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# Executive Orders

officially and consent to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 30th day of August, A.D., 1983.

David C. Treen  
Governor of Louisiana

## EXECUTIVE ORDER NO. DCT 83-13

WHEREAS, there is a need to conserve and properly manage the fishing resources of Louisiana for present and future generations; and

WHEREAS, the sound management of the Louisiana finfish fishery, particularly red drum (commonly called "red fish") and spotted seatrout (commonly called "speckled trout"), is important as a recreational and commercial resource to the people of Louisiana and state government should provide leadership in this important area;

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and applicable statutes of the State of Louisiana, hereby create the Governor's Task Force on Saltwater Finfish Management to be composed of:

- 1) The Secretary of the Department of Wildlife and Fisheries, or his designee, to serve as the exofficio chairman, and
- 2) One staff member from the Department of Wildlife and Fisheries knowledgeable in marine fisheries, and
- 3) Two members representing and from commercial fishing interests, and
- 4) One member representing the Louisiana Restaurant Association, and
- 5) Two members representing the interest of saltwater sport fishermen, and
- 6) One member representing the Louisiana Consumers League, and
- 7) Two university-related specialists in the field of fisheries resource management, and
- 8) One member of the Wildlife and Fisheries Commission, and
- 9) Two outdoor journalists with an interest in saltwater fishing.

BE IT FURTHER RESOLVED, that the task force herein created shall have the following goals:

- 1) To review the report "Spotted Seatrout and Red Drum — An Overview, January 1983" and recommend procedures for developing a management plan to assure the protection and proper management of these valuable resources and other finfish;
- 2) To review the coastwide program to monitor red drum, spotted seatrout and other finfish populations;
- 3) To review the coastal creel surveys of recreational and commercial finfishermen;
- 4) To review studies designed to yield information about (a) young-of-year fish and (b) environmental effects on young fish and spawning of mature fish;
- 5) To take such other steps including preparation of proposed legislation as appropriate to assure the protection and proper management of these valuable resources; and
- 6) To submit a written report to the Governor by March 1, 1984.

IN ORDER TO ACCOMPLISH THESE GOALS, the Department of Wildlife and Fisheries shall provide whatever assistance is reasonably necessary, and the Office of Executive Counsel to the Governor will provide legal assistance.

IN WITNESS WHEREOF, I have herewith set my hand

## EXECUTIVE ORDER NO. DCT 83-15

WHEREAS, the State of Louisiana is committed to the success of the 1984 Louisiana World Exposition; and

WHEREAS, the transportation network in the Metropolitan New Orleans Area will contribute in large measure to the success of the exposition; and

WHEREAS, transportation planning for the exposition involves the coordination of a number of entities at the state and local levels; and

WHEREAS, limited transportation resources are available to meet the anticipated demand; and

WHEREAS, coordination of planning and implementation is essential to maximize the use of limited transportation resources;

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, by virtue of the authority invested in me by the Constitution and statutes of the State of Louisiana, do hereby establish the Exposition Transportation Task Force, hereinafter referred to as the Task Force, in order to provide direction for the planning, implementation, coordination, and promotion of transportation-related activities associated with the Louisiana World Exposition.

BE IT FURTHER RESOLVED, that the Task Force shall be composed of an Executive Board and adequate staff resources from participating agencies. The Executive Board of the Task Force shall be composed of representatives of the City of New Orleans, the Parish of Jefferson, the Parish of St. Tammany, the Parish of St. Bernard, the Louisiana Department of Transportation and Development, the Louisiana World Exposition, Inc., the Office of the Governor and other public and private entities that the Governor shall deem to be necessary. The membership of the board shall be appointed by the Governor. The chairman of the Executive Board shall be appointed by the Governor.

BE IT FURTHER RESOLVED, that the Task Force shall develop and recommend to the Governor an implementation program for exposition-related transportation which shall outline the responsibilities and actions of each participating agency in providing transportation-related services. The recommendations shall be presented to the Governor prior to January 15, 1984.

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 11th day of August A.D., 1983.

David C. Treen  
Governor of Louisiana

## EXECUTIVE ORDER NO. DCT 83-16

WHEREAS, it appears necessary that Executive Order No. 82-5 be amended to authorize additional time than that set forth in the original order for the Governor's Task Force on Deep Draft Vessel Access to the Lower Mississippi River to complete its work

and report to the Governor.

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, by virtue of the authority vested in me as Governor, pursuant to the Constitution and applicable statutes of the State of Louisiana, do hereby amend Executive Order No. 82-5 to extend the date on which a report is to be filed until September 30, 1983. In all other respects the executive order remains unchanged.

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 4th day of August, A.D., 1983.

David C. Treen  
Governor of Louisiana

**EXECUTIVE ORDER NO. DCT 83-17**

WHEREAS, the people of Louisiana and the Nation enjoy the benefits and privileges of the finest health care system in the world; and

WHEREAS, the advances in the science and technology of this system have provided our people with curative procedures and techniques that have contributed significantly to the quality and prolonging of useful life; and

WHEREAS, one of the most emerging of these advances is the transplantation of body organs to replace nonfunctioning or diseased organs that threaten the lives of individuals and the tranquility of family life; and

WHEREAS, the Legislature of Louisiana enacted the Anatomical Gift Act to provide the framework for concerned citizens to meet the critical needs of people throughout the nation and share the ultimate gift in human compassion, the gift of life; and

WHEREAS, it is the desire of the people of Louisiana to cooperate to the fullest extent possible in facilitating the availability of donors, exchange of present historical and biological data and the discovery of potential organ recipients;

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution of Louisiana and applicable statutes, do hereby create the Governor's Task Force on Organ Donations.

The purpose of this Task Force will be to examine all areas whereby organ donation may be stimulated to benefit those who are awaiting transplantation in Louisiana as well as throughout the nation. From this examination the Task Force will develop recommendations to, through public and private resources: (1) improve the coordination and organizational support of existing programs, and (2) foster the interest and acceptance of the public toward greater participation in present and future organ donation programs.

This Task Force shall consist of 15 members appointed by the Governor with representatives from the following areas:

Louisiana Department of Public Safety	One Member
Louisiana Department of Education	One Member
Louisiana Sheriffs Association	One Member
Louisiana Association of Educators	One Member
Louisiana Association of Dist. Attorneys	One Member
Louisiana State Bar Association	One Member
Louisiana Hospital Association	One Member
Louisiana State Medical Society	Two Members
Louisiana State Nursing Association	One Member
Louisiana Chaplains Association	One Member
Coroners of Louisiana	One Member
Press	One Member
Consumer	Two Members

The Task Force will report all recommendations to the Governor no later than March 1, 1984.

IN WITNESS WHEREOF, I have herewith set my hand officially and consent to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 22nd day of August, A.D., 1983.

David C. Treen  
Governor of Louisiana

**EXECUTIVE ORDER NO. DCT 83-19**

WHEREAS, the State of Louisiana supports the preservation of the heritage and history of railroad transportation in the state; and

WHEREAS, a museum is an excellent vehicle to display this heritage and history; and

WHEREAS, a railroad museum would be an educational and historical attraction for tourists to Louisiana; and

WHEREAS, a railroad museum would attract a number of tourists during the 1984 Louisiana World Exposition; and

WHEREAS, Jefferson Parish and the city of Kenner are keenly interested in establishing a railroad museum within their political jurisdiction; and

WHEREAS, Jefferson Parish and the city of Kenner are working through the Old Kenner Railroad Association to establish a railroad museum with private funds; and

WHEREAS, the railroad museum would be self-supporting and would not require expenditure of state funds for its establishment, construction or operations.

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana by virtue of the authority vested in me by the Constitution and statutes of the State of Louisiana, do hereby establish the State Railroad Museum Committee, hereafter referred to as the Committee, in order to establish a museum to preserve the heritage and history of railroad transportation in Louisiana.

The Committee shall be composed of and represented by the Old Kenner Railroad Association which has established itself as being very knowledgeable of and capable of preserving the heritage and history of railroad transportation in Louisiana.

The State Railroad Museum Committee shall prepare a report to the Governor on its work and progress no later than March 31 of each year.

IN WITNESS WHEREOF, I have herewith set my hand officially and consent to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 30th day of August, A.D., 1983.

David C. Treen  
Governor of Louisiana

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Agriculture Agricultural Commodities Commission

In accordance with the emergency provisions of the Administrative Procedure Act (LSA 49:953 B), notice is hereby given that the Department of Agriculture, Louisiana Agricultural Commodities Commission, at a regularly scheduled meeting held on September 8, 1983, determined that it is necessary to amend certain of its Rules on an emergency basis to avoid a conflict between provisions of the Agricultural Commodity Dealer and Warehouse Law, as amended by Act 11 of 1983, and the Rules and Regulations previously promulgated by the Commission to implement said law.

Therefore, on an emergency basis, the Commission repealed its Rule 4.2 D, requiring the submission of financial statements audited by independent certified public accountants prior to initial licensure. The Commission also re-numbered existing Rule 4.2 E as Rule 4.2 D subsequent to the repeal of the previous Rule 4.2 D.

The Commission also amended Rules 8.10 E and 12.8 to read as follows:

8.10 E. Whenever any warehouse ceases to operate as a licensed warehouse, alternate security offered in lieu of the required bond shall be retained by the Commission: (1) for a period of 30 days after final publication of public notice of the Commission's intention to release the alternate security, such public notice to be made at least seven times in a daily newspaper in the licensee's area or at least once in a weekly newspaper, if there is no daily newspaper, in the licensee's area; and (2) until completion of a final audit, which final audit shall be completed in not more than 120 days.

12.8. The Commission may accept alternate security in an amount of \$75,000 in lieu of the required bond.

A. Alternate security may be offered only by (1) pledging of certificates of deposit or other similar negotiable instruments, or (2) filing of an irrevocable letter of credit, which shall be non-cancellable for a period of one year.

B. All alternate security instruments must be assigned to the Commission and will be maintained in the Commission's office in Baton Rouge; holders of certificates of deposit may continue to draw interest thereon.

C. Whenever any grain dealer ceases to operate as a licensed grain dealer, alternate security offered in lieu of the required bond shall be retained by the Commission: (1) for a period of 30 days after final publication of public notice of the Commission's intention to release the alternate security, such public notice to be made at least seven times in a daily newspaper in the licensee's area or at least once in a weekly newspaper, if there is no daily newspaper, in the licensee's area; and (2) until completion of a final audit, which final audit shall be completed in not more than 120 days.

D. Alternate security offered in lieu of the required bond is subject to the approval of the Commission and must be so approved prior to issuance of the license.

Bob Odom  
Commissioner

## DECLARATION OF EMERGENCY

### Department of Agriculture Seed Commission

In accordance with the emergency provisions of the Administrative Procedure Act (LSA 49:953 B), notice is hereby given that the Department of Agriculture, Seed Commission, at a regularly scheduled meeting held on August 24, 1983, determined that the provisions of Rule 35.2 of its Seed Certification Standards, relative to certified rice seed, have created an economic emergency for growers of certified rice seed in that the inclusion of Mexican Weed as a noxious weed in Rule 35.2 requires unnecessary, expensive, and physically burdensome removal of Mexican Weed plants from fields being grown for certified rice seed. The Seed Commission determined that seed of the Mexican Weed is easily separable from certified rice seed during the cleaning process and that, therefore, there is no need to require removal of Mexican Weed plants from fields where rice is being grown for certification purposes.

Therefore, in order to permit the orderly certification of rice seed during the current crop year, the Department of Agriculture, Seed Commission, deleted Mexican Weed, on an emergency basis, from the list of noxious weeds prohibited in Rule 35.2 in fields being grown for certified rice seed. This deletion has no effect on the provisions of Rule 35.3, which prohibits the presence of any Mexican Weed seed in certified rice seed.

Bob Odom  
Commissioner

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

The State Board of Elementary and Secondary Education, at its meeting of August 25, 1983, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R.S. 49:953B and adopted the following items as Emergency Rules:

1. Standards for Social Living and Science Skills as an addendum to the *Separate Minimum Standards for Mildly Handicapped Students*, Bulletin 1640.

(This emergency adoption was necessary in order for the Standards to be printed and distributed to the schools at the beginning of the 1983-84 school year.)

2. Amend last sentence under "f" on page 83 of Bulletin 746 to read:

"An individual may function as an assessment teacher under a plan of professional development approved by the Division of Special Educational Services until September, 1985."

(This emergency adoption was necessary because of the shortage of assessment teachers, the Luke S. consent decree and the starting of the school year, it is necessary for parishes to be able to employ assessment teachers as soon as possible.)

James V. Soileau  
Executive Director

## DECLARATION OF EMERGENCY

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

The Department of Health and Human Resources, Office of Family Security, has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953B, to delete a drug in

specified dosage forms from the Louisiana Maximum Allowable Cost (LMAC) list.

The original Rule establishing the drug as part of the LMAC list was published in the August 20, 1983, issue of the *Louisiana Register*, (Vol. 9, No. 8, Page 552).

This Emergency Rule is necessary in order to comply with the requirement of the Joint Committee on Health and Welfare, Subcommittee on Oversight made in a meeting held on August 18, 1983.

#### EMERGENCY RULE

Effective September 1, 1983, the following drug in four dosage forms has been deleted from the Louisiana Maximum Allowable Cost (LMAC) list:

Nitroglycerin	2.500 MG	Extended Release Capsule
Nitroglycerin	6.000 MG	Extended Release Capsule
Nitroglycerin	6.500 MG	Extended Release Capsule
Nitroglycerin	9.000 MG	Extended Release Capsule

This drug in the extended release dosage forms will continue to be paid by the program; however, the Louisiana Maximum Allowable Cost (LMAC) will not apply.

Roger P. Guissinger  
Secretary

#### 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 provisions of the Administrative Procedure Act, R.S. 49:953B, to adopt the following amendment to a Rule published in Volume 8, Number 1, page 89 of the January 20, 1982 *Louisiana Register* regarding Retrospective Budgeting and Monthly Reporting in the Aid to Families with Dependent Children and Refugee Resettlement Programs. The amendment is adopted effective September 1, 1983 in order to timely implement the provisions listed below. This amendment is authorized by 45 CFR 233.36(a) and (b) as published in the *Federal Register* of Friday, February 5, 1982, Vol. 47, No. 25, p. 5679.

#### EMERGENCY RULE

Effective October 1, 1983, only AFDC and Refugee Resettlement recipients included in certifications with the following characteristics shall be included in Monthly Reporting:

- (1) Earned income.
- (2) Stepparent in the home.
- (3) Voluntary contributions.
- (4) Unemployment compensation.
- (5) Certifications in which deprivation is based on incapacity.
- (6) Cases with recent work history (defined as those cases certified in which any member of the income unit was employed within the three prior months).
- (7) AFDC and Refugee Resettlement cases in which the payee is the head of an NPA Food Stamp household required to monthly report.
- (8) Cases losing characteristics (1) through (5) above will remain in monthly reporting for three months subsequent to the loss of the characteristic.

