation services provided by the carrier.

##### 14.3 DEFINITIONS

For purposes of this Section the following definitions apply:

(1) *Suitable employment* means employment or self-employment, after rehabilitation which is reasonable attainable and which offers an opportunity to restore the individual as soon as practical and nearly as possible to his average earnings at the time of the injury.

(2) *State and Federal Agencies* means those agencies which provide vocational education paid for with tax money.

(3) *Private Agency* means those companies which provide vocational rehabilitation services for a fee.

##### 14.4 RESPONSIBILITY TO PROVIDE SERVICES

It is the responsibility of the carrier to provide appropriate training and education for suitable gainful employment for an employee who has suffered an injury which precludes the employee from earning wages.

#### 14.5 USE OF RESOURCES

The carrier may utilize programs provided by state and federal agencies for vocational education when conveniently available or may utilize any public or private agency cooperating with such state and federal agencies. In the absence of such programs the carrier shall provide vocational rehabilitation with available private agencies.

#### 14.6 CLAIMS

If rehabilitation services are not offered or accepted, the director, upon application on form LDOL-WC-1005 of the employee, employer, or carrier may refer the employee to a qualified physician or facility for the evaluation of the practicality, the need, and the kind of service, treatment, or training necessary and appropriate to restore the employee to suitable gainful employment. On receipt of the evaluation, the director, may recommend that the service and treatment recommended in the report, or such other rehabilitation treatment or service deemed necessary, be provided at the expense of the carrier.

#### 14.7 RECOMMENDATION OF DIRECTOR

Prior to the director finding that an injured employee is permanently and totally disabled, the director shall determine whether there is reasonable probability that, with appropriate training or education, the injured employee may be rehabilitated to the extent that such employee can achieve suitable gainful employment an whether it is in the best interest of such individual to undertake such training or education.

#### 14.8 DURATION

When it appears that rehabilitation is necessary and desirable to restore the injured employee to suitable gainful employment, the employee shall be entitled to reasonable and proper rehabilitation services for a period not to exceed 26 additional weeks if such extended period is determined to be necessary and proper by the director. However, no carrier shall be precluded from continuing such rehabilitation beyond such period on a voluntary basis. An injured employee must request and begin rehabilitation within two years from the date of termination of temporary total disability as determined by the treating physician.

#### 14.9 LOCATION OF SERVICES

If rehabilitation requires residence at or near the facility or lodging, or travel the cost shall be borne by the carrier. Rehabilitation services shall be performed at facilities within the state when such facilities are available.

#### 14.10 PENALTY FOR REFUSAL

An injured employee's refusal to accept rehabilitation as deemed necessary by the director or the court shall result in a 50 percent reduction in weekly compensation, including supplemental earnings benefits pursuant to R.S. 23:1221 (3), for each week of the period of refusal.

#### 14.11 PAYMENT OF TEMPORARY DISABILITY

Temporary disability benefits paid pursuant to R.S. 23:1221 (1) shall include such period as may be reasonably required for training in the use of artificial members and appliances and shall include such period as the employee may be receiving training or education under a rehabilitation program approved by the director or court.

#### 14.12 RESTRICTION OF DETERMINATION OF TOTAL DISABILITY

The permanency of an employee's total disability under R.S. 23:1221 (2) cannot be established, determined, or adjudicated while the employee is employed pursuant to a rehabilitation program approved by the director or court.

#### 14.13 SUBMISSION OF PLAN TO OFFICE

If the office so requests an individual written vocational rehabilitation plan for an injured worker will be prepared by the employee or its carrier, or by a private or public rehabilitation provider or counselor and submitted to the office for approval.

#### 14.14 PROGRESS REPORTS

A progress report on each injured employee enrolled in an approved plan of vocational rehabilitation shall be submitted upon request to the office.

#### 14.15 APPROVED LIST OF SERVICES

The Office of Worker's Compensation Administration may maintain a current directory of companies and/or individual consultants which has been approved by the director to provide vocational rehabilitation services. If created, this listing will be available to employers and carriers upon request. The office upon its own initiative may list providers or a provider may request the director to include it in the directory.

Specific Authority: Act 1, 1983 Extraordinary Session S1310 and S1310.1A

Law Implemented: July 1, 1983

History—New

#### RULE LWC-15 SAFETY SECTION

##### 15.1 STATUTORY REQUIREMENTS

Part IV, Subpart A, S1291 (B) (4), Louisiana Statutes, as amended, requires every Louisiana employer of more than 15 employees to provide, if self-insured, or is provided by the carrier, if privately insured, plans for implementation of a working and operational safety plan. The plans shall be made available for inspection by the director upon request but shall be privileged and confidential pursuant to R.S. 23:1293 provided that the operational safety plan may be subpoenaed from the employer who shall certify under oath that it is a duplicate of the plan submitted to the director.

In order to assure adequate safety resources for Louisiana employers and employees, the director shall maintain a list of safety professionals/engineers from the private sector, which shall be available upon request by any Louisiana employer.

##### 15.2 DEFINITIONS

A. Operational Safety Plan; is a document of undetermined length that will present simply and succinctly the program by which the employer can follow to reduce accidents in the workplace and incidents of industrial and occupational disease. The "Safety Plan" shall comply with applicable local, state and federal safety and health standards or appropriate industry standards. To assist in guidance for the components of the safety plan, the employer may utilize: 1) an in-house safety staff, 2) insurance carrier field safety representatives or 3) private sector *Safety Professionals/Engineers* as identified by a list maintained by the director. The components of a *Safety Plan* shall be outlined in Paragraph 15.4 of this Section.

B. Professional *Safety Experience*—The responsible charge of 75 percent or more of one's duties and function for the successful accomplishments of safety objectives wherein the analysis, investigation, planning, execution of plans, feedback adjustments and the periodic reporting of progress is accomplished. Responsible charge does not imply supervisory responsibility.

C. \*Safety Professional/Engineer—An active safety practitioner who possesses one or a combination of the following criteria:

1) Graduation from an accredited college or university with a Bachelor's degree in engineering or science, plus five years or more of professional safety experience, of which two or more years shall have been in responsible charge;

A Master's degree will be accepted in lieu of one year of the practitioner's professional safety experience.

An earned Doctoral degree will be accepted in lieu of two years of the practitioner's professional safety experience.

\*Applies to individuals making application to the director for placement on the list of private sector Safety professionals/engineers for safety services.

2) An earned Associate degree from an accredited college or university in engineering or science plus eight years or more professional safety experience.

3) Ten years of professional safety experience in lieu of an engineering or science degree.

4) Professional Certifications:

a) Certified Safety Professional

b) Certified Hazard Control Manager

c) Certified Industrial Hygienist

D. Safety Professionals/Engineers assuring adequate safety resources shall render those consultation services which will consist of, while not being limited to the following:

1) a survey of the safety performance of the employer, its organization and activities;

2) an appraisal of the mechanical hazards, power transmission apparatus, material handling, unsafe work methods and hazardous processes;

3) advice and assistance in the detection of occupational health hazards and exposure;

4) provide assistance to the employer with employee safety training programs;

5) recommendations for appropriate corrective action;

6) Assist in the development of an employer's safety plan.

### 15.3 AVAILABILITY OF SAFETY SERVICES

A list shall be maintained by the director, of safety practitioners from the private sector, who (A) meet criteria as set forth in the definition of a "safety professional/engineer" in Paragraph 15.2.

This list shall be made available to any Louisiana employer upon request.

"In-house Safety" staff shall be a full time employee(s) whose primary function within the organization, includes work of progressive importance and achievement towards accident prevention.

Insurance carrier safety staffs are full-time employees whose primary functions include safety engineering services.

### 15.4 COMPONENTS OF A SAFETY PLAN

Operating Safety Plan—Minimum requirement. Class "A" and Class "B" programs

Class "A"—worker's compensation rate of \$5 per \$100 of payroll over for major classification or classification with highest amount of payroll.

Class "B"—plan required where workers' compensation rate per \$100 of payroll is less than \$5 for classification with highest amount of payroll.

#### Class "A" Plan

1. Management Policy Statement—Signed by top executive acknowledging management responsibility and the desire for a plan and the intention to comply with all applicable local, state and federal safety requirements or appropriate industry standards.

2. Responsibility for Safety—be defined in writing for executive and operating management, supervision, safety coordinator and employees.

3. Inspections be made of work place at least monthly by a supervisor at the site. A written report (check list or narrative) is to be completed for each inspection, with this report to be retained for a period of one year. The report will be designed to cover the identification of recognized unsafe conditions, unsafe act and any other items inherent in a particular job. The form will include a space to indicate any corrective action.

4. An accident investigation will be made on each injury requiring a visit to a clinic or physician and a report will be completed. The report will include information on the person injured, his or her job, what happened, what was the basic cause, what corrective action is required and the action taken. The investigation is to be made and the report completed by the immediate su-

pervisor of the injured person and/or an individual with specific investigative responsibility.

5. Safety meetings will be held by a supervisor with all his/her employees on a monthly basis. A record will be kept showing the topics discussed, date and the names of the persons attending the meeting.

6. Safety Rules—management will develop safety rules that would apply to the operation being performed. The rules will be: short, concise, simple, enforceable, stated in a positive manner and followed by everyone, including management and supervisors as well as other employees. The rules will be written with a copy provided to each employee.

7. Training—management shall implement a training program that will provide for training of each new employee, an existing employee on a new job or when new jobs or work is initiated, in the correct work procedures to follow, use of required personal safety equipment and where to get assistance when needed. This training should be accomplished by the job supervisor but may be done by a training specialist or an outside consultant such as a vendor or safety consultant.

Training shall be provided to all persons in operating supervisory positions in: conducting safety meetings, conducting inspections, accident investigation, job planning, employee training methods, job analysis and leadership skills.

8. Record keeping—each firm will maintain, in addition to OSHA logs which are retained for five years, other records for a period of one year from the end of the year for which the records are maintained. These will include inspection reports, accident investigation reports, minutes of safety meetings and training records.

9. First Aid—management will adopt and implement a first aid program which will provide for a trained first aid person at each job site on each shift. A first aid kit with proper supplies for the job exposures will be maintained and restocked as needed.

#### Class "B" Plan

1. Management Policy Statement—same as Class "A."

2. Definition of Responsibility—safety responsibilities for supervision should be defined.

3. Inspections—work site inspections to be made on a quarterly basis by supervisor with notes on inspection results retained on file for one year.

4. Accident Investigation—same as for Class "A."

5. Safety Meetings—same as for Class "A" except on a quarterly or every three month basis.

6. Safety Rules—same as for Class "A."

7. Training—employees will be trained in how to perform a job before being left alone to perform the job, if employee has not performed job previously.

8. Record Keeping—same as Class "A."

9. First Aid—same as Class "A."

NOTE: The above items listed for Class "A" and Class "B" plans are considered as a minimum and should be referred to as such. Obviously, we would all like to see such items as planning, setting of objectives, performance evaluations, incentive programs, etc., included.

The minimum requirements are in no way intended to require the revision of existing company safety plans that have demonstrated proven performance in the past. Any company that has a plan which meets or exceeds these minimum requirements may submit its plan to the director for review and acceptance.

### 15.5 SUBMISSION OF SAFETY PLAN

"Safety plans" shall be submitted to the director upon request.

### RULE LWC-16 EMPLOYEE NOTICE

It shall be the employer's duty to advise employees and keep

posted at some convenient and conspicuous point in his place of business a notice reading substantially as follows:

LOUISIANA DEPARTMENT OF LABOR  
OFFICE OF WORKER'S COMPENSATION ADMINISTRATION  
910 NORTH BON MARCHE DRIVE  
BATON ROUGE, LA 70806  
NOTICE OF COMPLIANCE  
TO EMPLOYEES

1. You should report to your employer any occupational injury or disease, even if you deem it to be minor.
2. In case of accidental injury or death, an injured employee or any person claiming to be entitled to compensation either as a claimant or as a representative of a person claiming to be entitled to compensation must give notice to the employer at the address below within 30 days of the injury. If notice is not given within 30 days, no payments will be made under the law for such injury or death.
3. In the event you are injured, you are entitled to select a physician of your choice for treatment. The employer may choose another physician and arrange an examination which you would be required to attend.
4. In order to preserve your right to benefits under the Louisiana Worker's Compensation Law, you must file a formal claim with the Office of Worker's Compensation Administration within one year after the accident if payments have not been made or within one year after the last payment of weekly benefits.
5. This notice shall be given by delivering it or sending it by certified mail or return receipt requested to:

\_\_\_\_\_  
Employer Representative

\_\_\_\_\_  
Employer Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip

Inaccuracies in this notice as regards the time, place, nature, or the cause of injury or otherwise will not be held against the employee unless the employer can show harm from being misled about the facts.

Failure to give notice may not harm the employee if the employer knew of the accident or if the employer was not prejudiced by the delay or failure to give notice. (Refer to Section 1304 and Section 1305 for the exact wording)

6. If you desire any information regarding your rights and entitlement to benefits as prescribed by law, you may call or write to the Office of Worker's Compensation Administration at the above address, or telephone (504) 925-4563 or toll-free at (800)-824-4592.

**THIS NOTICE TO BE POSTED CONSPICUOUSLY IN AND ABOUT EMPLOYER'S PLACE(S) OF BUSINESS.**

If the employer is insured, then include the following: Name and address of insurance company.

If the employer fails to keep such a notice posted, the time in which the notice of injury shall be given shall be extended to 12 months from the date of injury.

Specific Authority: Act 1, 1983 Extraordinary Session S1302

Law Implemented: July 1, 1983

History—New

**RULE LWC-17 LOST TIME INJURY REPORTS**

Within 10 days of actual knowledge of injury to an employee which results in death or in lost time in excess of one week after the injury, the employer shall report same to the carrier, if any, and to the office, on form LDOL-WC-1007.

Specific Authority: Act 1, 1983 Extraordinary Session S1306A

Law Implemented: July 1, 1983

History—New

**RULE LWC-18 FILING OF CLAIMS WITH OFFICE**

If, at any time after notification to the office of the occurrence of death or injury resulting in excess of seven days lost time, a bona fide dispute occurs, the employee or his dependent or the carrier may file a claim with the office on form LDOL-WC-1008.

The office will evaluate the claim within 30 days after receipt, and will issue its recommendation for resolution. The office will provide the parties with a copy of the recommendation by certified mail, return receipt requested.

Specific Authority: Act 1, 1983 Extraordinary Session S1310 and S1310.1A

Law Implemented: July 1, 1983

History—New

**RULE LWC-19 ACCEPTANCE OR REJECTION OF RECOMMENDATION**

The office shall submit to each party two copies of its recommendation. Within 30 days of the receipt thereof, each party shall notify the office of the acceptance or rejection of the recommendation by so indicating on one of the two copies and returning that copy to the office.

Specific Authority: Act 1, 1983 Extraordinary Session S1310.1A

Law Implemented: July 1, 1983

History—New

**RULE LWC-20 CLERK OF COURT NOTIFICATION**

The clerk of the district court shall, within 10 days after the disposition of any worker's compensation case in the court, make a report on form LDOL-WC-1009 and shall mail the same to the office.

Specific Authority: Act 1, 1983 Extraordinary Session S1321A

Law Implemented: July 1, 1983

History—New

**RULE LWC-21 AMERICAN MEDICAL ASSOCIATION GUIDES**

In determining benefits for anatomical loss of use or amputation, as provided in Subparagraphs (a) through (o) of Section 1221 (4) R.S. 23 or loss of physical function as provided in Subparagraph (p) of Section 1221(4), the disability must exceed 50 per cent as established in the current edition of the American Medical Association Guides to the evaluation of permanent impairment.

**RULE LWC-22 ADM PENALTIES**

Failure to submit any report within the prescribed time limit will result in an administrative penalty of \$100 per incident.

**RULE LWC-23 COMPROMISE SETTLEMENT AGREEMENTS**

All compromise settlement agreements entered into by the parties shall be presented to the director for approval. The petition shall set forth that it is for approval of a compromise settlement in accordance with Section 1272 and shall also set forth:

- the name of the employee
- the employee's social security number
- the date of the accident
- the name of the employer
- the insurance carrier, if any
- the amount of settlement

a memo of agreement signed by the employer, the employee, the insurance carrier, the employee's attorney, if any, the carrier attorney, if any, and the employer's attorney, if any  
any other information which will help the director to reach a decision on the matter.

If any of the parties are not represented by counsel, the petition should so state. The petition should also include a statement of how the compromise settlement will provide substantial justice to all parties. This statement will include the reason for the compromise settlement and what benefit the injured employee will receive as a result of the compromise settlement.

If the director determines it to be necessary for the purpose of determination if substantial justice is being done, the office will notify all parties of a hearing which should be scheduled no sooner than 30 days from the receipt of the petition.

Specific Authority: Act 1, 1983 Extraordinary Session S1272

Law Implemented: July 1, 1983

History—New

#### RULE LWC-24 AGREEMENT TO MODIFY JUDGEMENT

Any agreement to modify a judgement of compensation rendered by the district court must be submitted to the director for approval. The agreement shall set forth that it is a request for approval to modify a judgement as provided in Section 1331 and shall also set forth:

- the name of the employee
- the employee's social security number
- the date of the accident
- the name of the employer
- the insurance carrier, if any
- the substance of the agreement
- the signatures of all parties to the agreement
- the signatures of the attorneys of the parties, if any
- the reasons for the modification
- any other information which will help the director to reach

a decision on the matter.

Specific Authority: Act 1, 1983 Extraordinary Session S1331

Law Implemented: July 1, 1983

History—New

#### RULE LWC-25 THIRD PARTY SETTLEMENTS

The director shall be notified if either the employee or his dependent or the employer or insurer brings suit against a third person. The director's notice is to be in writing of such fact and of the name of the court in which the action was filed and shall set forth:

- the name of the employee
- the employee's social security number
- the date of the accident
- the name of the employer
- the insurance carrier, if any

If for any reason the compensation payable to the employee is altered by reason of action under Section 1102, the carrier shall report the change using form LDOL-WC-1002 if benefit payments will be made at a different wage or form LDOL-WC-1003 if payments will stop.

Specific Authority: Act 1, 1983 Extraordinary Session S1102

Law Implemented: July 1, 1983

History—New

Dudley J. Patin, Jr.  
Secretary

### RULE

#### Department of Public Safety Office of Motor Vehicles

The Department of Public Safety has adopted the following rule on name usage for vehicle certificates of title in accordance with R.S. 32:727(A).

### NAME USAGE ON VEHICLE CERTIFICATES OF TITLE

(1) The applicant's name on a title application may be shown as written on the bill of sale, invoice or reverse side of title or certificate of origin.

(2) If the name is different on more than one document (title, invoice, etc.) applicant may use whichever name indicated on documents he/she desires.

(3) The name as mortgagor on the chattel mortgage must correspond with the name on title application.

(4) No titles or ranks will be used as prefixes or suffixes to names such as: Dr., M.D., Ph.D., Col., Mr., Mrs., or Ms.

(5) Suffixes such as Sr., Jr., II, III, etc. may be used when it is a part of the legal name.

(6) Commas, periods, quotation marks, slashes, and hyphens will not be allowed in any name.

(7) When two names are used, the second name must begin with the complete first name of the second person.

(8) In care of (c/o) will not be allowed in name.

(9) Last names such as Mac Donald must be entered on application without spaces.

(10) A middle initial (when one exists) is required when the last name is Son or Sons. EXAMPLE: Diane E. Son or William L. Sons

(11) An abbreviated form of a name will be required when there are 28 characters or more in the name.

Buster J. Guzzardo, Sr.  
Field Services Administrator

### RULE

#### Department of Transportation and Development Office of Highways

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Transportation and Development, pursuant of LSA-R.S. 47:714.1 and LSA-R.S. 51:781-801, adopted amended specifications for gasohol 10 percent ethanol enriched gasoline as follows:

#### AMENDED SPECIFICATIONS FOR GASOHOL OR 10 PERCENT ETHANOL ENRICHED GASOLINE

General Description: This specification covers a mixture of gasoline and ethanol in a 90-10 volume mixture for use in automotive internal combustion engines. A green dye shall be used in this mixture to color it so as to differentiate it from normal gasolines, when the gasohol or 10 percent ethanol enriched gasoline qualified for Louisiana tax exemption.

Detailed Requirements: Gasohol or 10 percent ethanol enriched gasoline shall conform to the following detailed requirements:

#### Property

Ethanol, %	9.5-13.0
Gasoline, %	87-90.5
Flash Point, °F, max.	110
Suspended Matter	None
Water, %, max.	0.30
Sulfur, %, max.	0.25
Reid Vapor Pressure, lbs., max.	13.5
Methanol, %, max.	1.0
Octane Number, $\frac{R + M}{2}$	Reg. Unleaded (87) Reg. Leaded (89) Premium (91)

#### Distillation Data

Percent Distilled (0-167) °F, min.	10
---------------------------------------	----

Percent Distilled (168-284) °F, min.	50
Percent Distilled (285-392) °F, min.	90
Residue, %, max.	2.0
Recovery, %, min.	95
End Point, °F, max.	437
PURity	99.0
Effects on seals, gaskets, packing	None
Effects on human flesh	None
Chemicals used to denature alcohol, %, max.	5.0
Water, %, max.	1.0

Labeling on the face of the pumps with the word gasohol or 10 percent ethanol enriched gasoline using black letters at least one inch in height on yellow background is required.

Methods of blending at jobber top-loading rack: Loading arm must be equipped with the drop pipes and flow deflectors. Fill the tank truck compartment 90 percent of the compartment's volume and gasoline. Complete the filling of the compartment with 10 percent ethanol. Due to the slow loading rate of jobbers' racks, it is recommended that the alcohol and the gasoline be at approximately the same temperature.

Methods of blending at bottom-load terminals: Fill the transport compartment 10 percent of compartment's volume with alcohol. Bottom-load to the compartment's capacity with gasoline. The difference in products' temperatures is not as critical here as in tank wagon top-loading.

Storage stability in previously used gasoline tanks: The alcohol in gasohol or 10 percent ethanol enriched gasoline will remove, very efficiently, varnish, oxidized gasoline, and rust from the inside walls of previously used gasoline tanks. Because of this fact, any tank must be RESTED FOR TWENTY-FOUR HOURS AND THE BOTTOM THIEFED before this product can be dispensed. Due to the vapor pressure of this product, it is recommended that a P-V vent be placed on all tanks which have a slow product withdrawal rate in order to protect and maintain the octane number. It is a #548A 2 inch thread 16-ounce pressure, 1-ounce vacuum #6 mesh screen. The standard vapor recovery P-V vent is not applicable for gasohol or 10 percent ethanol enriched gasoline service.

Storage stability in new gasoline tanks: Any new tank must be graded down three inches to the fill stack at the "A" end of the tank. This is so that the water bottom can be thiefed out. The suction stub should not be any further than three inches from the bottom of the tank. Under no circumstances should a fill stack be placed in the center of the tank unless an opening is provided to thief the tank at the low ("A") end. Due to the high vapor pressure of alcohol blending stocks, a P-V vent should be placed on the vent riser discharge. All fill stacks must have interior drop tubes. All gasohol or 10 percent ethanol enriched gasoline storage tanks over 1,500 gallons must also have drop tubes.

Robert G. Graves  
Secretary

## RULE

### Department of Transportation and Development Office of Highways

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Transportation and Development, pursuant to LSA-R.S. 48:274.1, Act Number 681 of 1984, adopted the following procedures governing outdoor advertising signs.

## 1. PURPOSE

The purpose of this directive is to establish policies for the installation of motorist services signs within State highway rights-of-way.

## 2. DEFINITIONS

Except as defined in this Paragraph, the terms used in this directive shall be defined in accordance with the definitions and usage of the Louisiana Manual on Uniform Traffic Control Devices (MUTCD).

a. Business Sign—A separately attached sign mounted on the rectangular sign panel to show the brand, symbol, trademark, or name, or combination of these, for a motorist service available on or near a crossroad or frontage road at or near an interchange.

b. Specific Information Sign—A rectangular sign panel with:

- (1) the words "GAS," "FOOD," "LODGING," or "CAMPING";
- (2) directional information; and
- (3) one or more business signs.

c. "Department" means the Louisiana Department of Transportation and Development.