NOTE: AFDC and E related Medically Needy Program certifications and discontinued AFDC and E type cases are ex-

cluded from Monthly Reporting. AFDC categories to be included in Monthly Reporting are based on waiver requests submitted to and approved by the United States Department of Health and Human Services.

Effective October 1, 1983, Food Stamp Program participants, with certain exceptions, must in accordance with USDA regulation 7 CFR 271 et. seq. have their eligibility and benefits based upon information submitted monthly to the Office of Family Security on an OFS Form 4-MR (Monthly Reporting Form). Monthly reporting is also required for certain classes of recipients of Aid to Families with Dependent Children and Refugee Resettlement Assistance in accordance with Department of Health and Human Services regulation 45 CFR 233.36(a) and (b).

Because declining state revenues have precluded the procurement of additional staff to administer the increase in monthly reporting cases effective October 1, 1983, the Office of Family Security obtained Department of Health and Human Services approval to reduce the number of Aid to Families with Dependent Children and Refugee Resettlement recipients who will be required to Monthly Report. Failure to reduce the number of Aid to Families with Dependent Children and Refugee Resettlement recipients who must monthly report simultaneously with increasing the number of Food Stamp recipients who must monthly report effective October 1, 1983 will result in a greater workload than can be managed by existing staff. Such circumstances will result in staff's inability to assure timely and accurate delivery of benefits to eligible applicants and recipients; thereby, resulting in imminent peril to the health and welfare of the state's needy.

In order to comply with the Administrative Procedure Act as amended by Act 713, the Notice of Intent published in the August 20 *Louisiana Register* cannot be adopted as a Rule for at least 50 days; therefore, it is necessary to adopt this Emergency Rule to allow for timely changes in those Aid to Families with Dependent Children and Refugee Recipients required to monthly report.

Roger P. Guissinger  
Secretary

#### 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 provisions of the Administrative Procedure Act, R.S. 49:953B, to adopt amendments to the following Rules regarding Retrospective Budgeting and Monthly Reporting in the Food Stamp Program as mandated by Federal Regulations 7 CFR §271 et. seq., as published in the *Federal Register* of Tuesday, May 25, 1982, Vol. 47, No. 101, pp. 22684-22701 regarding Monthly Reporting and Retrospective Budgeting. In order to timely implement the provisions of this Rule, the effective date is September 1, 1983.

#### EMERGENCY RULE

The Rules entitled "Implementation of Monthly Reporting and Retrospective Budgeting in the Food Stamp Program", which were published in the *Louisiana Register* Vol. 8, No. 7, page 342, dated July 20, 1982 and in Vol. 8, No. 12, page 649, dated December 20, 1982, are hereby amended in their entirety.

A. Effective October 1, 1983, only the following Food

Stamp households shall be required to monthly report:

(1) Households containing at least one member receiving earned income.

(2) Households containing at least one member receiving contributions.

(3) Households containing at least one member receiving Unemployment Compensation Benefits.

(4) Households whose head of household is required to monthly report for AFDC purposes.

(5) Households containing at least one member who is subject to work registration and who has recent work history. "Recent Work History" is defined as having been employed within the three months prior to the month of application.

Households in Mail Codes 10 and 11 with one of the above characteristics will continue to monthly report without interruption.

Any household which loses one of the stated Monthly Reporting inclusion characteristics will remain in Monthly Reporting for three months subsequent to the loss in accordance with OFS policy.

Food Stamp recipients subject to monthly reporting will be required to submit a monthly report of household circumstances including verification of income to the local Office of Family Security (OFS).

The monthly reports shall be submitted to the local Office Family Security by the tenth day of each month or the next working day if the tenth is a holiday or weekend. Failure to submit a complete report, including verification each month, may result in suspension or closure of the case.

Migrant farmworker households, as defined in Section 12-200 of the OFS Food Stamp Program Operating Guidelines, shall not be subject to the monthly reporting requirement, while in the migrant job stream.

Households that have no earned income and in which all adult members are elderly or disabled as defined in Section 12-200 of the Food Stamp Program Operating Guidelines shall not be subject to the monthly reporting requirement.

The categories of recipients to be included in Monthly Reporting are based on a waiver received from the United States Department of Agriculture.

B. Effective October 1, 1983, all food stamp households shall be subject to retrospective budgeting except migrant farmworker households, as defined in the Section 12-200 of the OFS Food Stamp Program Operating Guidelines, while in the migrant job stream.

Eligibility will be determined prospectively. The amount of benefits for food stamp recipients will be based on the actual income or circumstances which existed in the second prior month, with the exception of the following types of income which require special treatment:

(1) Income from self-employment which is received other than monthly shall be annualized as set forth in the OFS Food Stamp Program Operating Guidelines, Section 12-239;

(2) Annual income received by contract in less than one year shall be prorated over the period the income is intended to cover as set forth in the OFS Food Stamp Program Operating Guidelines, Section 12-237; or

(3) Non-excluded scholarships, deferred educational loans, fellowships, veterans educational benefits, and other educational grants shall be prorated over the period they are intended to cover as set forth in the OFS Food Stamp Program Operating Guidelines, Section 12-236.

In order to comply with the Administrative Procedure Act as amended by Act 713, the Notice of Intent published in the August 20 *Louisiana Register* cannot be adopted as a Rule for at least 50 days; therefore, it is necessary to adopt this Emergency

Rule to allow for timely implementation of federally mandated regulations.

Roger P. Guissing  
Secretary

## **DECLARATION OF EMERGENCY**

### **Department of Natural Resources Office of Environmental Affairs Environmental Control Commission**

Under the authority of the Louisiana Environmental Affairs Act, La. R.S. 30:1066 (1) and (8) and 1136A(1) and (5) and in accordance with the provisions in La. R.S. 49:951 et seq., the Louisiana Environmental Control Commission (ECC) in a public hearing, adopted an Emergency Rule concerning the Louisiana Hazardous Waste Management Plan on August 29, 1983, effective September 30, 1983.

The Department of Natural Resources, as lead agency responsible for implementing the hazardous waste management program, was required to resolve regulatory issues raised by the Environmental Protection Agency (E.P.A.) during their Phase II review of Louisiana's hazardous waste management permit program. The State presently has the authority to operate an enforcement, compliance monitoring and manifest program in lieu of the Federal government. The State's ability to retain Phase I authority depends upon the submission of a complete Phase II application by October 26, 1983, thus necessitating the emergency rulemaking under the specific provisions of La. R.S. 49:953 B. and 49:954 B. (2). Failure by the State to adopt an Emergency Rule would have brought about the loss of the State's Phase I authority, thus bringing about the loss of Federal grant funds, dual permitting requirements for the regulated community and jeopardize the future of Louisiana's program. The ECC determined the necessity of adopting an Emergency Rule which would correspond to federal permit standards under the Phase II program. The Emergency Rule will assist in insuring that Louisiana's regulations are "substantially equivalent" to the federal regulations as required by E.P.A.

The Emergency Rule adopted by the Environmental Control Commission on August 29, 1983, and effective on September 30, 1983, is as follows:

Section 3.092) of the HWMP shall be amended to read as follows:

"92) "Run-off" means any rainwater, leachate, or other liquid that drains over land from any part of a facility."

Section 4.2.1 F.2)b) shall be amended to read as follows:

"b) Temporary storage of hazardous wastes stored in an environmentally safe container by generator on-site not more than 90 days. Generators must be able to demonstrate the date storage commenced by proper marking of container or by other methods acceptable to the Administrative Authority."

Section 4.2.1 F.2)c) of the HWMP shall be amended to read as follows:

"c) A farmer disposing of waste pesticides from his own use which are hazardous wastes is not required to comply with these regulations for those wastes provided he (1) triple rinses each emptied pesticide container or inner liner using a solvent capable of removing the waste pesticide and; (2) disposes of the pesticide residues on his own farm in a manner consistent with the disposal instructions on the pesticide label."

Section 5.1.2 D.2)b) of the HWMP shall be amended to read as follows:

“b) Farmers who dispose of hazardous waste pesticides from their own use as provided in 4.2.1 F.2)c).”

Section 5.2.3 A.2) of the HWMP shall be amended to read as follows:

“2) Standard Permits — issued by the Administrative Authority are effective for a fixed term not to exceed 10 years and are subject to the provisions of Sections 5.2.8 and 5.5.”

Section 5.2.3 C. of the HWMP shall be amended to read as follows:

“C. Emergency action authorization — temporary authorization may be granted by the Administrative Authority as a result of an emergency situation for the following actions by an operator:

1) Accept for treatment, storage, or disposal of a waste not covered by a manifest;

2) Divert a waste shipment from one location to another without a manifest or prior permission from the generator; or

3) Other actions required to minimize potential damage due to the emergency situation.

4) The Administrative Authority, in granting the Emergency Action Authorization shall note, for the files, the justification for the authorization, the action taken, and the benefits realized. Emergency Action Authorization shall not be issued for any activity requiring a permit under the HWMP.”

Section 5.2.3 D.1) with the exception of 5.2.3 D.1)a)-f) of the HWMP shall be amended to read as follows:

“1) Emergency permits. Notwithstanding any other provision, in the event the Administrative Authority finds an imminent and substantial endangerment to human health or the environment, he may issue a temporary emergency permit to a facility to allow treatment, storage, or disposal of hazardous waste for a non-permitted facility or not covered by the permit for a facility with an effective permit. This emergency permit:”

Section 5.2.4 A. of the HWMP shall be amended to read as follows:

“A. Standard permits shall be effective for a fixed term not to exceed 10 years.”

Section 5.2.4 D. of the HWMP shall be deleted.

Section 5.3.1 A.4) of the HWMP shall be amended to read as follows:

“4) Reapplications. Any HWM facility with an effective permit shall submit a new application at least 180 days before the expiration date of the effective permit, unless permission for a later date has been granted by the Administrative Authority. (The Administrative Authority shall not grant permission for applications to be submitted later than the expiration date of the existing permit.)”

Section 6.1.3 of the HWMP shall be amended to read as follows:

“Generators who generate and dispose, treat, or store their hazardous waste on-site shall submit quarterly reports to the Department, including total quantity, by type, of waste handled and how that waste was disposed, treated or stored. Generators must keep a copy of each quarterly report for a period of at least three years from the due date of the report.”

Section 6.2.2 1) of the HWMP shall be amended to read as follows:

“1) “Hazardous Waste” — Federal and State Law Prohibits Improper Disposal.”

Section 7.8.1 1) of the HWMP shall be amended to read as follows:

“1) “Hazardous Waste” — Federal and State Law Prohibits Improper Disposal.”

Section 8.4.3. B.3)a) of the HWMP shall be amended to read as follows:

“a) Permeability: 3' clay at  $1 \times 10^{-7}$  cm/sec or less and so

designed and operated as to prevent endangering any fresh-water aquifer by the migration of contaminants from the facility, or an equivalent system acceptable to the Administrative Authority. This requirement is in addition to the requirements of 17.1.2 A. and 23.1.2 A.1).”

Section 11.1.1 F.4) of the HWMP shall be amended to read as follows:

“4) A farmer disposing of waste pesticides from his own use as provided in 4.2.1. F.2)c).”

Section 11.5.4 B.6) of the HWMP shall be amended to read as follows:

“6) Monitoring, testing, or analytical data where required by the HWMP;”

Section 11.5.8 A. of the HWMP shall be amended to read as follows:

“A. The annual report must cover facility activities during the previous calendar year. Information submitted on a more frequent basis may be included by reference or in synopsis form where it is not pertinent to reporting under 11.5.6 or monitoring reporting under 11.5.7. It must include the following information.

1) Releases, fires, and explosions as specified in 11.4.7;

2) Facility closure as specified in 13.6 A.;

3) As otherwise required by Chapters 12, 17, 18, 22 and 23.”

Section 12.1.1 B.1)a)iv) of the HWMP shall be amended to read as follows:

“iv) The Administrative Authority finds that the treatment zone of a land treatment unit does not contain levels of hazardous constituents that are above background levels of those constituents by an amount that is statistically significant, and if an unsaturated zone monitoring program meeting the requirements of 22.1.9 has not shown a statistically significant increase in hazardous constituents below the treatment zone during the operating life of the unit. An exemption under this paragraph can only relieve an owner or operator of responsibility to meet the requirements of this Chapter during the post-closure care period; or”

Section 13.7 B. of the HWMP shall be amended to read as follows:

“B. The Administrative Authority may require, at closure, continuation of any of the security requirements during part or all of the post-closure period after the date of completing closure when:

1) There is reason to believe waste may become exposed after completion of closure; or

2) Access by the public or domestic livestock may pose a hazard to human health.”

Section 14.4.1 A.3)b) of the HWMP shall be amended as follows:

“b. If an owner or operator has previously established a trust fund pursuant to federal regulation, and the value of that trust fund is less than the current closure cost estimate when a permit under these regulations is granted for the facility, the amount of the current closure cost estimate still to be paid into the trust fund must be paid in over the pay-in period as defined in 14.4.1. A.3). Payments must continue to be made no later than 30 days after each anniversary date of the first payment. The amount of each payment must be determined by this formula:

$$\text{Next payment} = \frac{\text{CE}-\text{CV}}{\text{Y}}$$

where CE is the current closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.”

Section 14.4.1 D.5) of the HWMP shall be amended to read as follows:

“5) The letter of credit must be irrevocable and issued for a



period of at least one year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the administrative authority by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the administrative authority have received the notice, as evidenced by the return receipts."

Section 14.6.1 A.3)b) shall be amended to read as follows:

"b) If an owner or operator has previously established a trust fund pursuant to federal regulation, and the value of that trust fund is less than the current post-closure cost estimate when a permit under these regulations is issued for the facility, the amount of the current post-closure cost estimate still to be paid into the fund must be paid in over the pay-in period as defined in 14.6.1 A.3). Payments must continue to be made no later than 30 days after each anniversary date of the first payment. The amount of each payment must be determined by this formula:

$$\text{Next payment} = \frac{\text{CE}-\text{CV}}{\text{Y}}$$

where CE is the current post-closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period."

The second WHEREAS clause in Section 14.10.2 of the HWMP shall be amended to read as follows:

WHEREAS, the Principal is required by law to provide financial assurance for closure, or closure and post-closure care, as a condition of the permit; and"

Section 18.1.4 A. with the exception of 18.1.4 A.1)-5) of the HWMP shall be amended to read as follows:

"A. The owner or operator of a pile used for temporary storage are subject to regulations as described under Chapter 12 even if the following conditions are met:"

The agency contact responsible for responding to inquiries regarding the Emergency Rule is Ms. Mary MacDonald, Hazardous Waste Management Division, Box 44066, Baton Rouge, LA 70804-4066, or phone 504/342-1227.

Winston R. Day  
Chairman

#### DECLARATION OF EMERGENCY

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

The Louisiana Wildlife and Fisheries Commission at its meeting held in Lake Charles on August 16, 1983, adopted the following seasons and bag limits for the 1983-84 waterfowl season.

WHEREAS, the United States Fish and Wildlife Service has established frameworks for the 1983-84 waterfowl hunting season, and

WHEREAS, the Louisiana Wildlife and Fisheries Commission must abide by these frameworks in setting waterfowl hunting seasons, now

THEREFORE BE IT RESOLVED that the following waterfowl hunting season dates are established by the Louisiana Wildlife and Fisheries Commission for the 1983-84 hunting season.

#### Ducks, Coots, and Mergansers

West Zone:	Nov. 5 - Nov. 29	25 days
	Dec. 17 - Jan. 15	30 days
East Zone:	Nov. 19 - Dec. 4	16 days
	Dec. 17 - Jan. 19	34 days

#### Geese

West Zone:	Nov. 5 - Nov. 29	25 days
	Dec. 17 - Jan. 30	45 days
East Zone:	Nov. 19 - Dec. 4	16 days
	Dec. 17 - Feb. 8	54 days

#### Special Scaup Season

Jan. 20 - Jan. 31	12 days
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Only in certain designated coastal waters to be identified in the Departmental waterfowl brochure.

BE IT FURTHER RESOLVED that all provisions of the frameworks established for waterfowl hunting by the United States Fish and Wildlife Service which are applicable to Louisiana are hereby adopted and made a part of the Louisiana waterfowl hunting regulations for the 1983-84 hunting season.

Jesse J. Guidry  
Secretary

# Rules

## RULE

### Department of Commerce Board of Cosmetology

(LA. R.S. 37:491 through 37:556)

In accordance with applicable provisions of the Administrative Procedure Act, R.S. 49:951 et seq., the Louisiana State Board of Cosmetology has adopted the following Rules and Regulations relating to the practice of Esthetics, R.S. 37:492, R.S. 37:501.1.

The following Rules and Regulations are adopted:

1. Curriculum (Hours and subject matter)
2. For student cosmetologists who desire to complete their education as an esthetician, not over 250 hours satisfactorily accredited shall be transferable.

The Louisiana State Board of Cosmetology intends to further enact Rules and Regulations relating to approved Schools of Esthetics, R.S. 37:503.1.

The following Rules and Regulations are adopted:

1. Equipment requirement
2. Sanitation
3. Books
4. Enrollment of students clearing and examining procedures
5. Fees and remittances to the Board

The Louisiana State Board of Cosmetology intends to further enact Rules and Regulations relating to Requirements for Certification As a Beauty Shop Skin Care Salon R.S. 37:505.

The following Rules and Regulations are adopted:

1. Quarters
2. Equipment requirement
3. Sanitation

The Louisiana State Board of Cosmetology intends to further enact Rules and Regulations relating to licensing as a teacher of Esthetics, R.S. 37:506.

The following Rules and Regulations are adopted:

1. Curriculum (Hours and subject matter)
2. Documented proof of employment as an esthetician for at least five years, or at least 18 months employed as a teacher of esthetics.

The Louisiana State Board of Cosmetology intends to further enact Rules and Regulations relating to Continuing Education Seminar Requirements for Teachers of Cosmetology and Esthetics, R.S. 37:506.1

The following Rules and Regulations are adopted:

1. Courses of Study Required for Teachers Seminars
2. Certified Proof of attendance at Seminars

The Louisiana State Board of Cosmetology intends to further enact Rules and Regulations relating to the Examination of Applicants, R.S. 37:509.

The following Rules and Regulations are adopted:

1. Students completing 1,000 hours or more must be cleared immediately for the theory part of the examination, remitting the fee of \$18.50. The student must then remain in school for the balance of 500 hours of practical work after which they will be examined in that phase.

The Regulations are available for public inspection between the hours of 8 a.m. and 4 p.m. on any working day at the office of the Board, Colonial Bank Building, 2714 Canal Street, Room 412, New Orleans, LA 70119.

Mrs. Joel Alice Mumphrey  
Chairman

## **RULE**

### **Department of Commerce Office of Commerce and Industry**

#### **ACT 882**

Mississippi River Bridge Relocation Tax Exemption Program  
Revised Statutes 47:4201 - Revised Statutes 47:4205

#### **RULE 1: USE OF LOUISIANA CONTRACTORS, LABOR AND SUPPLY**

The business and its contractors must give preference and priority to Louisiana manufacturers and, in the absence of Louisiana manufacturers, to Louisiana suppliers, contractors and labor, except where not reasonably possible to do so without added expense, substantial inconvenience or sacrifice in operational efficiency.

#### **RULE 2: QUALIFYING PROJECTS**

The manufacturing or business establishment, at the time it is required to relocate, must be located in a parish having a population exceeding 500,000. The manufacturing or business establishment must relocate to a location in the same parish as the location from which such establishment was required to move. The relocation of the manufacturing or business establishment must be a direct result of the necessary utilization of the property on which the manufacturing or business establishment is located for the construction of a bridge across the Mississippi River.

#### **RULE 3: DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT CERTIFICATION**

No applications will be considered for exemption by the Board of Commerce and Industry unless the Department of Transportation and Development certifies in writing that the manufacturing or business establishment was required to relocate

at the request of the Department of Transportation and Development for the express purpose of constructing a new bridge across the Mississippi River.

#### **RULE 4: DOCUMENTATION OF LOCATION**

The business must document that its new location is within the boundaries of the same parish as its prior location.

#### **RULE 5: FILING OF APPLICATIONS**

The applicant shall submit an application, on the required form, for the exemption from taxes allowed under this act to the Office of Commerce and Industry together with the certification required under Rules 3 and 4. The Office of Commerce and Industry, in conjunction with the Board of Tax Appeals and the Department of Revenue, shall verify the information given in the application.

#### **RULE 6: TIME LIMITS FOR FILING AN APPLICATION**

(a) An application for tax exemption must be filed with the Office of Commerce and Industry on the form prescribed at least 60 days prior to the beginning of construction or installation of facilities in a newly purchased or leased location.

(b) The phrase "beginning of construction" shall mean the first day on which foundations are started, or, where foundations are unnecessary, the first day of which installation of the facility begins.

(c) The Office of Commerce and Industry will accept applications for tax exemptions on qualifying projects for services and materials on which sales and use tax became due after December 31, 1980, if the application is filed within 45 days after the application forms become available.

#### **RULE 7: BOARD OF COMMERCE AND INDUSTRY SHALL ENTER INTO CONTRACT**

The Board of Commerce and Industry shall review any recommendations for exemption made by the Department of Commerce. If the Board of Commerce and Industry concurs with the recommendations, it shall forward the recommendation together with all supporting documents to the Board of Tax Appeals. When advised by the Governor and the Board of Tax Appeals that there are no objections to the application the Secretary of Commerce, on behalf of the Board of Commerce and Industry, shall enter into a contract to exempt some of the following taxes:

1. Sales and use tax on machinery and equipment to be used in a manufacturing or business establishment.
2. The Corporation Franchise Tax
3. The Corporation Income Tax
4. The Sales and Use Tax imposed by the state upon materials and supplies necessary for the manufacture or production of the product of the manufacturing or business establishment.
5. Any other taxes imposed by the state to which like businesses are subject.

#### **RULE 8: TERM OF EXEMPTIONS**

The exemptions granted in the contract shall be effective for a period not to exceed five years.

#### **RULE 9: REFUND ON SALES/USE TAXES**

The contract will not authorize the applicant to make tax-free purchases from vendors. The tax exemption for state sales and use tax will be effective through issuance of tax refunds by the Department of Revenue and Taxation. Refunds will be secured by filing the affidavits for each calendar month with the Department of Revenue and Taxation, Sales Tax Section, which must include the following:

1. Listing of purchases made during the month of movable property that is intended to be used on the business establishment and the contract number of the project. A listing must include a brief description of each item, the vendor's name, the date of the sale, sales price and the amount of three percent state 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 is contracted with the owner to provide materials or services for the project.

2. The certification that the materials included in the listing are expected to qualify upon completion of the project for the exemption under the provisions of the Rules and Regulations.

3. Certification that the sales/use tax have actually been paid on the items included in the listing. The affidavit may be filed on official Department of Revenue and Taxation "Claims for Refund" forms or on other forms prepared by the applicant. After the Department of Revenue and Taxation has verified the information on the application, a refund check will be issued for the amount of state sales/use tax paid.

#### **RULE 10: CONTRACTEES MUST FILE STATE FRANCHISE AND INCOME TAX RETURNS**

Each business qualifying for exemption from corporate income and franchise taxes shall file the same required forms and returns with the Department of Revenue and Taxation as would be required if the exemption had not been granted. Each form in return should have a certification attached stating the corporation is exempt from income and franchise taxes and giving the contract number of its exemptions, date the contract was approved and the expiration date.

#### **RULE 11: VIOLATIONS OF RULES, STATUTES, OR DOCUMENTS**

On the initiative of the Board of Commerce and Industry or whether whenever a written complaint or violation of the terms of the tax exemption Rules, the documents or the statute is received, the Assistant Secretary for Commerce and Industry shall cause to be made a full investigation on behalf of the Board, and shall have full authority of such investigation including, but not exclusively, authority to call for reports or pertinent records or other information from the contractors. If the investigation substantiates a violation, the Assistant Secretary may present the subject contract to the Board for formal cancellation. Contractee shall then remit any and all taxes that would have been imposed but for the issuance of a contract.

Robert Paul Adams  
Financial Programs Administrator

### **RULE**

#### **Department of Commerce Board of Commerce and Industry**

This is a limited exemption which allows the Board of Commerce and Industry with the approval of the governor and the local governing authority to enter into a contract granting to a property owner who expands, restores, improves, or develops an existing structure in a downtown, historic, or economic development district established by a local governing authority or in accordance with law, the right for five years after completion of the works to pay ad valorem taxes based upon the assessed valuation of the property for the year prior to the commencement of the expansion, restoration, improvement or development.

Rules of the Board of Commerce and Industry for Governing and LA. R.S. 47:4311 et seq.

Article VII Part II Section 21(H) of the Louisiana Constitution  
Restoration Tax Abatement Program

#### **Rule 1. TIME LIMITS FOR FILING APPLICATION**

Application to the Board of Commerce and Industry for the right for five years after completion of the work to pay ad valorem taxes based upon the assessed valuation of property for the year

prior to the commencement of the expansion, restoration, improvement or development shall be filed with the Office of Commerce and Industry, Box 44185, Baton Rouge, LA, 70804 on the form prescribed within 90 days from August 29, 1983 and thereafter not later than two hundred seventieth day after the start of construction.

#### **Rule 2. LOCAL GOVERNING AUTHORITY MUST CERTIFY APPROVAL**

Approval of the exemption must be certified by each local governing authority. A copy of the certification shall be made part of the application filed with the Office of Commerce and Industry.

#### **Rule 3. LOCAL GOVERNING AUTHORITY MUST CERTIFY STRUCTURE IS LOCATED IN QUALIFYING AREA**

The parish or municipal governing authority shall certify that the property on which the expansion, restoration, improvement or development is being made is located within an established downtown, historic, or economic development district, whether established by a local governing authority or in accordance with law.

#### **Rule 4. ASSESSED PROPERTY**

The Board of Commerce and Industry will not consider for tax exemption any expansion, restoration, improvement or development project if substantial completion occurred prior to October 15, 1982.

Under no circumstances will the Board of Commerce and Industry consider an application for exemption on any project for expansion, restoration, improvement or development once ad valorem taxes have been paid on said project.

#### **Rule 5. EFFECTIVE DATE OF CONTRACT**

(a) The owner of the existing structure or structures, shall carefully document the beginning date of the effective use of the structure, and also document the date that construction is substantially complete. The contractee must file that information with the Office of Commerce and Industry on the prescribed Project Completion Report within 90 days from August 29, 1983 and thereafter within 30 days following the last day of the month after effective use of the structure has begun or construction is essentially completed, whichever occurs first. The Office of Commerce and Industry will indicate with a return of a copy of that report the effective date of the tax exemption contract, which shall be December 31 or the year in which effective use of the structure began or construction was essentially complete, whichever was sooner.

(b) As the assessment date for Orleans Parish is August 1, the effective date of contract for structure located in Orleans Parish shall be July 31 of the applicable year.

#### **Rule 6. AFFIDAVIT OF FINAL COST**

Within six months after construction has been completed the owner of the qualifying expansion, restoration, improvement or development to an existing structure or structures shall file on the prescribed form an affidavit of final cost showing complete cost of the exempted project.

#### **Rule 7. PROPERTY MUST BE REPORTED TO PARISH ASSESSOR AS REQUIRED BY LAW**

The owner of the exempt expansion, restoration, improvement or development to an existing structure or structures agrees to file annually with the assessor of the parish in which the structure or structures are located any taxpayer's report, required by law, on forms furnished by the assessor in order that the exempted property may be separately listed on the assessment rolls. Notwithstanding the fact, taxes shall be collected on the exempt property during the period of exemption at the assessed valuation of the property the year prior to the commencement of the expansion, restoration, improvement, or development of the property.

#### **Rule 8. CONTRACT CAN BE TRANSFERRED**

If the property for which the limited exemption has been

granted is sold, the limited exemption may be transferred for the remainder of its term to the new owner, provided such transfer is approved by the local governing authority, the governor, and the board.

**Rule 9. VIOLATION OF RULES OR DOCUMENTS**

On the Board's initiative or whenever a written complaint or violation of terms of the tax exemption Rules or contract is received, the Assistant Secretary of the Office of Commerce and Industry shall cause to be made a full investigation on behalf of the Board, and he shall have full authority for such investigation including, but not exclusively, authority to call for reports or other pertinent records or other information from the contractee. If the investigation substantiates a violation he may present the subject contract to the Board for formal cancellation.

Robert Paul Adams  
Financial Programs Administrator

**RULES**

**Board of Elementary and Secondary Education**

**Rule 3.03.02.a**

The Board adopted an amendment to Board Policy 3.03.02.a under Attendance Policy to read as follows: "The effective date of enrollment shall be the first day of attendance, and this day shall be counted for reporting purposes."

**Rule 3.03.10.e**

Amend Board Policy 3.03.10.e, Post-secondary Cooperative Education Guidelines for Post-secondary Schools, Page 4, No. 2 to read: "The cooperative education program shall include a minimum of six hours each week of related classroom instruction and a minimum of 15 hours per week of on-the-job training. The student who successfully completes both phases will earn the appropriate credits for his/her training not to exceed the maximum of 30 clock hours per week."

**Rule 3.01.05**

The Board adopted the *State Plan for Nutrition Education and Training Programs, 1984*. (Copy on file in Board office and Office of the State Register.)