## 3. LOCATION

a. Eligible Highways—Business signs will be allowed only on interstates and other fully controlled access facilities.

b. Intended for Rural Areas—Specific information signs are intended for use primarily in rural areas. Motorist information signs may be installed within urban areas where the roadside development does not appear to be urban.

c. Lateral Location—The specific information signs should be located so as to take advantage of natural terrain, to have the least impact on the scenic environment, and to avoid visual conflict with other signs within the highway right-of-way. Sign panel supports shall be of a breakaway or yielding design.

d. Relative Location—In the direction of traffic, successive specific information signs shall be those for "CAMPING," "LODGING," "FOOD," and "GAS" in that order.

## 4. CRITERIA FOR SPECIFIC INFORMATION PERMITTED

a. Conformity with Laws—Each business identified on a specific information sign shall have given written assurance to the department of its conformity with all applicable laws concerning the provision of public accommodations without regard to race, religion, color, sex, age, or national origin, and shall not be in breach of that assurance.

b. Distance to Services—The maximum distance that service facilities can be located from the terminal of the nearest off ramp to qualify for a business sign shall be three miles in either direction; except that the camping facility may be up to ten miles. Measurements shall be made from the beginning of the curves connecting the ramp to the crossroad or the nosepoint of a loop along normal edge of pavement of the crossroad as a vehicle must travel to reach a point opposite the main entrance to the business. See Figures 1 thru 5 for graphic representation.

c. Types of Services Permitted—The types of services permitted shall be limited to "GAS," "FOOD," "LODGING," and "CAMPING." To qualify for display on a specific information sign the following criteria must be met.

- (1) "GAS"
  - (a) Appropriate licensing as required by law.
  - (b) Vehicle services of fuel (leaded and unleaded), oil and water for batteries and/or radiators.
  - (c) Restroom facilities and drinking water suitable for public use.
  - (d) Year-round operation at least 16 continuous hours per day, seven days a week.
  - (e) Telephone available for use by the public.

(f) An on-premise attendant to collect monies, and/or make change.

(2) "FOOD"

(a) Appropriate licensing and/or permitting as required by law or regulation.

(b) Year-round operation at least 12 continuous hours per day, to serve at least three meals a day (sandwich type entrees may be considered a meal for lunch and dinner) seven days a week. (Breakfast must be served at a normal breakfast time.)

(c) Indoor seating for at least 16 persons.

(d) Public restroom facilities.

(e) Telephone available for use by the public.

(3) "LODGING"

(a) Appropriate licensing as required by law.

(b) Adequate sleeping accommodations consisting of a minimum of 20 units with private baths.

(c) Off-street vehicle parking spaces for each lodging room for rent.

(d) Year-round operation.

(e) Telephone available for use by the public.

(4) "CAMPING"

(a) Appropriate licensing as required by law.

(b) Modern sanitary and bath facilities which are adequate for the number of campers that can be accommodated.

(c) At least ten campsites with water and electrical outlets for all types of travel-trailers and camping vehicles.

(d) Tent camping area.

(e) Adequate parking accommodations.

(f) Continuous operation, seven days a week, 12 months a year.

(g) Telephone available for use by the public.

d. Number of Signs Permitted—The number of specific information signs permitted shall be limited to one for each type of service along an approach to an interchange or intersection. The number of business signs permitted on a sign panel is specified in paragraphs 5d, 5e, and 5f.

e. Specific information signs with directional and distance information shall be erected along the ramp approaching the crossroad when the business(es) are not visible from those approaches.

f. Trailblazing needs will be determined by the department. Trailblazing signs must be in place prior to business sign erection on the mainline.

## 5. COMPOSITION

a. Sign Panels—The sign panels shall be a blue background with a white reflectorized border. The size of the sign panel shall not exceed the minimum size necessary to accommodate the maximum number of business signs permitted using the required legend height and the interline and edge spacing specified in the MUTCD.

b. Business Signs—Business signs shall have a blue background with a white legend and border. The principal legend should be at least equal in height to the directional legend on the sign panel. Where business identification symbols or trademarks are used alone for a business sign, the border may be omitted, the symbol or trademark shall be reproduced in the colors and general shape consistent with customary use, and any integral legend shall be in proportionate size. Messages, symbols, and trademarks which resemble any official traffic control device are prohibited. The vertical and horizontal spacing between business signs on sign panels shall not exceed eight inches and 12 inches, respectively. Typical sign locations prepared from these standards are shown in Figures 6, 7, and 16.

c. Legends—All directional arrows and all letters and

numbers used in the name of the type of service and the directional legend shall be white and reflectorized.

d. Single-Exit Interchanges—The name of the type of service followed by the exit number shall be displayed in one line above the business signs. At unnumbered interchanges, the directional legend NEXT RIGHT (LEFT) shall be substituted for the exit number. The "GAS" specific information sign shall be limited to six business signs; the "FOOD," "LODGING," and "CAMPING" specific information signs shall be limited to four business signs each.

e. Double-Exit Interchanges—The specific information signs shall consist of two sections, one for each exit. The top section shall display the business signs for the first exit and the lower section shall display the business signs for the second exit. The name of the type of service followed by the exit number shall be displayed in a line above the business signs in each section. At unnumbered interchanges, the legends NEXT RIGHT (LEFT) and SECOND RIGHT (LEFT) shall be substituted for the exit numbers. Where a type motorist service is to be signed for at only one exit, one section of the specific information sign may be omitted, or a single-exit interchange sign may be used. The number of business signs on the sign panel (total of both sections) shall be limited to six for "GAS" and four each for "FOOD," "LODGING," and "CAMPING."

f. Remote Rural Interchanges—In remote rural areas, where not more than two qualified facilities are available for each of two or more types of services, business signs for two types of services may be displayed on the same sign panel. Not more than two business signs for each type of service shall be displayed in combination on a panel. The name of each type of service shall be displayed above its respective business sign(s), and the exit number shall be displayed above the names of the types of services. At unnumbered interchanges, the legend NEXT RIGHT (LEFT) shall be substituted for the exit number. Business signs should not be combined on a panel when it is anticipated that additional service facilities will become available in the near future. When it becomes necessary to display a third business sign for a type of service displayed in combination, the business signs involved shall then be displayed in compliance with paragraphs 5d and 5e.

g. Size

(1) Specific Information Signs—The maximum size of the "GAS" specific information sign shall be 15 feet wide and 10 feet high. The maximum size of the "FOOD," "LODGING," and "CAMPING" specific information sign shall be 13 feet wide and 10 feet high. Detail information on all sizes is shown on Figures 8 thru 15.

(2) Business Signs

(a) Each business sign displayed on the "GAS" specific information sign shall be contained within a 48-inch wide and 36-inch high rectangular background area, including border.

(b) Each business sign on the "FOOD," "LODGING," and "CAMPING" specific information signs shall be contained within a 60-inch wide and 36-inch high rectangular background area, including border.

(3) Legend—All letters used in the name of the type of service and the directional legend shall be 10-inch capital letters. Numbers shall be 10 inches in height.

(4) Ramp Signs

(a) Each business sign displayed on the ramp specific information sign shall be 24-inches wide and 18-inches high for "GAS" and 30-inches wide and 18-inches high for "FOOD," "LODGING," and "CAMPING."

(b) The legend on the ramp business sign shall be the same as on the mainline sign only proportionately smaller.

## 6. SPECIAL REQUIREMENTS

a. The selection by the department of businesses to be dis-

played on the motorist information signs will be made from the businesses conforming to the provisions of Section 4, with the businesses closer to the interchange receiving preference. Businesses must meet the distance requirements from each approach independently in order to be signed on each approach. If a new business comes into existence closer to the interchange than the one which is currently displayed on the specific information panel, then at the end of the presently displayed business's one-year period the new business may have its business sign displayed and the business farthest from the interchange will have its business sign removed. All distance criteria are to be determined in accordance with provisions stated in Section 3. The department shall in no way be held responsible or liable for the removal of any business sign panel.

b. The priority of business sign location on the mainline specific information sign will be established based on distance from the off-ramp terminal with the business closest having preference. In case of two or more businesses at equal distance, the business(es) on the right in the direction of travel will have preference. This same procedure will be followed when assigning new locations because of additions or deletions of business signs. The order of priority on mainline signs will be in vertical columns beginning at the top left and ending at the bottom right. Single row signs shall begin at the left. A business applying for a permit after priority assignments have been established must assume the last priority available until the next annual renewal date.

c. The motorist information signs shall be fabricated and installed by the department. All business signs will be furnished by the business at no cost to the department and shall be manufactured in accordance with the department's standard or special specifications and/or supplements thereto, for both materials and workmanship. See Figures 8 thru 17.

d. No business will be eligible to participate in the Motorist Information Sign Program which has an illegal outdoor advertising sign.

e. When one or more businesses located at an interchange meeting the requirements of Section 3 agree to participate in the logo signing program, the general motorist service sign shall be removed. The general services not included in the logo signing program but available at the interchange shall be signed for using an independently mounted symbolic service sign.

## 7. FEES AND AGREEMENTS

The annual fee for each business sign shall be established by the department as stipulated on the permit application.

a. The annual renewal date shall be January 1. Business will be invoiced for renewal, 30 days prior to the renewal date. The fee shall be remitted by check or money order payable to the Louisiana Department of Transportation and Development. Failure of a business to submit the renewal fee(s) by the annual renewal date shall be cause for removal and disposal (as set forth in Section 7) of the business sign by the department. The initial fee shall be prorated by the department to the annual renewal date to cover the period beginning with the month following the installation of the logo signs. Businesses which indicate they do not want to participate in the logo program in the initial qualification survey will be required to wait until the next annual renewal date to submit an agreement form.

b. When requested by a business, the department at its convenience may perform additional requested services in connection with changes of the business sign, with a service charge per business sign, and any new or renovated business sign required for such purpose shall be provided by the applicant.

c. The department shall not be responsible for damages to business signs caused by acts of vandalism, accidents, natural causes (including natural deterioration), etc. requiring repair or replacement. Applicants in such events shall provide a new or ren-

ovated business sign together with payment of a \$50 service charge per sign to the department to replace such damaged business sign(s).

d. Individual businesses requesting placement of business signs on Motorist Information Sign shall submit to the department a completed application form provided by the department. The required fees must accompany the application.

e. Businesses must submit a layout of professional quality or other satisfactory evidence indicating design of their proposed business sign for approval by the department before the sign is fabricated.

f. No business sign shall be displayed which, in the opinion of the department, does not conform to department standards, is unsightly, badly faded, or in a substantial state of dilapidation. The department shall remove, replace, or mask any such business signs as appropriate. Ordinary initial installation and maintenance services shall be performed by the department at such necessary times upon payment of the annual renewal fee, and removal shall be performed upon failure to pay any fee or for violation of any provision of these rules. The business (applicant) shall furnish all business signs.

g. When a business sign is removed, it will be taken to the business during normal business hours. If the sign cannot be left with the business (closed, new owners, etc.), it will be taken to the district office of the district in which the business is located. The business will be notified of such removal and given 30 days in which to retrieve their business sign(s). After 30 days the business sign will become the property of the department and will be disposed of as the department shall see fit.

h. Should the department determine that trailblazing to a business that is signed for at the interchange is desirable, it shall be done with an assembly (or series of assemblies) consisting of a ramp size business sign and an appropriate white on blue arrow. The business shall furnish all business sign(s) required and deemed necessary by the department.

i. Should a business qualify for business signs at two interchanges, the business sign(s) will be erected at the nearest interchange. If the business desires signing at the other interchange also, it may be so signed provided it does not prevent another business from being signed.

j. When it comes to the attention of the department that a participating business is not in compliance with the minimum criteria, the business will be notified that it has a maximum of 30 days to correct any deficiencies or its signs will be removed. If the business later applies for reinstatement, this request shall be handled in the same manner as a request from a new applicant.

k. The department reserves the right to cover or remove any or all business signs in the conduct of its operations or whenever deemed to be in the best interest of the department or the traveling public without advance notice thereof. The department reserves the right to terminate this program or any portion thereof by furnishing the business written notice of such intent not less than 30 calendar days prior thereto.

l. At such time that the department determines that an interchange is no longer rural in nature, the businesses will be so notified and the business signs will be removed by the department at the end of that year.

## 8. OTHER ISSUANCES AFFECTED

All directives, memoranda or instructions issued heretofore that conflict with this directive are hereby rescinded.



**SURVEY POINT ZERO**

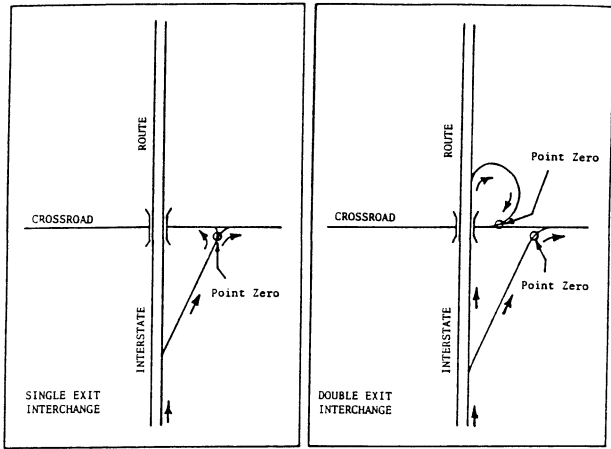


FIGURE 1

**INTERCHANGE SKETCH**

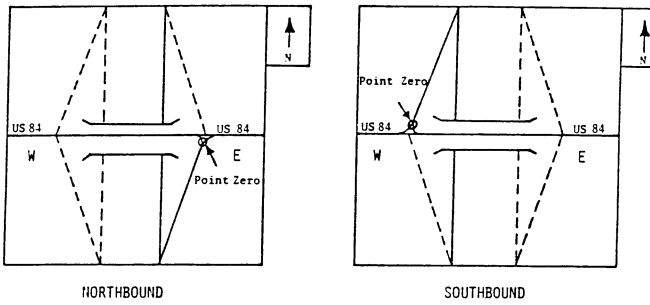
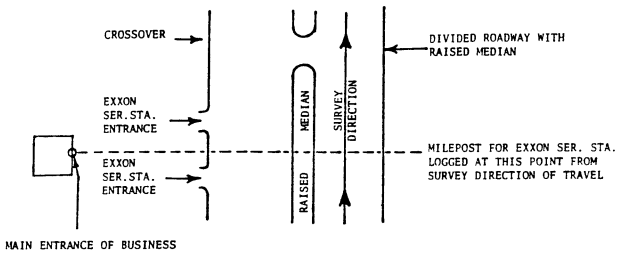


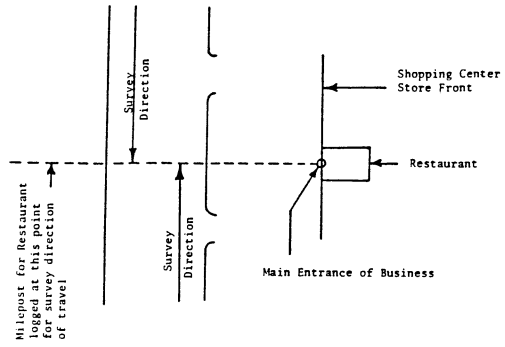
FIGURE 2

**MILEPOST RECORDING EXAMPLES**

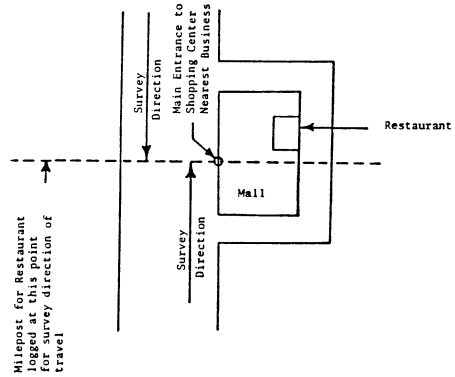


TRAVEL SERVICE ESTABLISHMENT ON OPPOSITE SIDE OF DIVIDED ROADWAY FROM SURVEY DIRECTION

FIGURE 3

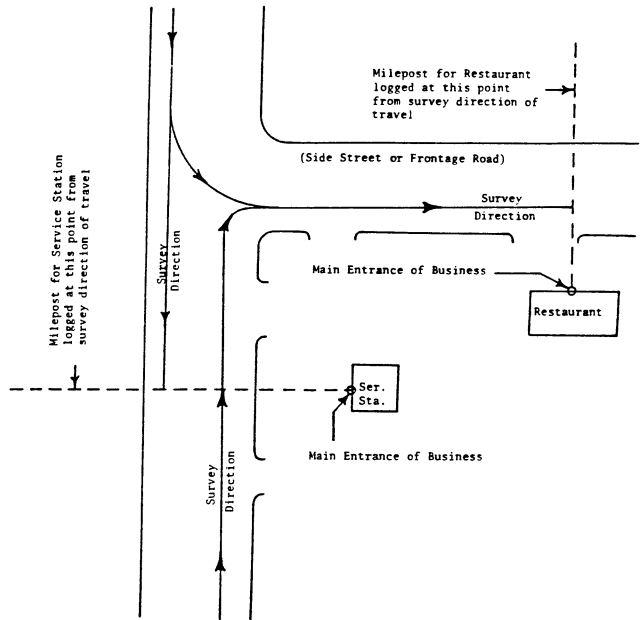


SHOPPING CENTER - BUSINESS VISIBLE



**SHOPPING CENTER—BUSINESS NOT VISIBLE**

FIGURE 4



**BUSINESS ON CORNER AND SIDE STREET**

FIGURE 5

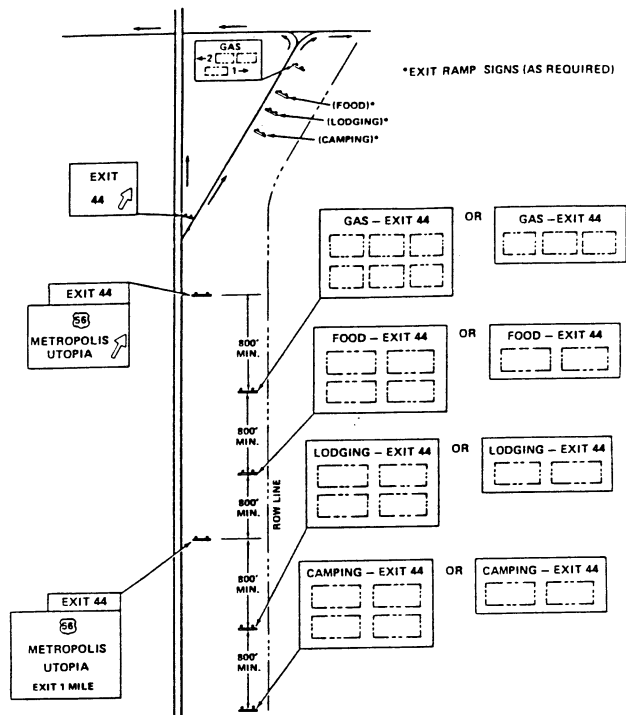


FIGURE 6 TYPICAL SIGNING FOR SINGLE EXIT INTERCHANGES

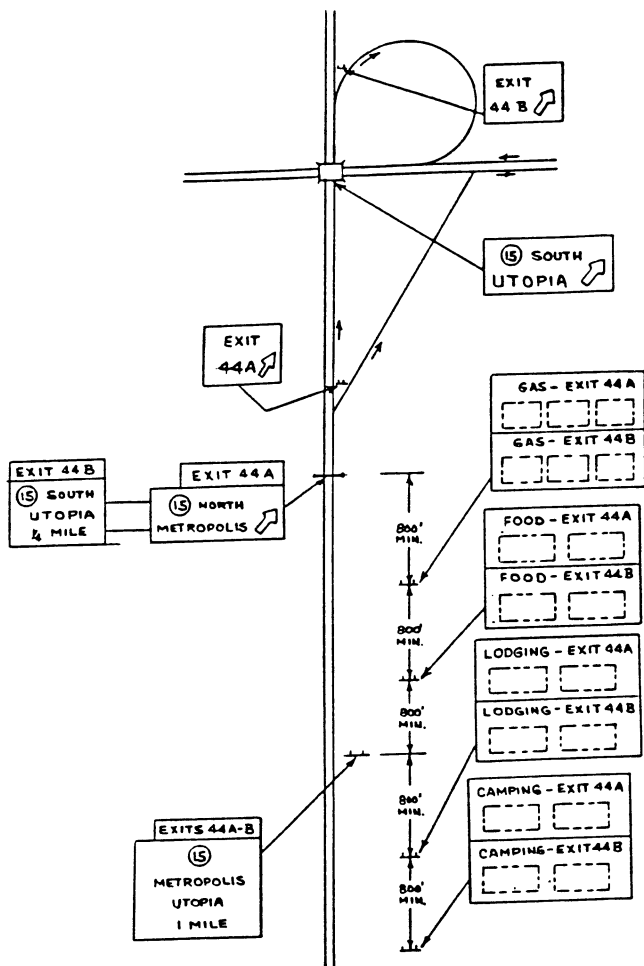


FIGURE 7 TYPICAL SIGNING FOR DOUBLE EXIT INTERCHANGES

LAYOUT FOR MAINLINE LOGO SIGNS  
(SINGLE EXIT)  
MAXIMUM SIZE FOR MAXIMUM NUMBER OF BUSINESSES

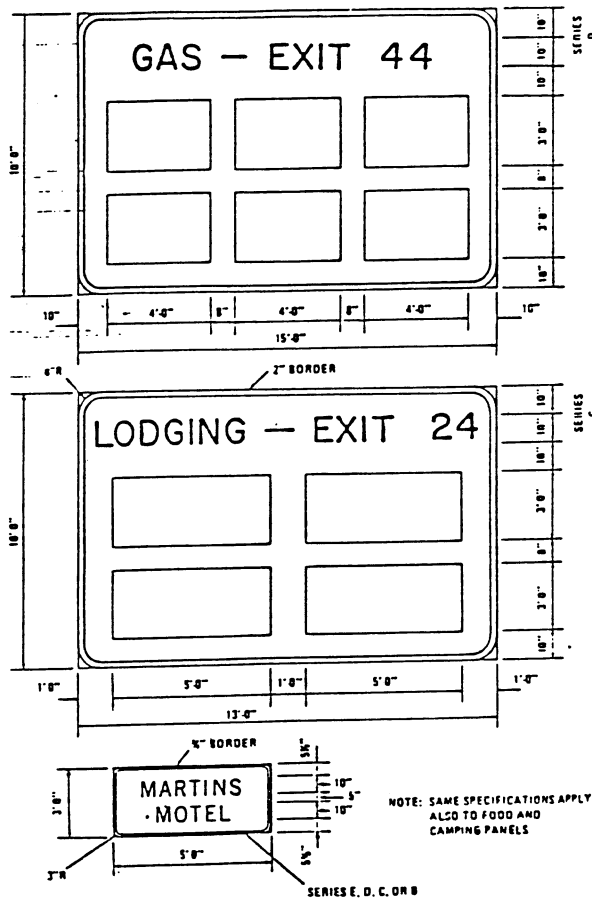
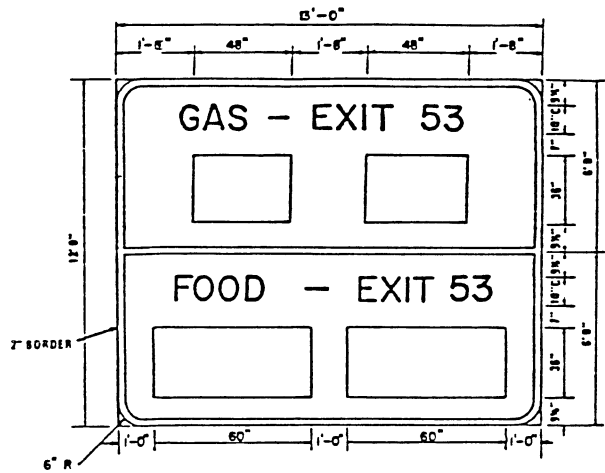


FIGURE 8 MAINLINE

LAYOUT FOR COMBINED SERVICES LOGO SIGN ON MAINLINE (SINGLE EXIT)

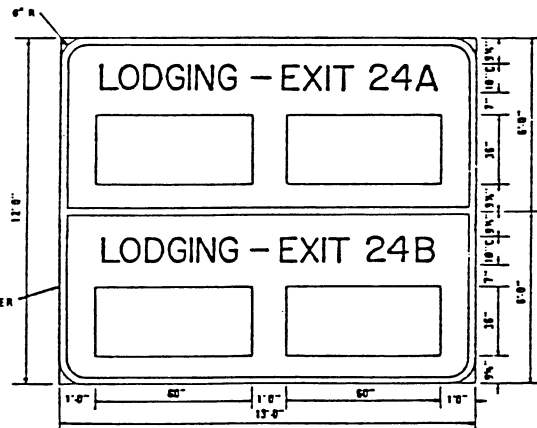
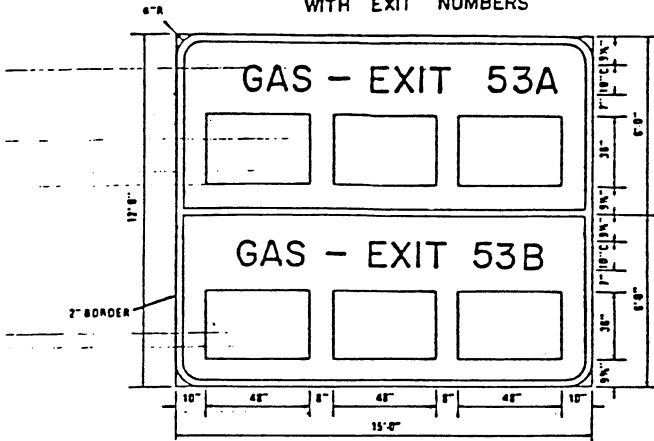
MAXIMUM OF 2 BUSINESSES PER SERVICE



**MAINLINE WITH LOW NEED  
COMBINED GAS & FOOD**

FIGURE 10

LAYOUT FOR MAINLINE LOGO SIGNS (DOUBLE EXIT) WITH EXIT NUMBERS

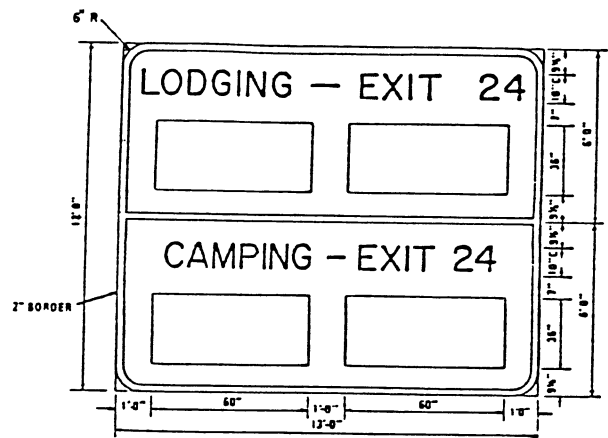


NOTE: SAME SPECIFICATIONS APPLY ALSO TO FOOD AND CAMPING PANELS.

FIGURE 9 **MAINLINE  
DOUBLE EXIT**

LAYOUT FOR COMBINED SERVICES LOGO SIGN ON MAINLINE (SINGLE EXIT)

MAXIMUM OF 2 BUSINESSES PER SERVICE



**MAINLINE WITH LOW NEED  
COMBINED LODGING & CAMPING**

FIGURE 11

LAYOUT OF RAMP LOGO SIGN

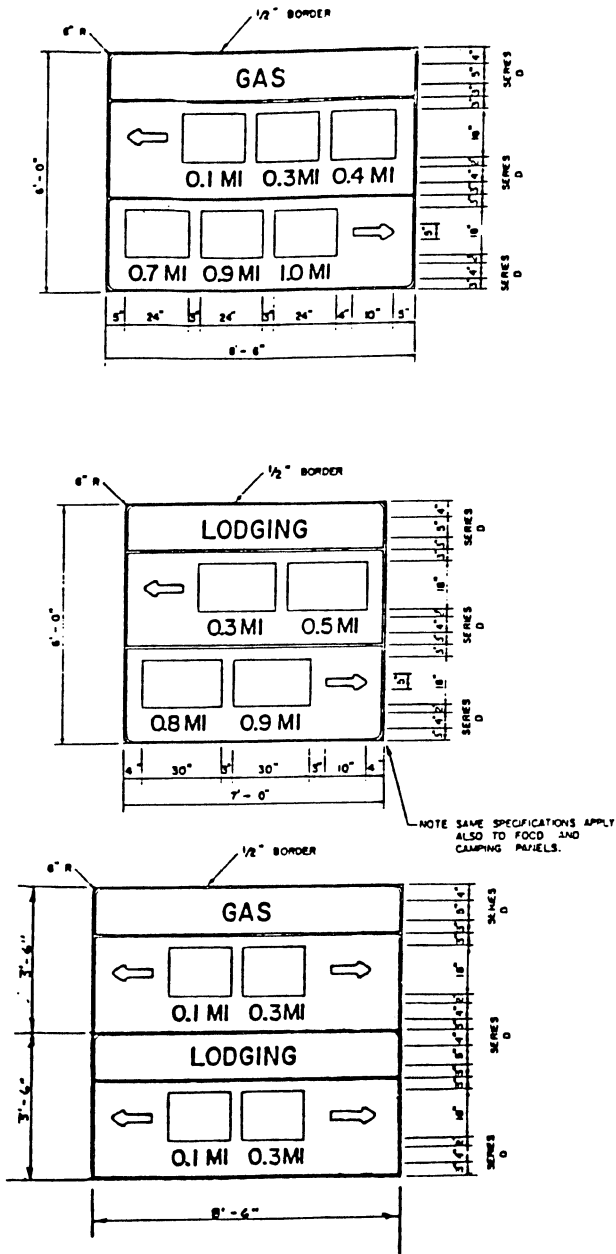
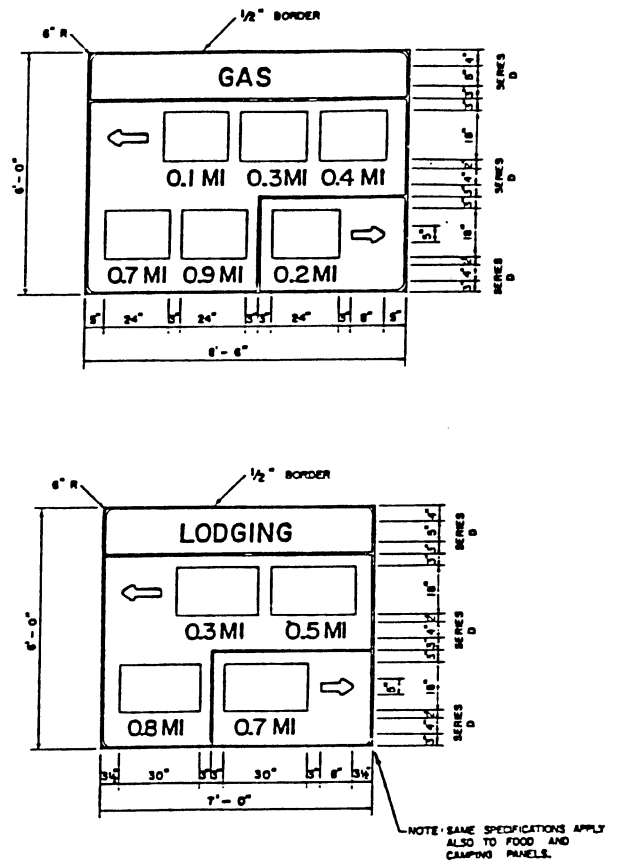


FIGURE 12

LAYOUT OF RAMP LOGO SIGN  
MORE THAN 1/2 MAXIMUM NUMBER OF BUSINESSES IN ONE DIRECTION

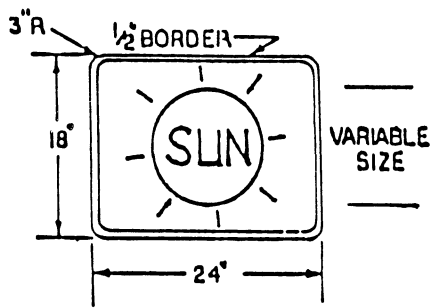


RAMP

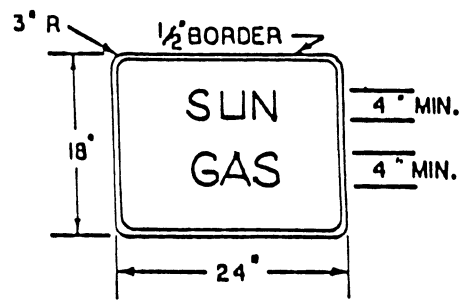
FIGURE 13

# TYPICAL LOGO BUSINESS SIGNS

## RAMP

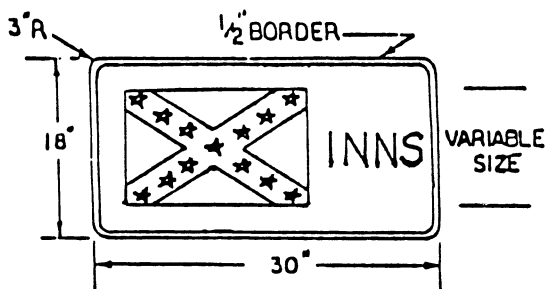


LOGO

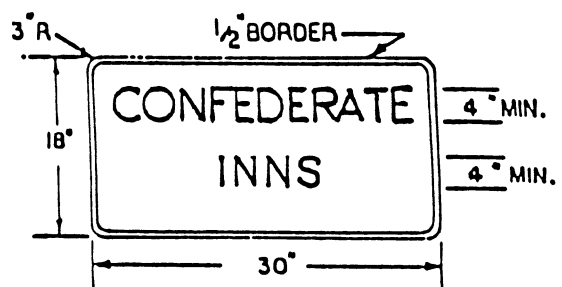


LEGEND

## TYPICAL GAS



LOGO



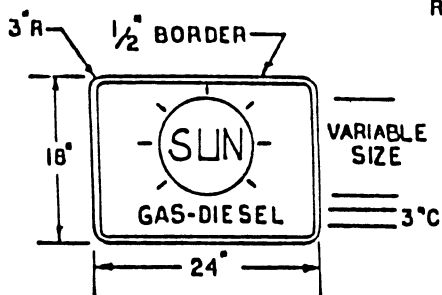
LEGEND

## TYPICAL FOOD, LODGING, OR CAMPING SIGNS

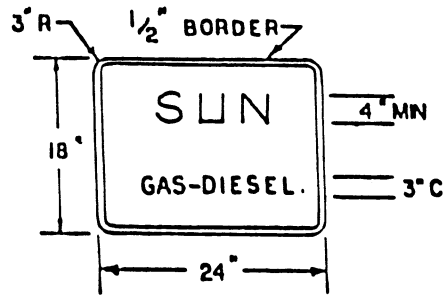
FIGURE 14

# TYPICAL LOGO WITH DIESEL

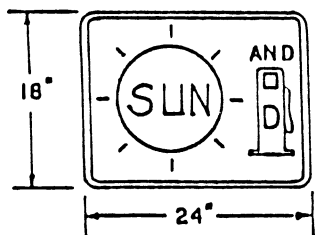
## RAMP



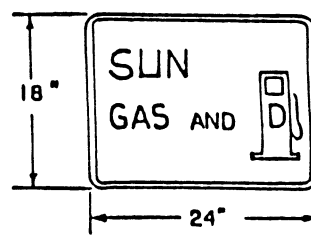
LOGO



LEGEND



LOGO



LEGEND

FIGURE 15

# Notices of Intent

## NOTICE OF INTENT

### Department of Agriculture Office of Agricultural and Environmental Sciences Feed Commission

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 3:1892, notice is hereby given that the Department of Agriculture, Feed Commission, intends to amend the following rules and regulations: LAC 7:10703(A)(4)(h)(i) should be amended to read as follows:

i. Guarantees for minerals are not required when there are no specific label claims and when the commercial feed contains less than six and one-half percent of the total of calcium, phosphorus, sodium and chloride. Except that all commercial feeds for dairy use sold in bulk shall be accompanied by a label stating the content of these minerals.

LAC 7:10721(F) should be amended to read as follows:

F. In the case of a commercial feed which is distributed in this state only in packages of 10 pounds or less, an annual fee of \$100 shall be paid in lieu of the inspection fee provided in Subsection D of this Section.

LAC 7:10723 should be amended to include Subsection C:

C. Penalties shall be assessed as provided for in R.S. 3:1900. If an official sample shows that feed ingredients bought by a feed manufacturer is deficient, any penalties from this deficiency shall be paid by the supplier of the ingredients to the manufacturer that bought the ingredients.

LAC 7:10745(A)(2) should be amended to read as follows:

2. The processed animals waste product contains any pathogenic organisms, drug residues, pesticide residues, harmful parasites or other toxic or deleterious substance above levels permitted by state regulations, Federal Food, Drug and Cosmetic Act, Section 406, 408, 409 and 706, or which could be harmful to animals, or which could result in residue in the tissue or by-products of animals above levels determined to be harmful.

A public hearing will be held on Tuesday, August 27, 1985, beginning at 9 a.m., located in 12055 Airline Highway, Baton Rouge, LA in the Conference Room. All inquiries should be sent to Hershel Morris, State Chemist, Department of Agriculture, Box 16390-B, University Station, Baton Rouge, LA 70893.

All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the public hearing prior to final action being taken by the commission with regard to the adoption of rules and regulations.

Bob Odom  
Commissioner

### Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Feed Commission

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
There will be no implementation costs to state or local governmental units.

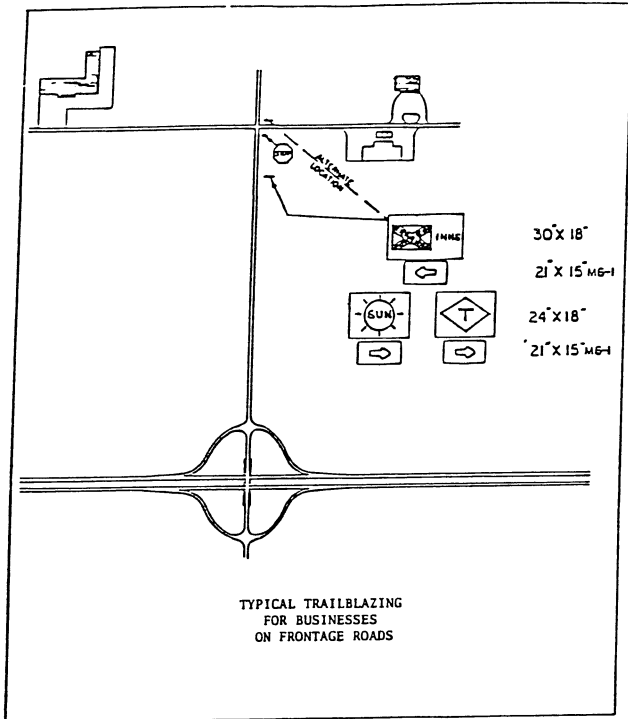


FIGURE 16

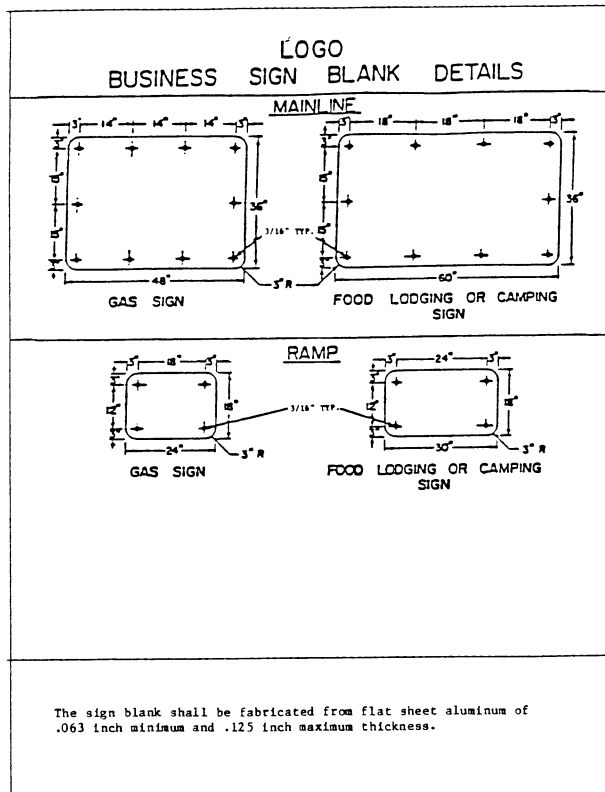


FIGURE 17

Robert G. Graves  
Secretary

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

It is anticipated that the revenues for the Feed Commission Fund will be reduced by approximately \$2,500 annually.

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

The manufacturers which purchase ingredients which are deficient shall receive a refund from the suppliers of the ingredient totaling approximately \$2,500 annually.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

No effect on competition and employment is anticipated.

Richard Allen  
Assistant Commissioner

David W. Hood  
Legislative Fiscal Analyst

**NOTICE OF INTENT**

**Department of Commerce  
Office of Commerce and Industry  
Division of Financial Programs Administration**

The Louisiana Board of Commerce and Industry advertises its intent to adopt rules regarding industrial assistance as authorized by R.S. 47:4301-4306. The proposed rules are:

Rule 1. Use of Louisiana Contractors, Labor and Supplies

The Board of Commerce and Industry requires manufacturers and their contractors to give preference and priority to Louisiana manufacturers and, in the absence of Louisiana manufacturers, to Louisiana suppliers, engineers, contractors and labor, except where not reasonably possible to do so without added expense or substantial inconvenience or sacrifice in operational efficiency. In considering applications for tax exemption, special attention will be given to those applicants agreeing to use, purchase and contract for machinery, supplies and equipment manufactured in Louisiana, or, in the absence of Louisiana manufacturers, sold by Louisiana residents, and to the use of Louisiana residents, and to the use of Louisiana engineers, contractors and labor in the construction and operation of proposed tax exempt facilities. It is a legal and moral obligation of the manufacturers receiving exemptions to favor Louisiana manufacturers, suppliers, contractors and labor, all other factors being equal.

Rule 2. Qualifications

To qualify for the exemption, the applicant must be a manufacturer with Louisiana manufacturing plants which are currently in operation. The applicant must be able to demonstrate to the board's satisfaction that with the aid of the exemption they will remain a viable company that will continue to grow and prosper in Louisiana. The applicant will not be eligible for this program if the manufacturing establishment has been assessed two or more criminal penalties, pursuant to R.S. 30:1073, (environmental violations) within 24 months preceding the application.

Rule 3. How to Apply

The application for the exemption shall be filed on the prescribed forms and be addressed to: Office of Secretary, Department of Commerce, c/o Division of Financial Programs Administration, Office of Commerce and Industry, Box 94185, Baton Rouge, LA 70804-9185.

At the time the application is filed with the Department of Commerce, a notice of the application and the amount and type of exemption requested shall be transmitted by the manufacturer to each member of the legislature and to the assessor and governing authority of each political subdivision wherein said manufacturing establishment is located.

Rule 4. Additional Information May Be Required

In addition to the information contained in the application, the applicant shall make available any additional information and records the secretary of commerce or the Board of Commerce and Industry may request.

Rule 5. Public Hearings

The Industrial Assistance Review Committee of the Board of Commerce and Industry shall conduct public hearings on any application for exemption. The secretary of commerce shall present his recommendations to the committee. After due consideration to all facts and testimony, the Industrial Assistance Review Committee shall make its recommendations to the full Board of Commerce and Industry at its next regular meeting.

Rule 6. Requirements for Exemption

The secretary of commerce, the Board of Commerce and Industry, the governor and the Joint Legislative Committee of the Budget may consider any and all factors which are relevant to the continued operations of the applicant. These should include but not be limited to the following:

(a) the benefits to the state in terms of continued employment opportunities, payroll, expenditures for goods and services, contributions to the revenue base of the state and local governments and the creation of new and additional permanent jobs.

(b) competitive conditions existing in other states or in foreign nations.

(c) the economic viability of the applicant and the effect of any tax exemption on economic viability.

(d) the effects on applicants of the temporary supply and demand conditions.

(e) the effects of casualties and/or natural disasters.

(f) the effects of United States and foreign trade policies.

(g) the effect of federal laws and regulations bearing on the economic viability of the applicant within the state.

(h) the competitive effect of like or similar exemptions granted to other applicants.

(i) the record of civil violations of the applicant pursuant to R.S. 30:1073 (environmental violations).

Rule 7. Approval of the Joint Legislative Committee of the Budget and the Governor

The Board of Commerce and Industry, after acting on the application, shall forward its recommendations together with all supporting documents and the recommendations of the Department of Commerce to the governor and the Joint Legislative Committee of the Budget, the assessor of the parish in which the plant is located, each member of the legislature, and the governing authority of each political subdivision as required by the statute. Whenever the governor and the Joint Legislative Committee of the Budget finds that a manufacturing establishment satisfies the requirements of the law, they shall advise the Board of Commerce and Industry that it may, subject to any restrictions imposed by the governor or the Joint Legislative Committee of the Budget, enter into a contract with such establishment exempting it from taxation.

Rule 8. Taxes to be Exempt

Unless the Board of Commerce and Industry recommends, and unless the Joint Legislative Committee of the Budget approves otherwise, the tax to be exempt will be used in the following order:

(1) the corporation franchise tax.

(2) sales and use taxes imposed by the state on any goods, services, material and supplies necessary for or used in manufacturing or production of a product or consumed by the applicant.

(3) sales and use taxes imposed by the state on machinery and equipment to be used by the applicant, or materials and building supplies, whether purchased directly or through a contractor, to be used in the repair, reconstruction, modification or construction of plant and facilities.

(4) the corporation income tax.

(5) any other taxes imposed directly by the state on the applicant.

**Rule 9. Limits to Amount of Tax Exemption**

The total amount of tax exemptions that can be granted to any single applicant cannot exceed five percent of the available amount for tax exemptions under this program for any fiscal year except when upon further recommendation of the board and approval of the Joint Legislative Committee on the Budget and the governor it can be clearly demonstrated that an additional amount, not to exceed five percent of the available amount, can materially improve the viability and stability of the applicant's operation in Louisiana. There will also be a maximum amount of tax exempted during any year of each contract.

**Rule 10. Contract Subject to Annual Audit and Review**

The contractee will be subject to an annual audit by the Division of Financial Programs Administration of the Office of Commerce and Industry. The contract will be reviewed annually by both the Board of Commerce and Industry and the Joint Legislative Committee on the Budget. Should the audit or review uncover a violation of the contract, the Board of Commerce and Industry with the approval of the governor and the Joint Legislative Committee on the Budget, shall give notice, thereof, in writing, and unless the violation is corrected within 90 days, any remaining portion of the exemption from taxation granted under any contract entered into under this statute may be cancelled. The contract may also be cancelled if the contractee can no longer demonstrate a need for the exemption.

**Rule 11. Renewing the Contract**

The initial contract can be entered into for any period not exceeding five years. Each contract may be renewed for periods of up to five years providing that the contractee can show that it is in the best interest of the State of Louisiana to extend the contract. The renewal must be recommended by the Department of Commerce, the Board of Commerce and Industry and approved by the Joint Legislative Committee on the Budget and the governor.

Inquiries concerning the proposed rules should be made to Robert Paul Adams, Director, Division of Financial Programs Administration at 504/342-5398 or in writing to Box 94185, Baton Rouge, LA 70804-9185 through September 6, 1985.

Robert Paul Adams  
Director

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Industry Assistance**

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

These rules provide written procedures for applying and qualifying for tax exemptions granted by R.S. 47:4301-4306 (Act 773 of 1982). The rules have no impact on state or local expenditures beyond that of the law itself.

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

These rules will have no additional impact on state revenues beyond that of the exemptions granted by law.

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

The rules provide a concise statement of the requirements that an applicant must meet to qualify for the exemption. However, these rules create no additional cost or benefit beyond those provided by the statute.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)**

These rules have no impact on competition or employment beyond the effect of the statute itself.

Robert Paul Adams  
Director

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Commerce  
Office of Commerce and Industry  
Division of Financial Programs Administration**

The Louisiana Board of Commerce and Industry advertises its intent to adopt the following amendments to its rules regarding the Sales and Use Tax Exemption on Energy Conservation property as authorized by R.S. 74:305.31. The proposed amendments are:

**Rule 8. Time Limits for Filing of Applications**

(A) A letter of intent must be submitted prior to construction and the purchase of materials, machinery or equipment for qualifying projects.

(B) An application for exemption shall be filed with the Office of Commerce and Industry on the form prescribed at least 30 days after the beginning of construction or installation. The phrase "beginning of construction" shall mean the first day on which foundations are started, or, where foundations are unnecessary, the first day on which installation of the facility begins.