James V. Soileau  
Executive Director

**RULE**

**Southern University Board of Supervisors**

The Southern University Board of Supervisors adopted as a permanent Rule the following schedule of fees for Summer School at the Southern University School of Law at its meeting December 18, 1982:

	3 hours	6 hours
Tuition	\$ 80	\$140
Law Library Fee	5	5
Out-of-State Fee	202	202

Jesse N. Stone, Jr.  
President

**RULE**

**Southern University Board of Supervisors**

The Southern University Board of Supervisors has adopted the following fees:

Southern University-Baton Rouge	
Orientation Fee (Beginning Freshmen- Effective August 1, 1983)	\$42.55
Supplemental Fee to International	
Students (Effective August 1, 1983)	\$30 per semester \$15 per summer session
Housing Fee (Effective August 1, 1983)	10% increase
General Fee Increase (Effective Spring, 1983)	\$50 per semester \$25 per summer session
	Part-time fees on a pro rata basis

Southern University-New Orleans	
Graduate Fees (Effective August 1, 1983)	
Full-time	\$319
Out-of-State Fee	315
Part-time Fees	
0 - 3 hours	90
4 - 6 hours	153
7 - 8 hours	240
General Fee Increase (Effective Spring, 1983)	
	\$50 per semester \$25 per summer session
	Part-time fees on a pro rata basis

Southern University-Shreveport/Bossier	
General Fee Increase (Effective Spring, 1983)	
	\$30 per semester \$15 per summer session
	Part-time fees on a pro rata basis

Jesse N. Stone, Jr.  
President

**RULE**

**Office of the Governor  
Division of Administration**

Notice is hereby given that the Office of the Governor, Division of Administration has adopted Rules for Internal Guidelines for State Central Purchasing as follows:

**INTERNAL GUIDELINE NO. A-1**

Situation: Tie bids have been received by a purchasing agent  
Policy: Tie Bids should be broken by:

Purchasing Agent I	up to \$1,000
Purchasing Agent II	over \$1,000 to \$5,000
Assistant Director	over \$5,000 to \$10,000
Director	over \$10,000

The tie bid should be awarded to the vendor who is the best bidder. This would include consideration of such factors as terms, proximity, past performance, delivery, in-state company, completeness of bid proposal and possible equalization of award on this bid proposal.

Comments: Tie bid over \$10,000 must be reported to the Attorney General.

INTERNAL GUIDELINE NO. A-2

Situation: A performance bond is desirable or required on a procurement.

Policy: Unless the law requires a specific amount, the policy will be as follows:

If the total value of the contract is below \$10,000, the performance bond requirement should be 100 percent of the total amount.

If the total value of the contract is between \$10,000 and \$40,000, the performance bond requirements should be \$10,000.

If the total value of the contract is over \$40,000, the performance bond requirement should be 25 percent of the total amount.

If performance bond has been required, this requirement cannot be waived. The bonding company must be licensed to do business in Louisiana with all fees current.

Comments: Titles 38 and 43 require specific amounts for performance bonds. Performance bonds undetermined amounts should not be required in I.T.B.

INTERNAL GUIDELINE NO. A-3

Situation: Only one bid is received in response to a bid solicitation.

Policy: Bid should be analyzed to determine:  
1. Were proper bidders solicited?  
2. Were prices competitive?  
3. Were specifications open?

Comments: Review should be done within delegated authority.  
INTERNAL GUIDELINE NO. C-1

Situation: Review of contracts.

Policy: All contracts should be reviewed annually. Review should include at a minimum:

1. Dollar volume must be at least \$5,000. Contracts under \$5,000 require approval by the director or the assistant director in his absence.

2. Misuse—is contract being misused by agencies?

3. Prices—are prices competitive with other states and other vendors?

4. Terms and conditions—is there a need to alter?

5. Contract items not being used should be deleted from contract.

6. Conversion—Possibility of converting from brand name to competitive contract.

Initial review should be by the purchasing agent/buyer, secondary review by purchasing agent II and approval by the assistant director and the director.

Comments: For competitive or brand name contracts.

INTERNAL GUIDELINE NO. C-2

Situation: Adding to existing contracts and methods for establishing new contracts.

Policy: 1. BRAND NAME CONTRACTS

A. Addition of an item to an existing contract may be made upon receipt of one letter of request from an agency if it is determined that sufficient usage would justify the addition.

B. Creation of a new brand name contract may be made upon receipt of three letters from three separate state agencies. Feasibility questionnaires may be needed to clarify information.

2. COMPETITIVELY BID CONTRACTS

A. Addition of an item cannot be done without competitive bidding. Usually this would be done

at the end of the contract year.

B. A new competitively bid contract can be originated if an agency can demonstrate sufficient justification for a competitively bid contract. Normally, we could circulate a questionnaire to all state agencies to see if there is sufficient potential usage.

3. AGENCY CONTRACTS

Same as 2 B, except commodities are peculiar to one agency, and no questionnaire would be circulated.

Comments:

INTERNAL GUIDELINE NO. C-3

Situation: Notification of cancellation of contracts.

Policy: A minimum of 30 days written notice to contract holder is required.

When converting from a brand name to a competitive contract, the brand name contract should be maintained until the effective date of competitive contract, if possible.

Notice of cancellation should be sent by certified mail, return receipt requested.

Comments: A contract which is allowed to expire (due to lack of usage, etc.) would not require minimum of 30 days written notice to contract holder. Notice is mandatory only when cancellation takes place prior to expiration.

INTERNAL GUIDELINE NO. C-4

Situation: Equipment maintenance where contract vendor may be different from the previous vendor.

Policy: If no contract exists for maintenance, maintenance must be bid.

If brand name contract exists for maintenance, agencies can either use brand name contract or bid the maintenance at the agency level in accordance with PPM 51, revised, and current Executive Orders.

If a competitive contract exists for maintenance, it must be used.

Comments:

INTERNAL GUIDELINE NO. T-1

Situation: A bid has been received that changes F.O.B.-Agency to F.O.B.-Another Point.

Policy: F.O.B.-Another Point is not acceptable unless it is the only bid meeting all other I.T.B. requirements and is acceptable to the using agency, and the agency is willing to be responsible if lost in shipment. Purchase order should state "Prepay freight and add to invoice."

Comments: Approval from agency should be in writing. See T-2.

INTERNAL GUIDELINE NO. T-2

Situation: All bids are **equally** flawed or the only bid received is flawed (i.e. no literature submitted, F.O.B. shipping point, etc.).

Policy: If all bids are equally flawed or the only bid received is flawed, then bid(s) can be re-evaluated for an award without the necessity of rebidding.

Comments:

INTERNAL GUIDELINE NO. T-3

Situation: I.T.B. states that illustrations and literature must be submitted with bid.

Policy: This requirement cannot be waived.

Comments: This condition should not be used unless special circumstances require it. The proper condition to use for normal requirement "If bidding other than specified, submit illustrations and descriptive literature with bid." If only acceptable bid, see T-2.

INTERNAL GUIDELINE NO. T-4

Situation: A bid has been received by the state, but the bid is a copy and not an original.

Policy: To be acceptable, the bid must have:  
1. An original signature (not a copy of a signature) or the bid must contain other signed material indicating the bidder's intent to be bound.  
2. A copy of the State's terms and conditions attached.

If this bid is the only bid meeting specifications, either or both the above informalities may be waived with the approval of the director or his designee.

An explicit written and signed agreement by vendor, agreeing to the terms and conditions of the I.T.B., must be received.

Comments:

INTERNAL GUIDELINE NO. T-5

Situation: A bid has been received by the state, but the bid has not been signed.

Policy: Unsigned bids will not be accepted, unless it is the only usable bid received, and it has been approved by the assistant director.

Comments: If the unsigned bid is accompanied by another document with the bidder's signature, it may be accepted. If the unsigned bid is approved, then a signed statement must be secured indicating that the vendor will be bound by the laws of Louisiana and the terms and conditions of the I.T.B. (See T-4).

INTERNAL GUIDELINE NO. T-7

Situation: A bid has been received in which a vendor bids units or packaging different from what was specified.

Policy: To be acceptable, it must be clear what is being bid and verifiable by extension. Furthermore, the units or packaging must be acceptable for the intended use. Under no circumstances will a unit price be altered or corrected. If, however, it is determined that the unit or packaging change has given the bidder an unfair pricing advantage (due to lower packaging cost, etc.), the purchasing agent/buyer should reject the bid for that item.

Comments: It is the responsibility of the purchasing agent/buyer to make a determination on whether a packaging advantage exists.

INTERNAL GUIDELINE NO. T-6

Situation: A bid has been received with price alterations which are not initialed.

Policy: It should be determined that the alteration was done by the person submitting the bid and not by another person.

Comments: This determination should be obtained in writing.

INTERNAL GUIDELINE NO. T-8

Situation: I.T.B. states "bidder must specify brand, model, and number bid", but the bidder failed to give this information.

Policy: These requirements cannot be waived.

Comments: If this is the only acceptable bid, see T-2.

INTERNAL GUIDELINE NO. T-9

Situation: A bid has been received but the bidder has failed to indicate brand, model, and number bid by filling in a blank space provided for this information.

Policy: It will be assumed that the bidder is bidding as specified, but this should be verified in writing before issuing the purchase order.

Comments: If it is mandatory that a bidder fill in the space with brand, model and number, then this cannot be wai-

ved. (See T-8 and T-2.)

INTERNAL GUIDELINE NO. T-10

Situation: A bid has been received which states terms are C.O.D.

Policy: C.O.D. is not acceptable unless it's the only bid meeting all other I.T.B. requirements. Vendor should be contacted to see if he will change his terms to Net 30. If not, agency may agree to C.O.D. terms.

Comments: Approval from agency should be in writing.

INTERNAL GUIDELINE NO. T-11

Situation: 1. I.T.B. requires vendor to visit jobsite and provides a signature line for agency certification that jobsite was inspected by vendor. Vendor failed to get agency's signature.

2. I.T.B. requires vendor to visit jobsite but does not require agency certification.

Policy: The certification technicality can be waived if the agency will document to State Purchasing that vendor did visit the jobsite prior to bid opening.

In both situations, if vendor fails to visit jobsite prior to the bid opening, bid must be rejected.

Comments:

INTERNAL GUIDELINE NO. T-12

Situation: Bidder has submitted bid with additional terms and conditions which conflict with terms contained in I.T.B.

Policy: Bid is a qualified bid and must be rejected if other acceptable bids are received.

If bid is the only one of the several bids received meeting specifications, or if all bids received are equally flawed, then it may be possible to negotiate removal of terms which conflict with those in the I.T.B.

If the bidder submits **with his bid** a signed statement that his terms and conditions are null and void, and that he agrees that the laws of the State of Louisiana and the requirements of the I.T.B. will apply, then his bid would be considered fully responsive to the I.T.B.

Comments: See also T-2.

If only one bid is received, see A-3.

INTERNAL GUIDELINE NO. T-13

Situation: A bidder submits a bid with only a unit price but placed in the extended amount column.

Policy: If it is clear and obvious that the intent of the bidder was to bid a unit price, the bid may be accepted.

Comments:

INTERNAL GUIDELINE NO. T-14

Situation: A bidder has submitted a bid but has not returned all pages of the bid proposal.

Policy: If the pages not returned contain pertinent and specific requirements or legal terms and conditions of the bid, this could not be considered an informality and cannot be waived. If the missing pages contain non-critical information, the informality can be waived. However, if the bid proposal specifically stated "all pages must be returned", no waiver can be granted and bid must be rejected.

Comments: If only acceptable bid, see T-2.

If bid is a copy, see T-4.

INTERNAL GUIDELINE NO. T-15

Situation: Addendum to bid proposal has been mailed out, but a bidder has not attached this to his bid.

Policy: If the bid indicated in some way that the addendum has been received, it may be accepted. If it cannot be

determined that the bidder received the addendum, the bid may not be accepted. If more than one bidder apparently did not receive the addendum, this could be cause for rejection of the entire bid and re-advertisement.

Comments:

INTERNAL GUIDELINE NO. T-16

Situation: A bid has been submitted to the state, but not on the proper form.

Policy: If the state's terms and conditions have not been accepted by the vendor, the bid is not acceptable. If the bid in question is the only bidder meeting specifications, an attempt to get the vendor's acceptance of the state's terms and conditions is allowable. If the vendor will not agree to acceptance of the state's terms and conditions, the bid is not acceptable unless the Attorney General's Office has approved.

Comments: Before Attorney General's approval is sought, every effort should be exhausted to reach mutually acceptable terms. Vendor should put in writing that he is accepting Louisiana Terms and Conditions.

See also T-12.

INTERNAL GUIDELINE NO. T-17

Situation: I.T.B. states a "sample must be submitted with bid." Vendor bidding as specified did not submit a sample.

Policy: This requirement cannot be waived.

Comments: This condition should not be used unless circumstances require it. The proper condition to use under normal circumstances is "If bidding other than specified, samples are to be submitted." If only acceptable bid, see T-2.

INTERNAL GUIDELINE NO. T-18

Situation: A bid has been received after the time specified.

Policy: Late bids cannot be accepted. If the bid was delayed in some way by the Division of Administration, this could be cause for cancellation of bid proposal and re-advertisement.

Comments:

INTERNAL GUIDELINE NO. U-1

Situation: Agency requisitions emergency purchase but has not provided adequate justification.

Policy: Agency must be contacted immediately requesting proper justification. If justification does not meet requirements of Section IV, Paragraph B of the Rules and Regulations, purchase should be handled in normal manner by soliciting competitive bids.

Approval must be obtained from director or his designee for emergency procurements.

Comments:

INTERNAL GUIDELINE NO. U-2

Situation: Agency submits requisition requesting "no substitute" (Proprietary).

Policy: Letter of justification should be submitted with requisition and must be approved by the director or his designee. Requisitions without proper justification for proprietary specifications will be returned to the agency.

Comments: See Rules and Regulations, Section 10 E 2 (c).

INTERNAL GUIDELINE NO. U-3

Situation: Agency submits requisition without clear or detailed specifications or otherwise improperly prepared specifications.

Policy: Requisition should be returned to the agency outlining necessary information required for bidding.

Comments: Transmittal should be prepared and forwarded to purchasing agent II for approval.

INTERNAL GUIDELINE NO. U-4

Situation: Agency requests purchase order cancellation or change when items are no longer needed.

Policy: Agency should attach vendor's written acceptance to agency's request for cancellation or change.

Comments: Purchase order changes or cancellations on orders issued by State Purchasing must be through the State Purchasing Office and not directly by agency with vendor.

INTERNAL GUIDELINE NO. U-5

Situation: Agency requisitions emergency purchase and has provided justification.

Policy: A recommendation should be made by the buyer/purchasing agent to the director or the assistant director, in the director's absence, whose approval is required. Approval should indicate method of purchase, i.e. telephone quotes, 10-day bid, etc. Justification must meet requirements of Section IV, Paragraph B of the Rules and Regulations.

Comments: Follow current Executive Order if possible. An approval on emergency purchases, to be handled at agency level, should be recorded by the director or assistant director for future verification.