(C) After approval by the Board of Commerce and Industry, the effective date of the exemption shall be the date the application or letter of intent was received in the Office of Commerce and Industry.

(D) A cutoff date for processing applications to be considered for exemption is four weeks prior to the board meeting.

**Rule 10. Sales Tax Refund**

The certificate of exemption will formally notify the applicant of the action of the Board of Commerce and Industry in approving the tax exemption on the specific project, but will not authorize the applicant to make tax-free purchases from vendors. The tax exemption will be effected through issuance of tax refunds by the Department of Revenue and Taxation.

Refunds will be secured by the filing of affidavits for the entire project after completion with the Department of Revenue and Taxation, Sales Tax Section. The refund will be issued after the alternate substance use or the 30 billion B.T.U.'s saved has been verified. The information submitted to the Department of Revenue and Taxation must include:

(1) A listing of purchases made of movable property that is intended to be used as "energy conservation property" in the approved project. The listing must include a brief description of each item, the name of the vendor, date of the sale, sales price and the amount of sales tax paid. The items included in the listing must have been purchased by the owner of the project, or by a builder or other party that has contracted with the owner to provide materials and services for the project.

(2) A certification that the materials included in the listing are reasonably expected to qualify upon completion of the project as "energy conservation" as the term is defined in the statute.

(3) A certification that the sales/use tax has actually been paid on the items included in the listing.

The affidavits may be filed on official Department of Revenue and Taxation "Claim for Refund" forms or on other forms prepared by the applicant. After the Department of Revenue and Taxation has verified the information and has been notified by the



Office of Commerce and Industry, a refund check will be issued for the amount of state sales and use tax paid.

**Rule 12. Failure to Qualify**

Should the board determine the project failed to meet the requirement of energy conservation property or is in violation of any board rules, the board will advise the taxpayer the project does not qualify.

**Rule 13. No Action After December 31, 1989**

The board will consider no application for tax exemption for any sales, use, or lease taxes incurred by a manufacturing establishment or public utility after December 31, 1989. The construction or installation of equipment must begin prior to December 31, 1989.

**Rule 14. Extension of Time**

The assistant secretary for the Office of Commerce and Industry is authorized to grant an extension of time for completion of construction contained in an energy conservation application.

Inquiries concerning the proposed rule changes should be made to Robert Paul Adams, Director, Division of Financial Programs Administration at 504/342-5398 or in writing to Box 94185, Baton Rouge, Louisiana 70804-9185 through September 6, 1985.

Robert Paul Adams  
Director

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

**Rule Title: Sales and Use Tax**

**Exemption on Energy Conservation Property**

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

There is no direct impact on state or local government expenditures. The proposed payment after verification will eliminate the need to recover taxes refunded on projects not obtaining the required savings of energy, thus reducing future legal costs for the Department of Revenue. These savings cannot be estimated, however.

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

The state will experience a one-time revenue increase by delaying the payment of refunds by one year. The savings will depend upon the number and the value of applications for the exemption made during the first year of the rule. Based on the past three years of applications this amount is estimated to be between \$2,000,000 and \$7,200,000 per year. Savings in the second and subsequent years will be zero.

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

Affected parties will experience a one-year delay in the receipt of their sales tax refund for energy conservation projects. However, the amount of the refund will not be affected by these rules.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)**

No significant impact on competition or employment is anticipated.

Robert Paul Adams  
Director

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Commerce  
Office of Commerce and Industry  
Local Economic Development Support Program**

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Commerce, Office of Commerce and Industry intends to adopt a rule which is set forth in its entirety in the declaration of emergency published in this issue of the *Louisiana Register* to implement procedure for administering the Local Economic Development Support Fund authorized by Act 634 of the 1984 Legislature.

Interested persons may submit comments on the proposed rule to Mrs. Nadia L. Goodman, Director of Policy and Planning, Office of Commerce and Industry, Box 94815, (Telephone 342-5404), Baton Rouge, LA 70804-9815.

William T. Hackett  
Assistant Secretary

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

**Rule Title: Local Economic Development Support Fund**

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

The workload associated with the review of applications and monitoring of contract performance can be absorbed by the Office of Commerce and Industry. Thus, there is no additional cost to state government in administering this program. The rules impose no additional administrative cost on local government.

As a result of contracts entered, up to \$542,000 of state funds appropriated for this purpose will be distributed to fund local economic development activities statewide.

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

There is no direct revenue impact on state government.

The indirect revenue impact of the economic development services provided under these contracts should be positive, but the amount cannot be estimated.

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

The impact of Rules 1, 3 and 4 effectively restricts the distribution of the \$542,000 to the fourteen already existing economic development foundations that received funds for this purpose in 1984-85. The specific amounts awarded to each recipient is in proportion to the awards in 1984-85.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)**

Areas and jurisdictions receiving development services from these foundations will benefit by being better able to identify and attract new or expanding businesses to their respective areas. In addition, businesses will have access to better information about resources available in these areas, as well as specific assistance in services provided under the contract. This increased knowledge and service should increase employment and business activity, but the amount of the increase cannot be quantified.

Nadia L. Goodman  
Policy and Planning Director

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**  
**Department of Commerce**  
**Racing Commission**

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to amend rule LAC 35:1711 (formerly LAC 11-6:53.6) relative to medication of horses prior to entry in a race.

**§1711. Medication; Reporting to Stewards**

No medication shall be administered to a horse to be entered or entered to race except as may be provided in LAC 11:6:54 (renumbered LAC 35:1501 et seq.). If it is necessary to do so, it must be reported to the stewards by the trainer and the horse shall be scratched, if entered, as ineligible to run.

The office of the Racing Commission will be open from 9 a.m. to 4 p.m., and interested parties may contact either Tom Trenchard or Alan LeVasseur at (504) 568-5870 at this time, holidays and weekends excluded, for a copy of this rule. All interested persons may submit written comments relative to this rule through June 4, 1985 to 320 North Carrollton Avenue, second floor, Suite 2-B, New Orleans, LA 70119.

Albert M. Stall  
Chairman

**Fiscal and Economic Impact Statement**  
**For Administrative Rules**  
**Rule Title: LAC 35:1711 (LAC 11-6:53.6)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
There are no implementation costs to this agency.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
There is no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)  
The horsemen and associations benefit from this action by lifting the deadline requirement for medicating horses and simply prohibiting the same altogether; but, with exceptions as provided in the permitted medication rule, there is the reduced chance of the fact or appearance of illegal drugging.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
There is no effect on competition or employment.

Albert M. Stall  
Chairman

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**  
**Department of Commerce**  
**Racing Commission**

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to adopt rule LAC 35:1722 (a part of the former LAC 11-6:53 et seq.) relative to medication of two-year old horses.

**§1722. No Medication in Two-Year Olds**

Notwithstanding anything in any rule of racing, medication shall not be prescribed, dispensed or administered to a two-year old horse to be raced or racing, or when there is racing planned for a two-year-old horse, in the State of Louisiana.

The office of the Racing Commission will be open from 9 a.m. to 4 p.m., and interested parties may contact either Tom

Trenchard or Alan LeVasseur at (504) 568-5870 at this time, holidays and weekends excluded, for a copy of this rule. All interested persons may submit written comments relative to this rule through June 4, 1985 to 320 North Carrollton Avenue, second floor, Suite 2-B, New Orleans, LA 70119.

Albert M. Stall  
Chairman

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

**Rule Title: LAC 35:1722 (LAC 11-6:53 in part)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
There are no implementation costs to this agency.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
There is no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)  
Benefits: Horses - they are too young to be medicated or drugged; horsemen - this will reduce the potential of competing horsemen to use any medication, legal or illegal, on these horses, thereby eliminating the fact or appearance of altering the outcome of a race.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
There is no effect on competition or employment.

Albert M. Stall  
Chairman

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**  
**Department of Commerce**  
**Racing Commission**

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to amend rule LAC 35:1727 (formerly LAC 11-6:53.14) relative to the medication of, and the guarding of, a horse entered to race.

**§1727. Drug which Affects Performance; Guarding Horse**

No person shall administer, or cause or knowingly permit to be administered, or connive at the administration of, any drug not permitted by LAC 11-6:54 (renumbered LAC 35:1501 et seq.) to any horse to be entered or entered for a race. Every owner, trainer or groom must guard, or cause to be guarded, each horse owned, trained or attended by him in such manner as to prevent any person or persons from administering to the horse, by any method, any drug not permitted by LAC 11-6:54 (renumbered LAC 35:1501 et seq.).

The office of the Racing Commission will be open from 9 a.m. to 4 p.m., and interested parties may contact either Tom Trenchard or Alan LeVasseur at (504) 568-5870 at this time, holidays and weekends excluded, for a copy of this rule. All interested persons may submit written comments relative to this rule through June 4, 1985 to 320 North Carrollton Avenue, second floor, Suite 2-B, New Orleans, LA 70119.

Albert M. Stall  
Chairman

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: LAC 35:1727 (LAC 11-6:53.14)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
There are no implementation costs to this agency.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
There is no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)  
This action benefits everyone simply by clearing up the definition and actual intent of the rule itself.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
There is no effect on competition or employment.

Albert M. Stall  
Chairman

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT  
Department of Commerce  
Racing Commission**

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to adopt rule LAC 35:9945 "Cancelled Claiming Race" (formerly LAC 11-6:45.23), as follows.

**§9945. Cancelled Claiming Race**

Should a claiming race be called off or cancelled for any reason, any claim lodged for any horse in said claiming race shall be null and void.

The office of the Racing Commission will be open from 9 a.m. to 4 p.m., and interested parties may contact either Tom Trenchard or Alan LeVasseur at (504) 568-5870 at this time, holidays and weekends excluded, for a copy of this rule. All interested persons may submit written comments relative to this rule through July 5, 1985 to 320 North Carrollton Avenue, second floor, Suite 2-B, New Orleans, LA 70119.

Albert M. Stall  
Chairman

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: LAC 35:9945 "Cancelled Claiming Race"**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
There are no implementation costs to this agency.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
There are no effects on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)  
The benefits are to those individuals who have made claims in said races. Now, they will know how their claim stands if the race is cancelled.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
There is no effect on competition nor employment.

Albert M. Stall  
Chairman

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT  
Department of Commerce  
Racing Commission**

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to amend rule LAC 35:10901 et seq. (formerly labeled "Super Six," but not numbered) relative to the provisions of Super Six wagering and pool calculations.

Proposed for Amendment  
RULE LAC 35:10901  
(Previously LAC 11-6:Super Six)  
Replaces LAC 35:10901-10917

**Chapter 109. Super Six  
§10901. Super Six**

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

B. A Super Six pari-mutuel ticket shall be evidence of a binding contract between the holder of the ticket and the association and the said ticket shall constitute an acceptance of the Super Six provisions and rules.

C. A Super Six may be given a distinctive name by the association conducting the meeting, subject to approval of the commission.

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

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

F. The Super Six pari-mutuel pool shall be calculated as follows.

1. The net amount in the pari-mutuel pool referred to in this Section is defined as the pari-mutuel pool created by Super Six wagering on that particular day and does not include any amounts carried over from previous days betting as provided by in Subsection F4, below.

2. Fifty percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders, plus any carryover resulting from provisions of Subsection F4, shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the Super Six.

3. Fifty percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the second most official winners, but less than six, in each of the six races comprising the Super Six.

4. In the event there is no pari-mutuel ticket properly issued which correctly designates the official winner in each of the six races comprising the Super Six, the net pari-mutuel pool shall be distributed as follows.

a. Fifty percent of the net amount in the pari-mutuel pool

shall be retained by the association as distributable amounts and shall be carried over to the next succeeding racing day as an additional net amount to be distributed as provided in Subsection F2.

b. Fifty percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the most official winners, but less than six, in each of the six races comprising the Super Six.

5. Should no distribution be made pursuant to Subsection F1 on the last day of the association meeting, then that portion of the distributable pool and all monies accumulated therein shall be distributed to the holders of tickets correctly designating the most winning selections of the six races comprising the Super Six for that day or night; the provisions of Subsections I and J have no application on said last day.

G. In the event a Super Six ticket designates a selection in any one or more of the races comprising the Super Six and that selection is scratched, excused or determined by the stewards to be a non-starter in the race, the actual favorite, as evidenced by the amounts wagered in the win pool at the time of the start of the race, will be substituted for the non-starting selection for all purposes, including pool calculations and payoffs. In the event the amount wagered in the win pool on two or more favorites is identical, the favorite with the lowest number on the program will be designated as the actual favorite.

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

I. No Super Six shall be refunded except when all of the races comprising the Super Six are cancelled or declared as "no contest." The refund shall apply only to the Super Six pool established on that racing card. Any net pool carryover accrued from a previous Super Six feature shall be further carried over to the next scheduled Super Six feature operated by the association.

J. In the event that any number of races less than six comprising the Super Six are completed, 100 percent of the net pool for the Super Six shall be distributed among holders of pari-mutuel tickets that designate the most winners in the completed races. No carryover from a previous day shall be added to the Super Six pool in which less than six races have been completed. Any net pool carryover accrued from a previous Super Six feature shall be further carried over to the next scheduled Super Six pool operated by the association.

K. No pari-mutuel ticket for the Super Six pool shall be sold, exchanged or cancelled after the time of the closing of wagering in the first of the six races comprising the Super Six, except for such refunds on Super Six tickets as required by this regulation, and no person shall disclose the number of tickets sold in the Super Six pool or the number or amount of tickets selecting winners of Super Six races until such time as the stewards have determined the last race comprising the Super Six each day to be official.

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

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Racing Commission, L.R. 6:542 (September, 1980).

The Office of the Racing Commission will be open from 9 a.m. to 4 p.m., and interested parties may contact either Tom Trenchard or Alan LeVasseur at (504) 568-5870 at this time, holidays and weekends excluded, for a copy of this rule. All interested persons may submit written comments relative to this rule through June 4, 1985 to 320 North Carrollton Avenue, second floor, Suite 2-B, New Orleans, LA 70119.

Albert M. Stall  
Chairman

## Fiscal and Economic Impact Statement For Administrative Rules

### Rule Title: LAC 35:10901-10917 (Super 6 Rule)

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
There are no implementation costs to this agency.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
The effect on revenue collections will be positive, but not predictable. It is not possible to predict the increased number of wagers due to this action. However, as the carryover pool builds up, there should be more and more individuals willing to take a chance on such a potentially great sum of money, resulting in the increased state's portion.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)  
The rule will benefit the patrons, the associations, the commission and the state because of more money generated by the public with this "new" type of betting, and the resulting takeout; but mostly the benefits will be to the lucky patron who has the good fortune to be a Super Six winner.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
There is no effect on competition or employment.

Albert M. Stall  
Chairman

Mark C. Drennen  
Legislative Fiscal Officer

## NOTICE OF INTENT

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

In accordance with the provisions of LRS 49:950, et seq., the Administrative Procedure Act, and the authority given in Act 265 of 1977, notice is hereby given that the Division of the Arts, an agency within the Office of Cultural Development, an office of the Department of Culture, Recreation and Tourism, intends to amend and revise the 1985-86 "State Arts Grants Guidelines" to comply with policy changes and deadline for application dates for the next grant year.

The proposed revisions of the 1985-86 grants guidelines for 1986-87 consist of: revision of deadlines and requirements for submitting applications for arts grants-in-aid; adding the requirement for submission of a single audit for eligible organizations for receiving grants-in-aid; funding request changes regarding Local Arts Agency Program, advanced and basic components; and other minor changes of a technical nature to clarify and/or improve narrative descriptions. Copies of the complete set of proposed changes are available for public inspection at the offices of the Division of the Arts at 666 N. Foster Dr., Baton Rouge, LA or by written request, Box 44247, Baton Rouge, LA 70804.

A public hearing will be held at 10 a.m. on August 29, 1985, in the Division of the Arts Conference Room, 666 North Foster Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral or written comments on the proposed amendments.

Robert B. DeBlieux  
Assistant Secretary

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

**Rule Title: 1986-87 Louisiana State Arts  
Grants Guidelines**

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

There will be no implementation costs to state or local governmental units because the Office of Cultural Development is already administering the program and proposed changes can be handled with existing staff. No additional expenses would be incurred at the local governmental level as a result of adopting these rule changes.

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

There will be no effect on revenue collections of state or local governmental units as a result of these changes. No fees are required from grant applicants; therefore, no revenues are generated.

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

There will be no additional estimated costs and/or economic benefits to directly affect persons or non-governmental groups being that the total amount of funds to be allocated will not be changed due to these proposed rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

Because the request ceiling has been lowered, fewer grant dollars may be available for distribution to grant applicants in particular grant areas; however, this change may increase funding in other grant program areas.

W. Edwin Martin, Jr.  
Acting Director

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 741—Standard 2.038.01

In accordance with the Louisiana Revised Statutes 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 741, Standard 2.038.01 regarding class size and ratios to reflect the following language to become effective with the 1986-87 school year:

“Beginning with the 1986-87 school year, no teacher at the secondary level shall instruct more than 150 students daily except as noted in Standard 2.038.01 of this bulletin.”

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., October 8, 1985 at the following address: State Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064.

James V. Soileau  
Executive Director

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

**Rule Title: Class Size and Ratios**

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

There should be no cost impact to the state. Local units

may experience an impact since guidance counselors and vice principals are figured on the P. T. ratio yet do not have students, thereby allowing the remaining teachers to teach more than 150 students daily.

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

There will be no effect on state revenue collections for the state. If the locals retain their guidance counselors and vice principals they may have to assign them classroom teaching responsibilities, or seek means of financing them other than on the minimum foundations program, or both.

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

There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

If locals cannot finance the counselors or vice principals, this could mean that they would have to operate their schools without these auxiliary personnel.

Joseph F. Kyle  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Elementary School Program of Studies  
and Minimum Time Requirements

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 for one year, the revised *Elementary School Program of Studies and Minimum Time Requirements*, which is set forth in its entirety in the “Declaration of Emergency” printed in this issue of the *Louisiana Register*.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., October 8, 1985, at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

James V. Soileau  
Executive Director

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

**Rule Title: Elementary Education Bulletin 741**

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

No implementation costs to state or local government units is anticipated.

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

No impact on state or local revenues would result.

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

No costs and/or economic benefits is anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

No estimated effects on competition and employment.

Joseph F. Kyle  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

#### Policy 3.01.70.V(37)

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 extended for an additional year, the present policy on the employment of noncertified school personnel (Circular 665, Policy 3.01.70.V(37)) with an amendment to exclude speech, language and hearing specialists.

This policy would allow public school superintendents to hire teachers who have a minimum of a baccalaureate degree but are not certified to fill teaching positions when a fully certified teacher is not available.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., October 8, 1985, at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

James V. Soileau  
Executive Director

### Fiscal and Economic Impact Statement For Administrative Rules

#### Rule Title: Interim policy for full-time, part-time noncertified school personnel

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

No implementation cost to the State Department of Education is anticipated.

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

This policy proposed will have no effect on revenue collections.

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

This policy would allow local school superintendents to fill vacant teaching positions and not necessitate combining classes.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

This policy should have no effect on employment and competition among certified teachers since the employing superintendent must verify that no certified teacher is available to fill the vacant position.

Joseph F. Kyle  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

#### Sabbatical Leave Policy for Vo-Tech Schools

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 word change on the Sabbatical Leave Policy for vocational technical schools to read as follows:

"Applications for professional leave *shall*\* be made at that time of budget estimate preparation for the year in which leave is requested. Applicants shall be selected on the basis of first-come, first-served."

\*Changed from "should" to "shall."

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., October 8, 1985, at the following address: State Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064.

James V. Soileau  
Executive Director

### Fiscal and Economic Impact Statement For Administrative Rules

#### Rule Title: Sabbatical Leave

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

There will be no implementation costs or savings.

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

This will not effect the revenue collections.

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

There will be no costs to directly affected persons.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

Will have no effect on competition and employment.

Joseph F. Kyle  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

#### Policy on Student Attendance at Vo-Tech Schools

In accordance with R.S. 49:950, et. seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education accepted the recommendation of the Vocational Technical Directors' Association on the following procedural policy on how to define how students are counted with regards to their attendance, to be effective July 1, 1985:

1. Special permission by BESE is needed to continue classes when average full-time monthly enrollment falls below the following for a period of 60 days.

One instructor . . .  $7 \times 6 \times$  number of days to be worked in calendar month

Two instructors . . .  $17 \times 6 \times$  number of days to be worked in calendar month

Three instructors . . .  $33 \times 6 \times$  number of days to be worked in calendar month

Four instructors . . .  $49 \times 6 \times$  number of days to be worked in calendar month

Five instructors . . .  $65 \times 6 \times$  number of days to be worked in calendar month

Six instructors . . .  $81 \times 6 \times$  number of days to be worked in calendar month

Seven instructors . . .  $97 \times 6 \times$  number of days to be worked in calendar month

Eight instructors . . .  $113 \times 6 \times$  number of days to be worked in calendar month

Nine instructors . . .  $129 \times 6 \times$  number of days to be worked in calendar month

Ten instructors . . .  $145 \times 6 \times$  number of days to be worked in calendar month

2. An unannounced audit will be conducted at each school. Any school found falsifying information shall be reported to BESE for necessary action.

3. Student enrollment will be considered only for training purposes. Special needs will only be reported when students are assigned full time to special needs and are waiting to enter a specific training program.

4. Student personnel services, related instruction, or support activities will not be reported.

Note: The Director's Association has a current committee that is working on a report that deals with the number of support personnel that would be needed for each school. The total number of student contact hours generated by each school will help decide the personnel needed.

5. Adult education students will be reported for those classes in correctional institutions and whose instructors are paid by the vocational-technical school. All full-time adult education programs will be reported and will follow guidelines and regulations adopted by BESE.

6. All waiting lists will be purged quarterly.

#### SPECIAL PROVISIONS

The directors shall be allowed to appear before the executive director of BESE to seek enrollment exemptions for certain programs such as Health Occupations, EMT, or others with special limiting conditions.

#### SPECIAL RECOMMENDATION

1. The counting of three-fourths time students shall remain in effect.

#### MONTHLY ATTENDANCE REPORT - Terms and Forms

1. The forms and definition of terms submitted by the department shall be consistent with recommended changes of the directors, and that workshops be held to provide instruction on how to properly complete the forms. It is further recommended that all instructions for completion of forms be produced in writing and provided to all schools.

2. Hours shall be used for daily attendance reporting as opposed to "checks and zeros".

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., October 8, 1985, at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

James V. Soileau  
Executive Director

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

##### Rule Title: Policy on how to count students with regards to their attendance

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

There will be no implementation costs.

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

This will have no effect on revenue collections.

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

There will be no costs. The benefits will be a uniform system for counting students.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

This will have no effect on competition and employment.

Joseph F. Kyle  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

#### Temporary Certificates

In accordance with the Louisiana Revised Statutes 49:950 et seq., The Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the recommendations from the State Department of Education that temporary certificates shall not be issued to speech, language and hearing specialists. This proposed policy would prohibit the department from issuing temporary teaching certificates for speech, language and hearing specialists.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., October 8, 1985 at the following address: State Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064.

James V. Soileau  
Executive Director

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

##### Rule Title: Temporary Teaching Certificate

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

The proposed policy would have no implementation cost to the state.

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

The proposed policy will reduce the amount of certificate fees collected by the Department of Education by approximately \$150 per year. (15 temporary certificates in speech therapy issued in 1984-85 at \$10 per certificate.)

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

The proposed rule will make it more difficult for local school systems to find and hire speech, language and hearing specialists, but will not effect cost or savings to local school systems.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

Louisiana is experiencing a shortage of certified school personnel. The proposed rule should have no impact on competition since school systems have teaching positions available for speech, language and hearing specialists.

Joseph F. Kyle  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

#### Temporary Employment Permit

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 extended for one year, the temporary employment permits.

A temporary employment permit, valid for the 1985-86 school year, will be granted to those candidates who meet the qualifying scores on the revised NTE in three out of four modules and whose aggregate score is equal to or above the total score on all four modules required for standard certification. This policy is

to help local school systems that are experiencing a teacher shortage and cannot employ a regularly certified teacher.

Interested persons may comment on the proposed salary change and/or additions, in writing, until 4:30 p.m., October 8, 1985, at the following address: State Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064.

James V. Soileau  
Executive Director

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

**Rule Title: Temporary Employment Permit**

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

The adoption of this policy will cost the department of education approximately \$25 for printing the temporary employment permits.

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

The adoption of this policy should result in approximately \$2,250 in self-generated revenues being collected.

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

Individuals applying for temporary employment permits will be required to submit a \$15 certification fee to the Louisiana department of education.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)**

Since many local school systems are experiencing difficulty in filling all vacancies in their schools, this should assist school systems to fill teacher vacancies for a one-year period with persons who are marginally qualified.

Joseph F. Kyle  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Policy on Termination and Demotion**

In accordance with R.S. 49:950 et. seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted the following policy for termination and demotion of *new* regional directors, directors, and assistant directors of vocational technical schools employed after July 25, 1985:

**\*POLICY FOR TERMINATION AND DEMOTION OF NEW REGIONAL DIRECTORS, DIRECTORS AND ASSISTANT DIRECTORS OF VOCATIONAL-TECHNICAL SCHOOLS**

Regional directors, directors and assistant directors of vocational-technical schools may be terminated from employment or demoted for any valid reason. The regional director, director or assistant director shall be afforded an opportunity for hearing after reasonable notice before the termination or demotion is ordered. The notice shall include a statement of the time, place and nature of the hearing and reference to the BESE policy providing for the proposed action and hearing thereon. The notice shall apprise the regional director, director or assistant director of the nature of the charges against him.

Opportunity shall be given for the charged party to appear before BESE or its designated committee and to bring witnesses

and present evidence to rebut the charges. The charged party shall have the right to be represented by counsel of his choosing.

The provisions of this part are not intended to grant regional directors, directors or assistant directors a property interest in their continued employment but are instead designed to provide a procedure to be followed before any action is taken terminating the employment or demoting such employees.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., October 8, 1985, at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

\*NEW applies to regional directors, directors and assistant directors employed after July 25, 1985.

James V. Soileau  
Executive Director

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Policy on Termination and Demotion  
of New Regional Directors, Directors and  
Asst. Directors in Vo-Tech Schools**

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

Will be no implementation costs or savings.

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

Will have 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)**

Provide a procedure to be followed before any action is taken terminating the employment or demoting such employee.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)**

Will have no effect on competition and employment.

Joseph F. Kyle  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Interview Process and Appointment  
of a Vo Tech School Director**

In accordance with R.S. 49:950 et. seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the following policy concerning the interview process and appointment of a vocational technical school director:

1. that the member of the board from the district in which the vacancy occurs be present and that he/she serve as chairperson,

2. that at least one other member of the board be in attendance,

3. that the board's executive director or his designee be present, and

4. that the assistant superintendent of vocational education or his/her designee be in attendance.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m. October 8,



1985, at the following address: State Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064.

James V. Soileau  
Executive Director

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Interview Process for  
Vo Tech School Director**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
There will be no implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
This will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)  
There will be no costs or economic benefits to directly affected persons.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
This will have no effect on competition and employment.

Joseph F. Kyle  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT  
Department of Education  
Proprietary School Commission**

**LOUISIANA PROPRIETARY SCHOOL COMMISSION  
MINIMUM CANCELLATION AND REFUND POLICY**

REFUND POLICY: The institution must have a definite, equitable and established refund policy which must be published in the catalog and uniformly administered to all students. The following applies as a minimum policy for all students in all institutions.

(a) NOTICE: Refunds must be made regardless of whether the student provides written notification. The date of withdrawal for refund purposes is the last date of recorded attendance.

(b) THREE-BUSINESS DAY CANCELLATION: All monies paid by a student shall be refunded if requested within three-business days after signing an enrollment agreement and making an initial payment.

(c) CANCELLATION AFTER THE THREE BUSINESS DAY CANCELLATION PERIOD BUT PRIOR TO COMMENCEMENT OF CLASSES BY THE STUDENT: If tuition is collected in advance and if the student does not begin classes, not more than \$150 shall be retained by the institution. Appropriate refunds for the student who does not begin classes shall be made within 30 days of the start of the quarter, term, or semester.

(d) WITHDRAWAL AFTER COMMENCEMENT OF CLASSES BY THE STUDENT:

(1) For institutions that obligate the student financially for

tuition only for a period of time less than 300 clock hours, the following refund will be acceptable:

After completing less than 15 percent of the course, the institution shall refund at least 80 percent of the tuition, less \$150, thereafter,

After completing less than one-fourth of the course, the institution shall refund at least 70 percent of tuition, less \$150, thereafter,

After completing one-fourth but less than one-half of the course, the institution shall refund at least 45 percent of tuition, less \$150, thereafter,

After completing one-half or more of the course, the institution may retain 100 percent of tuition.

(2) For institutions which obligate the student financially for tuition for a period of time longer than a standard quarter or semester and up to one calendar year, in cases of withdrawal after commencement of classes by the student, the following refund policy for the stated tuition during the period of financial obligation will be acceptable.

During the first week of classes, the institution shall refund at least 90 percent, less \$150, thereafter,

During the next three weeks of classes, the institution shall refund at least 75 percent of tuition, less \$150, thereafter,

During the first 25 percent of the course, the institution shall refund at least 55 percent of the tuition, less \$150, thereafter,

During the second 25 percent of the course, the institution shall refund at least 30 percent of tuition, less \$150, thereafter,

Thereafter, the institutional policy may commit the student to the entire obligation.

(3) For institutions with programs longer than twelve months and which financially obligate the student for any period of time beyond twelve months, in addition to the refund practice as stated in (c) (2) above, the institution shall refund 100 percent of any tuition collected for the obligation to pay beyond the 12 months and shall release the student of the obligation to pay beyond the twelve months if the student withdraws during the prior 12 month period.

Units of credit earned are not the criterion in implementing this policy; rather, it is the amount of time attended. Any unused portion of the book fee will be refunded.

(4) Any correspondence regarding cancellation and settlement between the student and the institution, banks, collection agencies, lawyers or any third persons representing the institution must clearly acknowledge the existence of the cancellation and refund policy.

(5) If promissory notes or contracts for tuition are sold or discounted to third parties, the institution must comply with the cancellation and refund policy outlined in this section. Holders in due course are to be notified of the policies of the institution.

(6) Business practices used by the institution must reflect sound ethical procedures.

(7) For courses consisting of a combination of home study lessons and residence training, not more than \$150 will be retained by the school for those students who fail to enter residence training, unless the school submits affirmative evidence acceptable to the proprietary school commission disclosing the home study lessons are of such quality and content to reasonably assure that the students will achieve the stated objective without the residence training portion of the course.

Interested persons may submit comments in writing to Andrew H. Gasperecz, Executive Secretary, Louisiana Proprietary School Commission, Box 44064, Baton Rouge, LA 70804.

Andrew H. Gasperecz  
Executive Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Refund Policy**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
There will be no implementation cost or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
There will be no implementation cost or savings to state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)  
There is no estimated cost and/or economic benefits to directly affect persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
There is no effect on competition and employment.

Joseph F. Kyle  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT  
Office of the Governor  
Commission on Law Enforcement**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Louisiana Commission on Law Enforcement intends to adopt guidelines which will apply to the utilization of federal grant funds received under the 1984 Justice Assistance Act, P.L. 98:473, which will be issued by the Louisiana Commission on Law Enforcement to local criminal justice agencies.

The proposed guidelines will be available for public inspection between the hours of 8 a.m. and 4:30 p.m. on any working day after August 20, 1985, at the offices of the Louisiana Commission on Law Enforcement, 2121 Wooddale Boulevard, Baton Rouge, Louisiana. Comments may be submitted in writing through September 15, 1985, to the Louisiana Commission on Law Enforcement, 2121 Wooddale Boulevard, Baton Rouge, LA 70806.

Michael A. Ranatza  
Executive Director

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: 1984 Justice Assistance Act Guidelines**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
There will be no estimated implementation costs to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
There will be no estimated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)  
There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There will be no estimated effect on competition and employment.

Michael A. Ranatza  
Executive Director

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT  
Office of the Governor  
Division of Administration**

The Commissioner of Administration intends to adopt the following rule pursuant to the authority of R.S. 39:1572B and the approval of the governor, evidenced in Executive Order 85-36 of July 9, 1985.

**PROPOSED RULE**

Department of Education Procurement

The Department of Education shall conduct the procurement of all supplies, services, and major repairs, as defined by the Louisiana Procurement Code, LSA-R.S. 39:1551 et seq., through the central purchasing agency of the Division of Administration. This rule does not extend to those items exempted in LSA-R.S. 39:1572A(2).

Interested persons may submit comments on the proposed rule to Frank Edwards, Assistant Commissioner, Division of Administration, Box 94095, Baton Rouge, LA 70804-9095.

Stephanie L. Alexander  
Commissioner

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Department of Education Procurement**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
Further analysis may dictate a reduction in staffing and reflect savings in procurement of certain items; however, the overall effect is estimated to be minimal.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
There is no estimated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)  
There is no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
No effect on employment, if any, has been determined at this time. There is no effect on competition anticipated.

Stephanie L. Alexander  
Commissioner

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT  
Office of the Governor  
Division of Administration  
Facility Planning and Control Department**

The commissioner of administration intends to revise the

regulations and procedures for the procurement of rented or leased space by state agencies.

The revision is to Part VI, Section C of the current rules.

Written comments may be addressed to Joseph P. Gossen, Assistant Director, Facility Planning and Control, Box 94095, Baton Rouge, LA 70804-9095.

Part VI: Resolution of Controversies

Section C: Appeal

If an aggrieved party is not satisfied with the rendered decision, then that party may appeal said decision in writing to the commissioner of administration within seven days of the decision. The protesting party should fully explain the basis of his appeal. The commissioner then must render a decision in writing within 14 days of receipt of the appeal. The commissioner's decision is final and an aggrieved party may bring judicial action within two weeks from receipt of said decision.

Stephanie L. Alexander  
Commissioner

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Procurement of Rental Space**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
There will be no estimated implementation costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
There will be no estimated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)  
There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
There will be no estimated effect on competition and employment.

Stephanie L. Alexander  
Commissioner

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT  
Office of the Governor  
Office of Elderly Affairs**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend the GOEA Policy Manual. The purpose of the amendment is to revise Subsection VI of Section 800, entitled "Annual Financial Reporting" to reflect to proposed changes in Subsection IX, entitled "Policy on Audits."

An emergency rule, effective September 20, 1985 has been adopted by the GOEA in order to enact this revision and the revision of Subsection IX simultaneously. It is being published in this issue of the *Louisiana Register* (Volume 11, Number 8). The notice of intent to revise Subsection IX, effective September 20, 1985 was published in the July 20, 1985 issue (Volume 11, Number 7).

Proposed Amendment to the  
Governor's Office of Elderly Affairs Policy Manual  
Under Section 800 - Fiscal Requirements, Subsection VI -

Annual Financial Reporting, change Chapter 3: Disposition of Reports, to read as follows:

"A copy of the completed audit report and the Management letter, if any, shall be filed with the Governor's Office of Elderly Affairs and with the Legislative Auditor within 150 days of the close of the audit period. Failure to file a copy of an audit report with the Governor's Office of Elderly Affairs may result in delay or suspension of funding."

The proposed effective date of this rule change is October 20, 1985. Written comments on the proposed rule change will be accepted by the GOEA until September 10, 1985. Comments should be addressed to Betty Johnson, Planning Analyst III, 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: Audit Reports**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
There will be no implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)  
There will be no costs or economic benefits to GOEA contractors.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
The proposed rule change will not affect competition and employment.

Sandra C. Adams  
Director

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT  
Department of Health and Human Resources  
Board of Pharmacy**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Louisiana Board of Pharmacy intends to adopt a revised Regulation Section 7, as follows:

"The Board Licensure Examination shall contain questions in pharmacology, chemistry, calculations, pharmacy, jurisprudence, practical pharmacy, and any other subjects and/or tests as may be deemed necessary by the Board. The minimum passing grade shall be 75."

Written comments may be addressed to Howard B. Bolton, Executive Director, Louisiana Board of Pharmacy, 5615 Corporate Boulevard, Suite 8-E, Baton Rouge, LA 70808, until 5 p.m., September 24, 1985.

The Board will conduct an open hearing in the Explorer's Room, Second Floor of the Fairmont Hotel, New Orleans, LA, at 2 p.m., Friday, September 27, 1985.

Howard B. Bolton  
Executive Director

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Section 7**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
It is estimated that the cost of printing and mailing the new regulation will be \$500.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
No effect.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)  
No cost and/or economic benefit.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
Not applicable.

Howard B. Bolton  
Executive Director

Mark C. Drennen  
Legislature Fiscal Officer

**NOTICE OF INTENT**

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

The Department of Health and Human Resources, Office of Family Security, proposes to implement the following State Plan for the Emergency Repatriation Program.

**PROPOSED RULE**

Effective November 1, 1985, Louisiana proposes to implement the following State Plan in order to allow for the activation of the Emergency Repatriation Program in the event that an emergency occurs in a foreign country which would require the immediate evacuation of American citizens and their dependents from overseas areas to the continental United States.

Interested persons may submit written comments to the following address: Marjorie T. Stewart, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804. She is the person responsible for responding to inquiries regarding this proposed rule. A copy of the proposed rule, including all Annexes and Exhibits, and its fiscal and economic impact statement is available for review in each local Office of Family Security.

A public hearing on the proposed rule will be held on September 4, 1985 in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge, LA, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

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

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Emergency Repatriation Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
The only implementation cost to be incurred immediately would be \$11 for printing of the State Plan. No other costs would be incurred unless the Plan were activated in the event of a Gubernatorial declaration of emergency. In that event, all costs would be funded at 100% Federal Funds.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
There will be no effect on revenue collections

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

There will be no costs to non-governmental units. Repatriated American citizens would receive federal monetary and medical assistance if the proposed plan was activated.

- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There will be no effect on competition and employment.

Marjorie T. Stewart  
Assistant Secretary

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

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

**PROPOSED RULE**

Effective November 1, 1985 the Office of Family Security will discontinue funding for Adult Day Health Care services. This action is necessary because Title XIX funding has not been approved by the Health Care Financing Administration and the department is not authorized to continue the program with 100 percent state funding.

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

Interested persons may submit written comments to the following address: Marjorie T. Stewart, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804. Ms. Stewart is the person responsible for responding to inquiries regarding this proposed rule. A copy of the proposed rule and its fiscal and economic impact statement is available for review in each local Office of Family Security.

A public hearing on the proposed rule will be held on September 4, 1985, in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views, or argument, orally or in writing at said hearing.

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

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Suspend ADHC Program**

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

The Adult Day Health Care Program has been discontinued due to expiration of the federal waiver to allow reimbursement for this service under Title XIX of the Social Security Act in four parishes. The service may be reinstated if the waiver is renewed.

Estimated savings to the Title XIX program because of this proposed rule will be \$493,069 in 1985-86, including \$177,653 in state funds and \$315,416 in federal funds. Estimated savings in 1986-87 and 1987-88 will be \$739,603, including \$267,662 in state funds and \$471,941 in federal funds.

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

Estimated savings in Title XIX funds will result in a reduction of federal revenues of \$315,416 in 1985-86 and \$471,941 in 1986-87 and 1987-88.

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

Approximately 300 ADHC clients will either be required to assume the cost of care or be dropped from the program if they are unable to afford the cost.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

We do not anticipate any effect on competition or employment at this time.

Marjorie T. Stewart  
Assistant Secretary

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

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

Summary

Current program policy provides for transplant surgeries to be reimbursed under Medicaid if prior approval is obtained. Historically, recipients in need of transplants have had to obtain these services from out-of-state hospitals which were generally reimbursed a percentage of billed charges. Several instate hospitals now have the capability of performing transplant surgeries. However, the current reimbursement methodology for inpatient hospital services which sets a limitation on cost per discharge precludes adequate reimbursement for these costly but life-saving surgeries. As current policy provides for a "carve out" from this limitation of certain other exceptional medical services (i.e. neonatal and pediatric intensive care and burn unit services), transplant surgeries could be "carved out" also and reimbursed costs. This action will permit the agency to provide adequate reimbursement to instate hospitals performing transplant surgeries. Thus, the health and welfare of Medicaid eligible recipients in need of transplant surgeries shall not be imperiled by the nonavailability of these services from instate hospitals who would be unwilling to accept Medicaid recipients because of the inadequate reimbursement provided by the current reimbursement methodology. Emergency rulemaking was invoked to implement this policy effective July 1, 1985. The Emergency Rule was published in the July 20, 1985, issue of the *Louisiana Register*.

Proposed Rulemaking

Effective July 1, 1985, the Medical Assistance Program will amend the reimbursement methodology for inpatient hospital services to provide that costs for transplant surgeries shall be excluded from the cost per discharge limitation and shall be reimbursed allowable costs as defined by Medicare (Title XVIII) principles of reimbursement. The costs to be excluded include the cost for accommodations, nursing services and ancillaries for Medicaid recipients undergoing transplant surgeries. This change in reimbursement is effective for hospital admissions on or after July 1, 1985.

Comments

Interested persons may submit written comments to the following address: Marjorie T. Stewart, Assistant Secretary, Box 44065, Baton Rouge, LA 70804. She is the person responsible for

responding to inquiries regarding this proposed rule. A copy of the proposed rule and its fiscal and economic impact statement is available for review in each local Office of Family Security.

Notice of Public Hearing

A public hearing on this proposed rule will be held on September 4, 1985, in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge, LA, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Regulatory Exception

Implementation of this rule is subject to approval by the Health Care Financing Administration (HCFA) as required for all Title XIX policy changes. Disapproval of this proposal by HCFA will automatically cancel the provisions of this rule and current policy shall 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: Transplant**

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

Implementation of this proposed rule will result in increased costs to the state as follows: \$625,200 in FY 85-86; \$659,586 in FY 86-87; and \$695,863 in FY 87-88.

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

Implementation of this proposed rule will result in an increase of federal funds as follows: \$399,940 in FY 85-86; \$420,882 in FY 86-87; and \$444,030 in FY 87-88.

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

Transplant surgeries in instate hospitals will become available so recipients will not have to travel out of state for the procedure.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

No effect on competition or employment is anticipated.

Marjorie T. Stewart  
Assistant Secretary

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Health and Human Resources  
Office of Mental Retardation/  
Developmental Disabilities**

Effective October 20, 1985, the Department of Health and Human Resources, Office of Mental Retardation/Developmental Disabilities, proposes to adopt Case Management Standards. The standards will address the provision of case management services, diagnosis and evaluation services, and generic service plan services and are being promulgated in accordance with the Mental Retardation and Developmental Disabilities Law (Act 659 of 1983).

Copies of these standards may be obtained from Cecil N. Colwell, Assistant Secretary, Office of Mental Retardation/Developmental Disabilities, 721 Government Street, Baton Rouge, LA 70802. Interested persons may submit written comments on the

proposed standards within 15 days of the date of publication to him at the above address.

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

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

#### **Rule Title: Case Management Standards**

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

There are no estimated implementation costs or savings.

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

There is no estimated effect on revenue collections.

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

There are no estimated costs to affected groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There is no estimated effect on competition and employment.

Cecil M. Colwell  
Assistant Secretary

Mark C. Drennen  
Legislative Fiscal Officer

### **NOTICE OF INTENT**

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

In compliance with the Louisiana Administrative Procedure Act, the Department of Health and Human Resources (DHHR), Office of Preventive and Public Health Services (OPPHS), Family Planning Program plans to adopt the following uniform rules and regulations for persons receiving family planning services in all of its units and service sites providing services under its auspices either directly or by contract. Fees will be based on cost and adjusted according to the ability of the recipient to pay.

##### **A. Principles of Operation**

The aim of Louisiana's OPPHS, Family Planning Program is to operate an effective family planning program. This program shall provide family planning information and services which promote the dignity and integrity of the family, shall foster an environment which enhances the ability of the family to develop the potential of each child, and shall improve community health.

1. Services of the program are available to individuals and families seeking voluntary fertility and contraceptive services.

2. No coercion or compulsion shall be employed to induce persons to use family planning services.

3. Use of the family planning services shall not be a prerequisite to the receipt of the benefits of or participation in any other activity funded by parish, state or federal tax revenue.

4. Services shall be made available in such a manner as to protect the dignity of the individual.

5. Family Planning records shall be classified as confidential medical information.

6. Advice and assistance shall be available to each participant on a variety of family planning methods and techniques sufficient to insure freedom of choice.

7. Services shall be made available without the impositions of any duration-of-residence or referral requirements.

8. Abortions shall not be provided as a method of family planning.

9. The program shall provide an opportunity for participation by persons broadly representative of all significant elements of the population to be served, and by others in the community knowledgeable about such needs, in the development, implementation, and evaluation of the projects and for the approval of educational and informational materials.

10. Medical services provided related to family planning shall include physician's consultation, examination, prescription, and continuing supervision; laboratory examination; contraceptive supplies; and necessary referral to other medical facilities when medically indicated.

11. The Family Planning Program also provides social services related to family planning. These services include: counseling, referral to and from other social and medical services agencies, and such ancillary services as are necessary to facilitate clinic attendance.

12. Instruction in the effective usage of contraceptive devices and practices shall be provided.

13. A broad range of medically approved methods of family planning including natural family planning methods shall be available.

14. Diagnostic and referral services for infertility shall be available.

15. Referral arrangements with other providers of health care services, with local health and welfare departments, hospitals, and voluntary agencies, and health services projects supported by other federal programs shall be available.

16. Informational and educational programs designed to achieve community understanding of the objectives of the program, to inform the community of the availability of services, and to promote continuing participation in the project by persons to whom family planning services may be beneficial shall be provided.

##### **B. Eligibility Requirements**

Any person needing and requesting the services provided by the program is eligible. These include women capable of child-bearing and those persons seeking infertility services. Men are eligible for available family planning services.

All persons are eligible to the extent of the program's financial support. Priority shall be given to members of low income families.

##### **C. Fee Policy**

All persons seen for family planning services at an OPPHS health unit or at a site providing family planning services by contract with OPPHS shall be assessed a fee for each chargeable service. Chargeable services are those defined as chargeable under The Louisiana Medicaid Program, regardless of the source of payment.

All patients whose gross family income is above 100 percent poverty as determined by the U.S. Community Services Administration as indicated on the fee adjustment schedule shall pay a fee for each service provided. Fees and adjustments to fees are to be established by the fee clerk at the time the patient is registered for service.

Patients shall be charged a fee for each service, regardless of which service is provided, in the same manner in which Medicaid is charged. No fee shall be charged for failed or cancelled appointments.

Minors seen *without* the consent and knowledge of parents or legal guardians will be considered as separate family units and will be charged according to the minor's own income whether the source is allowance or earnings.

**D. Fee Adjustment Schedule**

The fee adjustment schedule is designed to provide for proportional payment for each service based on the family's ability to pay. Three variable figures are utilized in calculating the schedule; (1) United States Community Services Administration Poverty Guidelines as found in 45 CFR 1060.2; (2) family size; (3) cost of service provided. The client shall provide a statement of gross family income and family size.

Persons whose income adjusted for family size is at or below 100 percent poverty as is defined by the United States Community Services Administration Poverty Guidelines shall not be responsible for payment of services. Persons whose gross family income is at or above 200 percent poverty as is defined by the United States Community Services Administration Poverty Guidelines shall be charged the full cost of services provided. Between these two levels, fees shall be adjusted in accordance with the formula included in the "Schedule of Charges" as found in Table 1.

**E. Changes in Fees**

The patient shall be instructed to notify the fee clerk of any change which may later occur in income, employment, or family composition which might result in a change in the adjusted fee. The fee clerk shall conduct a periodic check with each patient to determine any change in factors including cost changes, which would cause a change in the fee or adjusted fee. The fee clerk shall adjust the fee in accordance with the fee adjustment schedule.

No fee may be waived or reduced beyond the fee adjustment scale without the express approval of the authorized representative who shall document the reason for change in the patient's chart. When waiver or reduction is made, the authorized representative shall sign and date such authorization in the case record and in addition shall note and initial the adjusted fee on the ledger card.

Examples of acceptable justifications for waiving or reducing a fee include: (1) excessive expense due to other medical cost, (2) family hardships resulting in unusual and unexpected expenses.

**F. Failure to Pay Fees**

No person shall be denied service because of inability to pay as determined by the criteria stated above.

**G. Failure to Provide Information**

Any person who is potentially eligible for medical assistance benefits from any federal or state program who refuses to apply for and follow through with application for said benefits shall be presumed to be able to pay the maximum cost of services rendered and shall be billed accordingly.