INTERNAL GUIDELINE NO. U-6

Situation: Agencies seeking to purchase items covered by a statewide competitive contract and requesting that the agency not use the contract.

Policy: All exceptions shall be approved by the director or his designee. The following exceptions are the only ones which may be considered.

1. Functional Differences, for example:

a. Size available is not suitable because of space limitations.

b. Compatibility with existing equipment.

c. Products available will not meet agency's needs.

2. Agency's need is so small that it cannot use the minimum order quantity in the contract.

3. Delivery of contract item does not meet agency's urgent requirement.

Comments: A lower local price is not justification for exception. The contract vendor has guaranteed prices for a year and is delivering the item to the agency.

When a minimum is established, agencies may purchase up to minimum in accordance with current Executive Order within agency's delegated authority.

When no minimum is established, agencies must use contract, except in an emergency situation as defined by Section IV of the Purchasing Rules and Regulations.

INTERNAL GUIDELINE NO. V-1

Situation: Bidder wishes to withdraw his bid after bid opening, but before purchase order is issued.

Policy: Request must be in writing on a timely basis and justified. If no bid bond has been required, bid may be withdrawn without penalty. If bid bond has been required, no relief can be granted and bond must be forfeited if vendor does not perform, unless director authorizes otherwise.

Comments:

INTERNAL GUIDELINE NO. V-2

Situation: Bidder wishes to withdraw his bid before bid opening.

Policy: Request must be in writing and received prior to bid opening time. Bid must be retained by State Purchasing in the file.

Comments: Bid should remain unopened, attached to letter, and kept in files.

**INTERNAL GUIDELINE NO. V-3**

Situation: Bidder wishes to withdraw his bid after purchase order has been issued to him.

Policy: Request must be in writing and with sufficient justification and must be timely (i.e. no later than 10 days after mailing of purchase order to vendor). If request is not timely, bid may not be withdrawn. If bidder refuses to deliver, this could be cause for repurchase and surcharge to the bidder for the difference in cost or for removal from bidders list or other legal remedies. Approval or denial of request must be made by director or his designee.

Comments: See R.S. 39:1661.

**INTERNAL GUIDELINE NO. V-4**

Situation: Vendor is suspended or debarred.

Policy: Suspended—If that vendor has existing contracts, he shall retain those contracts. If he fails to honor his contractual obligations, he will be cancelled as a vendor for only the specific contracts which he fails to honor.

If contracts are bid during the period of suspension, then no award shall be made to the suspended vendor.

If a contract is bid by a prime contractor and a suspended vendor is listed as a supplier, then the prime contractor shall be notified that his supplier has been suspended and, therefore, must be removed from the prime contractor's list or suppliers.

Debarred—The vendor will be removed from bidder's list and cannot bid on future requirements until debarment is ended. Effect on existing contracts will be specified in the debarment order.

Comments: See R.S. 39:1672

Linda E. Alwood  
Assistant Commissioner

must be charged a fee for services provided. In accordance with the act, the following policy is being adopted. The policy and fee schedule are as follows:

Fee Policy: All person receiving services from the Teen Parent Center shall be assessed a fee for each service received. The intake and initial assessment are not considered services. The fee for each service is based on the actual cost to the program incurred in the provision of that service.

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 figuring the schedule; (1) state median income as promulgated annually by the Secretary of the United States Department of Health and Human Services; (2) family size; (3) cost of service provided.

Persons whose gross family income is less than one-half the current state median income adjusted for family size will not be responsible for payment of services. Persons whose gross family income is more than 150 percent of the current State median income adjusted for family size will be charged the full cost of services provided. Between these two levels, fees will be adjusted in accordance with the following formula:

Gross Family Income as a Percent of Median Income Adjusted for Family Size	Fee as a Percent of Cost
50 - 55%	4%
55 - 60%	5%
60 - 65%	6%
65	8%
70	10%
75	12%
80	14%
85	17%
90	20%
95	23%
100	26%
105	30%
110	35%
115	40%
120	45%
125	52%
130	60%
135	70%
140	80%
145	90%
150	100%

**RULE**

**Department of Health and Human Resources  
Office of the Secretary**

The Department of Health and Human Resources, Women's Advocacy Bureau, has adopted a fee schedule for the Teen Parent Center program as mandated by federal regulations as published in the *Federal Register*, Vol. 47, No. 40, Monday March 1, 1982, pg. 8682.

In accordance with Title XX of the Public Health Services Act (42 U.S.C. 3002) administered through United States Government, Department of Health and Human Services, Office of Adolescent Pregnancy Programs, all Teen Parent Center clients

Program Services: Program services are divided into two general categories: 1) BASIC SERVICES, and 2) EMPLOYMENT SERVICES. Each of the two large groups are subdivided into the individual services that may be provided to clients. The following is a listing of the groupings and the codes assigned to each service for recording purposes.



TEEN PARENT CENTER

FEE ADJUSTMENT SCHEDULE

Percent Median Income	ANNUAL GROSS FAMILY INCOME BY NUMBER IN FAMILY									% of Cost Paid	Basic Service	Employment Counseling & Job Placement
	2	3	4	5	6	7	8	9+				
50	5,614	6,935	8,256	9,576	10,897	12,218	13,718	15,218	4	2.00	2.00	
55	6,175	7,628	9,081	10,534	11,987	13,440	14,940	16,440	5	2.00	2.00	
60	6,736	8,322	9,907	11,492	13,077	14,662	16,162	17,662	6	3.00	3.00	
65	7,298	9,015	10,732	12,449	14,166	15,884	17,384	18,884	8	3.00	4.00	
70	7,859	9,708	11,558	13,407	15,256	17,105	18,605	20,105	10	5.00	5.00	
75	8,421	10,402	12,383	14,365	16,346	18,327	19,827	21,327	12	5.00	6.00	
80	8,982	11,095	13,209	15,322	17,436	19,549	21,049	22,549	14	6.00	6.00	
85	9,543	11,789	14,034	16,280	18,525	20,771	22,271	23,771	17	7.00	8.00	
90	10,105	12,482	14,860	17,237	19,615	21,993	23,493	24,993	20	9.00	9.00	
95	10,666	13,176	15,685	18,195	20,705	23,214	24,714	27,214	23	10.00	11.00	
100	11,227	13,869	16,511	19,153	21,795	24,436	25,936	27,436	26	11.00	12.00	
105	11,789	14,563	17,337	20,110	22,884	25,658	27,158	28,658	30	13.00	14.00	
110	12,350	15,256	18,162	21,068	23,974	26,880	28,380	29,880	35	15.00	16.00	
115	12,912	15,950	18,988	22,026	25,064	28,102	29,602	31,102	40	17.00	18.00	
120	13,473	16,643	19,813	22,983	26,153	29,324	30,824	32,324	45	19.00	21.00	
125	14,034	17,337	20,639	23,941	27,243	30,545	32,045	33,545	52	22.00	24.00	
130	14,596	18,030	21,464	24,899	28,333	31,767	33,267	34,767	60	26.00	28.00	
135	15,157	18,723	22,290	25,886	29,423	32,980	34,489	35,989	70	30.00	32.00	
140	15,718	19,417	23,115	26,814	30,512	34,211	35,711	37,211	80	34.00	37.00	
145	16,280	20,110	23,941	27,772	31,602	35,433	36,933	38,433	90	39.00	41.00	
150	16,841	20,804	24,767	28,729	32,692	36,054	38,154	39,654	100	43.00	46.00	

<b>BASIC SERVICES</b>	<b>EMPLOYMENT SERVICES</b>
1001 Individual Counseling/ referrals	2001 Job Preparation Workshop Sessions
1002 Group Counseling/ referrals	2002 Employment Counseling
1003 Family Counseling/ referrals	2003 Employment Referrals (beyond first five)
1004 Educational Workshop Sessions	2004 Job Placement

must be approved by the Center Director and is indicated by her initial on the ledger card.

Roger P. Guissinger  
Secretary

## Notices of Intent

### NOTICE OF INTENT

#### Department of Agriculture Seed Commission

**Determination of Fees/Income Verification:** All clients whose gross family income is above the minimum indicated on the fee adjustment schedule shall pay a fee for each service provided. The determination of fees will be made during the intake procedures or as soon as verification of income information is obtained. In the case of clients who are unemancipated minors, the income information is to be obtained (or verified if provided by minor) from the parents or legal guardian. This can be done by telephone, however the record should reflect the name of the person providing the information. If income information cannot be obtained by telephone, the Income Verification Form is given to the applicant, completed by the parents or legal guardian and returned to the Center. The intake worker will use the fee adjustment schedule to determine the fee once this information is received. The parents will then be informed of the fee by the intake worker. The completed intake form and/or the income verification form will become a part of the permanent record and a ledger card will be given to the secretary/fee clerk, noting the fee rate.

**Collection of Fees:** During the intake procedure the client and the parent or guardian of the client will be informed that fees will be paid upon delivery of service. In the case of an emancipated minor, who is responsible for his own debts, only the client will be informed of the fee collection. The clients will be instructed to see the secretary/fee clerk prior to leaving the center. The secretary/fee clerk will note payment on the client's ledger card or bill the client in the event that payment is not received. Billing will occur on a monthly basis.

All fees collected will be held by the secretary/fee clerk in a locked box until delivery to the Women's Advocacy Bureau accountant. This shall be the first working day of the month or when \$50 is accumulated, whichever comes first.

**Waiver of Fees:** It is imperative that clients understand that no services will be refused due to inability to pay. The following circumstances warrant fee waiver: lack of income over last three months, payment of unusually high medical bills or death of income provider. This information will be obtained during the intake and noted on the Fee Determination Form and on the client's ledger card.

In the event that the client refuses to pay or is unable to pay, the Payment Agreement form is completed. The ledger card will reflect the client's ability or willingness to pay. If no payment can be collected, no billing will be necessary. For clients whose circumstances provide for them to pay less than the required amount, they will be billed for the full amount with all payments received recorded on the ledger card.

**Changes in Fees:** The client is to be informed that the secretary should be notified of any change which may later occur in income, employment or family composition which might result in a change in the adjusted fee. The secretary shall also conduct a periodic check every 90 days with each client to determine any change in factors including cost changes, which would cause change in the fee and adjusted fee. The counselor assigned to the case is also responsible for notifying the secretary of such changes as they occur. The secretary is to adjust the fee appropriately in accordance with the fee adjustment schedule. The adjusted fee

In accordance with the provisions of R.S. 49:953, as amended by Act 713 of 1983, notice is hereby given that the Department of Agriculture, Seed Commission, under the authority granted by the provisions of R.S. 3:1433, will delete Mexican Weed from the noxious weeds prohibited in the field standards for certified rice seed, i.e., Rule 35.2 of the Louisiana Seed Certification Standards. This deletion will have no effect upon other noxious weeds listed in Rule 35.2 nor will it remove Mexican Weed from the seed standards contained in Rule 35.3 of the Louisiana Seed Certification Standards.

Comments concerning the proposed action will be accepted up to and including November 9, 1983, by John Armstrong, State Seed Analyst, Box 44153, Baton Rouge, 70804 or in his office at the Harry D. Wilson Building on the Baton Rouge Campus of Louisiana State University.

Final action with respect to the proposed deletion of Mexican Weed from the field standards for certified rice seed will be taken by the Department of Agriculture, Seed Commission, at a public meeting on the 21st Floor of the State Capitol, Baton Rouge, at 10 a.m. on November 10, 1983. Any interested person may submit data, views or arguments, orally or in writing, at the said meeting of the Seed Commission. All comments submitted prior to November 10, 1983, and all data, views or arguments offered on November 10, 1983, will be fully considered by the Seed Commission prior to final action on the proposed deletion of Mexican Weed from field standards for certified rice seed.

Bob Odom  
Commissioner

#### **Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Mexican Weed**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)

It is estimated that implementation of this regulation will not cause the agency to incur any additional costs, nor produce additional savings.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

It is estimated that implementation of this regulation will not affect revenue collections.

III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)

It is estimated that Louisiana growers of certified rice seed will experience a cost saving of \$240,000 per growing season as the manual labor to remove the plants will no longer be required. The estimate of the cost saving was derived as follows: 16,000 acres under cultivation x estimated \$15/acre cost of manual labor to remove the plants = \$240,000 cost saving.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

Based upon the assumption that laborers removing the plants are paid minimum wage, 71,641 man hours of labor will no longer be utilized.

John Compton  
Deputy Commissioner

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of State Civil Service  
Civil Service Commission**

The State Civil Service Commission will hold a public hearing on October 4, 1983 for the purpose of considering the amendment of Civil Service Rule 1.39.2.

The hearing will begin at 9 a.m. and will be held at the Republic Tower Building, 5700 Florida Boulevard, 12th Floor Commission Room, Baton Rouge, LA.

The proposal to be considered at the public hearing is as follows:

Chapter 1

Amendment of Rule 1.39.2 as follows:

1.39.2 'State Service', . . .

(a) . . .

(b) . . .

1. All time spent on any type of classified and/or unclassified appointment prior to January 1, 1983.

2. . . .

3. . . .

4. . . .

5. . . .

6. . . .

7. . . .

8. . . .

9. . . .

(c) . . .

This amendment explicitly states that all unclassified state service obtained prior to January 1, 1983, counts as state service for the purpose of layoff and layoff avoidance measures. This has always been the interpretation given this Rule and is implied by Subsection (a)3 of this Rule; however, the amendment is proposed for clarity.

Persons interested in making comments relative to these proposals may do so at the public hearing or in writing to the following address: Director, Department of State Civil Service, Box 44111, Baton Rouge, LA 70804.

Herbert L. Sumrall  
Director

**NOTICE OF INTENT**

**Department of Commerce  
Office of Financial Institutions**

Permitted Insurance Activities for Banks

Under authority granted by LRS 6:237(B), the Commissioner of Financial Institutions intends to adopt the following regulation under which State-chartered banks may act as an insurance agent in communities of less than 5,000 persons. The Comptroller of the Currency presently allows National banks this activity.

Proposed Rule

In addition to the powers now vested by law in State-chartered banks organized under the laws of Louisiana any such association located and doing business in any place the population of which does not exceed five thousand inhabitants, as shown by the last preceding decennial census, may act as the agent for any fire, life, or other insurance company authorized by the authorities of the State of Louisiana by soliciting and selling insurance and collecting premiums on policies issued by such company; and may receive for services so rendered such fees or commissions as may be agreed upon between the said association and the insurance company for which it may act as agent: Provided, however, That no such bank shall assume or guarantee the payment of any premium on insurance policies issued through its agency by its principal: And provided further, That the bank shall not guarantee the truth of any statement made by an assured in filing his application for insurance.

Interested persons may submit written comments on the proposed Rule at the following address: Honorable Hunter O. Wagner, Jr., Commissioner of Financial Institutions, Office of Financial Institutions, Box 44095, Capitol Station, Baton Rouge, LA 70804.