**H. Insurance**

An insurance company that the responsible party alleges has issued a policy or contract covering the charges for treatment and services rendered shall be billed the full cost of services rendered. Billings shall be made directly to the insurer by the health unit after securing execution of the forms necessary, including an assignment of benefits to the health unit by the responsible person. The responsible party shall be billed in accordance with the applicable fee schedule up to the amount of charges not covered and paid by insurance. If the responsible person refuses to execute the forms necessary to assign the benefits under the policy alleged by her to cover the charges of services rendered and the forms necessary to file an insurance claim in accordance with the policy, that responsible party shall be billed according to the charges outlined in the class assigned her based on her income and family size as provided in Table 1.

**I. Collection Procedure**

At the end of the clinic visit, patients shall be asked to pay. When patients do not pay at the time of visit outstanding receivable accounts shall be handed a "1st Notice of Payment Due". At the end of 60 days, a Second Notice of Payment Due" shall be sent out.

No services other than contraceptive method related emergency services shall be provided a client who has not paid on an outstanding account between clinic visits unless the client pays on the account prior to receiving services on the day that services are sought.

Interested persons may submit comments on the proposed changes at the following address: Daneta Daniel Bardsley, Ed.D., Assistant Secretary, Office of Preventative and Public Health Services, Department of Health and Human Resources, Box 60630, New Orleans, LA 70160.

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

TABLE 1

FEE ADJUSTMENT SCHEDULE

X Poverty Income Family Size	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII
	< 100% No Charge	100%* 9% of Charge	110% 18% of Charge	120% 27% of Charge	130% 36% of Charge	140% 45% of Charge	150% 54% of Charge	160% 63% of Charge	170% 72% of Charge	180% 81% of Charge	190% 90% of Charge	200% 100% of Charge
1.		\$ 5,250	\$ 5,775	\$ 6,300	\$ 6,825	\$ 7,350	\$ 7,875	\$ 8,400	\$ 8,925	\$ 9,450	\$ 9,975	\$10,500
2.		7,050	7,755	8,460	9,165	9,870	10,575	11,280	11,985	12,690	13,395	14,100
3.		8,850	9,735	10,620	11,505	12,390	13,275	14,160	15,045	15,930	16,815	17,700
4.		10,650	11,715	12,780	13,845	14,910	15,975	17,040	18,105	19,170	20,235	21,300
5.		12,450	13,695	14,940	16,185	17,430	18,675	19,920	21,165	22,410	23,655	24,900
6.		14,250	15,675	17,100	18,525	19,950	21,375	22,800	24,225	25,650	27,075	28,500
7.		16,050	17,655	19,260	20,865	22,470	24,075	25,680	27,285	28,890	30,495	32,100
8.		17,850	19,635	21,420	23,205	24,990	26,775	28,560	30,345	32,130	33,915	35,700
9.		19,650	21,615	23,580	25,545	27,510	29,475	31,440	33,405	35,370	37,335	39,300
10.		21,450	23,595	25,740	27,885	30,030	32,175	34,320	36,465	38,610	40,755	42,900
11.		23,250	25,575	27,900	30,225	32,550	34,875	37,200	39,525	41,850	44,175	46,500
12.		25,050	27,555	30,060	32,565	35,070	37,575	40,080	42,585	45,090	47,595	50,100
13.		26,850	29,535	32,220	34,905	37,590	40,275	42,960	45,645	48,330	51,015	53,700
14.		28,650	31,515	34,380	37,245	40,110	42,975	45,840	48,705	51,570	54,435	57,300
15.		30,450	33,495	36,540	39,585	42,630	45,675	48,720	51,765	54,810	57,855	60,900
16.		32,250	35,475	38,700	41,925	45,150	48,375	51,600	54,825	58,050	61,275	64,500
17.		34,050	37,455	40,860	44,265	47,670	51,075	54,480	57,885	61,290	64,695	68,100

NOTE: Income shown under group is minimum income for that group

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

**Rule Title: Family Planning Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
There will be no expected increase in cost nor savings to the agency.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
This change in the fee schedule is expected to decrease agency self-generated revenue collections by approximately \$30,000 during fiscal year 1986, from \$230,000 in fiscal year 1985 to \$200,000 in fiscal year 1986. It is expected that revenue received from this source will decline to \$190,000 in fiscal year 1987 and \$180,500 in fiscal year 1988.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)  
Some patients who were previously charged will not be because of the rise in the poverty index. The charges to other paying patients will be considerably less because they will be dropped to a lower paying group.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
No effect is anticipated in competition and employment as the same kinds and amount of services will be offered.

Daneta Daniel Bardsley  
Assistant Secretary

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Natural Resources  
Office of Forestry**

The Office of Forestry, Department of Natural Resources, plans to increase its charges for specified services to forestland owners as follows:

	Current Charges	Proposed Charges
Prescribed Burning	\$ 3/acre	\$ 5/acre
Fireline Plowing Only (not fire protection plowing)	\$30/hour	\$40/hour

The Office of Forestry will hold a hearing on September 5, 1985, at its office located at 5150 Florida Boulevard, Baton Rouge, LA, for the purpose of determining the current average stumpage market value of timber and pulpwood for severance tax computations for 1986.

The meeting will be held in Baton Rouge at the Office of Forestry headquarters, 5150 Florida Boulevard, at 10 a.m. Interested parties will be afforded reasonable opportunity to present views and comments at the meeting. Written comments may be submitted to Michael P. Mety, State Forester, Office of Forestry, Box 1628, Baton Rouge, LA 70821.

Interested persons should attend the hearing or submit written comments on these proposed changes by September 5, 1985.

Michael P. Mety  
State Forester

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

**Rule Title: Charges for forest-management services**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
There will be no additional implementation costs to state or local governmental units as a result of this proposed rule change, being that fees are being increased and that existing staff can handle the associated workload.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
The Office of Forestry estimates that the increased rate change, based on FY 1984-85 accomplishments, should increase the annual self-generated revenues by \$40,600; however, FY 1985-86 collections would be one-half that amount due to the anticipated implementation of increased rates at mid-year (i.e. January, 1986).  
There will be no effect on revenue collections of local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)  
The estimated costs will be borne by those forestland owners who request and receive forest management services. Increased fees charged for specific forest management services provided to forestland owners will be as follows:  
Prescribed Burning From \$3/acre to \$5/acre  
Fireline Plowing only From \$30/hour to \$40/hour
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
It is difficult to determine the effect on competition and employment as a result of increasing the aforementioned fees. Presently there is very little (if any) involvement by the private sector in this regard; however, with the increase in fees, participation by the private sector may or may not increase.

Michael P. Mety  
State Forester

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Corrections Services**

The Louisiana Department of Public Safety and Corrections, Corrections Services, advertises its intent to adopt a policy to regulate visitation by religious lay groups and religious group-sponsored individual lay visitation at adult and juvenile operational units.

Interested persons may submit written comments on the proposed Regulation at the following address: Joan Hunt, Attorney, Department of Public Safety and Corrections, Box 94304, Baton Rouge, LA 70804.

C. Paul Phelps  
Secretary

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

**Rule Title: Religious Group and Religious Lay Group Visitation**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
There will be no implementation costs to the state.



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

There will be no effect on revenue collections.

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

There will be no estimated costs and/or economic benefits to directly affected person or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There is no estimated effect on competition and employment.

Griffin Rivers  
Deputy Secretary

David W. Hood  
Legislative Fiscal Analyst

## NOTICE OF INTENT

### Department of Revenue and Taxation Sales Tax Section

The Department of Revenue and Taxation advertises its intent to adopt a regulation which will include prewritten or canned computer software in the definition of tangible personal property, which will make the software subject to Louisiana General Sales Tax.

Interested persons may submit written comments on the proposed regulation to the following address: R. Charles Bradley, Jr., Director, Sales Tax Section, Louisiana Department of Revenue and Taxation, Box 3863, Baton Rouge, LA 70821. A public hearing for the purpose of hearing objections to and comments on this proposed regulation will be held on September 3, 1985, at 2 p.m. in the second floor conference room of the Department of Revenue and Taxation, which is located at 330 N. Ardenwood Drive, Baton Rouge, LA.

The text of the proposed regulation is as follows:

Proposed Article 47:301 (16). Tangible Personal Property

With the exception of certain provisions of R.S. 47:301 (14) relating to the furnishing of services, the question of whether an item constitutes tangible personal property is of utmost importance in determining whether its sale, use, storage, consumption, rental, or lease is subject to tax under the provisions of this Chapter. Under pertinent provisions of the Louisiana Civil Code, tangible personal property must be construed to be tangible movable property. Thus, if property is movable and meets the definition of tangible personal property contained in this Section, it is tangible personal property. R.S. 47:301 (16) defines tangible personal property to be any property which may be seen, weighed, measured, felt, or touched, or is in any manner perceptible to the senses. Stocks, bonds, notes, or other obligations or securities have been specifically excluded from the definition of tangible personal property.

Computer software which is "canned" or which has been prewritten for use by more than one customer will be treated as tangible personal property when it is contained on a tangible medium, including but not limited to tapes, discs, or punched cards. This will include software which was originally custom-designed or written for one specific customer but which is now available to others.

Software which has been custom-designed for exclusive use of one particular person shall be considered to be intangible property. "Canned" or prewritten software which has to be changed to fit the needs of a particular customer will be considered to be custom only to the extent of the changes that are made. When the selling price of software which has been custom-designed for the exclusive use of a particular person is separately set out on a dealer

invoice, and when such property does not constitute an inseparable part of hardware or other tangible personal property, the software shall not be subject to the sales tax. Central programs or basic operational programs which are sold as an inseparable part of computer hardware will continue to be subject to the tax.

Tapes, discs, punched cards, or other media on which software is contained, are considered to be tangible personal property. When these media contain "canned" or prewritten software, which is subject to sales tax, the total sales price of the media and software shall be subject to the sales tax. When these media contain custom-designed software, there shall be no sales tax on the sale of the media, but the vendor will incur a use tax liability on his cost price of the medium. Computer video games and computer video or audio learning aids are considered to be prewritten or "canned" software; and the entire selling price of these items, including the media on which they are contained, shall be subject to a sales tax.

The nature of the property may change from movable to immovable or from immovable to movable so that its character at the moment of a transaction or activity must be established, in order to determine taxability of that transaction or activity. As an example, a movable piece of machinery may be attached to a building in such manner that it cannot be removed without doing damage to the machinery or to the building. In this case, the character of the property will have changed from movable to immovable. If, however, the machinery is attached in such a way that it may be removed from the building without doing damage to either it or the building, its character upon being separated reverts to movable property. This distinction is of particular importance in determining whether repairs to property are taxable. If equipment or machinery removed from real property has been damaged, the item constitutes tangible personal property and repairs made thereto are taxable.

Shirley McNamara  
Secretary

### Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Computer Software

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

The Louisiana Department of Revenue and Taxation does not believe that it will incur any implementation costs if this proposed regulation is enacted.

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

This regulation will result in increased sales tax collections for the State of Louisiana, since certain sales of software not now taxable will become taxable under the revised regulation. With full implementation, the increase will be as much as \$2,240,000 per year by 1986-87. However in 1985-86, it is estimated that the time required for notifying affected vendors and bringing them into compliance with the regulation will reduce 1985-86 increased collections to \$1,120,000.

Many local sales tax jurisdictions as a general practice adhere to definitions of taxable items used by the state, including definitions set forth in Department of Revenue rules. Thus the rule will also have a positive impact on local collections as well. Using an average local sales tax of 2.5 percent local sales tax collections are estimated to increase by \$672,000 in 1985-86 and \$1,344,000 in 1986-87.

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

The Louisiana Department of Revenue and Taxation does not believe that any persons, groups, units of local government, or state agencies will incur additional costs if this proposed regulation is promulgated, other than the additional sales taxes that some persons or other entities will be required to pay on certain purchases of software.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

The Louisiana Department of Revenue and Taxation does not anticipate that this proposed regulation will, if enacted, have any effect on competition and employment in either the public or private sector.

R. C. Bradley, Jr.  
Director

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Transportation and Development  
Board of Registration for Professional Engineers  
and Land Surveyors**

In accordance with the LRS 49:950, et seq., notice is hereby given that the Louisiana State Board of Registration for Professional Engineers and Land Surveyors intends to revise LAC 19-3:9.3 [Delete last two sentences]

Application to take this examination may be made prior to the anticipated date of eligibility for registration, but no sooner than one year prior to the date. Earlier applications will be returned.

12.1.2.1 [New]

REGISTRANTS shall comply fully with LAC 19-3:10 RULES GOVERNING THE USE OF THE SEALS (37:696).

12.1.2.2 [New]

Except as permitted by LAC 19-3:10.7, REGISTRANTS shall not seal the work of or take the professional responsibility for any documents related to engineering or land surveying not performed by the REGISTRANT or under REGISTRANT'S complete direction and control.

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 September 20, 1985. 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 September 24, 1985. 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: LAC 19-3:9.3 and 12.1.2.**

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

There are no estimated implementation costs or savings to the board.

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

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

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

There are no estimated costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

These rule changes will have no effect on competition or employment.

Paul L. Landry, PE  
Executive Secretary

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Transportation and Development  
Office of Public Works**

The Department of Transportation and Development, Office of Public Works intends to revise the rules, regulations and standards for water well registration, construction, plugging and abandonment, installation of control devices on free flowing wells and licensing of water well contractors and other drillers under the authority given in La. R.S. 38:3091 through 38:3098.8.

The proposed revisions would preempt water well rules, regulations and standards which were promulgated and published by the Department in 1975 and 1977 and would require registration of and proposes construction and plugging standards for all water wells and holes, regardless of use and capacity. The proposed revisions would also preempt rules, regulations and procedures for the licensing of water well drillers which had become effective on April 21, 1983, so that it would provide for the licensing of those engaged or desiring to engage in the drilling of monitoring wells, geotechnical boreholes, heat pump wells or holes, and plugging of abandoned water wells and holes as required by Act 313 of 1984.

The proposed revisions would bring together in one volume, all the rules and regulations which relate to construction and plugging of water wells and holes as well as regulations pertaining to licensing of water well and other drillers as authorized by Acts 535 (1972), 606 (1976), 715 (1980) and 313 (1984).

Copies of the proposed rules and regulations may be obtained by writing to Z. "Bo" Bolourchi, Chief - Water Resources Section, Department of Transportation and Development, Box 94245, Baton Rouge, LA 70804-9245, or by calling (504) 342-7630. Written comments will be accepted until 4:30 p.m., Friday, September 20, 1985.

Marty J. Chabert  
Assistant Secretary

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

**Rule Title: Water Well Rules, Regulations and Standards**

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

Implementation of these revised regulations will not cause the Department to incur additional costs or realize any savings as it merely revises and brings together water well and licensing regulations promulgated under State Acts 535(1972), 606(1976), 715(1980). Increased work load due to processing additional licensing applications for monitoring, heat pump, geotechnical and other drillers, as required by Act 313(1984), will be minimal. Increased work load due to registering all water wells and holes will also be minimal since water well drillers are already registering almost every type of water well they drill.

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

The Department will be processing approximately ten additional licensing applications per year which will provide an additional \$1000.00 per year in self-generated funds plus \$100.00 examination fees for the first year only.

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

The group directly affected, by the cost of registering each well and reporting the plugging of each abandoned well, is water well and other drilling contractors. However, since most wells are already being reported as required by the existing regulations, the financial impact will be minimal. A comparison of the proposed and the existing regulations indicates that there will be an increased average cost of only 1 to 2% for the majority of wells and holes (Domestic, Irrigation, Rig Supply, etc.) and an increased cost of approximately 5% for the few rural and commercial public supply wells. This increased cost will be effectively offset by reduction of health risks especially those occasioned by domestic and rural public supply wells. Municipal public supply and industrial wells have generally followed these practices since 1975 and thus will not be substantially affected by the new regulations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There will be no impact on competition or employment.

Marty Chabert  
Assistant Secretary

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of the Treasury  
Board of Trustees  
State Employees Group Benefits Program**

Notice is hereby given that the Louisiana Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program intends to amend its guidelines relative to Health Maintenance Organizations.

(1) Any health maintenance organization (HMO) or other prepaid medical benefits plan seeking to solicit the membership of employees of the state, its agencies or political subdivisions shall be subject to the regulations and requirements as set forth below, unless:

(a) the HMO provides evidence of federal qualification under Section 1301 of P.L. 93-222 (Health Maintenance Organization Act of 1973, as amended), and unless

(b) the HMO has activated the dual-choice mandate as provided for in Section 1310 of the Act.

(2) For purposes of these regulations the term "HMO" is defined as any legal entity which provides either directly or through arrangements with providers or other persons, health care services, or arranges for the provision of such services to enrollees on the basis of a fixed prepaid sum.

(3) The Board of Trustees of the State Employees Group Benefits Program specifically reserves the right to disapprove the application of any HMO.

**GENERAL INFORMATION**

The HMO shall furnish the following information:

(1) a list of the names and official positions of all members of the board of directors and the principal officers of the organization, which list shall contain a full disclosure of the extent and

nature of any contractual or financial arrangements between them and the state, or any of its agencies or political subdivisions;

(2) if the HMO is sponsored by another organization, the foregoing information relative to the directors and principal officers of the sponsoring organization or parent company;

(3) any changes in (1) or (2) above which may take place for the duration of the contract between the HMO and the state;

(4) a current balance sheet or income/expense statement;

(5) evidence of protection for members in the event of insolvency or medical catastrophe; which evidence may be a demonstration of the HMO's capacity to produce a cash flow sufficient to cover normal operating expenses for a minimum of 90 days, or a contractual agreement with a third-party insurer indicating such protection; and which evidence shall be updated on an annual basis;

(6) a copy of the form of each booklet or certificate of coverage to be issued to the members, and any changes or amendments as may be made from time to time;

(7) a description of the proposed method of marketing the HMO benefits, including marketing material to be used and a list of current premium charges;

(8) an accurate comparison of benefits offered by the HMO and the State Employees Group Benefits Plan;

(9) a statement describing the HMO's service area by zip code;

(10) a description of complaint procedures the HMO utilizes for resolving grievances between a member and the HMO or any provider of services;

(11) if the HMO is a group or staff model, a description of the medical care facilities to include;

(a) location,

(b) hours of operation,

(c) provisions for after-hours emergency services,

(d) on-sight facilities such as x-ray, laboratory, pharmacy, etc.;

(12) for all models, a list of participating physicians, to include the area of practice or specialty of each;

(13) a statement indicating which person or persons are responsible for final medical adjudication of questioned claims;

(14) the information required in (1-4) above shall be updated annually on January 1;

(15) advise whether HMO is proprietary or not for profit.

The State of Louisiana shall have the right during the existence of the contract to audit from time to time such fiscal records of the HMO as may pertain to the financial security of state employees enrolled as members.

If, for any reason, a provider fails or is unable to render services it has agreed to provide through a contract with the HMO, the HMO shall agree to pay benefits for services equivalent to those set for in its contract with the state while an individual continues to be a member.

The Board of Trustees of the State Employees Group Benefits Program shall not be held liable for claims for damages relating to any treatment rendered or arranged for by the HMO.

The HMO shall agree to hold the Board of Trustees of the State Employees Group Benefits Program harmless from all claims for damages relating to any act or omission by the HMO, including any claims relating to failure of the HMO to provide services as specified in its contract with the State of Louisiana due to financial hardship or insolvency.

The HMO shall agree to hold any plan member or dependent harmless from any liability or cost for health maintenance services rendered during enrollment in the HMO, except as may be specifically provided for in the group contract and individual certificates of coverage.

## INITIAL ENROLLMENT AND EFFECTIVE DATE

(1) The initial enrollment period shall be that 60-day period beginning on the October 1 coinciding with or immediately following the approval of the HMO by the Board of Trustees. The initial effective date shall be the January 1 next following the completion of this enrollment period.

(2) The state shall furnish the HMO with a list of agency personnel officers and their addresses to facilitate agency contact.

(3) The state shall provide a letter of introduction by the executive director to the personnel officers encouraging their cooperation with the HMO in scheduling meetings and making the offer to eligible employees.

(4) The state shall permit the HMO to use its enrollment form to enroll employees who are currently members of the State Employees Group Benefits Program.

(5) The HMO shall use the State Employees Group Benefits Enrollment Document if the employee is not a member of the State Plan at the time he elects HMO membership.

(6) All documents shall be processed at the State Employees Group Benefits office, including data entry into the billing and eligibility system.

(7) The HMO shall secure any information it may need which is not on the enrollment document independently of the State Employees Group Benefits Program.

## COMPUTER INTERFACING

(1) The state shall provide the HMO with a monthly exception tape, detailing by agency: additions, deletions, and changes.

(2) The HMO shall maintain all billing records by agency billing codes as established by the State Employees Group Benefits Program.

(3) The HMO shall furnish utilization reports on a monthly basis, the format of which shall be mutually agreed on by the state and the HMO.

## PREMIUM BILLING AND TRANSFER

(1) The HMO shall bill membership fees in a regular monthly invoice, detailed by agency billing codes as established by the State Employees Group Benefits Program.

(2) The state shall transfer the reconciled membership fees to the HMO by the fifteenth of each month for the previous month's billing. Remittance will be itemized by agency.

(3) The state shall retain a monthly administrative fee for each individual contract, which fee shall be negotiated prior to the initial effective date of the master contract between the state and the HMO. Adjustment of the administrative fee will be made no more often than once a year and only on the annual re-enrollment date (January 1).

## RATES

(1) The HMO shall charge membership fees that are divisible by a number as shall be set forth in the contract.

(2) Rates shall be guaranteed for no less than a 12-month period following initial effective date and thereafter shall be increased no more often than once a year and only on the annual re-enrollment date, unless otherwise approved by the Board of Trustees 90 days prior to the effective date of such increase.

(3) Notice of premium adjustments shall be given the state at least 90 days prior to the proposed effective date of such adjustment.

(4) Membership fees shall not be adjusted based on the utilization of health care services by state employees or their dependents. Rate adjustments shall be reflected in similar adjustments for other groups enrolled in the HMO service area.

(5) The HMO shall use a rate structure with classifications compatible with those used by the State Employees Group Benefits Program.

## ELIGIBILITY

(1) The HMO shall maintain identical eligibility regulations as the State Employees Group Benefits Program with the exception of sponsored adult dependents, who need not be eligible for membership.

(2) The HMO shall enroll new employees who choose membership during their initial period of eligibility for an effective date that is compatible with the eligibility requirements of the State Program.

(3) The HMO shall provide for continuation of membership for surviving spouses and dependents of deceased employees who are HMO members at the time of death. Such continuation provisions shall be identical to those of the Group Benefits Program. Such continuation shall be provided at the benefit level of the group contract and at a cost no greater than comparable monthly premiums charged by the HMO for like classes of group membership.

(4) During initial enrollment and each subsequent annual re-enrollment, the HMO shall offer membership to eligible active employees and eligible retirees on an equal basis.

## PRE-EXISTING CONDITIONS

(1) The HMO shall impose no limits on coverage for pre-existing conditions for State employees electing membership during their initial period of eligibility.

(2) If a State employee fails to elect HMO membership for himself or his dependents during his initial period of eligibility, the HMO, unless prohibited by federal law or regulation, shall impose limitations on coverage for pre-existing conditions as a requirement for membership, in accordance with the existing regulations of the State Employees Group Benefits Program.

## TRANSFERS AND TERMINATIONS

(1) The HMO shall hold an annual re-enrollment each November for an effective date of January 1 for employees electing to enter or leave HMO membership. This shall include both active and retired employees.

(2) The HMO shall participate in any other open enrollments as may be mandated by legislative action, if such action involves the HMO's service area.

(3) Transfer of coverage from the State Employees Group Benefits Program to the HMO or vice-versa shall be allowed only during the annual re-enrollment period, for an effective date of January 1. Transfer of coverage shall also be allowed as a consequence of the employee's being transferred into or out of the HMO service area, with an effective date of the first of the month following transfer.

(4) The HMO shall provide benefits up to but not beyond date of discharge in the event a member or his dependents are hospital confined at the time his membership terminates.

(5) The HMO shall allow individual conversions for a 30-day period following the end of the month during which an employee terminates his group membership. The conversion may be an individual HMO membership or fully-insured health contract, but shall be offered without regard to existing medical conditions and at the then-current rate for all other similar conversions. Termination of the group contract shall not constitute individual termination for purpose of conversion.

(6) No individual membership shall be terminated by the HMO except for the following reasons:

- a. termination of the group contract;
- b. termination of a member's employment with the state;
- c. an employee's moving his domicile out of the HMO service area;
- d. failure of the individual to make required co-payments to an HMO provider;
- e. statements made by an individual on applying for mem-

bership which are material and knowingly false relative to the eligibility of himself or any dependent; or, if applicable, relative to the health status of himself or any dependent;

f. refusal of a member to cooperate with an HMO provider to such a degree as to render a satisfactory physician-patient relationship impossible;

(i) should the member refuse to accept procedures or courses of treatment recommended by an HMO physician, the physician shall use his best efforts to render all necessary and appropriate professional services in a manner compatible with the member's wishes insofar as this can be done consistent with the physician's judgement as to the requirements of proper medical practice;

(ii) should the member continue to refuse to cooperate with the provider, and the physician believes that no acceptable professional alternative exists, such member shall be so advised, and if upon being so advised, the member still refuses to follow the recommended treatment or procedure, then the HMO shall have the right to terminate that individual's membership;

(iii) should the HMO elect to terminate or not renew the member's coverage due to the above provision, the HMO shall notify the employee in writing no less than 30 days prior to termination date;

(iv) The employee shall have the right to appeal such termination of coverage to the Benefits Committee of the Board of Trustees, which committee shall refer its recommendation to the Board for final decision.

#### NONDUPLICATION OF COVERAGE

(1) If a husband and wife are both state employees and both are eligible for family coverage under the State Employees Group Benefits Program, both must elect membership in the HMO or the State Program. Neither split contracts nor dual membership shall be allowed.

(2) If a husband and wife are both state employees and have elected single coverage, each may choose membership in either the HMO or the State Program.

(3) Regardless of any provision of the State Employees Group Benefits Program contract to the contrary, the following apply to any state employee or dependent enrolled in an HMO:

- a. the person shall neither be a member of the State Program nor a qualified dependent covered under the State Program;
- b. no benefits will be payable under the State Program with respect to charges for services and supplies furnished while the person is enrolled in the HMO.

#### BENEFIT STRUCTURE

(1) The HMO shall provide basic and supplemental comprehensive health maintenance services which state employees and their dependents might reasonably require to be maintained in good health, without regard to the frequency or extent of services furnished to any particular enrollee except for allowable exclusions and limitations as noted herein.

(2) Basic comprehensive health maintenance services shall include, but need not be limited to:

- a. provisions for in-area emergency health care services which shall be available 24 hours a day, seven days a week and which shall be provided by physicians or other licensed medical personnel;
- b. coverage for out-of-area emergency services;
- c. preventive health services such as immunizations, routine physical examinations, and diagnostic studies;
- d. in-patient hospital care, to include semi-private accommodations and other ancillary services;
- e. in-patient physician services;
- f. out-patient health services.

(3) Supplemental comprehensive health maintenance services shall include, but need not be limited to, benefits for:

- a. out-patient prescription medication;
- b. private-duty nursing prescribed by a physician;
- c. emergency ambulance services;
- d. durable medical equipment;
- e. prosthetic appliances.

(4) The HMO may impose reasonable limitations on and/or exclusions from such services as cosmetic surgery, dental treatment, custodial care, experimental procedures, home health care, services not medically necessary, personal convenience items, luxury accommodations, and services not rendered or prescribed by HMO physicians (except for out-of-area emergency care).

(5) The HMO may exclude from coverage those items as are normally and routinely considered excludable under group health coverage such as injuries or disease covered by workmen's compensation laws or veteran's benefits; self-inflicted injuries or those sustained as a result of war or civil disobedience.

(6) Treatment for mental and nervous disorders, and alcohol or other substance abuse may not be excluded, but may be limited. Coverage shall be provided to include at least:

- a. in-patient - hospital benefits and physicians services for a minimum of 30 days per year;
- b. out-patient - physician services covered at least 50 percent for a minimum of 15 visits per year at no less than \$40 per visit.

(7) Basic and supplemental comprehensive health maintenance services shall have a lifetime maximum of no less than \$500,000 per person. Reasonable co-payments may be placed on out-patient services and out-of-area services, but in no instance shall the co-payment exceed 25 percent of the value of the service rendered.

#### DISCLOSURE

(1) The HMO shall issue to each employee a description of benefits to which he is entitled under the contract between the HMO and the State of Louisiana.

(2) The evidence of coverage shall contain a clear, concise and complete statement of:

- a. the health care services and the insurance or other benefits, if any, to which the member is entitled;
- b. any exclusions or limitations on the services as benefits to be provided, including any deductibles and/or co-payment provisions;
- c. where and in what manner information is available as how services, including emergency and out-of-area services, may be obtained;
- d. the HMO's method for resolving enrollee complaints;
- e. conditions of eligibility for employees and their dependents;
- f. conditions under which an individual's membership may be terminated.

Comments or objections will be accepted, in writing, until 4:30 p.m. on October 9, 1985, at the following address: Dr. James D. McElveen, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804.

James D. McElveen  
Executive Director

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

##### **Rule Title: Health Maintenance Organizations**

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

There will be only minimal implementation costs to state or local governmental units.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
Revenue collections of state or local governmental units will be affected only minimally by this rule change.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)  
This rule change will not generate measurable costs or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
Competition and employment will be affected only to the extent that the rules will allow only those qualified HMO's to offer health coverage to state employees.

James D. McElveen  
Executive Director

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**  
**Department of the Treasury**  
**Bond Commission**

In accordance with the application provisions of the Administrative Procedure Act, R.S. 49:950, et. seq., notice is hereby given that the Louisiana State Bond Commission intends to amend the commission's rules as originally adopted on November 20, 1976, and amended as of October 20, 1978, November 20, 1979, January 20, 1981, February 20, 1981, October 20, 1982, November 20, 1982, April 20, 1983, May 20, 1984, November 20, 1984 and June 20, 1985.

The commission proposes to amend its rules by adding the following rule:

**VACANCY GUIDELINES FOR MULTIFAMILY HOUSING DEVELOPMENTS (NEW CONSTRUCTION)**

New multifamily housing applications whereby the vacancy rate in the area of the new construction equals or exceeds 20 percent, according to an acceptable vacancy study, will not be docketed for consideration. In parishes, or sections of parishes, for which no study has been completed, the developer will be required to arrange for a study indicating vacancy rates and such study will have to be acceptable to the issuer and the commission.

Inducements for new construction in areas that have more than 15 percent and less than 20 percent vacancy rates would be prohibited unless a specific feasibility study and vacancy rate study by the developer justifies such a development. Both studies would have to be completed no more than 90 days prior to inducement.

At the time of preliminary consideration by the Bond Commission acceptable vacancy rate studies as mentioned herein must be current up to 180 days.

New construction for special purpose needs (mainly elderly and handicapped housing) are exempt from these vacancy guidelines.

All new construction multifamily housing developments induced by an issuer prior to July 23, 1985 are exempt from these vacancy guidelines.

The proposed rule amendment will be made available for public inspection between the hours of 8 a.m. and 4:30 p.m. on any working day after August 20, 1985 at the Office of the State Bond Commission, 300 Louisiana Avenue, Baton Rouge, LA.

Interested persons may submit their views and opinions through August 29, 1985 to Thomas D. Burbank, Jr., Secretary and Director of the State Bond Commission, 300 Louisiana Avenue, Box 44154, Baton Rouge, LA 70804. The State Bond Commission will hold a public hearing on September 3, 1985 at a time and place established in a notice posted 24 hours in advance.

The State Bond Commission shall prior to the adoption, amendment or repeal of any rule, afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. In case of substantive rules, opportunity for oral presentation or argument shall be granted if requested by 25 persons, by a governmental subdivision or agency, by a committee of either house of the Legislature to which the proposed rule change has been referred, as required under the provisions of Section 968 of Title 40.

At least eight working days prior to the meeting of the State Bond Commission at which a rule or rules are proposed to be adopted, amended or repealed, notice of any intention to make an oral or written presentation shall be given to the director of the State Bond Commission. If the presentation is to be oral, such notice shall contain the name or names, telephone numbers, and mailing addresses of the person or persons who will make such oral presentation, who they are representing, the estimated time needed for the presentation, and a brief summary of the presentation. Notice of such oral presentation may be sent to all State Bond Commission members prior to the meeting. If the presentation is to be written, such notice shall contain the name or names of the person or persons submitting such written statement, who they are representing, and a copy of the statement itself. Such written statement will be sent to all State Bond Commission members prior to the meeting.

The commission shall consider all written and oral submissions concerning the proposed rules. Upon adoption of a rule, the commission if requested to do so by an interested person either prior to the adoption or within thirty days thereafter, shall issue a concise statement of the principal reasons for or against its adoption.

Mary Evelyn Parker  
State Treasurer and Chairman

**Fiscal and Economic Impact Statement**  
**For Administrative Rules**  
**Rule Title: Vacancy Guidelines for Multifamily Housing Developments**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
Indeterminable.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS - (Summary)  
Indeterminable.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS - (Summary)  
Indeterminable.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

The implementation of this rule would eliminate the potential of overbuilding in areas of high vacancy rates, thus decreasing excess competition. There would be an indeterminable effect on temporary construction jobs.

Thomas D. Burbank, Jr.  
Director and Secretary

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**  
**Department of the Treasury**  
**Teachers' Retirement System of Louisiana**

The Board of Trustees of the Teachers' Retirement System of Louisiana intends to amend its regulations concerning annuity factors by adopting the following rule:

All retirement benefits and estimates of retirement benefits effective on or after January 1, 1986, will be computed using unisex actuarial factors.

Interested persons may submit written comments on the proposed change until 4:30 p.m., September 3, 1985, to Dr. Carleton C. Page, Secretary-Treasurer, Teachers' Retirement System, Box 94123, Capitol Station, Baton Rouge, LA 70804-9123.

Carleton C. Page  
Secretary-Treasurer

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Annuity Factors**

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

There are no implementation costs or savings involved as the system presently uses annuity factors in computing benefits and reserves.

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

The change to different annuity factors will have no effect on revenue collections.

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

Optional retirement benefits will be calculated without regard to sex and, as a result, male retirees will receive slightly more and female retirees slightly less.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)**

There will be no estimated effect on competition and employment.

Carleton C. Page  
Secretary-Treasurer

Mark C. Drennen  
Legislative Fiscal Officer

# Legislation

## LEGISLATION

### Louisiana Administrative Procedure Act

(EDITOR'S NOTE: The following Act amended R.S. 49:950-970 (The Administrative Procedure Act) in the 1985 Regular Session. There are several procedural changes which should be noted regarding the Office of the State Register and agencies involved in rulemaking.)

Act 371  
Regular Session, 1985  
SENATE BILL No. 815

By Messrs. Lauricella, Brinkhaus, Chabert, Kelly, Kiefer, Nunez, Poston and Rayburn and Representatives Alario, Ackal, Bajoie, Cain, Delpit, D'Gerolamo, Doucet, Downer, A. Jackson, Kimball, Laborde, Leach, Reilly, Thibodeaux and F. Thompson

#### AN ACT

To amend and reenact R.S. 49:953(A)(2)(b), 968(D)(1)(b), 968(E)(1), 968(G), and 968(H)(2) relative to the Administrative Procedure Act; to provide relative to public hearings and public comments on proposed rules; to provide relative to legislative subcommittee oversight; to provide relative to substantive changes in proposed rules; and to provide for related matters.

Be in enacted by the Legislature of Louisiana: Section 1. R.S. 49:953(A)(2)(b), 968(D)(1)(b), 968(E)(1), 968(G), and 968(H)(2) are hereby amended and reenacted to read as follows: §953. Procedure for adoption of rules

A. Prior to adoption, amendment, or repeal of any rule, the agency shall:

\* \* \*  
\* \* \*

(2)

(b) The agency shall make available to all interested persons copies of any rule intended for adoption, amendment, or repeal from the time the notice of its intended action is published in the *Louisiana Register*. Any hearing pursuant to the provisions of this Paragraph shall be held no later than 18 days after the publication of the *Louisiana Register* in which the notice of the intended action appears. The agency shall consider fully all written and oral submissions respecting the proposed rule. Upon adoption of a rule, the agency, if requested to do so by an interested person either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption.

\* \* \*

§968. Review of agency rules

\* \* \*

D.(1)

\* \* \*

(b) Not later than the subcommittee hearing, the agency shall submit to the subcommittee:

(i) A summary of all testimony at any hearing conducted pursuant to R.S. 49:953(A)(2);

(ii) A statement of any tentative or proposed action of the agency resulting from oral or written comments received; and

(iii) If any tentative or proposed action results from such oral or written comments received, a revision of the proposed rule and a revision of the report required to be submitted to the subcommittee by the provisions of R.S. 49:968(C), revised in accordance with such tentative or proposed action.

\* \* \*

E.(1) Each such determination shall be made by the respective subcommittees of each house acting separately. Action by a subcommittee shall require the favorable vote of a majority of the members of the subcommittee who are present and voting, provided a quorum is present.

No later than three weeks before the deadline for legislative oversight action, the chairman of the subcommittee may request, by letter, the consent of the subcommittee members to have a mail ballot instead of a meeting to consider a proposed rule. If no objection is received within ten days of the chairman's request, the chairman shall cause a mail ballot to be sent to the members of the subcommittee. In order for the subcommittee to reject a proposed rule, a majority of ballots returned to the chairman at least 24 hours prior to the deadline for legislative oversight action must disapprove the change. Any determination by the subcommittee shall be made no later than 40 days after publication of the notice of intended action on the rule in the *Louisiana Register* unless made pursuant to the provisions of Subparagraph H(2) of this Section.

\* \* \*

G. After receipt of the report of the subcommittee, the governor shall have ten calendar days in which to disapprove the action taken by the subcommittee. If the action of the subcommittee is not disapproved by the governor within ten calendar days from the day the subcommittee report is delivered to him, the rule change shall not be adopted by the agency until it has been changed or modified and subsequently found acceptable by the subcommittee, or has been approved by the standing committee, or by the legislature by concurrent resolution. The agency shall not, within four months after issuance of a written report by an oversight subcommittee finding a proposed rule change unacceptable, propose

the adoption, amendment, or repeal of the same or a substantially similar rule.

H. \* \* \*

(2) Substantive changes to a rule proposed for adoption, amendment, or repeal occur if the nature of the proposed rule is altered or if such changes affect additional or different substantive matters or issues not included in the notice required by R.S. 49:953(A)(1). Whenever an agency seeks to substantively change a proposed rule after notice of intent has been published in the *Louisiana Register* pursuant to R.S. 49:953(A)(1), the agency shall hold a public hearing on the substantive changes proceeded by at least 15 days public notice in the official state journal and notice to all interested persons who have made request of the agency for such notice. The agency hearing shall conform to R.S. 49:953(A)(2)(b), and a report on the hearing shall be made to the oversight committees in accordance with R.S. 49:968(D)(1)(b). Notwithstanding the time limitations of R.S. 49:968(D)(1)(a) and (E)(1) to the contrary, any determination as to the rule by the oversight committees, prior to gubernatorial review as provided in R.S. 49:968(G), shall be made no later than 30 days after the agency hearing on the substantive changes. If a rule or part of a rule that is severable from a larger rule or body of rules proposed as a unit is found unacceptable, the rules or parts thereof found acceptable may be adopted by the agency in accordance with Paragraph (1) of this Subsection.

\* \* \*

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana.

Samuel Nunez  
President of the Senate

John A. Alario  
Speaker of the House  
of Representatives

Edwin Edwards  
Governor of the State  
of Louisiana

APPROVED: 7-9-85

# Committee Reports

## COMMITTEE REPORT

**House of Representatives  
Committee on Commerce  
Oversight Review**

Dear Governor Edwards:

This letter certifies the official action disapproving the Proposed Rules LAC 11-15:12.4 and 12.5 through 12.8 of the Louisiana Real Estate Commission by the Subcommittee on Executive Agency Oversight and Review of the House Committee on Commerce on this date at a public hearing. The rules were first published in the June 20, 1985, issue of the *Louisiana Register* pages 644-645.

The members of the subcommittee, acting on behalf of the full House Committee on Commerce (R.S. 49:968(D)) and the

House of Representatives (R.S. 49:968(E)), disapproved the proposed rule in question by a favorable 9-0 vote. With respect to the disapproved proposed rule LAC 11-15:12.4 and 12.5 - 12.8, the subcommittee determined the following:

### I. Substantial Interest—Proposed Rule 12.4

A. R.S. 37:1437.2(C) requires that every broker applying for a corporate or partnership real estate broker's license *own a substantial interest* in the corporation or partnership *as specified by the Real Estate Commission*. This law provides that every application for a corporate or partnership real estate broker's license be submitted by an individual licensed real estate broker who has been chosen by the corporation or partnership as its qualifying broker. (Emphasis added) R.S. 37:1437.2 was enacted in Act 380 of 1983 R.S.

B. Senate Bill Number 1096 by Senator Swearingen introduced in this 1985 Regular Session passed the Senate but did not have a hearing by the House Committee on Commerce because Senator Swearingen deferred the bill on its hearing date of June, 1985. This bill sought to remove the "substantial ownership" required of R.S. 37:1437.2(C).

C. Thus, the subcommittee finds the action by the commission to remove a statutorily mandated qualification for a corporate or partnership broker's license to be without valid legal authority. In fact, such a rule would be in contravention of the law. Further, as intended by the law in question, the subcommittee averred that a qualifying broker should have a substantial interest. That defining a substantial interest may be difficult for the commission to decide does not relieve the commission of its duty.

Currently, the commission requires no certain amount of ownership, only have a resolution from the board that the broker is its administrative officer.

### II. Trade Names—Proposed Rules 12.5 - 12.8

A. Proposed Rules 12.5 - 12.8 seeks to permit a corporate broker to be licensed under a trade name rather than limited to the legal name of the corporate name. The present rule forbids the use of any additional trade names or surnames. Further the present rule, specifically Rule 12.6 limits a trade name for licensure to exactly that of the corporate entity.

B. Under the present rules the commission professes that it would be difficult, if not impossible, for a corporate broker to use a trade name unless the corporation is individually owned or owned by a partnership.

C. The subcommittee opined, however, that it was in the public interest to retain the restriction, requiring a resident qualifying/sponsor broker's name or corporate name to be attached to a corporate or partnership broker rather than only a trade name.

Eddie Doucet  
Chairman

## COMMITTEE REPORT

**House of Representatives  
Committee on Appropriations  
Oversight Review**

Dear Governor Edwards:

This letter is to inform you that on July 18, 1985, the Subcommittee on Oversight of the House Committee on Appropriations voted to disapprove the rule by the Department of Health and Human Resources, purporting to amend the State Health Plan to address inaccessibility to minority groups. The proposed rule change which was disapproved reads as follows:

"1. Inaccessibility to Minority Groups.



It is recognized that certain historical factors may limit the accessibility of nursing home beds to minority groups. For Section 1122 purposes, minority groups are defined as any population group constituting at least 10 percent but less than 50 percent of Louisiana's population in the 1980 U.S. census.

Inaccessibility refers to historical patterns of underutilization of nursing home beds by minority groups when compared to majority utilization rates. Data presently available documents this discrepancy between the minority and majority utilization rates for nursing home beds.

Based upon this data, a total number of 1,572 nursing home beds may be approved statewide in order to address the present problem of the underserved minority elderly population.

The parish in the health planning district with the largest bed need shall be limited to a maximum number of minority bed need for that respective parish. Minority beds refers to the number of beds approved in accordance with the provisions for inaccessibility to minority groups. Beds granted under this exception will be subtracted from the total number of beds contained under the minority utilization rate and will be added to the total parish nursing home bed inventory. Any application which shows a need of less than 100 beds in the parish must justify exceeding the ratio based on the geographical utilization rate in the service district.

Proposals submitted for such minority nursing home beds, shall demonstrate that at least 51 percent of the ownership of the facility and voting control is by a minority group or individual. Such minority ownership shall be retained throughout the existence of the facility. Falsification of documentation of ownership will be subject to revocation of the Section 1122 approval and other fines and penalties prescribed by state and federal laws."

If this proposed rule is approved, the 1,572 proposed set-aside beds would cost approximately \$11,458,365 per year in Title XIX operating costs, including \$4,143,787 in state funds. The committee feels that the current and projected fiscal status of the state would not justify the expenditure of these funds for a program which would duplicate existing nursing home services.

Furthermore, an additional 7,979 long-term care beds have been approved by the Department of Health and Human Resources under Section 1122 of the Social Security Act but have not yet been constructed. If only a portion of these beds are constructed and put into service the needs of nursing home patients, whether they be minority or not, would be met far into the foreseeable future.

The committee feels that there are mechanisms currently in place to insure nondiscrimination in delivery of long-term care services to patients eligible for medicaid benefits. The Bureau for Civil Rights in the Department of Health and Human Resources investigates and resolves allegations of noncompliance with Title VI of the Civil Rights Act, so any problems of discrimination on the part of existing or future nursing homes should be referred to this agency. If such problems cannot be resolved, appropriate action, including fiscal sanctions should be invoked in order to insure compliance.

The proposed rule change, initiated by Senate Concurrent Resolution 152 of 1984, far exceeds the resolution's legislative intent. The resolution calls for "the limited establishment of nursing homes in predominately minority areas, even though this would cause the number of nursing home beds to exceed the goals and objectives of the State Health Plan." The State Health Plan goals state that there should be no more than 80 long-term care beds per 1,000 elderly population. Currently, there are 89 beds per 1,000 statewide and, except for the New Orleans area, each planning district in the state exceeds the goal. It would appear that the proposed rule would exacerbate the surplus of nursing home beds in most areas. As previously stated the issue of minority access to

services can be addressed by existing enforcement mechanisms and by future construction of previously approved beds.

The committee feels approval of the additional beds with the provision for minority ownership distorts the intent of legislative instrument on which the rule is based.

Thank you for your attention in this matter. If you desire any future information on the subcommittee's action, please contact Noel Hunt, House Committee on Appropriations (342-6292).

Elias Ackal, Jr.  
Chairman

## Potpourri

### POTPOURRI

#### Department of Agriculture Horticulture Commission

The next retail floristry examinations will be given at 10 a.m. daily at Southeastern Louisiana University, University Center, Hammond, LA on October 14-18, 1985. The deadline for getting in application and fee is September 27, 1985.

Further information concerning examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 44517, Capitol Station, Baton Rouge, LA 70804, phone (504) 925-7772.

Bod Odom  
Commissioner

### POTPOURRI

#### Department of Agriculture Office of Agricultural and Environmental Sciences State Entomologist

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 3:1654, the Department of Agriculture, State Entomologist, is hereby publishing a list of dangerous crop and fruit pests, and infectious and contagious plant diseases, known or suspected to be present within the state, or which might be introduced into the state at any time.

This list is as follows:

- (1) Brown Garden Snail ("Helix aspersa")
- (2) Citrus Canker ("Xanthomonas campestris pv citri" (Hasse) Dawson)
- (3) Burrowing Nematode ("Radopholus similis")
- (4) Citrus Whitefly ("Dialeurodes citri" (Ashmead))
- (5) Oak Wilt Disease ("Ceratocystis fagacearum")
- (6) Gypsy Moth ("Lymantria dispar")
- (7) Imported Fire Ant ("Solenopsis invicta" Buren)
- (8) Honey Bee Tracheal Mite ("Acarapis woodi")
- (9) Mediterranean Fruit Fly ("Ceratitis capitata" (Wiedemann))
- (10) Reniform Nematode ("Rotylenchulus reniformis")
- (11) Leaf Rust ("Puccinia recondita")
- (12) Southern Pine Beetle ("Dendroctonus frontalis" (Zimm.))
- (13) Varroa Mite ("Varroa jacobsoni")
- (14) Leaf Scald ("Xanthomonas albilineans")

In addition, the State Entomologist hereby adopts those pests listed in the publications described below as dangerous pests, known or suspected to be present in the state:

Louisiana Cooperative Extension Service, "1985 Insect Control Guide" (Baton Rouge, LA), 1985.

Louisiana Cooperative Extension Service, "Louisiana's Suggested Chemical Weed Control Guide for 1985" (Baton Rouge, LA), 1985.

Louisiana Cooperative Extension Service, "1985 Louisiana Plant Disease Control Guide" (Baton Rouge, LA), 1985.

All prior lists approved in accordance with R.S. 3:1654 are hereby repealed in their entirety.

John W. Impson  
State Entomologist

Bod Odom  
Commissioner

### POTPOURRI

#### Department of Health and Human Resources Board of Embalmers and Funeral Directors

The Louisiana State Board of Embalmers and Funeral Directors will give a funeral director and the national board exam on Tuesday, September 24, 1985 at Delgado Community College, 615 City Park Avenue, New Orleans.

Interested persons may obtain further information from the Louisiana State Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 483-4684.

Dawn Scardino  
Administrative Assistant

### POTPOURRI

#### Department of Labor Office of Employment Security

##### NOTICE

Pursuant to Act Number 583 of the Regular Session of the 1975 Louisiana Legislature, the state's average weekly wage upon which the maximum workmen's compensation weekly benefit amount will be based effective September 1, 1985, has been determined by the Louisiana Department of Labor to be \$339.24.

Oliver S. Robinson, III  
Director Research and Statistics

### POTPOURRI

#### Department of Natural Resources Fishermen's Gear Compensation Fund

In accordance with the provisions of the Fishermen's Gear Compensation Fund, LRS 56:700.1 through 56:700.5, and in particular, Section 700.4 thereof; regulations adopted for the fund as published in the *Louisiana Register* on August 20, 1980; and also the rules of the secretary of this department, notice is hereby given that 48 completed claims, amounting to \$62,606.20, were received during the month of July, 1985. During the same month, 23 claims, amounting to \$37,158.36 were paid. The following is a list of the paid claims:

Claim No. 84-2239 Ashful Authement	Claim No. 84-2057 John J. Mialjevich	Claim No. 84-2231 Charles Ballas
Claim No. 84-2122 Gary Borne, Sr.	Claim No. 84-2267 Frederick Seither, Jr.	Claim No. 84-2107 Percy Boudwin, Sr.
Claim No. 84-2133 Alvin Charpentier	Claim No. 84-2139 Carlton Styron	Claim No. 84-2193 Howard De Rouen
Claim No. 84-1947 Raymond Gilham	Claim No. 84-1416 Daniel Charpentier	Claim No. 84-1793 John J. Mialjevich

Claim No. 84-2275 Leo Paul Pitre	Claim No. 84-2232 Charles Ballas	Claim No. 84-2082 Houston Trahan
Claim No. 84-2268 Frederick Seither, Jr.	Claim No. 84-2299 Allen Charpentier	Claim No. 84-2269 Frederick Seither
Claim No. 84-2182 Jimmy L. Dyson, Sr.	Claim No. 84-2248 Peter Gerica	Claim No. 84-2321 Bonner Willis
Claim No. 84-2119 Byron Charrier, III	Claim No. 84-1984 John J. Mialjevich	

Public hearings to consider completed claims have been scheduled as follows:

Wednesday, September 4, 1985, at 10 a.m., in the Delcambre Town Hall, Delcambre, LA:

#### CLAIM NO. 84-1819

Timothy Schouest, Sr., of New Iberia, LA, while trawling on the vessel, "Master Timothy Jr.," in Breton Sound, south-southeast of Mozambique Pt., at LORAN-C readings of 28,953.7 and 46,914.5, encountered an unidentified submerged obstruction on July 23, 1984, at 12 midnight, causing damage to his trawl. Amount of Claim: \$439

#### CLAIM NO. 85-2301

Harry J. Wiltz, of Delcambre, LA, while trawling on the vessel, "Lil Michael," in the Gulf of Mexico, south of Southwest Pass, at approximate LORAN-C readings of 27,371.5 and 46,945.4, Vermilion Parish, encountered a drifting piling, on February 12, 1985, at approximately 9 a.m., causing damage to his vessel. Amount of Claim: \$1,167

#### CLAIM NO. 85-2307

Ashful Authement, of Cameron, LA, while trawling on the vessel "Miss Becky," in the Gulf of Mexico, west of Calcasieu Pass, at approximate LORAN-C readings of 26,645.0 and 46,974.3, Cameron Parish, encountered an unidentified submerged obstruction on January 10, 1985, at approximately 2 p.m., causing damage to his two 35 foot trawls. Amount of Claim: \$511

#### CLAIM NO. 85-2318

Joseph E. Myers, Jr., of Franklin, LA, while trawling on the vessel "Miss Gwen," in the Gulf of Mexico, east of Cheniere au Tigre, at approximate LORAN-C readings of 27,310.0 and 46,947.0, Vermilion Parish, encountered an unidentified submerged obstruction on March 25, 1985, at approximately 4:15 p.m., causing loss of his 65 foot trawl. Amount of Claim: \$962

#### CLAIM NO. 85-2333

Ashful Authement, of Cameron, LA, while trawling on the vessel, "Capt. Ashful," in the Gulf of Mexico, south of Big Constance Bayou, at approximate LORAN-C readings of 27,044.0 and 46,947.2, Cameron Parish, encountered an unidentified submerged obstruction on April 8, 1985, at approximately 1 p.m., causing damage to his two trawls. Amount of Claim: \$406

#### CLAIM NO. 84-2395

John J. Mialjevich, of Delcambre, LA, while trawling on the vessel, "Tee John," in the Gulf of Mexico, south of Southwest Pass, at LORAN-C readings of 27,354.8 and 46,943.8, Vermilion Parish, encountered an unidentified submerged obstruction on June 5, 1985, at approximately 8:20 a.m., causing loss of his trawl, lazy line, and tickler chain. Amount of Claim: \$743.68

#### CLAIM NO. 85-2396

John J. Mialjevich, of Delcambre, LA, while trawling on the vessel "Tee John," east of Southwest Pass, at LORAN-C readings of 27,374.8 and 46,936.4, Iberia Parish, encountered an unidentified submerged obstruction on June 6, 1985, at approximately 4:05 p.m., causing damage to his trawl. Amount of Claim: \$273.42

CLAIM NO. 85-2397

John J. Mialjevich, of Delcambre, LA, while trawling on the vessel "Tee John," in Avery Canal, north of Weeks Bay, Iberia Parish, encountered an unidentified submerged obstruction, on June 8, 1985, at approximately 2 p.m., causing damage to his vessel. Amount of Claim: \$3,241.36

CLAIM NO. 85-2409

Danny Segura, of Delcambre, LA, while trawling on the vessel, "Mary Carolyn," in Freshwater Bayou Canal, between the Locks and an unnamed canal, Vermilion Parish, encountered a section of rope or cable, on May 8, 1985, at approximately 10 a.m., causing damage to his vessel. Amount of Claim: \$3,375.59

CLAIM NO. 85-2442

Phillip A. Cantrelle, of Lake Arthur, LA, while trawling on the vessel, "Mean Machine," in the Gulf of Mexico, south of East Timbalier Island, at LORAN-C readings of 28,268.8 and 46,823.7, Terrebonne Parish, encountered a submerged pipeline on February 19, 1985, causing loss of his 50 foot trawl. Amount of Claim: \$1,294.98

CLAIM NO. 85-2443

Phillip A. Cantrelle, of Lake Arthur, LA, while trawling on the vessel, "Mean Machine," in the Gulf of Mexico, west of Belle Pass, at LORAN-C readings of 28,306.3 and 46,827.0, on June 17, 1985, at approximately 8:15 a.m., encountered a submerged section of 4 inch pipe, causing loss of his 50 foot trawl. Amount of Claim: \$929.77

CLAIM NO. 85-2379

Allen A. Trahan, Jr., of Franklin, LA, while trawling on the vessel, "T Neg," in West Cote Blanche Bay, north of Marsh Island, at LORAN-C readings of 27,566.0 and 46,954.6, Iberia Parish, encountered an unidentified submerged obstruction on May 30, 1985, at approximately 10:30 a.m. causing the loss of his trawl. Amount of Claim: \$647.43.

Tuesday, September 10, 1985, at 10 a.m., in the Lafitte City Hall, Lafitte, LA:

CLAIM NO. 80-159

Dennis Creppel, of Gretna, LA, while trawling on the vessel, "Tee Michael," in East Bay, Plaquemines Parish, encountered a section of oil field pipe on August 15, 1980, at approximately 1 a.m. causing damage to his vessel. Amount of Claim: \$76,000

CLAIM NO. 84-1653

George C. Reno, of Venice, LA, while trawling on the vessel, "Tidewater Red," in Breton Sound, at LORAN-C readings of 28,893.9 and 46,889.4, Plaquemines Parish encountered a 300 foot section of pipe on May 25, 1984, at approximately 6:30 p.m., causing damage to his trawl. Amount of Claim: \$108

CLAIM NO. 84-1685

Tony Guerra, Jr., of St. Bernard, LA, while trawling on the vessel, "Santa Maria," in Eloi Bay, northeast of Deadman Island, St. Bernard Parish, encountered pieces of pipe junk on June 27, 1984, at approximately 6:30 p.m., causing damage to his vessel. Amount of Claim: \$3,587.62

CLAIM NO. 84-1673

Jim Finnegan, of Slidell, LA, while trawling on the vessel, "LA-5054-??," in Lake St. Catherine, at the mouth to Sawmill Pass, Orleans Parish, encountered a submerged stump or log on June 26, 1984, at approximately 2:30 p.m., causing loss of his 30 foot trawl. Amount of Claim: \$457.61

CLAIM NO. 84-1694

Herbert Schultz, Jr., of Lafitte, LA, while trawling on the vessel, "Lady Sarah," in Breton Sound, north of Bird Island, at LORAN-C readings of 28,977.7 and 46,905.1, Plaquemines Parish, encountered an unidentified submerged obstruction on June

28, 1984, at approximately 6 a.m., causing loss of his 50 foot trawl, bib, chain and false tail. Amount of Claim: \$1,150

CLAIM NO. 84-1894

Johnny M. Gallardo, of Arabi, LA, while trawling on the vessel, "Lady Juliette," in Breton Sound, southeast of Point Gardner, at approximate LORAN-C readings of 29,037.0 and 46,929.5, encountered an unidentified submerged obstruction on August 20, 1984, at approximately 8 a.m., causing loss of his 45 foot trawl. Amount of Claim: \$511.01

CLAIM NO. 84-2234

Marcello Reynon, Jr., of Marrero, LA, while trawling on the vessel, "Lady Creshia," in Cat Bay, at the mouth of Quatre Bayou Pass, Plaquemines Parish, encountered a submerged steel tank on November 15, 1984, at approximately 4:30 p.m., causing loss of his 50 foot trawl. Amount of Claim: \$560.80

CLAIM NO. 84-2235

Marcello Reynon, Jr., of Marrero, LA, while trawling on the vessel, "Lady Creshia," in the Gulf of Mexico, between Northeast and Southeast Passes, at approximate LORAN-C readings of 29,054.0 and 46,798.8, Plaquemines Parish, encountered an unidentified submerged obstruction on December 15, 1984, at approximately 9:30 a.m., causing loss of his 50 foot trawl, 12 foot test trawl, and test trawl boards. Amount of Claim: \$743.63

CLAIM NO. 85-2277

Felix Salvador Rotolo, of New Orleans, LA, while trawling on the vessel, "Itallion Stallion," in Chef Mentuer Pass, near the entrance to Lake Borgne, Orleans Parish, encountered an unidentified submerged obstruction on December 20, 1984, at approximately 10 a.m., causing loss of his trawl. Amount of Claim: \$650

CLAIM NO. 85-2293(Rescheduled)

Randy P. Dufrene, Jr., of Lafitte, LA, while trawling on the vessel, "Lady Karen," in the Gulf of Mexico, one mile west of the Grand Isle Sea Buoy, encountered an unidentified submerged obstruction on January 7, 1985, at approximately 11 a.m., causing loss of his 55 foot trawl, boards, rope, cable and chain. Amount of Claim: \$1,537.14

CLAIM NO. 85-2297

J. Byron Burton, of Chalmette, LA, while trawling on the vessel, "Miss Gwen," in Lake Pontchartrain, west of the Lakefront Airport, at approximate LORAN-C readings of 28,703.0 and 47,030.5, Orleans Parish, encountered an unidentified submerged obstruction on December 19, 1984, at approximately 7:30 a.m., causing loss of his 50 foot trawl, boards, and tickle chain. Amount of Claim: \$1,605.92

CLAIM NO. 85-2298(Rescheduled)

George Reno, of Venice, LA, while trawling on the vessel, "Tidewater Red," in West Bay, northwest of the West Jetty of Southwest Pass, at LORAN-C readings of 28,774.5 and 46,773.6, Plaquemines Parish, encountered the eyebeam of a sunken ship on January 9, 1985, at approximately 11:30 a.m., causing the loss of three trawls. Amount of Claim: \$1,765.39

CLAIM NO. 85-2303

Scott Pete, of New Orleans, LA, while trawling on the vessel, "Honky Cat," in Bay Lizette, southeast of the Southwest Louisiana Canal, encountered an unidentified submerged obstruction on February 15, 1985, at approximately 8:30 a.m., causing damage to his vessel. Amount of Claim: \$2,079.60

CLAIM NO. 85-2334

The crew employed by Santos Menhaden Corporation, while fishing on the vessel, "Capt. John Santos," in the Gulf of Mexico, south of Chaland Pass, at approximate LORAN-C readings of 28,697.0 and 46,866.5, Plaquemines Parish, encountered

an unidentified submerged obstruction on April 18, 1985, at approximately 10:30 a.m., causing damage to his vessel. Amount of Claim: \$1,877.79

**CLAIM NO. 85-2342**

Michael Adam, of Lafitte, LA, while trawling on the vessel, "Sea Scavenger," in the Gulf of Mexico, south of Barataria Pass, at LORAN-C readings of 28,561.3 and 46,864.3, Jefferson Parish, encountered an unidentified submerged obstruction on May 6, 1985, at approximately 3 p.m., causing damage to his trawl. Amount of Claim: \$300

**CLAIM NO. 85-2346**

William H. Harvey, Jr., of Lafitte, LA, while trawling on the vessel, "Darla Yvette," in the Gulf of Mexico, south of Quatre Bayou Pass, at LORAN-C readings of 28,624.7 and 46,866.8, Plaquemines Parish, encountered an unidentified submerged obstruction on May 8, 1985, at approximately 8:30 a.m., causing damage to his trawl. Amount of Claim: \$246.40

**CLAIM NO. 85-2356**

Joseph E. Latapie, of St. Bernard, LA, while trawling on the vessel, "LA-6760-AN," in Morgan Harbor, west of Comfort Island, St. Bernard Parish, encountered an unidentified submerged obstruction on May 23, 1985, at approximately 7:30 a.m., causing damage to his 45 foot trawl, boards, and vessel. Amount of Claim: \$2,560.69

**CLAIM NO. 85-2384**

Percy D. Jeanfreau, of Braithwaite, LA, while trawling on the vessel, "Singing River," in Black Bay, north of Belle Isle, Plaquemines Parish, encountered a section of submerged 3 inch pipe on May 30, 1985, at approximately 10 a.m., causing damage to his vessel and loss of his trawl. Amount of Claim: \$3,037.17

**CLAIM NO. 85-2390**

Roy G. Campo, of Braithwaite, LA, while trawling on the vessel, "Rame C," in Fishing Smack Bay, southeast of Catfish Pass, St. Bernard Parish, encountered an unidentified submerged obstruction on June 3, 1985, at approximately 3 p.m., causing loss of his 55 foot balloon trawl and tickler chain. Amount of Claim: \$942.71

**CLAIM NO. 85-2444**

Anthony George Toups, of Westwego, LA, while trawling on the vessel, "Grand Clothilde," in the Gulf of Mexico, south of Grand Isle, at approximate LORAN-C readings of 28,533.0 and 46,858.8, Jefferson Parish, encountered an unidentified submerged obstruction on June 17, 1985, at approximately 10:30 p.m., causing damage to his vessel. Amount of Claim: \$2,216.58

**CLAIM NO. 85-2446**

Lester C. Arcement, of Lafitte, LA, while trawling on the vessel, "Charlie's Angels," in the Gulf of Mexico, east of North Pass, at LORAN-C readings of 29,125.6 and 46,829.4, Plaquemines Parish, encountered submerged pieces of steel and pipes on June 8, 1985, at approximately 1 a.m., causing loss of his 80 foot trawl. Amount of Claim: \$879.50

Thursday, September 12, 1985, at 10:30 a.m., in the L.S.U. Cooperative Extension Service Office, Greater Lafourche Port Commission Building, Highway 308, Galliano, LA:

**CLAIM NO. 84-1844**

Anse Guidry, of Lockport, LA, while trawling on the vessel, "Betty Guidry," in Lake Raccourci, east of Grand Pass Felicity, and south of Deep Lake, Lafourche Parish, encountered submerged pipe and pilings on July 11, 1984, at approximately 8 a.m., causing loss of his trawl, tickler chain and easy line. Amount of Claim: \$1,128

**CLAIM NO. 84-1880**

Alvin Charpentier, of Cut Off, LA, while trawling on the

vessel, "Capt. Alvin," in the Gulf of Mexico, southeast of Bay Champagne, at LORAN-C readings of 28,392.7 and 46,834.8, Lafourche Parish, encountered an unidentified submerged obstruction on July 28, 1984 at approximately 3:30 p.m., causing loss of his 60 foot trawl, 16 foot try net and boards. Amount of Claim: \$1,374.77

**CLAIM NO. 85-2316**

Joseph Roy Dion, of Dulac, LA, while trawling on the vessel, "Roy and Joby," in the Gulf of Mexico, east of Joseph Harbor Bayou, at LORAN-C readings of 26,982.0 and 46,955.1, Cameron Parish, encountered an unidentified submerged obstruction on March 16, 1985, at approximately 9 a.m., causing loss of his trawl and tickler chain. Amount of Claim: \$900

**CLAIM NO. 85-2325**

Joseph G. Verdin, of Dulac, LA, while trawling on the vessel, "Maathilda Lynn," in Bayou Grand Caillou, at the Houma Navigation Canal, Terrebonne Parish, encountered a submerged 4 foot by 4 foot log on March 24, 1985, at approximately 4:25 p.m., causing damage to his vessel. Amount of Claim: \$2,721.61

**CLAIM NO. 85-2336**

Joseph A. Cheramie, of Cut Off, LA, while trawling on the vessel, "Cathy Cheramie," in the Gulf of Mexico, east of Belle Pass, at LORAN-C readings of 28,357.2 and 46,830.3, Jefferson Parish, encountered an unidentified submerged obstruction on April 30, 1985, at approximately 12 p.m., causing loss of his 50 foot balarina trawl. Amount of Claim: \$800

**CLAIM NO. 85-2340**

Terry Cheramie, of Golden Meadow, LA, while trawling on the vessel, "LA-180-TT," in the Gulf of Mexico, south of Bay Champagne, at approximate LORAN-C readings of 28,381.0 and 46,834.0, Lafourche Parish, encountered a submerged section of pipe on May 3, 1985, at approximately 10 a.m., causing loss of his 52 foot flat net. Amount of Claim: \$486.99

**CLAIM NO. 85-2344**

Jimmy Gisclair, of Galliano, LA, while trawling on the vessel, "Patrick James," in the Gulf of Mexico, west of the Mermen-tau River, at LORAN-C readings of 26,761.4 and 46,978.2, Cameron Parish, encountered an unidentified submerged metal obstruction on May 9, 1985, at approximately 6 p.m., causing loss of his 50 foot trawl and damage to his vessel. Amount of Claim: \$3,156.67

**CLAIM NO. 85-2351**

Cleve Coulon, of Gray, LA, while trawling on the vessel, "Hossana," in the Gulf of Mexico, south of Taylor Bayou, at approximate LORAN-C readings of 27,886.0 and 46,864.0, Terrebonne Parish, encountered an unidentified submerged obstruction on May 12, 1985, at approximately 3 a.m., causing loss of his 45 foot trawl. Amount of Claim: \$750

**CLAIM NO. 85-2352**

Jefferson Lasseigne, of Galliano, LA, while trawling on the vessel, "Tee Jeff," in the Gulf of Mexico, south of Barataria Pass, at LORAN-C readings of 28,567.4 and 46,862.2, Jefferson Parish, encountered an unidentified submerged obstruction on May 6, 1985, at approximately 8 a.m., causing damage to his 50 foot balloon trawl. Amount of Claim: \$149.31

**CLAIM NO. 85-2361**

David Griffin, of Golden Meadow, LA, while trawling on the vessel, "Donna O'Brien," in Timbalier Bay, north of Little Pass Timbalier, Terrebonne Parish, encountered an unidentified submerged obstruction on May 20, 1985, at approximately 1 p.m., causing damage to his vessel. Amount of Claim: \$979.55

CLAIM NO. 85-2365

Robison C. Guidry, of Grand Isle, LA, while trawling on the vessel, "Mr. Crince," in Breton Sound, northwest of Bird Island, at LORAN-C readings of 28,969.6 and 46,888.5, Plaquemines Parish, encountered an unidentified submerged obstruction on May 27, 1985, at approximately 6:30 a.m., causing loss of his 55 foot Creole Set-Back Trawl. Amount of Claim: \$1,151

CLAIM NO. 85-2366

Louis J. Pitre, of Cut Off, LA, while trawling on the vessel, "Walton," in the Gulf of Mexico, west of Belle Pass, Lafourche Parish, encountered an unidentified submerged obstruction on May 23, 1985, at approximately 9 a.m., causing loss of his 47 foot Balarina trawl, try net, and damage to his boom. Amount of Claim: \$2,050.18

CLAIM NO. 85-2371

Anthony Galliano, of Galliano, LA, while trawling on the vessel, "Lady Debra," in Lake Borgne, southeast of Shell Point, at LORAN-C readings of 28,938.6 and 47,034.6, St. Bernard Parish, encountered an unidentified submerged obstruction on May 28, 1985, at approximately 4:30 p.m., causing loss of his 50 foot balloon trawl and 74 feet of tickle chain. Amount of Claim: \$935.81

CLAIM NO. 85-2398

Perch Boudwin, Jr., of Houma, LA, while trawling on the vessel, "Pokey and Cheryl," in the Gulf of Mexico, west of Wine Island Pass, at approximate LORAN-C readings of 28,065.0 and 46,833.5, Terrebonne Parish, encountered an unidentified submerged obstruction on May 29, 1985, at approximately 8 a.m., causing loss of his 16 foot test trawl. Amount of Claim: \$137.70

CLAIM NO. 85-2399

Percy Boudwin, Jr., of Houma, LA, while trawling on the vessel, "Pokey and Cheryl," in the Gulf of Mexico, south of Caminada Pass, at approximate LORAN-C readings of 28,482.0 and 46,849.0, Jefferson Parish, encountered an unidentified sub-

merged obstruction on June 1, 1985, causing loss of his 45 foot trawl. Amount of Claim: \$684.20

CLAIM NO. 85-2402

Steven Charpentier, of Galliano, LA, while trawling on the vessel, "Capt. Steven," in the Gulf of Mexico, south of Barataria Pass, at LORAN-C readings of 28,582.5 and 46,856.3, Jefferson Parish, encountered an unidentified submerged obstruction on May 29, 1985, at approximately 5 p.m., causing damage to his trawl. Amount of Claim: \$233.93

CLAIM NO. 85-2403

Steven Charpentier, of Galliano, LA, while trawling on the vessel, "Capt. Steven," in the Gulf of Mexico, south of Barataria Pass, at LORAN-C readings of 28,567.3 and 46,855.8, Jefferson Parish, encountered an unidentified submerged obstruction on May 28, 1985, at approximately 10 a.m., causing loss of his 55 foot trawl. Amount of Claim: \$941.10

CLAIM NO. 85-2437

Terry Perez, Sr., of Cut Off, LA, while trawling on the vessel, "Capt. Josh," in Breton Sound, north of Bird Island, at LORAN-C readings of 29,003.0 and 46,919.0, Plaquemines Parish, encountered an unidentified submerged obstruction on June 13, 1985, at approximately 3:15 a.m., causing loss of his 50 foot trawl, boards, bridle, tickler chain and lazy line. Amount of Claim: \$2,078.78

Any written objections to these claims must be received by the close of business on September 3, 1985. Any person may submit evidence or make objections in person at the hearings. Written comments must be mailed to: B. Jim Porter, Secretary, Department of Natural Resources, Box 44124, Baton Rouge, LA 70804 Attn: FGCF

B. Jim Porter  
Secretary

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