He is the person responsible for responding to inquiries concerning this proposed Rule.

Hunter O. Wagner, Jr.  
Commissioner

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Permitting Insurance Activities**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)

Bank insurance activities will be licensed by the State's Insurance Commission. Any marginal increase in cost for this function will be offset by fees collected.

This Rule will not increase or decrease the operating costs of the Office of Financial Institutions in any manner.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

Banks with insurance operations will pay the various license fee charged by the State. However, the increase in total fees collected will have only a marginal impact on State revenues.

III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)

By authorizing state-chartered banks in places of less than 5,000 population to engage in insurance activities, this Rule will increase the earnings potential of these banks. To the extent that other insurance agencies or national banks lose customers to these state banks, their earnings may be decreased.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

This Rule will place state-chartered banks on a par with national banks, which now have authority to offer insurance services. State bank insurance activities would also compete with independent insurance businesses. Such increased competition will normally benefit consumers through lower prices and better service.

Hunter O. Wagner, Jr.  
Commissioner

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Commerce  
Racing Commission**

The Louisiana State Racing Commission does hereby give notice in accordance with law that it intends to amend and readopt Rule LAC 11-6:14.9 relative to trainer license applicants and trainer requirements, especially the ability to pass an examination.

**PROPOSED RULE LAC 11-6:14.9**

“An applicant for a license as trainer must show proof of at least two years track experience with a racing stable. Application shall be accompanied by the written statements of two reputable persons to the effect that the applicant is personally known to them and that he is a person of good reputation and capable of satisfactory performance of the vocation he seeks to follow. An applicant shall be given a thorough examination by the stewards and such other persons as they may appoint. Failure of applicant to obtain license will automatically require a 90 day waiting period before reapplying.” [Last sentence added.]

A copy of this proposed Rule may be obtained by calling the Commission at (504) 568-5870 or by writing to 616 Baronne Street, Second Floor, New Orleans, LA 70113-1068, or it may be viewed at the Office of the State Register, 1500 Riverside, Baton Rouge, LA.

The Office of the Commission will be open from 9 a.m. to 4 p.m., and interested persons may call Alan J. LeVasseur at this time, holidays and weekends excluded, for a copy of this proposed Rule. All interested persons may submit written comments relative to this Rule through October 4, 1983.

Gordon A. Burgess  
Chairman

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: LAC 11-6:14.9**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)

This action would not require any implementation cost.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

This action would effect revenue collections at a minimal level. It cannot be determined how many trainer applicants would be turned down or delayed for their trainer's license due to the new stipulation in the Rule.

III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)

The benefits would be to the associations, the horsemen and the race-going public. By requiring the new 90 day waiting period, unqualified trainer applicants would not be allowed to perform trainers' duties, resulting in more competent individuals occupying trainer positions. This, in turn, would insure fair racing practices at each racetrack and discourage incompetency.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

The effect on employment would be minimal. This action would prevent incompetent trainer applicants from obtaining a trainer's license. This would not, however, prevent the same individual from obtaining a license of a different category or a trainer's license upon successful completion of the trainer's examination.

Alan J. LeVasseur  
Executive Assistant

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Commerce  
Racing Commission**

The Louisiana State Racing Commission does hereby give notice in accordance with law that it intends to amend and readopt Rule LAC 11-6:53.17 relative to horses racing during a pending investigation. The proposed Rule would read as follows.

**PROPOSED RULE LAC 11-6:53.17**

“When a report as described in Section 53.15 is received from the state chemist, the stewards shall conduct an investigation and a hearing. There shall be no ruling and the stable shall remain in good standing pending a ruling by the stewards. However, the horse allegedly to have been administered any such chemical substance or material shall not be allowed to enter in a race during the investigation and hearing.

In the event the horse is claimed in the race in which the horse ran allegedly with prohibited medication, the new owner may enter and race the horse, however should the horse be claimed thereafter by the same owner who raced the horse, allegedly with prohibited medication, in the previous race in question, the horse shall not be allowed to enter a race during the investigation and hearing concerning the horse in the previous race in question.

For the purpose of this Rule “the investigation and hearing” referred to herein shall mean the stewards' hearing following receipt of the report of the state chemist described herein and in Rule 53.15.” (Last paragraph added to original Rule.)

A copy of this proposed Rule may be obtained by calling the Commission at (504) 568-5870 or by writing to 616 Baronne Street, Second Floor, New Orleans, LA 70113-1068, or it may be viewed at the Department of the State Register, 1500 Riverside, Baton Rouge, LA 70804.

The office of the Commission will be open from 9 a.m. to 4 p.m., and interested persons may contact Alan J. LeVasseur at this time, holidays and weekends excluded, for a copy of this proposed Rule. All interested persons may submit written comments relative to this proposed Rule through October 4, 1983.

Gordon A. Burgess  
Chairman

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: LAC 11-6:53.17**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)**

There are no implementation costs to this agency.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)**

There is no effect on revenue collections.

**III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)**

Horse owners and trainers will benefit from this Rule. By defining "the investigation and hearing" referred to in the Rule as the stewards' investigation and hearing, horse owners and trainers will know at which time they will be allowed to enter a horse in a race which allegedly raced with a prohibited substance.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)**

There is no effect on competition or employment.

Alan J. LeVasseur  
Executive Assistant

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

The State Board of Elementary and Secondary Education intends to adopt the following as policy:

1. Bulletin 1705, *Separate Minimum Standards for Moderately, Severely, and Profoundly Handicapped Students*. (Adopted as an Emergency Rule - see August, 1983 issue of *Louisiana Register*.)

2. An amendment to the tuition exemption regulations (Bulletin 1533) under *College and University Procedures (VIII-E)* to allow colleges and universities 15 days after the date of commencement to submit tuition exemption invoices and related information to the State Department of Education, (Adopted as an Emergency Rule - see August, 1983 issue of *Louisiana Register*.)

3. Revised Section 459 of Bulletin 1706, *Regulations for Implementation of the Exceptional Children's Act* (R.S. 17:1941 et seq.) as amended in Special Education Committee as follows: (Also an Emergency Rule in August, 1983)

**PROPOSED REVISIONS OF SECTION 459**

A. Prior to any administrative disciplinary action with regard to a student classified as handicapped, the relationship between the behavior of concern, the handicapping condition of the student, and the proposed disciplinary action must be considered.

1. The need for a structured program of behavior therapy should be considered at each IEP meeting for all handicapped students.

2. Any structured program of behavior therapy which is included in a student's IEP shall not be considered disciplinary action.

3. A handicapped student's IEP committee shall be convened to review the appropriateness of the student's program and/or placement following nine days in, or the third assignment to, a structured in-school alternative discipline program.

B. After a pattern of behavior has been established (three occurrences) resulting in any form of disciplinary action(s), the student's IEP committee shall be convened to review the student's program and/or placement.

C. When the behavior of the handicapped student is presenting an immediate danger to self or others or is significantly destructive to property, the student may be immediately removed from the school premises for a period not to exceed three days. Following the third such removal, the IEP committee shall be reconvened to:

1. determine if the behavior is related to the student's handicap, and

2. review the appropriateness of the student's educational program and/or placement.

In addition, a re-evaluation of the student shall be conducted in accordance with Bulletin 1508.

D. Each teacher is authorized to hold each student to a strict accountability for any disorderly conduct in the school, on the playground of the school, on any school bus going to or returning from school, or during recess or intermission. Teachers, principals, and administrators may, subject to any Rules as may be adopted by a local parish/city school board, apply reasonable disciplinary and corrective measures to maintain order in the schools. In addition, school principals may suspend from school any student, including an exceptional child, for good cause in accordance with parish/city school board policy and this subpart.

E. A student classified as being handicapped shall be neither suspended nor expelled from school if the behavior for which action is taken is related to the student's handicap.

1. A suspension is defined as:

a) an in-school cessation of educational services for one school day or longer; and/or

b) a temporary removal from school for no more than nine school days.

2. An in-school alternative discipline program which includes educational services shall not be considered a suspension.

3. If the suspension being considered is for less than nine school days a determination as to whether the behavior is related to the student's handicapping condition shall be made by at least one person knowledgeable about the student (e.g., teacher) and one other professional staff member of the school system knowledgeable about the handicapping condition of concern (certified special education teacher, pupil appraisal staff member). The special education administrator or designee shall be notified within one operational day regarding the student's handicap, the behavior and the disciplinary action being taken.

F. If the determination is made that the student's behavior is not related to the student's handicap, the student shall be disciplined in accordance with discipline policies for non-handicapped students.

1. If a suspension or expulsion of more than nine school days is determined to be the appropriate disciplinary action, or if the cumulative number of days of suspension or expulsion exceeds nine school days during any one school year, then an alternative education program shall be provided to the student during the period of suspension or expulsion.

2. The suspension or expulsion or otherwise removal of a student classified as handicapped from his/her educational placement for a period of more than nine cumulative school days in one school year constitutes a significant change in placement and requires adherence to the procedures established in Section 504 and P.L. 94-142, including:

a) the convening of the IEP committee to:

1) determine if the behavior is related to the student's handicap, and

2) review the appropriateness of the student's educational program and/or placement.

b) a re-evaluation of the student in accordance with Bulletin 1508.

G. If a determination is made that the student's behavior is

related to the student's handicap, no suspension or expulsion shall be taken against the student.

4. The Board concurred with the recommendations of the Department of Education regarding the National Teacher Examination Scores. (Adopted as an Emergency Rule - see August, 1983 issue of *Louisiana Register* for scores.)

5. The Board adopted a policy regarding issuing a temporary employment permit to those taking the revised NTE. (Adopted as an Emergency Rule - see August, 1983 issue of *Louisiana Register* for policy.)

6. The Board adopted policies on attendance in the proposed revised Bulletin 741, to be effective for the 1983-84 school year. (Adopted as an Emergency Rule - see August, 1983 issue of *Louisiana Register* for policies.)

7. The Board adopted Standards for Social Living and Science Skills as an addendum to the *Separate Minimum Standards for Mildly Handicapped Student*, Bulletin 1640. (Also adopted as an Emergency Rule.)

8. Amend last sentence under "f" on page 83 of Bulletin 746 to read:

"An individual may function as an assessment teacher under a plan of professional development approved by the Division of Special Educational Services until September, 1985." (Also adopted as an Emergency Rule.)

9. The Board approved the recommendation of the Department that any changes in the existing vocational technical schools' physical facilities and/or grounds shall be submitted and approved by the Bureau of Trade and Industrial Education prior to initiating changes.

10. A revision to Board Policy #5.03.13 (School Calendars) as follows:

School Calendars

Vocational-technical schools will be open a minimum of 230 days per fiscal year, inclusive of the annual workshop. At the discretion of the director personnel not attending the annual workshop are required to be at their respective schools or on annual, sick, or some other type of approved leave.

Annual, sick, compensatory, or some other type leave will be charged for any times personnel are not at their respective schools other than those days which are listed on the approved school calendar as being holidays with the school closed.

Calendars will be submitted to the Department of Education prior to June 1 of each fiscal year.

11. The Board approved the request of the Department to change Foreign Languages from the State Textbook Adoption Cycle for 1984-85 to the State Textbook Adoption Cycle for 1983-84, and every six-year cycle thereafter. The Board also agreed to change Handwriting from the State Textbook Adoption Cycle for 1983-84 to the State Textbook Adoption Cycle for 1984-85, and every six-year cycle thereafter.

Interested persons may comment on the proposed policy changes and/or additions, in writing, until 4:30 p.m. on November 8, 1983 at the following address: Board of Elementary and Secondary Education, Box 44064, Capitol Station, Baton Rouge, LA 70804.

James V. Soileau  
Executive Director

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

##### **Rule Title: Approval of Separate Minimum Standards**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)

Implementation costs for printing of booklets are estimated to be \$900 in 1983-84 and \$200 in 1984-85. These costs can be absorbed in the operating budget of the Department.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

Adoption of this Rule would not effect revenues.

III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)

These separate minimum standards represent an instructional guide to be used in the education of special education students who are pursuing a Certificate of Achievement rather than a high school diploma. Such a certificate has not previously been available to these students.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

Adoption of this Rule establishing a Certificate of Achievement for students meeting these standards is anticipated to enhance employment opportunities for those students.

George B. Benton, Jr.  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

#### **Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Bulletin 1533**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)

There will be no costs or savings to the agency.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There will be no effect on revenue collections.

III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)

Colleges and universities will be provided additional time in which to submit billings to the Department of Education. The proposed Rule will extend the billing date from 10 days after the last day of classes to 15 working days after commencement.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There will be no effect on competition and employment.

George B. Benton, Jr.  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

#### **Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Revised Section 459**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)

No impact on expenditures is anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There will be no impact on revenue collections.

III. ESTIMATED COSTS AND BENEFITS TO AFFECTED

**GROUPS - (Summary)**

Currently, a child may be excluded from school for as many as nine days while awaiting a determination by pupil appraisal staff in a disciplinary action. The proposed Rule would decrease the involvement of pupil appraisal staff in disciplinary actions while increasing involvement of teachers and principals which should provide for speedier determinations in such cases. The proposed Rule requires re-evaluation and an IEP committee meeting when a student is recommended for suspension in excess of 10 cumulative school days. This required re-evaluation is expected to produce adjustments in the student's educational plan which should reduce the likelihood of future suspensions.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)**

There will be no impact on competition and employment.

George B. Benton, Jr.  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: NTE Scores**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)**

No implementation cost to the State Department of Education is anticipated.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)**

Other than the regular certification fee established by BESE, there will be no effect on revenue collections.

**III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)**

This policy will provide the basis for selection of school personnel by parish superintendents.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)**

Individuals certified under this policy by achieving the appropriate score would have preference over non-certified school personnel.

George B. Benton, Jr.  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Temporary Employment Permit**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (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 - (Summary)**

Based on experience in issuance of emergency permits, the Department of Education estimates that 250 indi-

viduals will be issued temporary employment permits. At a fee of \$15 per permit, approximately \$3,750 will be collected for the State General Fund.

**III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)**

Individuals applying for temporary employment permits will be required to submit a \$15 certification fee to the Louisiana Department of Education. The proposed Rule will allow individuals meeting the stated standards on the revised NTE to receive a permit.

**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 have no effect on competition among teachers across the State.

George B. Benton, Jr.  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Bulletin 741 Revisions**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)**

This change would cost about \$1,200 for printing and postage to notify the schools and school systems which would be absorbed in the 1983-84 operating budget of the agency.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)**

There would be no effect on revenue.

**III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)**

No cost impact to local school systems is anticipated. The proposed Rule would provide for uniformity in attendance policies statewide which may be of benefit to students and school systems.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)**

There would be no effect.

George B. Benton, Jr.  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Approval of Separate Minimum Standards**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)**

Implementation costs for printing of booklets are estimated to be \$2,200 in 1983-84 and \$200 in 1984-85. These costs can be absorbed in the operating budget of the Department.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)**

Adoption of this Rule would not effect revenues.

**III. ESTIMATED COSTS AND BENEFITS TO AFFECTED**

GROUPS - (Summary)

These separate minimum standards represent an instructional guide to be used in the education of special education students who are pursuing a Certificate of Achievement rather than a high school diploma. Such a certificate has not previously been available to these students.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

Adoption of this Rule establishing a Certificate of Achievement for students meeting these standards is anticipated to enhance employment opportunities for those students.

George B. Benton, Jr.  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Pupil Appraisal Staff**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)

The MFP appropriation for 1983-84 includes \$870,000 in funding for 43 educational assessment teacher positions in addition to the 293 previously allotted. Eighteen parishes would receive these 43 positions based on numbers of nonpublic school personnel.

The proposed Rule would extend the hiring of personnel on Plans of Professional Development. The number of currently certified personnel is insufficient to fill all allotted educational assessment positions.

The impact to local education agencies would depend on the salary supplement provided to educational assessment personnel by individual LEA's.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

The proposed Rule will not impact state revenue collections. If this extension were not approved, local school systems would not be able to fill all allotted educational assessment positions and receive available MFP funding.

III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)

Through adoption of this extension, more students, particularly those in nonpublic schools, will receive support and evaluation services through pupil appraisal. This is one component of the special education cost saving proposal submitted to the legislature for 1983-84.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

The proposed Rule change will allow local education agencies to employ educational assessment staff from the pool of fully certified individuals and also from among those personnel pursuing a Plan for Professional Development for certification as educational assessment teachers.

George B. Benton, Jr.  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Vocational Education**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)

There will be no implementation costs or savings to the agency.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

This will have no effect on revenue collections.

III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)

There will be no costs to affected groups. The benefit will be in having a uniform policy to follow.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

This will have no effect on competition and employment.

George B. Benton, Jr.  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: 5.03.13**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)

There will be no implementation costs (savings) to agency.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

This will have no effect on Revenue Collections.

III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)

There will be no costs or benefits to affected groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

This will have no effect on competition and employment.

George B. Benton, Jr.  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Amend BESE Policy 3.01.80**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)

There will be no implementation costs (savings) to agency.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

This will have no effect on Revenue Collections.

III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)

There will be no costs or benefits to affected groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There will be no estimated effect on competition and employment.

George B. Benton, Jr.  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer



## NOTICE OF INTENT

### Board of Trustees for State Colleges and Universities

In accordance with the laws of the State of Louisiana and with reference to the provisions of Title 30 of the Louisiana Revised Statutes of the 1974 Constitution, a public hearing will be held in the Board of Trustees Conference Room, 151 Riverside Mall, Baton Rouge, LA, beginning at 9:30 a.m. on November 4, 1983. At such hearing the Board will consider enactment of PART VII, Section 7.10 Termination of Tenured and Non-Tenured Faculty, of the Policies and Procedures of the Board of Trustees for State Colleges and Universities.

The Board of Trustees for State Colleges and Universities shall accept written comments until 4:30 p.m., October 28, 1983, at the following address: Susan Walker, Assistant Director, Academic Research and Planning, Board of Trustees for State Colleges and Universities, 151 Riverside Mall, Baton Rouge, LA 70801.

Bill Junkin  
Executive Director

### Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Termination

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)

No specific savings figure can be provided at this time. Savings will be determined in individual cases and will probably vary. Savings will be in the form of salary savings due to discharge, termination of contract or demotion in rank.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There will be no effect on revenue collections.

#### III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)

This policy will result in greater flexibility to the administration while providing protection for the affected faculty member.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

Possible reductions or redistributions of employment may occur as a result of this policy.

Bill Junkin  
Executive Director

Mark C. Drennen  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Southern University Board of Supervisors

The Southern University Board of Supervisors does hereby give notice in accordance with law that it intends to consider for adoption a field practicum fee of \$75 per semester for students enrolling in the Master of Social Work Program at Southern University at New Orleans.

Consideration of the fee will take place at the November 19, 1983 meeting of the Board in the Audio Visual Room, Clark Education Building, Southern University, New Orleans. If approved, the proposed fee will become effective January 1, 1984.

Information concerning the proposed fee may be reviewed at the Office of the Board of Supervisors, Joseph Samuel Clark Administration Building, Southern University, Baton Rouge. The Office of the Board will be open from 8 a.m. to 5 p.m., Monday through Friday.

The Board of Supervisors of Southern University shall accept written comments until 5 p.m., November 14, 1983 at the following address: Mrs. Henrietta Vessel, Administrative Secretary, Southern University Board of Supervisors, Box 10879, Baton Rouge, LA 70813.

Jesse N. Stone, Jr.  
President

### Fiscal and Economic Impact Statement For Administrative Rules Rule Title: MSW Fee

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)

There will be no estimated costs or savings to the agency.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

1983-84	\$7,500
1984-85	8,250
1985-86	9,075

#### III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)

Only graduate students in Social Work will be affected - no other groups or agencies.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There will be no effect on competition and employment.

Jesse N. Stone, Jr.  
President

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 amend a final Rule which was published in the April 20, 1983, issue of the *Louisiana Register* Vol. 9, No. 4, Page 213. The amended Rule, effective November 20, 1983, shall delete reference to Home and Community Based Services. The standard deduction shall only apply to Title XIX recipients of long term care who have earned income and tracks the standard deduction currently allowed AFDC recipients under Title IV-A. The amended Rule shall read as follows:

#### PROPOSED RULE

The Medical Assistance Program shall adopt the standard deduction amount specified below for Title XIX recipients of long term care services (except Intermediate Care Facilities for the Handicapped), who have earned income. The appropriate standard deduction amount shall be deducted from the individuals' earned income in determining the amount of countable income to

be applied towards the recipient's liability income for Title XIX services received.

The standard deduction amounts are:

Number of Hours of Employment	Deductible Amount
1-27	\$12.50
28-55	25.00
56-82	37.50
83-109	50.00
110-136	62.50
137 or more	75.00

The above standard deductions are applicable for all long term care recipients except those in Intermediate Care Facilities for the Handicapped (ICF/H). ICF/H recipients shall continue to utilize the earned income disregard effective December 1, 1982 published in the November 20, 1982 *Louisiana Register* (Volume 8, Number 11, page 598).

Interested persons may submit written comments at the following address: R.K. Banks, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA. He is the person responsible for responding to inquiries regarding this proposed Rule. A copy of this proposed Rule and its fiscal and economic impact statement is available for review in each parish in the local Office of Family Security.

A public hearing on the proposed Rule will be held Tuesday, October 4, 1983, 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.

Roger P. Guissinger  
Secretary

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

#### **Rule Title: Delete Reference to H&CBS Recipients Concerning Standard Deduction**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)  
No savings or costs are involved. Although the original Rule refers to recipients of Home and Community Based Services, it was never implemented to affect these recipients.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)  
There will be no effect on revenue collections.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)  
There will be no costs or benefits to affected groups as a result of this change.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
There will be no effect on competition and employment as a result of this Rule.

R.K. Banks  
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 a change in General Assistance Program policy regarding Referral to Social Security Administration, (18-636), effective 8-1-83. This proposed Rule is submitted to formally adopt an Emergency Rule published in the August 20, 1983, *Louisiana Register* and is authorized by R.S. 46:154 and R.S. 46:155. The General Assistance Program manual (18-635 and 18-636) will be amended as follows:

#### **PROPOSED RULE**

When incapacity for a General Assistance applicant/recipient is expected to last at least two months but no more than six months, as substantiated by medical information which the client is able to present or readily secure or which the agency can readily secure at no cost, referral shall be made to the Medical Social Review Team and not to the Social Security Administration. If MSRT then determines that (1) medical documentation does not clearly define or establish the length of incapacity or (2) that the client appears to meet SSI incapacity criteria, MSRT will indicate on the Form 90 that the client is to be referred to the Social Security Administration.

When the client appears to meet factors of social inadequacy as defined in 18-635-A. (2) and does not have a medical impairment, the case shall be referred directly to MSRT.

If no medical information is readily available and social inadequacy is not the sole consideration for determining incapacity, the case shall be referred to SSA regardless of the anticipated length of incapacity beyond two months.

Interested persons may submit written comments at the following address: R.K. Banks, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804. He is the person responsible for inquiries regarding the proposed Rule. A copy of this notice is available for review in each parish Office of Family Security.

A public hearing will be held on Tuesday, October 4, 1983, beginning at 9:30 a.m. in the Louisiana State Library Auditorium, 760 Riverside North, Baton Rouge, LA.

Roger P. Guissinger  
Secretary

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

#### **Rule Title: GA Amendment to Rule on SSA Referral**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)  
None.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)  
None.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)  
None.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
None.

R.K. Banks  
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 a change in the flat grant payment standard for the General Assistance Program. This proposed Rule is submitted to formally adopt an Emergency Rule published in the August 20, 1983, *Louisiana Register* and is authorized by R.S. 46:154 and R.S. 46:155. The General Assistance Program policy manual (18-922) will be amended as follows:

**PROPOSED RULE**

Flat Grant Amounts To Be Included In Every General Assistance Payment Budget

Number of Persons	Flat Grant Amount
1	\$ 91
2	138
3	190
4	234
5	277
6	316
7	352
8	391
9	427
10	462
11	501
12	540
13	580
14	620
15	662
16	707
17	741
18	789

Interested persons may submit written comments at the following address: R.K. Banks, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804. He is the person responsible for inquiries regarding the proposed Rule. A copy of this notice is available for review in each parish Office of Family Security.

A public hearing will be held on Tuesday, October 4, 1983, beginning at 9:30 a.m. in the Louisiana State Library Auditorium, 760 Riverside North, Baton Rouge, LA.

Roger P. Guissinger  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: General Assistance Revision of  
Flat Grant Amounts**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)**

\$705,524 will be needed for FY 84 to restore the General Assistance maximum grant of \$91 and to provide the maximum grants in (A) above to certifications of more than one person. Benefits will be increased for one person certifications \$12 monthly in Orleans, Jefferson, East Baton Rouge and St. Bernard Parishes and \$19 monthly in all other parishes. In two or more person certifications, benefits will increase approximately \$15 in all parishes other than Or-

leans, Jefferson, East Baton Rouge and St. Bernard.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)**

None.

**III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)**

An additional \$705,524 will be provided in benefits to General Assistance recipients during FY 84 with maximum grants as provided in (A) above. (Also, see I. above).

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)**

None.

R.K. Banks  
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 rescind the Rule listed below which was published in the *Louisiana Register* (Volume 9, Number 6, Page 415) on June 20, 1983 and reads as follows:

**PROPOSED RULE**

“Effective July 1, 1983, the Medical Assistance Program shall limit the reimbursement rate for Title XIX Services provided by a Home Health Agency to the current reimbursement rates for FY 82-83.”

This Rule is hereby rescinded. The Office of Family Security will continue to reimburse Home Health Agencies on a reasonable cost basis which will not exceed the Medicare rate of reimbursement. All payments to Home Health Agencies are subject to an annual audit which is utilized to adjust payments as well as set interim reimbursement rates.

Interested persons may submit written comments at the following address: R.K. Banks, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA. He is the person responsible for responding to inquiries regarding this proposed Rule. A copy of this proposed Rule and its fiscal and economic impact statement is available for review in each parish in the local Office of Family Security.

A public hearing on the proposed Rule will be held Tuesday, October 4, 1983, 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.

Roger P. Guissinger  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Reimbursement Rates for  
Home Health Agencies**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)**

No savings or costs are involved. This Rule rescinds a Rule previously published in Volume 9, Number 6, page 415 of the *Louisiana Register*. Home Health Agencies will continue to be reimbursed in the same manner as they were prior to the publication of this Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There will be no effect on revenues as this is a rescission of a Rule previously published.

III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)

There will be no cost or benefit to affected groups as this is a rescission of a Rule previously published.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

There will be no effect on competition and employment as a result of the rescission of this Rule.

R.K. Banks  
Assistant Secretary

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Health and Human Resources  
Office of Health Services and Environmental Quality**

Effective November 20, 1983, the Department of Health and Human Resources, Office of Health Services and Environmental Quality, Food and Drug Control Unit, in order to implement the provisions of LSA R.S. 40:627, proposes to partially revise the registration procedures for foods, drugs, cosmetics and prophylactic devices for the registration period beginning August 1, 1984, and codify the revised registration procedures in accordance with the codification system in the "State of Louisiana Food, Drug and Cosmetic Laws and Regulations", dated September, 1968 (the 'Red Book'). There will be a one year transition period during which registration certificates will be issued for varying periods of time in accordance with the following proposed regulation:

2.218. In accordance with the provisions of LSA R.S. 40:627 and in order to establish a staggered registration period during the calendar year, manufacturers, packers, processors and distributors of all processed foods, proprietary or patent medicines, prophylactic devices and cosmetics in packaged form, whose names appear on the labels, must submit an application for registration of such products on or before August 1, 1984 in accordance with the following schedule:

Cate- gory	-Domicile- Parish, State and/or Foreign Country	New Expira- tion Date	Initial Regis- tration Interval- Months	New Certificate Renewal Date
1	Acadia - St. John	1/31	6	2/1
2	St. Landry - Winn Alaska - Idaho	4/30	9	5/1
3	Illinois - Ohio (Excluding N.Y.)	7/31	12	8/1
4	New York - Wyoming (Excluding North Carolina, North Dakota & Ohio) Foreign Countries	10/31	15	11/1

The above listed categories include firms with domiciles in the following parishes, states and/or foreign countries:

**CATEGORY 1**

**PARISHES**

Acadia	Jackson
Allen	Jefferson

Ascension	Jefferson Davis
Assumption	Lafayette
Avoyelles	Lafourche
Beauregard	LaSalle
Bienville	Lincoln
Bossier	Livingston
Caddo	Madison
Calcasieu	Morehouse
Caldwell	Natchitoches
Cameron	Orleans
Catahoula	Ouachita
Claiborne	Plaquemines
Concordia	Pointe Coupee
DeSota	Rapides
East Baton Rouge	Red River
East Carroll	Richland
East Feliciana	Sabine
Evangeline	St. Bernard
Franklin	St. Charles
Grant	St. Helena
Iberia	St. James
Iberville	St. John

**CATEGORY 2**

**PARISHES**

St. Landry	Vermilion
St. Martin	Vernon
St. Mary	Washington
St. Tammany	Webster
Tangipahoa	West Baton Rouge
Tensas	West Carroll
Terrebonne	West Feliciana
Union	Winn

**STATES**

Alabama	Delaware
Alaska	District of Columbia
Arizona	Florida
Arkansas	Georgia
California	Hawaii
Colorado	Idaho
Connecticut	

**CATEGORY 3**

Illinois	Missouri
Indiana	Montana
Iowa	Nebraska
Kansas	Nevada
Kentucky	New Hampshire
Maine	New Jersey
Maryland	New Mexico
Massachusetts	North Carolina
Michigan	North Dakota
Minnesota	Ohio
Mississippi	

**CATEGORY 4**

New York	Utah
Oklahoma	Vermont
Oregon	Virginia
Pennsylvania	Washington
Rhode Island	West Virginia
South Carolina	Wisconsin
South Dakota	Wyoming
Tennessee	Foreign
Texas	Countries

Firms are required to submit registration fees based on the life of their Certificate of Registration.

<b>CATEGORY 1:</b>	<b>CATEGORY 2:</b>
1 product-\$1.25	1 product-\$1.88
2 products-\$2.50	2 products-\$3.75
3 products-\$3.75	3 products-\$5.63
4 or more products-\$5.00	4 or more products-\$7.50
<b>CATEGORY 3:</b>	<b>CATEGORY 4:</b>
1 product-\$2.50	1 product-\$3.13
2 products-\$5.00	2 products-\$6.25
3 products-\$7.50	3 products-\$9.38
4 or more products-\$10.00	4 or more products-\$12.50

The current procedures for registration of foods, drugs, cosmetics and prophylactic devices are on an annual schedule beginning August 1 of each year and ending July 31 of the following calendar year. The registration fees are currently \$2.50 per product up to a maximum of \$10 for any one firm.

This is a temporary measure allowing the issuance of registration certificates on a staggered basis. After the initial issuance of certificates on August 1, 1984, all firms will apply for annual re-registration based on the new registration dates assigned them. Registration certificates issued with new registration dates after this initial issuance will be valid for one year in accordance with Sect. 2.215 of this Part.

Interested persons may submit written comments to the following address: Sarah M. Braud, M.D., Acting Assistant Secretary, Office of Health Services and Environmental Quality, Room 513, State Office Building, 325 Loyola Avenue, Box 60630, New Orleans, LA 70160, Phone: 504/568-5052 (LINC: 621-5052).

Roger P. Guissinger  
Secretary

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

#### **Rule Title: Staggered Registration Regulations**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)  
None.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)  
None.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)  
Industry will still be required to apply for re-registration of products annually; however, if this program is implemented, we should be able to issue their certificates of registration more promptly and with less errors.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
None.

Sara M. Braud, M.D.  
Acting Assistant Secretary

Mark C. Drennen  
Legislative Fiscal Officer

## **NOTICE OF INTENT**

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

Effective November 20, 1983, the Department of Health and Human Resources, Office of Management and Finance, Division of Policy and Evaluation, proposes changes to the policies and guidelines for Section 1122 capital expenditure reviews. The proposed changes will be made to the Rule published in Volume 9, Number 7 of the *Louisiana Register*, July 20, 1983.

The proposed changes are the result of the passage of Act 13 of the 1983 Special Session of the Louisiana Legislature. This Act abolished the Office of Licensing and Regulations and re-assigned responsibility for the Section 1122 program. In addition, the Social Security Amendments of 1983 (HR 1900) allowed changes in the Section 1122 capital expenditure review thresholds.

### **INTRODUCTION**

Section 1122 of the Social Security Act, as amended by Public Law 92-603, the Social Security Amendments of 1972, requires that a health facility which proposes to make a capital expenditure obtain prior approval by a designated planning agency in order to be reimbursed for costs related to the capital expenditure under the Medicare and Medicaid Programs. The purpose of this provision is to assure that Federal funds are not used to support unnecessary capital expenditures by health care facilities.

### **DEFINITIONS**

1. Certificate of Need — Louisiana conducts certificate of need reviews in accordance with Section 1122 of the Social Security Act, as amended. This process is required of health care facilities in order to receive full reimbursement under the Medicare and Medicaid Programs. (This should not be confused with state legislated certificate of need programs which Louisiana, at present, does not have enacted.)
2. Division of Policy, Planning and Evaluation DPPE — the state agency designated to carry out in Louisiana the provisions of Section 1122 and P. L. 93-641, as amended by P. L. 96-79.
3. Division of Licensing and Certification — that Division of the Department of Health and Human Resources charged with the responsibility of carry out licensure and certification functions for the State of Louisiana.
4. Hospital — an institution which is engaged in providing to inpatients or to inpatients and outpatients by or under the supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment and care of injured, disabled, sick or pregnant persons, or rehabilitation services for the rehabilitation of injured, disabled, sick or pregnant persons; such term does include chronic care hospitals, but does not include psychiatric and tuberculosis hospitals.
5. Person — an individual, a trust or estate, a partnership, a corporation (including associations, joint-stock companies, and insurance companies), a state, or a political subdivision or instrumentality (including a municipal corporation) of a state.
6. Psychiatric hospital — an institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons.
7. Tuberculosis hospital — an institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, medical services for the diagnosis and treatment of tuberculosis.

8. Nursing home — a licensed facility that provides nursing care, preventive health, health maintenance services, rehabilitative services, and necessary ancillary and supportive social services to persons who, by reason of illness, or physical infirmity or age, are unable to properly care for themselves.

9. Ambulatory surgical facility — a freestanding facility which is not a part of a hospital, and which provides surgical treatment to patients not requiring hospitalization. Such term does not include the offices of private physicians or dentists, whether for individual or group practice.

10. Home Health Agency — a public or private organization, or subdivision thereof, which is primarily engaged in the provision of skilled nursing services and at least one additional therapeutic health service in the place of residence used as a patient's home.

11. Change of Bed Capacity — any increase or decrease in the licensed bed capacity of a health care facility.

12. Substantial Change in Service — a capital expenditure which results in the addition of a clinically related (i.e., diagnostic, curative, or rehabilitative) service not previously provided in the facility or the termination of such a service which had previously been provided in the facility.

13. Emergency — means an unforeseen occurrence, condition or mischance or perplexing contingency or complication of circumstances bringing with it destruction or injury of life or property (moveable and immovable) or the imminent threat of such destruction or injury or as the result of an order from any judicial body having jurisdiction therein to take any immediate action which requires construction, repair or acquisition of property or equipment, where the unforeseen occurrence, condition or mischance or perplexing contingency or complication of circumstances or court order will not permit a health care facility the time necessary for an application for full review under Section 1122.

14. Secretary — as used within the confines of this document, the term secretary refers to the secretary of the United States Department of Health and Human Services or his designee.

#### REVIEWING AGENCIES

Division of Policy, Planning and Evaluation, Box 3776, Baton Rouge, LA 70821.

Division of Licensing and Certification, 333 Laurel Street, Room 610, Baton Rouge, LA 70804.

Any other agency deemed appropriate by Division of Policy, Planning and Evaluation.

#### RESPONSIBLE AGENCY

The state agency responsible for carrying out Section 1122 provisions in Louisiana is the Division of Policy, Planning and Evaluation DPPE, which is the state agency organized under P.L. 93-641, as amended by P.L. 96-79.

#### FACILITIES INCLUDED

For the purpose of Section 1122, "health care facility" includes hospitals, psychiatric hospitals, tuberculosis hospitals, skilled nursing facilities, kidney disease treatment centers including freestanding hemodialysis units, intermediate care facilities, and ambulatory surgical facilities, but does not include Christian Science sanatoriums operated or listed and certified by the First Church of Christ, Scientists, Boston, Massachusetts. Offices of Physicians are also specifically excluded from such reviews.

#### EXPENDITURES SUBJECT TO REVIEW

Capital expenditures covered are those which are not properly chargeable as expenses of operation and maintenance and which either (1) exceed \$600,000, (2) change the bed capacity of the facility or (3) substantially change the services of the

facility.

Any questions regarding applicability of expenditures to review should be directed solely to DPPE for an official determination.

When making a determination of the total amount of any capital expenditure discussed herein, DPPE shall consider the cost of studies, surveys, designs, plans, working drawings, specifications and other activities essential to the acquisition, improvement, expansion or replacement of the plant and equipment with respect to which such expenditure is made.

Proposals for the acquisition of facilities or equipment by lease or comparable arrangement or through donation may be subject to review under Section 1122. DPPE should be contacted for a determination of applicability and assistance in computing amounts subject to Section 1122 review.

Section 1122 Certificate of Need approvals can neither be sold or transferred.

#### EFFECTIVE DATE

Any 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.

#### EXCLUSIONS

1. A capital expenditure for which an obligation was incurred before January 1, 1973, is not subject to review requirements of Section 1122.

2. Section 1122 permits an exception to any health care facility providing services as of December 18, 1970, which as of that date was committed to a formal plan of expansion or replacement as approved by the facility's board of trustees. This can only occur if the facility spent \$100,000 or more during the three-year period ending December 17, 1970, for preliminary items on the plan including payments for studies, surveys, designs, plans, working drawings, specifications and site acquisition. In such a case, Section 1122 shall not apply to capital expenditures made in conformity with that plan. The exception shall, however, not apply to capital expenditures which are not included in the plan.

#### PRE-APPLICATION CONFERENCE

Anytime prior to submitting an application for review or a request for an election not to review individuals contemplating a Section 1122 expenditure may request a formal conference with DPPE to discuss the proposed project. A mutually acceptable meeting time and place will be established between the applicant and the agency. Pre-application conferences are encouraged.

#### ELECTION NOT TO REVIEW

The DPPE at its option, may elect not to review a proposed capital expenditure which has been determined subject to review under Section 1122 of the Social Security Act. The option of election not to review, as permitted by the applicable statute and regulation, is designed to exempt from review a few proposed capital expenditures for which a review is not necessary. In order to be considered for a DPPE decision for an elect not to review, one of the following criteria must be met:

1. Renovations to meet Life Safety Codes.
2. Capital expenditures for emergency situations.

An application proposing a capital expenditure by or on behalf of a health care facility, which expenditure may qualify for election not to review according to the above criteria, must submit in writing to DPPE a request for an elect not to review. After examining the information contained in such request, and any additional information DPPE may request, a determination will be made by DPPE whether or not to elect not to review the proposed expenditure. If DPPE elects not to review the proposed project, all

required notifications will contain written reasons for DPPE's determination of election not to review.

If DPPE determines that such proposal shall require full or expedited review, the applicant will be notified of such decision and will be supplied with appropriate application forms to provide information adequate for such review of the proposal.

#### EXPEDITED REVIEW

The DPPE at its option may elect to perform an expedited review of a proposed capital expenditure which has been determined subject to review under Section 1122 of the Social Security Act. In order to be considered for an expedited review, one of the following criteria must be met:

1. Replacement or modification of equipment with an expenditure in excess of \$600,000.
2. Sale or lease of an existing facility with no change in services or beds.
3. Renovation of an existing facility up to \$1,000,000 that does not result in a change in existing services or beds.
4. A change of 10 licensed beds or 10 percent over a two year period whichever is less.
5. A cost overrun on an initially approved project.
6. Addition of non-medical equipment or purchase of land.
7. Addition of a new service in an existing facility that will not exceed \$600,000.

In order to qualify for an expedited review the project must not be a discrete portion of a larger capital expenditure or phased project.

An applicant proposing a capital expenditure which expenditure may be eligible for an expedited review must submit in writing to DPPE a request for an expedited review. After examination by DPPE a determination will be made whether to proceed with the expedited review process. If DPPE determines the expedited or full review process is applicable, the applicant shall be so notified in writing and provided with the necessary forms to begin the process.

#### REVIEW PROCEDURES

##### A. Notification Procedures

1. Any person, agency, organization or health care facility which proposes to make a capital expenditure subject to review under the provisions of Section 1122 of the Social Security Act should submit in writing to DPPE a request for such review. At any time during the review procedure should the contact person for the project change, it is incumbent upon the applicant to notify DPPE of such a change.

2. DPPE will promptly send to the applicant the necessary form(s) in addition to a copy of these policies and guidelines.

3. Upon receipt of the completed form(s), DPPE may make the following determinations:

- a. The project will require full review, or
- b. The project will require an expedited review, or
- c. The project is subject to elect not to review.
4. In the case of a full review being required:
  - a. DPPE will forward to the proponent a questionnaire and a list of those documents which will be considered in the review;
  - b. The applicant shall submit the application in triplicate to Division of Policy, Planning and Evaluation.
  - c. The staff of the DPPE shall review the application for completeness within 15 calendar days from date application is received by DPPE. If DPPE fails to mail within such period a written notice advising the applicant that the application is complete or additional information is needed, the application shall be deemed to be complete for the purpose of determining the period

of review. Failure of the applicant to respond and provide the information requested within 90 days shall be considered withdrawal of the application; and

d. The applicant may not incur an obligation in less than 60 days from the date the application was considered complete by DPPE. Incumbering an obligation prior to this 60 day time frame may subject the applicant to a timely notice penalty should the project subsequently be approved. Should approval be granted at any time prior to the end of the review period, an obligation may be entered into at that point.

##### B. Review Procedures

1. When DPPE determines that an application is complete, DPPE shall notify the applicant in writing that the period for review has begun. The review period will not exceed 90 days from the date of receipt of the application if it is declared complete. Or, in the case of an incomplete application, the period for review will not exceed 90 days from the date of receipt of the additional information (if it is determined the additional information completes the application) unless the applicant agrees to a longer period of time.

2. If additional or new information is submitted to DPPE after the review process has begun. DPPE will again deem the application complete or incomplete. If the additional information is allowed, the timetable must be adjusted so that DPPE has 90 days for project review after the receipt of the additional or new information.

3. When the application is determined complete by the DPPE, the DPPE shall issue a press release of its receipt of the completed application through local newspapers, public information channels and professional organizations. Publications to be used in required press releases should include the state journal, the major urban newspaper in the affected service area, the local newspaper in the impacted service area of the projects as specified by the applicant.

4. In the case of applications being subject to a full review as opposed to an election not to review or expedited review, on the third Wednesday of each month at 10 a.m., the director of the Division of Policy, Planning and Evaluation shall conduct a public hearing at Division headquarters. The purpose of this hearing will be to receive written (in duplicate) and oral comments on applications having been declared complete by the Division 15 days prior to the hearing date. Oral presentations shall be limited to an amount of time to be specified by the individual in charge of the hearing at the time of the hearing. The same amount of time will be allowed to those in favor and those opposed to the application. Comments shall be accepted on only those applications which have not previously been reviewed at public hearing. Notice of applications to be considered at each hearing shall be provided to interested parties and professional organizations requesting such notice at least five calendar days prior to each public hearing.

5. DPPE shall send copies of the application to the Division of Licensing and Certification (LIC) solely for review and comments.

6. Findings pursuant to Part B. 5 above shall be received by DPPE within 60 days after start of the review period (or later if mutually agreed upon). In the case of an application which specifies that an obligation to make the capital expenditure will be incurred 60 days after start of the review period, DPPE shall coordinate with LIC to establish a date by which comments will be received by DPPE. Such date should allow sufficient time for LIC review, as well as a period for consideration of those comments. Applicants may request a meeting with DPPE to discuss their application at any time during the course of the review.

7. The DPPE, after having consulted with and taken into consideration written public comments and the comments of LIC shall provide written notification to the proponent that: