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Executive Orders

EXECUTIVE ORDER DCT 82-8

EXECUTIVE ORDER DCT 82-7

WHEREAS, expenditures for property and casualty insurance constitute a significant portion of the expenditures of the State of Louisiana; and

WHEREAS, assuring a high degree of competency and expertise regarding the state programs, including the insurance program, is a major goal of the Treen administration; and

WHEREAS, input from knowledgeable sources outside of state government can help to insure that the taxpayers of Louisiana enjoy the benefits of proper coverage provided and fair and reasonable costs;

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, do hereby establish a State Insurance Study Committee within the Department of Commerce for the purpose of studying and making recommendations relative to the insurance program of the State of Louisiana as it pertains to property and casualty insurance on the property and liability exposure of the State of Louisiana.

Said study should include, but not be limited to, current state programs, property and casualty liability exposure, immunity limitation, methods of insuring the state's exposure, organization and functioning of the Office of Property and Casualty Insurance Administrator, and any other matter the committee may feel to be pertinent to the insurance program of the State of Louisiana.

The committee, whose members shall be appointed by the Governor and serve at his pleasure, shall be composed of the following:

1. One person not associated with the insurance industry, who shall represent the public at large;
2. One person who shall represent the Louisiana Bar Association;
3. One person who shall represent the Louisiana AFL-CIO;
4. One person who shall represent the Louisiana Association of Business and Industry;
5. Two persons who shall represent the Independent Insurance Agents of Louisiana;
6. Two persons who shall represent the American Insurance Association, the American Mutual Insurance Alliance and the National Association of Independent Insurers;
7. The chairman of the House Subcommittee on Legislative Oversight, or his designee; and
8. The chairman of the Senate Commerce Committee, or his designee.

The committee shall submit its findings, recommendations and suggested legislation to the Governor, the House of Representatives and the Senate prior to May 31, 1982.

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 14th day of April, A.D., 1982.

David C. Treen
Governor of Louisiana

WHEREAS, one of the most pressing concerns in the area of public health is the incidence of cancer in the nation; and

WHEREAS, the incidence of some cancers, particularly lung cancer, is higher in certain areas of the State of Louisiana than the national average for those cancers; and

WHEREAS, it is essential for the health and welfare of the people of the State of Louisiana that there be a better understanding of cancer, particularly its possible causes and possible corrective actions to prevent or lessen its incidence;

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, by virtue of the authority vested in me, pursuant to the Constitution and applicable statutes of the State of Louisiana, do hereby create the Governor's Task Force on Cancer. The Task Force shall consist of at least the following:

- 1) an epidemiologist, or an expert in medical statistics;
- 2) a toxicologist;
- 3) an oncologist;
- 4) an expert in industrial medicine;
- 5) a representative of the American Cancer Society and;
- 6) a representative of the Department of Health and Human Resources.

The Governor shall appoint the members of the Task Force and a chairman and vice-chairman.

The Task Force shall complete the following tasks:

1) conduct a comprehensive review and analysis of the existing scientific, epidemiological and medical data concerning cancer incidence and mortality rates in Louisiana, with particular attention to lung cancer; and

2) prepare a written report for the Governor providing the Task Force's findings and recommendations concerning the incidence of cancer in State of Louisiana, including an assessment of whatever information is available on possible corrective actions.

The Task Force may call on the resources of educational and research institutions, private industry, non-profit organizations, or any other organizations or individuals as may be appropriate for assistance in carrying out its responsibilities. The Governor, on behalf of the Task Force, may accept grants, donations or appropriations from public or private sources, to the extent permitted by state or federal law or regulations, which will aid the Task Force in the fulfillment of its responsibilities.

The appropriate departments of the State of Louisiana are hereby directed to provide the necessary technical and other assistance required by the Task Force to carry out its responsibilities. The Task Force may make recommendations to the Governor regarding the need for additional technical staff to assist the Task Force in the completion of its tasks, and the Governor, on the basis of those recommendations, may authorize the Task Force to hire technical staff.

The Task Force shall report its findings to the Governor not later than one year after the issuance of this Executive Order.

The Task Force shall be organized under the Office of the Governor and shall terminate on July 31, 1983, unless otherwise extended by the Governor.

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 City of Baton Rouge, on this the 16th day of April, A.D., 1982.

David C. Treen
Governor of Louisiana

EXECUTIVE ORDER DCT 82-9

WHEREAS, there are growing complaints that the civil service laws under which Louisiana municipalities must operate hamper effective personnel management; and

WHEREAS, any changes in the civil service laws governing municipalities must be made by the State Legislature; and

WHEREAS, it is evident that a review of the civil service laws affecting municipalities is needed;

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, do hereby create the Task Force on Municipal Civil Service Laws.

This task force shall examine the state's civil service laws as they affect municipalities, review any problems that might now exist, and make recommendations, including proposed legislation, to the Governor.

The Governor shall appoint the members of the task force, and the membership shall include municipal officials of the State of Louisiana. The Governor shall appoint the chairman and vice-chairman of the task force.

BE IT FURTHER RESOLVED, the task force shall be organized under the Office of the Governor and shall terminate on July 31, 1983, unless otherwise extended by the Governor.

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 27th day of April, A.D., 1982.

David C. Treen
Governor of Louisiana

Emergency Rules

DECLARATION OF EMERGENCY

Department of Commerce Racing Commission

This is to advise that this Commission pursuant to the authority contained in R.S. 49:953 B adopted emergency rule (LAC 11-6:57 et seq) and repealed its rule (LAC 11-6:23.11) which conflicts. The Commission at its meeting on April 16, 1982, by unanimous resolution made a finding that the public welfare required the adoption of a Rule of racing to provide for the exclusion and ejection of certain categories of persons from the grounds of a racing association. Further that Act 779 of 1981 mandates that this Commission adopt such a Rule. And pursuant to R.S. 4:141 et seq, and particularly, R.S. 4:142 stating the legislative purpose of the racing statute, it is incumbent on the Louisiana State Racing Commission to adopt a Rule of racing so as to place under its control and jurisdiction the exclusion and ejection from the grounds of a racing association certain categories of people.

LAC 11-6:23.11 is repealed to remove a conflict between the time period for reporting ejections to the Commission - 24 hours - and the time period established in the new Rule, three days.

A complete text of LAC 11-6:57 may be found on Page under Rules.

S. M. Delaney
Secretary

DECLARATION OF EMERGENCY

Southern University Board of Supervisors

The Southern University Board of Supervisors on April 24, 1982 exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953B, to adopt the following as an Emergency Rule:

Effective May 24, 1982 the following schedule of fees for Summer School at the Southern University School of Law will be in force: Three credit hours, tuition \$80; Law Library \$5; Out-of-State Fee \$202 for a total of \$287. Six hours credit, tuition \$140; Law Library \$5; Out-of-State Fee \$202 for a total of \$347.

This action was taken in order to have in place fees for the initial Summer School Session which begins May 24, 1982.

Jesse N. Stone, Jr.
Secretary to the Southern
University Board of Supervisors

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Licensing and Regulation

The Department of Health and Human Resources, Office of Licensing and Regulation, does hereby exercise the emergency provision of the Administrative Procedure Act (R. S. 49:953 B) to adopt, effective May 22, 1982 the following policies and guidelines for Section 1122, Capital Expenditures Review. These policies and guidelines are adopted in accordance with mandate of 42 CFR Part 100.106 (a) (1) (38 FR 31381, November 1973 as amended at 39 FR 32030, September 4, 1974).

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.

Responsible Agency

The state agency designated to carry out the provisions of this law in Louisiana is the Division of Health Planning and Development (DHPD), which is the state agency organized under P.L. 93-641.

Other Agencies

In making its review of proposed capital expenditures DHPD will consult the Division of Licensing and Certification and any other appropriate state agency.

Facilities Included

For the purpose of this 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.

Expenditures Covered

Capital Expenditures covered are those which are not properly chargeable as expenses of operation and maintenance and which (1) exceed \$100,000 or (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 DHPD for an official determination.

When making a determination of the total amount of any capital expenditure discussed herein, DHPD 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. DHPD should be contacted for a determination of applicability and assistance in computing amounts subject to Section 1122 review.

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

2. The statute 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.

Election Not to Review

The Division of Health Planning and Development may, at its option, elect not to review certain proposed capital expenditures which have been determined to be subject to review under Section 1122 of the Social Security Act. A decision to elect not to review shall be equivalent to a determination by DHPD that such expenditure is in conformity with applicable standards, criteria or plans.

In order to be eligible for election not to review, a proposal must meet all of the following criteria:

1. There will be no substantial change in services offered by the health care facility as a result of the proposed expenditure, except that proposals which substantially change a facility's services but cost less than \$100,000 may be considered for election not to review.

2. Proposals for the addition of beds will be considered for election not to review on a case-by-case basis, providing the addition can be undertaken in a manner consistent with cost-effectiveness and good quality of care. A full review will be required when (a) the proposed expenditure exceeds \$100,000 or (b) the bed complement of the facility will be increased by more than 10 percent of the total number of licensed beds.

3. Total costs of the proposal do not exceed \$1,000,000,

except that proposals for the replacement of existing medical equipment, for the acquisition of non-medical equipment, for construction and/or renovations to achieve compliance with life safety codes or for the acquisition of a health care facility through purchase, lease or comparable arrangement will be considered for election not to review on case-by-case basis.

4. The proposed expenditure is not a discrete component of a larger capital expenditure or a part of a phased project, the total cost of which would disqualify that proposal from election not to review according to the criteria set forth in this section.

DHPD may, at its option, subject any proposal to full review, including proposals which meet all of the above criteria.

A person 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, should submit in writing to DHPD notice of intent to make the capital expenditure. After examining the information contained in such notification, and any additional information DHPD may request, a determination will be made by DHPD whether or not to elect not to review the proposed expenditure.

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

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 request an application from DHPD.

2. DHPD will promptly send a copy of this booklet and a questionnaire to the applicant.

3. The applicant should fill out the questionnaire in coordination with DHPD. When ready for submittal for review, the applicant must provide three copies of the application to DHPD. All copies submitted must be identical.

4. An application must be received by DHPD and determined to be complete at least 60 days prior to the date upon which the applicant expects to incur an obligation to make the expenditure. If DHPD determines that the application is incomplete, the applicant will be notified within 15 days of additional information needed.

5. The applicant must provide additional information as requested in Part A. 5., above, again with the provision that requested information be received by DHPD at least 60 days prior to the expected date of obligation to make the expenditure.

B. Review procedures

6. The review period will not exceed 90 days unless the applicant agrees to a longer time period. The review period will begin upon receipt by DHPD of a complete application. Procedures governing incomplete applications are found in Part A. 5. and A. 6. above.

7. DHPD will issue a press release of its receipt of the complete application.

8. DHPD will send copies of the application to the Division of Licensing and Certification and any other state agency deemed appropriate by DHPD.

9. The Division of Licensing and Certification and other state agencies from which comments have been requested will review the application and send their recommendations to DHPD.

10. Findings and recommendations pursuant to Part B. 11 above will be received by DHPD no later than 60 days after start of the review period. 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, DHPD will coordinate with the Division of Licensing and Certification to establish a date by which

findings and recommendations will be received by DHPD. Such date should allow sufficient time for the Division of Licensing and Certification review, as well as a period for consideration of those findings and recommendations by DHPD.

11. DHPD will then complete the review and send its findings and recommendations to the applicant, the Secretary of DHEW, the Division of Licensing and Certification, and the Secretary of the Department of Health and Human Resources of Louisiana. This step shall be completed not more than 90 days after the date DHPD has received the completed application unless the applicant has indicated an earlier date for obligation of the expenditure. However, a minimum of 60 days must be allotted for completion of the review. At an applicant's request or concurrence, the review period may be for a longer period of time as agreed.

12. DHPD will issue a news release of the final finding.

C. Appeal procedures

13. In the case of a negative recommendation by DHPD, the applicant may request an appeal, which request must be made in writing and received by DHPD within 30 days after the applicant has received notice in writing of the notice of disapproval.

14. DHPD will notify the Hearing Officer for the State of Louisiana who is responsible for conduct of the appeal hearing.

15. The Hearing Officer will select a hearing date and notify DHPD, and the hearing shall be commenced within 30 days after receipt of the request for a hearing by the applicant (or later, at the option of the person requesting the hearing).

16. DHPD will notify the applicant of the hearing date.

17. DHPD will issue a news release of the hearing.

18. As soon as possible, but not later than 45 days after the conclusion of the hearing, the Hearing Officer will notify the applicant, DHPD and the Regional Health Administrator (DHEW) of the appeal decision.

19. DHPD will issue a press release of the appeal decision.

Evidence of Obligation; Termination of Approval.

Evidence of obligation to make the capital expenditure must be received by DHPD within one year after approval of the project, or the approval will expire.

As provided in the regulations, the one year approval period may be extended for up to six months at the discretion of DHPD.

A progress report to DHPD on the project is required six months after approval.

As provided in the regulations, an obligation to make a capital expenditure shall be incurred not more than one year following the date of approval. An obligation shall be deemed to have been incurred by or on behalf of health care facility or health maintenance organization:

a. When an enforceable contract is entered into by such facility or organization or by a person proposing such capital expenditure on behalf of such facility or organization for the construction, acquisition, lease or financing of a capital asset; or

b. Upon formal internal commitment of funds by such facility or organization for a force account expenditure which constitutes a capital expenditure; or

c. In the case of donated property, the date on which the gift is completed in accordance with applicable Louisiana law.

It is the sole responsibility of the proponent to keep DHPD informed of its progress during the one year approval period and to submit documentary evidence as proof that at least one of the above conditions has been fulfilled. The following conditions have been established regarding the acceptance of certain documents as proof of an obligation.

a. In the case of a construction contract, such document must be fully consummated and filed with a local clerk of court's office in accordance with applicable state law.

b. In the case of a purchase or lease arrangement, a purchase or lease agreement signed by lessor and lessee must be submitted.

c. In the case of a financial commitment, such commitment must be a documented binding commitment from a lending institution for permanent or interim financing accompanied by an acceptance signature from the proponent. (Loan guarantees do not fulfill the requirements set forth above).

d. In the case of bonds, an obligation is deemed to have been incurred whenever the bonds have been approved for sale or issuance by either an election or board action of an official public body acting on behalf of a health care facility.

Effect of Negative Recommendation

If DHPD recommends that the capital expenditure not be made, the Secretary of DHHS shall, in determining the Federal payments to be made under Titles XVIII and XIX of the Social Security Act to the health care facility, ordinarily exclude certain expenses related to such capital expenditure. However, if the Secretary, after submitting the matters involved to the National Advisory Council on Health Planning and Development and after taking into consideration the recommendations of DHPD and other reviewing agencies, determines that an exclusion of expenses for a capital expenditure would discourage the operation or expansion of a health care facility (or any facility of such an organization) which has demonstrated capability to provide comprehensive health care services efficiently, effectively, and economically or would otherwise be inconsistent with the effective organization and delivery of health services or the effective administration of Titles XVIII and XIX, he shall include such expenses in Federal payments under such titles.

Effect of Failure to give Timely Notice of Proposed Expenditure

When DHPD has good cause to believe that an obligation for a capital expenditure has been incurred by or on behalf of a health care facility and that timely notice of at least 60 days was not provided, DHPD shall send written notification to such health care facility, the Secretary, and all other agencies deemed appropriate by DHPD of a proposed finding that an obligation for a capital expenditure subject to review has been incurred and that timely notice was not provided. Procedures for processing such a finding shall be according to Section 100.108 (a) of the regulations, and the policy on lack of timely notice as published January 26, 1977, in the *Federal Register*, Vol. 42, No. 17.

Reconsideration of Disapproved Projects

In the case of disapproved project, the applicant will be entitled to a reconsideration by DHPD of its finding: (a) whenever there is a substantial change in existing or proposed health facilities or services of the type proposed in the area; or (b) upon a substantial change in the need for facilities or services of the type proposed in the area; or (c) at any time following the expiration of three years from the date of the finding of DHPD or of its last reconsideration of such finding pursuant to this paragraph, whichever is later.

If DHPD finds, after such reconsiderations, that the facilities or services provided by the capital expenditure involved are in conformity with the applicable standards, criteria, or plans, and so notifies the Secretary of DHEW, the Secretary will include, in determining future payments under Titles XVIII, and XIX, expenses related to such capital expenditure. However, *such expenses will be included only for payments following the date of notification* to the Secretary by DHPD of its reconsideration.

Criteria for Section 1122 Reviews

In making recommendations concerning projects reviewed under Section 1122 of the Social Security Act, the review body or agency at each level designated in the review process shall consider, but not be limited to, the following criteria, as required under P.L. 93-641 and implementing rules and regulations:

I. The relationship of the health services being reviewed to the

applicable Health Systems Plan and Annual Implementation Plan and the State Health Plan adopted pursuant to the provisions of P.L. 93-641.

II. The relationship of services reviewed to the long range development plan (if any) of the person providing or proposing such services.

III. The need that the population served or to be served by such services has for such services.

In considering the need for a proposed project, DHPD will review, but not be limited to, the following information:

A. The availability of similar facilities, services and institutional beds within the service area, including but not limited to:

1. Number of similar facilities, services and beds in the service area.

2. Ratio of institutional beds to the population, as a whole and where appropriate, to age groups.

3. Comparison of service area bed ratio with other health service areas in the state and other relevant areas.

4. Distribution of institutional beds, services, and facilities within the area.

B. Accessibility of the target population of the proposed project to existing and proposed facilities and services. (This would include physical and financial accessibility.)

C. Measures of utilization of existing facilities and services:

1. Admission rates per 1,000 persons.

2. Occupancy rate: $\frac{\text{Average Daily Census}}{\text{Number of beds}}$

3. Length of stay (average): $\frac{\text{Census X 365}}{\text{Annual Admissions}}$

4. Other appropriate utilization material.

D. Projects of utilization.

E. A delineation of the proposed service area.

F. Various projections of bed need.

G. The projected population growth or lack of growth of the proposed service area.

IV. The availability of alternative, less costly, or more effective methods of providing such services.

A. Potential availability of such services.

V. The immediate and long term financial feasibility of the proposal.

VI. The relationship of the services proposed to be provided to the existing health care system of the area in which such services are proposed to be provided.

DHPD will review, but not be limited to, the following information:

A. Documentation of coordination and/or linkage agreements between the applicant and existing or planned health care institutions and/or providers within the service area.

VII. The availability of resources (including health manpower, management personnel, and funds for capital and operating needs) for the provision of the services proposed to be provided and the availability of alternative uses of such resources for the provision of other health services.

DHPD will review, but not be limited to, the following information regarding Health Care staffing:

A. Physicians

a. Availability in the service area

b. Projected availability in the service area

B. Nursing Personnel

a. Availability in the service area

b. Projected availability in the service area

c. Adequacy of proposed staffing according to required standards

C. Management and Other Personnel

a. Availability in the service area

b. Projected availability for the proposal

VIII. The relationship, including the organizational relationship, of the health services proposed to be provided to ancillary or support services.

IX. The special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas. Such entities may include medical and other health professionals schools, multidisciplinary clinics, and speciality centers.

X. The special needs and circumstances of health maintenance organizations for which assistance may be provided under Title XIII of the Act.

XI. The special needs and circumstances of biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantage.

XII. In the case of a construction project —

A. The cost and methods of the proposed construction, including the costs and methods of energy provision; and

B. The probable impact of the construction project reviewed on the cost of providing health services by the person proposing such construction project.

The criteria adopted for reviews in accordance with the above may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed.

PLEASE BE ADVISED: An approval issued in accordance with Section 1122 of the Social Security Act in no way relieves an applicant of responsibility for fulfilling other state and/or federal requirements.

Notification of intent to make a capital expenditure subject to Section 1122 review should be addressed to the Division of Health Planning and Development. Also, questions in regard to applicability of Section 1122 to proposed expenditures or in regard to statewide review policies and procedures should be directed to Murray A. Forman, Director, Division of Health Planning and Development, 333 Laurel Street, Second Floor, Baton Rouge, Louisiana 70801.

Roger P. Guissinger
Secretary

Rules

RULE

Department of Civil Service

Commission on Ethics for Public Employees

CHAPTER 1 DEFINITIONS

In addition to the definitions contained in the Code, the following words, terms or phrases, when used in these Rules, shall have the following meanings:

1.1 "Fact-finding" shall be the process, initiated by the Commission whereby the staff under supervision of the Executive Secretary causes preliminary information to be gathered on matters referred to the Commission so that proper disposition can be made by the Commission.

1.2 "Executive Secretary" shall mean the chief administrative and executive officer appointed by the Commission pursuant to the provisions of Section 1134 (2) of the Code, who shall additionally serve as an Assistant Attorney General designated by the Attorney General to serve as counsel to the Commission.

CHAPTER 2 COMPLAINTS AND FACT-FINDING

2.1 Complaints.

The Executive Secretary shall cause the date of receipt to be noted on each complaint. The complaint shall be deemed filed upon the Commission's initial consideration of same at a convened meeting. A docket shall be maintained upon which each complaint shall be given an appropriate title and docketed in the order filed.

2.2 Fact-finding.

The Commission may refer to fact-finding any matter warranting Commission consideration including any request for an advisory opinion. When the fact-finding concerns a particular individual or person, the individual or person shall be given written notice prior to commencement of said fact-finding.

CHAPTER 3 HEARINGS

3.1 Sequestration of Witnesses.

The Commission, on request of any party, or on its or his own motion, may order that the witnesses in any hearing be sequestered so as to preclude any witness, other than the parties and their attorneys, from hearing the testimony of any other witness.

3.2 Subpoena of Witnesses: Production of Documents.

(a) The Commission, the Executive Secretary, and any specially designated agent of the Commission, shall have power to order the appearance of witnesses and to compel the production of books and papers pertinent to the issues involved in any public hearing, provided such witnesses and such books and papers are within the State.

(b) Any respondent desiring the issuance of a subpoena for any witness at a public hearing must apply for it in writing at least ten days before the date fixed for the hearing, must give the name and address of the witness to whom the subpoena is to be directed, and must state the reasons that the testimony of the witness will be material and relevant.

(c) In lieu of the issuance and service of formal subpoenas to State employees, the Commission or any person authorized by Sub-section (a) of this Rule may request any agency to order any designated employee under its supervision to attend and testify at any public hearing; and upon being so ordered the employee shall appear and furnish testimony.

(d) Any respondent desiring the production of books, papers, photographs, or other items at any public hearing must apply for an appropriate order in writing at least ten days before the date fixed for the hearing. Such application must describe the books or papers to be produced in sufficient detail for identification, must give the full name and address of the person required to make such production, and the materiality of their production to the issues must be certified to by the respondent or his counsel.

(e) Authentic copies of books, papers, photographs, or other items in the custody of any agency of the State or any subdivision thereof which have been subpoenaed may be admitted in evidence with the same effect as the originals, but if original books, papers, photographs, or other items are subpoenaed they must be produced and made available for inspection even though authentic copies may be subsequently introduced.

(f) The Commission or its Chairman, may, for cause deemed sufficient by it or him, issue an appropriate order at any time recalling any subpoena, subpoena duces tecum, or request

issued by it or him under the provisions of this Rule. The respondent may likewise obtain an order from the Commission recalling any subpoena duces tecum, or request issued or caused to be issued by him.

3.3 Consolidation of Public Hearing.

When public hearings of two or more respondents involve similar or related circumstances, the Commission may order a joint hearing of all respondents or may order separate hearings for specified respondents.

3.4 Transcripts of Public Hearings.

The proceedings of all public hearings shall be recorded, but shall be transcribed only upon order of the Commission or upon request made by a respondent therein, accompanied by proffer of such cost as may be reasonably determined by the Executive Secretary.

3.5 Witness Fees in Public Hearings.

(a) The travel expenses of an officer or employee of a State agency who is required to appear before the Commission shall be paid by the agency which employs him.

(b) The Commission may order that any person who is not an officer or employee of a State department and who is subpoenaed to testify at a public hearing shall be entitled to the same mileage fees as are allowed witnesses in civil cases by the Nineteenth Judicial Court for the Parish of East Baton Rouge, said to be paid by the Department of Civil Service, subject to fiscal limitations.

(c) If a witness is subpoenaed by a respondent, the Commission may order the same cost of witness fees and mileage to be paid by such respondent.

(d) The Commission and any person authorized to issue a subpoena may, before doing so, require the party requesting the subpoena to deposit with the Secretary a sum sufficient to cover the mileage costs and witness fees pending a determination of costs by the Commission.

3.6 Motions.

Motions may be filed by counsel for the Commission, or by the respondent in proper person or through counsel or by any other interested party but must be filed within five days of the day when the motion is sought to be heard, except for good cause as determined by the Commission.

CHAPTER 4 DEPOSITIONS AND DISCOVERY

4.1 Discovery procedures for hearings conducted by the Commission shall be as follows:

Any public employee or other person who has been notified that he is to be the subject of a public hearing pursuant to the provisions of LSA - R.S. 42:1141 D, shall be entitled to the following if written request to the Executive Secretary is made at least 15 days prior to the date of the scheduled hearing:

(a) A certified copy of the transcript of the private hearing pursuant to Section 1141 D(1) of the Code, in the event there was such a private hearing.

(b) A certified copy of the respondent's testimony given in connection with a private investigation, if there was not a private hearing.

(c) The name and address of each individual that the staff of the Commission has interviewed or intends to call at the proposed hearing, together with any written statements obtained by the staff from such persons.

(d) A copy of each physical document that the Commission's staff intends to introduce before the Commission at the proposed hearing.

(e) The right to take depositions on oral examination or through written interrogatories and pursuant to the provisions of applicable Code of Civil Procedure Articles, to the extent practicable.

able, of those persons whose name and address has been furnished to the respondent pursuant to the provisions of Subparagraph (c) above, and, provided further, that the taking of said depositions does not unreasonably impede the scheduled hearing.

CHAPTER 5 DISQUALIFICATION PURSUANT TO THE PROVISIONS OF SECTION 1112 C OF THE CODE.

5.1 Every public employee, excluding an appointed member of any board or commission, shall disqualify himself from participating in a transaction involving the governmental entity when a violation of Section 1112 of the Code would result.

5.2 A Every public employee, except an agency head immediately upon determining that he may be compelled to participate in a transaction involving the governmental entity in violation of Section 1112 of the Code, shall immediately and prior to such participation report the details of the transaction, in writing, (a) to his immediate supervisor, (b) to his agency head, and (c) to the Commission.

5.2 B Every agency head, immediately upon determining that he may be compelled to participate in a transaction involving the governmental entity in violation of Section 1112 of the Code, shall immediately and prior to such participation report the details of the transaction, in writing, to his appointing authority and to the Ethics Commission.

5.3 Upon receipt of such written communication from the public employee, the immediate supervisor of the public employee as well as the agency head (or appointing authority, if applicable) shall immediately and prior to such participation by the public employee provide the Commission, in writing, with a report concerning the impact on the efficient operation of the governmental entity of the potential participation by the public employee and shall provide the Commission with reports as to alternative measures available to the public employee to prevent participation in the prohibited transaction.

5.4 The public employee shall refrain from participating in the potential transaction until such time as the Commission has, in writing, provided the public employee, his immediate supervisor, and his agency head with instructions as to the procedure to avoid participation in the prohibited transaction.

R. Gray Sexton
Executive Secretary

RULES

Department of Commerce Board of Commerce and Industry

The Louisiana Board of Commerce and Industry, pursuant to the authority contained in Louisiana Revised Statutes 47:305.31, and in accordance with the Notice of Intent published on January 20, 1982, adopted the following Rules at its regular meeting on February 24, 1982:

SALES AND USE TAX EXEMPTION ON ENERGY CONSERVATION PROPERTY

RULES AND REGULATIONS

Adopted Pursuant to L. R. S. 47:305.31

RULE 1. Use of Louisiana Contractors, Labor and Supplies

The Board of Commerce and Industry requires manufacturers and their contractors to give preference and priority to Louisiana manufacturers and, in the absence of Louisiana manufacturers, to Louisiana suppliers, engineers, contractors, and labor, except where not reasonably possible to do so without added expense or substantial inconvenience or sacrifice in operational efficiency. In considering applications for tax exemption, special

attention will be given to those applicants agreeing to use, purchase and contract for machinery, supplies and equipment manufactured in Louisiana, or, in the absence of Louisiana manufacturers, sold by Louisiana residents, and to the use of Louisiana engineers, contractors and labor in the construction and operation of proposed tax exempt facilities. It is a legal and moral obligation of the manufacturers receiving exemptions to favor Louisiana manufacturers, suppliers, contractors, and labor, all other factors being equal.

RULE 2. Manufacturing Establishment Defined

The Board of Commerce and Industry will consider applications only on modification to, replacement of, or conversion of facilities, processes, or items of equipment at manufacturing establishments that were in operation prior to July 18, 1981. A manufacturing establishment as used herein is an establishment which engages in the business of working raw materials into wares suitable for use of which gives new shapes, qualities or combinations to matter which already has gone through some artificial process.

RULE 3. Energy Conservation Property Defined

"Energy Conservation Property" means tangible property used or held for use, as an integral part of a modification to, or replacement of, all or part of an existing electrical generation, manufacturing, production, or extraction facility, process or item or equipment, but only if such modification or replacement either results in:

- (a) the utilization by such facility, process or item or equipment of less energy per unit of output, or
- (b) the conversion of such facility, process or item of equipment to permit the use of an alternate substance as a fuel or as a feedstock.

Property shall be considered to be an integral part of a modification or replacement otherwise described in this Rule only if such property either directly results in a utilization or conversion described in this Rule or is part of, physically attached to, or otherwise directly associated with such property. For purposes of this Rule, any property, the installation of which is reasonably necessary for the proper installation, operation, or maintenance of property which directly results in a utilization or conversion described in this Rule, shall be considered as directly associated with such property.

RULE 4. Existing Facility, Process, Item of Equipment Defined

Existing facility, process, or item of equipment shall mean:

- (a) when used in connection with a facility, a facility which is in operation prior to July 18, 1981
- (b) when used in connection with a process, a process which was carried out prior to July 18, 1981
- (c) when used in connection with equipment, such equipment was placed in service prior to July 18, 1981

RULE 5. Alternate Substance Defined

Alternate substance means any substance other than:

- (a) oil and natural gas
- (b) any product of oil and natural gas
- (c) any form of energy generated or produced from the use of oil and natural gas.

Petroleum coke, waste gases, and waste heat from industrial operations shall be treated as alternate substances.

RULE 6. Computations to Determine Energy Saving Per Unit of Output

The determinations required by Rule 3(a) shall be made by comparing the BTU's of oil and natural gas, or energy, used by the facility, process, or item or equipment per unit of output prior to the modification or replacement, with the BTU's of oil and natural gas, or energy, used by such facility, process, or item of equipment per unit of output upon completion of modification or replacement. With respect to electricity, a heat rate of ten thousand BTU's per kilowatt hour shall be used.

The total energy saved per year shall be determined by multiplying the units of output of such manufacturing establishment or public utility for the year preceding the year in which property is acquired or replacement or modification begins by the BTU's per unit of output which will be saved.

RULE 7. Qualifying Projects

No application will be considered for exemption by the Board of Commerce and Industry unless the total energy saved per year is projected to be greater than 30 billion BTU's under Rule 3(a) or the project will permit the use of an alternate substance as fuel or feedstock under Rule 3(b).

RULE 8. Time Limits for Filing of 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.

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

(c) The Board will accept applications for tax exemption on qualifying projects for services and materials on which sales or use tax became due after July 18, 1981 if the application is filed within 45 days after the application forms become available.

A cutoff date for processing applications to be considered for exemption is three weeks prior to the Board meeting.

RULE 9. Issuance of Certificate of Exemption

Upon approval of the application by the Board of Commerce and Industry, a notification shall be sent to the Department of Revenue and Taxation which shall issue a Certificate of Exemption to the applicant.

RULE 10. Sales Tax Refund

The certificate of exemption will formally notify the applicant of the action of the Board of Commerce and Industry in approving the tax exemption on the specific project, but will not authorize the applicant to make tax-free purchases from vendors. The tax exemption will be effected through issuance of tax refunds by the Department of Revenue and Taxation.

Refunds will be secured by the filing of affidavits for each calendar month with the Department of Revenue and Taxation, Sales Tax Section, which must include the following:

(1) a listing of purchases, made during the month, of movable property that is intended to be used as "energy conservation property" in the approved project. The listing must include a brief description of each item, the name of the vendor, date of the sale, sales price and the amount of 3 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 has contracted with the owner to provide materials and services for the project.

(2) a certification that the materials included in the listing are reasonably expected to qualify upon completion of the project as "energy conservation", as the term is defined in the statute.

(3) a certification that the sales/use tax has actually been paid on the items included in the listing.

The affidavits may be filed on official Department of Revenue and Taxation "Claim for Refund" forms or on other forms prepared by the applicant. After the Department of Revenue and Taxation has verified the information on the application, a refund check will be issued for the amount of state sales and use tax paid.

RULE 11. Affidavit of Energy Saved

Not later than 12 months after completion of a modification or replacement described in Rule 3(a), the applicant shall submit an Affidavit of Energy Saved on the prescribed form together with such evidence as the Board, in consultation with the Department of Natural Resources, shall require to establish to the satisfaction of

the Board that property on which sales and use tax has been exempt is energy conservation property.

RULE 12. Failure to Qualify

Should the Board determine the project failed to meet the requirement of energy conservation property or is in violation of any Board Rules, the Board will advise the taxpayer the project does not qualify. The taxpayer shall remit any and all taxes that would have been imposed but for the issuance of a certificate. If any portion of the untaxed materials, originally intended for use on the eligible project, are actually used for some other purpose, the taxpayer shall be liable for remittance of the sales/use tax on those purchases.

RULE 13. No Action After December 31, 1989

The Board will consider no application for tax exemption for any sales, use, or lease taxes incurred by a manufacturing establishment or public utility after December 31, 1989.

Rex M. Shearer

Director, Financial Incentives Division

RULES

Department of Commerce Office of Commerce and Industry

The Secretary of the Department of Commerce, pursuant to the authority contained in R.S. 51:1786 A(6) adopts the following Rules:

RULE FOR ACT 901 ENTERPRISE ZONE

RULE 1 Use of Louisiana Manufacturers and Suppliers

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 Endorsement Resolution

The request for such exemption must be accompanied by an endorsement resolution approved by the governing body of the appropriate municipality, parish, port district, or industrial development board in whose jurisdiction the establishment is to be located.

RULE 3 Documentation of Location

The business must document its location within the boundaries of a particular Enterprise Zone.

RULE 4 Qualified Employees - Urban Zones

A business located in an urban Enterprise Zone and receiving the benefits of this Chapter must certify that at least 35 percent of its employees:

(a) Are residents of the same or a contiguous Enterprise Zone as the location of the business; or

(b) Were receiving some form of public assistance prior to employment; or

(c) Were considered unemployable by traditional standards, or lacking in basic skills; or

(d) Any combination of the above. Such certification must be updated annually if the business is to continue receiving the benefits of this Chapter.

RULE 5 Qualified Employees - Rural Zones

A business located in a rural Enterprise Zone and receiving the benefits of this Chapter must certify that at least 35 percent of its employees:

(a) Are residents of the same parish as the location of the business; or

(b) Were receiving some form of public assistance prior to employment; or

(c) Were considered unemployable by traditional standards, or lacking in basic skills; or

(d) Any combination of the above. Such certification must be updated annually in order for the business to continue receiving the benefits of this Chapter.

RULE 6 Branch Operations

Multi-location businesses will qualify provided that the branch located within an Enterprise Zone is treated as a separate entity for sales tax and income tax if a partnership or sole proprietorship. For a corporate multi-location business to qualify, the business location within the Enterprise Zone must be established as a separate legal corporation.

RULE 7 Arbitrary Termination of Employees

The Board will not accept an application from a business which has arbitrarily terminated employees and hired others in order to qualify for the benefits of this program.

RULE 8 Items Eligible For Sales and Use Tax Exemption

Only material used in the construction of a building, or any addition or improvement thereon, for housing any legitimate business enterprise, and machinery and equipment used in that enterprise will be considered eligible for exemption from sales and use tax.

RULE 9 Filing of Applications

The applicant shall submit an application, on the required form for the exemptions from taxes allowed under this act to the Office of Commerce and Industry together with the certifications required under Rule 4 and 5. The Office of Commerce and Industry shall verify the information given in the applications.

RULE 10 Recommendations of the Secretaries of Commerce and Revenue and Taxation

The Office of Commerce and Industry shall forward the application with their recommendations to the Secretary of Commerce and the Secretary of Revenue and Taxation for their review. Within 30 days after the receipt of the application the Secretaries of Commerce and Revenue and Taxation shall submit their recommendations in writing to the Assistant Secretary of the Office of Commerce and Industry.

RULE 11 Application Shall Be Presented to the Board of Commerce and Industry

The Office of Commerce and Industry shall present an agenda of applications to the Board of Commerce and Industry with the written recommendations of the Secretaries of Commerce and Revenue and Taxation and the endorsement resolutions outlined in Rule 2 and shall make recommendations to the Board based upon their findings.

RULE 12 Board of Commerce and Industry Shall Enter Into Contract

Upon approval of the application, the Board of Commerce and Industry shall enter into contract with the applicant for exemptions of the taxes allowed by R.S. 51:1781-1789. The contract shall be for five years and can be renewed for one additional five year period. A copy of the contract shall be sent to the Department of Revenue and Taxation.

RULE 13 Refund on Sales and Use Tax Paid

The contract will not authorize the applicant to make tax-free purchases from vendors. The tax exemption for state sales and use taxes will be effected through issuance of tax refunds by the Department of Revenue and Taxation.

Refunds will be secured by the filing of affidavits for each calendar month with the Department of Revenue and Taxation, Sales Tax Section, which must include the following:

(1) A listing of purchases made during the month of movable property that is intended to be used on the Enterprise Zone project and the contract number of the project. The listing must

include a brief description of each item, the vendor's name, date of the sale, sales price and the amount of 3 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 has contracted with the owner to provide materials and services for the project.

(2) A certification that the materials included in the listing are reasonably expected to qualify upon completion of the project for the exemption under provision of the statute.

(3) A certification that the sales and use tax has actually been paid on the items included in the listing.

The affidavit may be filed on official Department of Revenue and Taxation "Claim for Refund" forms or on other forms prepared by the applicant. After the Department of Revenue and Taxation has verified the information on the application, a refund check will be issued for the amount of state sales and use taxes paid.

Local sales and use tax exemptions will be handled in the manner prescribed by the local taxing authority.

RULE 14 Contractees Must File State Franchise and Income Tax Returns

(a) Corporations organized for the purpose of locating within an urban Enterprise Zone and qualifying for exemption from corporation 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 has not been granted. Each form and return should have a certification attached stating the Corporation is exempt from income and franchise taxes and give the contract number of their exemptions, date contract approved and expiration date.

Partnerships and sole proprietorships shall file the same returns as would be required if the exemption had not been granted. In addition, each return must include a profit and loss statement for the business located in the Enterprise Zone.

(b) Contractees qualifying for the \$2,500 tax credit per new employee employed in the business located in the rural Enterprise Zone shall file the same required forms and returns with the Department of Revenue and Taxation as would be required if no credit were due.

Each yearly return will have the contract number of the exemption and a certification attached showing the annual increase in employment as determined by the company's average annual employment reported to the Office of Employment Security and the unused credits from previous years. If total tax credits are less than the total credit, remittance in the amount of the difference must be enclosed with the return.

RULE 15 Violations of Rules, Statutes, or Documents

On the Board of Commerce and Industry initiative or whenever written complaints on violations of terms of tax exemption rules, documents or the statute is received, the Assistant Secretary of the Office of Commerce and Industry shall cause to be made 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 pertinent records or other information from the contractors. If the investigation substantiates a violation, he may present the subject contract to the Board for formal cancellation. The contractee shall remit any and all taxes that would have been imposed but for the issuance of a contract.

RULE 16 Affidavits Certifying Eligibility Filed Annually

On January 1 of each year, the contractee will file an affidavit with the Office of Commerce and Industry certifying that the business still qualifies under Rule 5. If the affidavit shows the company no longer qualifies under this Rule, the Board of Commerce and Industry shall cancel the contract and no further exemptions will be granted. Department of Commerce will notify the Department of Revenue and Taxation within 30 days after revoca-

tion of contract.

RULE 17 Renewal of Tax Exemption Contract

The initial period of tax exemption is limited to five calendar years. If renewal for an additional five calendar year period is desired, an application must be filed on prescribed forms with the Office of Commerce and Industry at least 90 days before the expiration of the original contract. Upon showing compliance with the contract for exemption and the statute, the Board of Commerce and Industry may renew the contract for an additional five years.

F. Ben James, Jr.
Secretary

RULE

Department of Commerce Office of Financial Institutions

PROPOSED VARIABLE RATE REGULATIONS

Under authority granted by R.S. 6:25.1 and by R.S. 9:3554B, the Commissioner of Financial Institutions issues the following Regulation under which banks, savings and loan associations, other supervised financial organizations, and licensed lenders are authorized to make, purchase or participate in loans bearing simple interest from date on a variable rate basis. The following Regulation on variable rate loans is promulgated by the Commissioner of Financial Institutions.

Rule

Pursuant to R.S. 6:25.1 (Act 640 of 1981) and R.S. 9:3554B, banks, savings and loan associations, other supervised financial organizations, and licensed lenders are hereby authorized to make, purchase or participate in loans bearing simple interest from date on a variable rate basis consistent with the following Regulations promulgated by the Commissioner of Financial Institutions.

Variable Rate Loans

1. Purpose

This Regulation is issued by the Commissioner of Financial Institutions under authority granted by R.S. 6:25.1 (Act 640 of 1981) and R.S. 9:3554B.

2. Scope

This Regulation shall apply to all loans or other extensions of credit which are made, purchased, or participated in by banks, savings and loan associations, other supervised financial organizations and licensed lenders, and which bear simple interest from date on a variable rate basis.

3. Definitions

As used herein, the following definitions shall apply:

(a) "Bank" shall mean any bank organized under the laws of the United States of America or of any state or foreign nation, and any subsidiary or parent holding company of a bank. (Non-bank subsidiaries of bank holding companies are considered to be banks or other supervised financial organizations for the purposes of this Regulation.)

(b) "Savings and loan association" shall mean any savings and loan association, thrift institution, or savings bank organized under the laws of the United States of America or of any state, and any wholly-owned subsidiary or parent holding company of a savings and loan association.

(c) "Supervised financial organization" shall have the same meaning as defined under R.S. 9:3516(26), that is, a banking or similar organization organized, certified and supervised by an agency of either the United States of America or of the State of

Louisiana pursuant to the banking, currency, and related laws of the United States of America or of the State of Louisiana.

(d) "Licensed lender" shall have the same meaning as defined under R.S. 9:3516(19), that is, a person, other than a supervised financial organization, engaged in the business of making supervised loans.

(e) "Variable rate" shall mean the manner of computing simple interest on a loan whereby the rate of simple interest varies from time to time, one or more times, over the term of the extension of credit with changes in a contractual index rate or is adjusted in accordance with a formula specified in the promissory note or credit agreement governing the loan.

(f) "Index" shall mean any basis on which the interest rate charged on a loan may vary in accordance with the agreement of the parties.

(g) "Prime rate" or "base rate" shall mean the interest rate established from time to time, one or more times, by the Board of Directors and/or management of a bank, savings and loan association, or any supervised financial organization as its "prime" or "base" lending rate, whether or not that interest rate is published or otherwise made known to the general public.

4. General Rule

Banks, savings and loan associations, other supervised financial organizations, and licensed lenders are authorized to make, purchase or participate in loans bearing simple interest from date on a variable rate basis.

5. Calculation of and Basis for Change in Rate

(a) The simple rate of interest on a variable rate loan may vary with changes in an index or may be adjusted in accordance with a formula specified in the promissory note or credit agreement governing the loan.

(b) It shall be permissible for a supervised financial organization to charge and collect simple interest on a variable rate basis indexed to the institution's own "prime" or "base" lending rate.

6. Rate Adjustment

This Regulation sets no limitations on the frequency of interest rate adjustments or on the amount of any incremental change in the interest rate in variable rate loans.

7. Relationship to Other Laws

(a) This Regulation shall not be construed to limit the manner or method of contracting for interest in connection with any loan or other extension of credit.

(b) Banks, savings and loan associations, other supervised financial organizations and licensed lenders are permitted to enter into variable rate loan transactions pursuant to this Regulation which are governed by any applicable Louisiana or Federal credit laws and regulations, including but not limited to: (i) Article 2924 of the Louisiana Civil Code; (ii) the Louisiana Consumer Credit Law (R.S. 9:3510, et seq.); (iii) the Louisiana Motor Vehicle Sales Finance Act (R.S. 6:951, et seq.); (iv) R.S. 9:3503, et seq.; (v) R.S. 6:654; (vi) R.S. 9:3509; (vii) R.S. 12:703.

(c) This Regulation shall not supersede the requirements of R.S. 6:957(F) as added by Act 580 of 1981 with regard to variable rate retail installment contracts for the purchase of a residential mobile home.

(d) This Regulation shall additionally not supersede the Adjustable Rate Mortgage Regulations promulgated by the Office of Financial Institutions for State banks as published in Volume 7, No. 5, *Louisiana Register*, May 20, 1981, as well as the Adjustable Rate Mortgage Regulations promulgated by the Office of the Comptroller of the Currency for National banks (12 CFR §29.1 et seq.).

(e) This Regulation shall additionally not supersede the Adjustable Mortgage Loan Regulations promulgated by the Office of Financial Institutions for State savings and loan associations as

published in Volume 7, No. 7, *Louisiana Register*, July 20, 1981, as well as the Adjustable Mortgage Loan Regulations promulgated by the Federal Home Loan Bank Board for Federal savings and loan associations (12 CFR §545.6-4a).

(f) Notwithstanding any other laws to the contrary, particularly Article 1939 of the Louisiana Civil Code, loans subject to these regulations shall be exempt from the application of the prohibition against interest on interest.

8. Effect on Other Variable Rate Loans

The promulgation of this Regulation shall not be construed to raise questions as to, or provide a basis for any challenge to, the validity or enforceability of variable rate loans which may have been entered into prior to the promulgation hereof or as to the validity or enforceability of variable rate loans or other extensions of credit by creditors not subject to this Regulation.

9. ARM/AML Regulations

(a) The Office of Financial Institutions does hereby re-issue and re-promulgate the adjustable-rate mortgage regulations promulgated by the Office of Financial Institutions for State banks as published in Volume 7, No. 5, *Louisiana Register*, May 20, 1981, said regulations to be promulgated under the authority granted by R.S. 6:237B.

(b) The Office of Financial Institutions does hereby re-issue and re-promulgate the adjustable mortgage loan regulations promulgated by the Office of Financial Institutions for State savings and loan associations as published in Volume 7, No. 7, *Louisiana Register*, July 20, 1981, said regulations to be promulgated under the authority granted by R.S. 6:902B.

10. Effective Date

This Regulation shall take effect on the date of final publication.

Hunter O. Wagner, Jr.
Commissioner of Financial Institutions

RULE

**Department of Commerce
Racing Commission**

LAC 11-6:13.8

All veterinarians administering drugs or other substances to horses regulated by the Commission, shall be responsible to see that the drugs or other substances are administered in accordance with the provisions of the Rules of Racing. Should any specimen sample disclose the presence of any drug or substance prohibited by the Rules of Racing, the stewards or Commission may hold a hearing to determine whether the prohibited drug or substances was received by or administered to the horse in question by any veterinarian in violation of the Rules of Racing. If it is determined that a violation occurred, the stewards or Commission will apply such sanctions, by fine and/or suspension of license, as is deemed appropriate.

J. Melton Garrett
Chairman

RULE

**Department of Commerce
Racing Commission**

LAC 11-6:53.44

If any person licensed by the Commission shall be approached with an offer or a promise of a bribe, or with a request

or a suggestion for a bribe, or for any improper, corrupt or fraudulent act or practice in relation to a race or racing, or that any race shall be conducted otherwise than fairly and in accordance with the Rules of Racing, such licensed person shall immediately report the matter to the stewards or the Commission; should any person be found by the stewards or the Commission to have violated this Section, said licensed person shall have such punishment by fine and/or suspension of license, as is deemed appropriate.

J. Melton Garrett
Chairman

RULE

**Department of Commerce
Racing Commission**

LAC 11-6:25.35

No owner or trainer shall enter, or cause to be entered, a horse to race at a track of an association in which he has a direct or indirect financial interest.

J. Melton Garrett
Chairman

RULE

**Department of Commerce
Racing Commission**

LAC 11-6:57 Exclusion and Ejection

57.1 No person who is known or reputed to be a book-maker or a vagrant within the meaning of the statutes of the state of Louisiana or a fugitive from justice, or whose conduct at a race-track in Louisiana or elsewhere, is or has been improper, obnoxious, unbecoming or detrimental to the best interest of racing, shall enter or remain upon the premises of any licensed association conducting a race meeting under the jurisdiction of the Commission; and all such persons shall upon discovery or recognition be forthwith ejected.

57.2 If a majority of the stewards shall find that any person has violated any of the rules of racing, or has been involved in any action detrimental to the best interests of racing generally, they may exclude such person from the grounds, or any portion of such grounds, of the association conducting the meeting for a period not exceeding the duration of the race meet plus ten days; or they may suspend the license of such person from participating in racing in this state, for a period not exceeding the duration of the meet plus ten days, or both such exclusion and suspension; and if the stewards consider necessary any further action, they shall promptly refer the matter to the Commission.

57.3 The following categories of persons may be excluded or ejected:

a) Persons who because of age, in accordance with other Sections of these Rules, are not allowed to be licensed or attend the races. (See Rules 2.8; 14.3; 20.3; 23.2; 30.1).

b) Anyone convicted of a felony under the laws of the United States, this state or any other state or country, or any crime or offense involving moral turpitude, within the preceding five years, if the presence of said person would be against the public interest and the best interest of horseracing.

c) Persons of notorious or unsavory reputation, whose presence would be contrary to the public interest and the best interest of horseracing.

d) Any person whose presence on the grounds of a race-track would be inimical to the state of Louisiana and its citizens, or to the track, meeting, race, or association, to such an extent that his presence would be contrary to the public interest and the best interest of horseracing.

e) Persons who have had a license or permit refused, suspended or withdrawn, and whose presence would be contrary to the public interest and the best interest of horseracing.

f) Any person who is knowingly consorting or associating with bookmakers or persons of similar pursuits, or has himself engaged in similar pursuits, or has been found guilty of any fraud or misrepresentation in connection with racing or breeding, or otherwise has violated any law, Rule or Regulation with respect to racing in this or any other jurisdiction, or any Rule, Regulation, or order of the Commission, or has been found guilty of or engaged in similarly related like practices.

57.4 It shall be the duty of the owner or officer of each association to notify the Secretary of the Commission of all ejections and exclusions, in writing, within three calendar days after the day on which the exclusion or ejection occurred, exclusive of Saturdays, Sundays or legal holidays. The notice shall include the name of the person excluded or ejected, the date, approximate time, place where the exclusion or ejection occurred, the reason therefor, and other pertinent information.

57.5 The person excluded or ejected may demand a public administrative hearing before the Racing Commission, by giving the Commission written notice of the exclusion or ejection within ten calendar days after its occurrence, exclusive of Saturdays, Sundays, or legal holidays.

57.6 Upon receipt of the notice of the aggrieved person, the Commission shall call and hold a hearing at the next regular meeting of the Commission which is held not sooner than 15 days after receipt of such notice.

57.7 If the aggrieved person requests an expedited hearing, the hearing shall be set not less than 10 days or more than 20 days after the receipt of the request for the expedited hearing, and if the Commission does not hold the hearing within said time period, the aggrieved person may proceed with his other legal remedies. If the Commission and the person demanding a hearing mutually agree, the hearing may be held at any time.

57.8 The Commission, upon evidence received at the hearing and the merits of the testimony, shall determine whether the person was lawfully excluded or ejected in accordance with its Rules and Regulations, and it is the responsibility of the owner or officer of the association to show that the person was excluded or ejected in accordance with the Rules and Regulations.

57.9 If the Commission determines that the exclusion or ejection was lawful, it shall order the person excluded or ejected for a specific time from all racetracks, race meetings, races, or licensed establishments that are under the Commission's regulatory powers.

57.10 If the Commission determines that the exclusion or ejection was unlawful, it shall order the owner or officer of the association to allow such person to enter the premises and participate in any race that he is otherwise qualified for.

57.11 Any owner, official, supervisor, or employee of an association shall keep from the premises where they conduct their business or perform their employment any person whom he knows is ordered by the Commission to be excluded or ejected. The Commission may revoke, limit, condition, or suspend the license of or impose a fine on, any individual or licensee in accordance with the laws of the state and Rules and Regulations of the Commission, if the licensee or person knowingly and willfully fails to act to exclude or eject any person who should be excluded or ejected according to the rules of racing, or any person whom he knows is ordered by the Commission to be excluded or ejected.

57.12 Any person who is excluded or ejected from any racetrack, race meeting, or race, shall exhaust all administrative remedies before the Commission prior to instituting any legal action seeking judicial relief.

J. Melton Garrett
Chairman

RULE

Department of Commerce Racing Commission

The Louisiana State Racing Commission does hereby give notice in accordance with law that it has repealed its Rule, LAC 11-6:23.11, relative to the ejection of people from the grounds of a racing association by the racing association.
LAC 11-6:23.11

It shall be the duty of each association, through its employees to notify the secretary of the Commission of all ejections within 24 hours, giving names, addresses and offenses.

J. Melton Garrett
Chairman

RULES

Board of Elementary and Secondary Education

3.01.51.v(1)

The Board adopted an amendment to Bulletin 741, pg. 38, to raise the GED test score requirement from a minimum score of 35 points to 40 points on each of the five tests or an overall average of 45 points.

3.01.74.a

The Board adopted the "Rules and Regulations Governing Commercial Driving Schools and Instructors."

3.05.01

The Board adopted the "Migrant Education Program, Louisiana State Plan, Fiscal Year 1983."

4.03.40.h(1)

The Board adopted a policy granting vocational technical directors the authority to suspend Civil Service employees without pay, not to exceed five days, as the need arises.

James V. Soileau
Executive Director

RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, has adopted a Rule in the General Assistance Foster Care program which limits the eligibility for cash and medical assistance to foster children who meet the age requirement outlined below:

- 1) Any eligible child under 16 years of age;
- 2) any eligible child 16 to 17 years of age who is attending school regularly or incapacitated;
- 3) any eligible child 18 years of age who can reasonably be expected to complete his/her course of study prior to his/her nineteenth birthday.

This Rule change is being implemented to bring the General Assistance Foster Care Program requirements into congruence with Aid to Families with Dependent Children policy to limit the number of GA-Foster Care applications by children no longer eligible for Aid to Families with Dependent Children (AFDC) due to failure to meet AFDC age and/or school requirements.

Roger Guissing
Secretary

RULE

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

Effective June 1, 1982, the Department of Health and Human Resources, Office of Family Security, shall implement Retrospective Budgeting for all Aid to Families with Dependent Children, AFDC related Food Stamps, and Refugee Resettlement recipients as mandated by federal regulations as published in the *Federal Register*, Vol. 47, No. 25, Friday, February 5, 1982, pp. 5678-5679 (45 CFR: 233.34 & 45 CFR:233.35). The agency shall determine all factors of eligibility and payment amount for the initial two months of eligibility prospectively. However, the amount of assistance for the initial two months of eligibility will be computed retrospectively if:

- 1) the applicant received assistance, computed retrospectively, (or would have received a payment except for the \$10.00 minimum payment regulation) for the immediate preceding payment month, or
- 2) a) the initial month and/or month of application follows one month in which the payment was withheld, and
b) the family's circumstances for the initial month and/or month of application has not changed significantly from those reported in the corresponding budget month (e.g. loss of job).

After the initial two payment months, the amount of each subsequent month's payment shall be computed retrospectively based on the income and other relevant circumstances which existed in the second prior month which is the budget month.

Roger P. Guissing
Secretary

RULE

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

Effective May 20, 1982, and in accordance with Section 6.6 of the "Regulations Controlling Sewage Disposal for Individual Rural Homes" promulgated by the Office of Health Services and Environmental Quality, the list of mechanical sewage treatment plants which are acceptable for use for individual homes is as follows:

Manufacturer	Plant Designation	Rated Capacity
Jet, Incorporated 750 Alpha Dr. Cleveland, OH 44143	Model J-150	500 GPD
Multi-Flo, Inc. 1450 Dixie Highway Covington, KY 41011	Model FTB-0.5	500 GPD
	Model FTB-1.0	1000 GPD
	Model FTB-1.5	1500 GPD
Norwalk Wastewater Equipment Co.	SINGULAIR Model 820 (Including filter,	500 GPD

P. O. Box 410
Norwalk, OH 44857

back wash chamber,
back wash pump,
and appurtenant
piping)

Oldham, Inc.
P. O. Box 197
Sidney, Ohio 45365

Model WOM-50 500 GPD
Model WOM-100 1000 GPD

Owens Manufacturing
& Specialty Co.
P. O. Box 2443
Lafayette, LA 70502

Kleen Tank 500 GPD
Model 650

R. P. Guissing
Secretary

RULE

**Department of Health and Human Resources
Office of Human Development**

The Department of Health and Human Resources, Office of Human Development, has adopted rules for the reimbursement of shelter care facilities pursuant to the provisions of La. R.S. 15:1092, effective June 1, 1982, as follows:

The amount of funds that the Office of Human Development shall expend with regards to a specific shelter shall be determined by the allowable costs specified in a cost report submitted in accordance with applicable provisions of the current issue of the DHHR Rate Determination Manual for Non-State Operated Facilities.

(7) Written intake procedures in accordance with Article 24(B) of the Juvenile Code of Procedure that are non-discriminatory with regards to the race or status offense of juveniles with the exception that juveniles whose behavior by reputation or circumstances is considered a threat to the safety and welfare of other residents or staff shall be excluded from admission into the shelter facility.

Roger P. Guissing
Secretary

RULE

**Department of Insurance
Division of Property and Casualty**

The Commissioner of Insurance for the State of Louisiana does hereby adopt the following administrative Rule with regard to legal expense insurers that may do business in this state. Due notice has been given and all legal requirements have been observed in the promulgation of the administrative Rule.

RULE 7 - LEGAL EXPENSE INSURERS

Section 1. Authority. These Rules are adopted by the Commissioner of Insurance pursuant to the authority vested in him by Title 22, Section 2, Louisiana Revised Statutes of 1950, as amended.

Section 2. Purpose. The purpose of these Rules is to adopt uniform guidelines and requirements applicable to legal expense insurers that do business in this state.

Section 3. Applicability. The Rules shall apply to all legal expense insurers as defined herein.

Section 4. Definitions. When used in these Rules, the following words or terms have the meaning described in this section.

(1) "Commissioner" means the Commissioner of Insurance for the State of Louisiana.

(2) "Department" means the Department of Insurance for the State of Louisiana.

(3) "Legal Expense Insurer" means any person who accepts a pre-payment from or for the benefit of any other person or group of persons as consideration for providing to such person or group of persons the opportunity to receive reimbursement or payment for legal services at such times in the future that such services may be appropriate or necessary.

(4) "Person" means an individual, insurers, association, organization, partnership, business, trust or other legal entity.

(5) "Agent" means an individual who is a resident of this state; or whose principal office is in this state, or a partnership the members of which are residents of this state or have their principal office in this state, or a corporation having by its charter the power to act as an insurance agent and whose principal office is in this state, and whose officers and principal stockholders are residents of this state, authorized in writing by an insurer lawfully authorized to transact business in this state, to act as its representative with authority to solicit, negotiate and effect contracts of insurance in its behalf, who or which has an office in this state in which is kept a record of the contracts of insurance signed, countersigned or issued by them.

Section 5. Exemptions. The following activities are exempted from the provisions of these Rules and they shall not be applicable to persons engaged in those capacities:

(1) Retainer contracts between attorney(s) and client(s).

(2) Lawyer referral service authorized by the Louisiana Bar.

(3) Furnishing of legal assistance by labor unions or other employee organizations to their members relating to employment.

(4) Furnishing of legal assistance to members by a church, cooperation, educational institution, credit union or organization of employees, where the above contract directly with an attorney or firm of attorneys for legal services.

(5) Employee benefit plans to the extent state laws are superceded by 29USC1144, provided evidence of exemption from state law is provided to the Department.

Section 6. Qualifications as Insurer Required. Any person who accepts a pre-payment from or for the benefit of any other person or group of persons as consideration for providing to such person or group of persons the opportunity to receive reimbursement or payment for legal services at such time in the future as such services may be appropriate or necessary must meet the requirements of the Louisiana Insurance Code by becoming qualified as an insurer which is authorized to write fidelity and surety coverage. (See "Exemptions" under Section 5 of this Rule.) Persons offering these services shall qualify as a mutual, stock, reciprocal or Lloyds' plan insurer as defined in Title 22, Louisiana Revised Statutes of 1950, as amended.

Section 7. Licensing of Agents Required. The legal expense insurer as defined herein shall not contract with, or employ, agents that are not properly licensed under the provisions of Title 22, Louisiana Revised Statutes of 1950, as amended, to solicit, negotiate or issue contracts of insurance that afford legal expense coverage. All of the provisions of law applicable to insurance agents, other than life, health, and accident agents, shall apply to those agents.

Section 8. Compliance Required. Legal expense insurers that have previously done business in this state as an individual corporation, partnership, or other entity shall, within 60 days following final promulgation of these Rules, show that they are in compliance with them and applicable provisions of law.

Section 9. Penalty for Non-Compliance. Any legal expense insurer as defined herein and that is not subject to the

"Exemptions" in Section 5 of these Rules and who does not hold a current and valid certificate of authority to do business in this state is in violation of Louisiana R. S. 22:7A and the Commissioner shall take the necessary steps to enforce those provisions of law. Further, any person who solicits, negotiates, or issues a contract of insurance that affords legal expense insurance coverage as an agent of a legal expense insurer and who does not hold a proper and valid license as an agent shall be subject to the provisions of Louisiana R. S. 22:1175 and the Commissioner shall take the necessary steps to enforce these provisions of the law.

Section 10. Severability. If any of the provisions of these Rules is held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid item, and to this end the provisions of these Rules are hereby declared severable.

Sherman Bernard
Commissioner

RULE

Department of Natural Resources Resource Recovery and Development Authority

The Louisiana Resource Recovery and Development Authority hereby amends Section 3.4 and 3.5 of its Rules of Procedure to read as follows:

3.4 REGULAR MEETINGS: Regularly scheduled meetings of the Authority shall be held on the third Monday of each month unless otherwise ordered by the Chairman. Unless otherwise stated in the Notice of Meeting, all meetings and hearings shall be held in Baton Rouge, Louisiana.

3.5 ANNUAL MEETING: The regular meeting held on the third Monday in March of each year shall be known as the annual meeting and shall be for the purpose of electing officers, receiving reports of officers and committees, and for any other business that may arise.

Frank P. Simoneaux
Secretary
Chairman, LRRDA

RULE

Department of Public Safety Office of State Fire Marshal

FIRE AND SMOKE DETECTION SYSTEMS

The Office of Fire Marshal for the State of Louisiana, hereby adopts the following administrative ruling:

L.A.C. 17-4:22 Smoke and Fire Detection Systems

L.A.C. 17-4:22.1 All structures, watercraft and moveables built or remodeled after January 1, 1980 must have operable smoke and fire detection systems as called for in the appropriate edition of the Life Safety Code of the National Fire Protection Association and in L.A.C. 17-4:2 General Provisions and L.A.C. 17-4:4 Plans and Specifications for New Buildings.

L.A.C. 17-4:22.2. In all existing occupancies built or remodeled prior to January 1, 1980, smoke and fire detectors, which are either battery powered or connected to the house current, and which have been listed or approved by Underwriters Laboratories or Factory Mutual must be installed in every occupancy as called for in the 1981 edition of the Life Safety Code of the National Fire Protection Association as to location and capability.

L.A.C. 17-4:22.3. The Fire Marshal may require an inspection of smoke and fire detection systems and detectors as required above by a licensed electrical contractor in accordance

with the provisions of L.A.C. 17-4:21.

Carrol L. Herring
State Fire Marshal

RULES

Department of Urban and Community Affairs Office of Planning and Technical Assistance

Louisiana Community Development Block Grant (CDBG) Program

The Department of Urban and Community Affairs, Office of Planning and Technical Assistance, will adopt Rules for the administration of the Louisiana Community Development Block Grant Program. The Rules will be effective on May 20 because the Notice of Intent was published on April 20. These Rules contain information governing eligible applicants, eligible activities, selection criteria and rating procedures.

The Community Development Block Grant (CDBG) Program was created by Title I of the Housing and Community Development Act of 1974. This program which became effective January 1, 1975, combined six former categorical grant and loan programs to allow for more flexibility and versatility to meet the individual needs of communities.

Programs under Title I were previously administered by the U.S. Department of Housing and Urban Development (HUD). The Federal Omnibus Budget and Reconciliation Act of 1981 allows a state to take over the administration of the Community Development Block Grant program within the "non-entitlement areas" (i.e. cities under 50,000 and parishes under 200,000). This takeover option is intended to give state governments more discretion in tailoring programs to meet specific community development needs.

Governor Treen has designated the Department of Urban and Community Affairs to administer the CDBG program in Louisiana. The Governor also appointed a Community Development Advisory Committee to aid in the development of a program suited to the needs of Louisiana. These Rules were developed by this Committee which was aided by DUCA and State Planning Office staffs. They were developed for the purpose of administering the CDBG program in an efficient manner and giving added flexibility to local governments.

The Governor also designated the Interagency Review Panel, composed of representatives from various state agencies and the governor's office, to review the proposed Rules. This Panel approved the attached final Rules on May 6, 1982.

Final Statement

I. PROGRAM OBJECTIVES — The Small Cities Program provides grants to units of general local government in nonentitlement areas to undertake community development activities. The Small Cities Program, however, is competitive in nature and the demand for funds far exceeds the amount available. Therefore, eligible applicants selected for funding will be those communities having the greatest need as evidenced by poverty, unemployment and taxing capacity, and whose applications most adequately address locally-determined needs of low- and moderate-income persons, consistent with one or more of the following objectives, and consistent with the primary objectives of the Housing and Community Development Act of 1981:

(1) Strengthen community economic development through the creation of jobs, stimulation of private investment, and community revitalization.

(2) Elimination of slums and blight and the prevention of blighting influences.

(3) Elimination of conditions which are detrimental to health, safety, and public welfare.

(4) Benefit low to moderate income persons.

II. GENERAL.

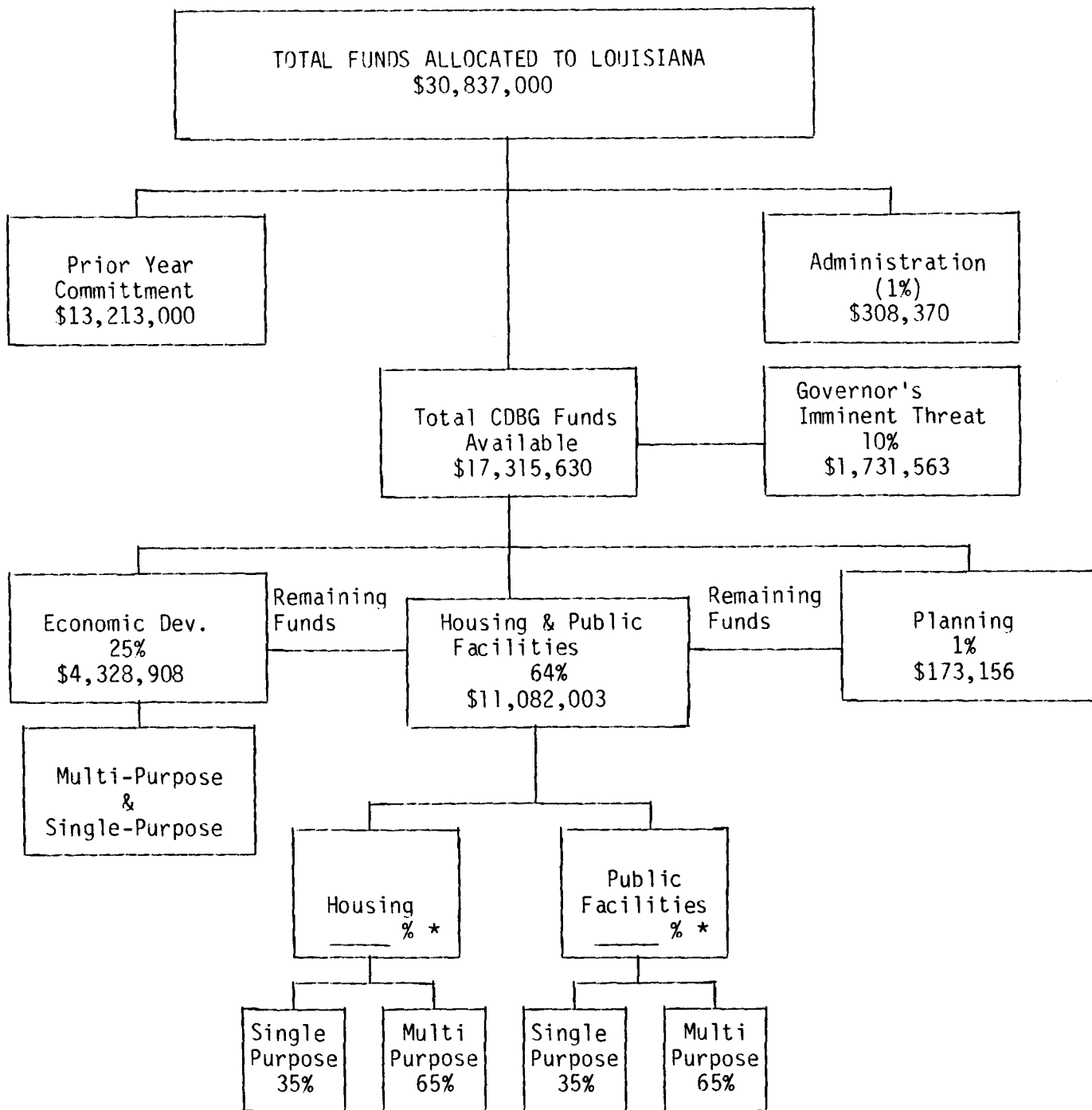
A. Eligible Applicants — Eligible applicants are units of general local government, that is, municipalities and parishes, excluding the following areas: Alexandria, Baton Rouge, Bossier City, Jefferson Parish (including Grand Isle, Gretna, Harahan, Jean Lafitte, and Westwego) Kenner, Lafayette, Lake Charles, Monroe, New Orleans and Shreveport.

B. Types of Grants — Recognizing that needs of communities vary widely, the Small Cities Program has two types of grants — Multi-Purpose and Single Purpose. These grants will be used for three program areas: Housing, Public Facilities, and Economic Development. Single purpose grants provide funds for one need, consisting of an activity which may be supported by auxiliary activities. A Multi-Purpose grant has major expenditures in more than one activity in one or more of the three program areas - Housing, Public Facilities or Economic Development. When more than one of the three areas has major expenditures in an application, and it is thereby classified as a Multi-Purpose application, it is classified as a Multi-Purpose Housing, Public Facilities or Economic Development application depending on which area (Housing, Public Facilities or Economic Development) has the largest expenditure. Final determination of the classification will be made by state. If more money is spent for housing than either of the other areas, for example, it is a Multi-Purpose housing application, etc.

C. Distribution of Funds Between Grants — Figure 1 shows how the funds available will be allocated between the various type grants. Of the total CDBG funds allocated to the State of Louisiana, one percent will be used to administer the program. Commitments of \$13,213,000 have been made previously by HUD to cities for multi-year projects. The state will honor these commitments upon certification by HUD that they have met the required performance standards. Of the remaining uncommitted funds, one percent will be reserved to assist local communities to develop plans for community development, and 10 percent reserved for Imminent Threat grants. Since creation and retention of permanent jobs is so critical to the economy of the State of Louisiana, 25 percent of the total CDBG funds will be allocated specifically for economic development type grants. Only economic development applications will compete for these funds. Single Purpose and Multi-Purpose economic development applications will be rated together on the Specific Activity Criteria for economic development. All other activities in the multi-purpose economic development applications should directly support the basic economic development portion of the application. If there are remaining monies in the Economic Development fund, these monies will be transferred to the Housing and Public Facilities fund.

The remaining 64 percent of available CDBG funds will be used to fund Public Facility and Housing applications. This general fund will be divided into two parts, one specifically for Public Facility applications and the other for Housing. The exact distribution of these funds will be based upon the number of applications received and amount of funds requested in each category. Half of the money will be allocated based on the number of applications received in each category and half based on the amount of funds requested in each category. These funds will be allocated in a 65/35 percent split between multi-purpose/single purpose projects. This 65/35 split may be altered by the state depending on the number and quality of applications for the funds. If there is insufficient demand for the multi-purpose funds, then more can be put into the single purpose category. In considering demand for single and multi-purpose grants, the state will consider the quality of the projects applied for, based on the selection criteria contained herein.

FIGURE 1



*The percentage distribution between Housing and Public Facilities will be based upon the number of applications received and amount requested in each category. Half of the funds will be distributed based on percentage of applications received in each category, and half on the basis of amount of funds requested in each category.

D. Size of Grants.

(1) Ceilings. The state has established funding ceilings of \$500,000 for Single Purpose, and \$750,000 for Multi-Purpose Grants.

(2) Individual grant amounts. Both Single Purpose and Multi-Purpose Grants for specific grantees will be provided in amounts commensurate with the size of the applicant and the applicant's program. In determining appropriate grant amounts for each applicant, the state may consider an applicant's population, need, proposed activities, ability to carry out the proposed program, and previous funding levels.

E. Restrictions on Applying for Grants.

(1) Each eligible unit of general local government may apply for a Single Purpose or a Multi-Purpose Grant, but not both, in each fiscal year.

(2) Capacity and performance: threshold considerations for grant approval. No grant will be made to an applicant that lacks the capacity to undertake the proposed program. In addition, applicants which have participated in the Block Grant Program previously must have performed adequately. Performance and capacity determinations are made as of the deadline date the application is due to the state, and may be the basis for rejecting an application from further consideration. In determining whether an applicant has performed adequately, the state will examine the applicant's performance in the following areas:

a) The rate of progress achieved in moving activities into execution and the rate of expenditure and obligation of community development funds.

i) All FY'80 grants must be 95-100 percent obligated and 75 percent expended. If the FY'80 grant was 100 percent drawn down as of December 15, 1981 all close-out documents including final audit must have been submitted to HUD as of the deadline for receipt of CDBG application by the state.

ii) The progress on all FY'81 grants must be consistent with grantee's approved project schedule.

b) Units of general local government will not be eligible to receive funding if past CDBG programs awarded by HUD prior to 1980 have not been closed-out as of the deadline for receipt of CDBG applications by the state.

c) Units of general local government will not be eligible to receive funding if past CDBG programs awarded by the state have not been closed-out as of the deadline for receipt of CDBG applications by the state.

d) The applicant's compliance with the laws, regulations and Executive Orders applicable to the Community Development Block Grant program, and the resolution of findings made as a result of the state's and/or HUD's monitoring.

e) The state shall not accept an application from an applicant that has an outstanding audit and/or monitoring finding for any HUD program or has an outstanding monetary obligation to HUD or the state.

The state may provide waivers to these prohibitions, but in no instance shall a waiver be provided when funds are due to HUD or the state unless a satisfactory arrangement for repayment of the debt has been made.

III. METHOD OF SELECTING GRANTEES — The state has established selection and rating systems for both Multi-Purpose and Single Purpose Grants which identify the criteria used in selecting applicants. Applications are required for both types of grants. An applicant must include sufficient information in its application to permit the state to rate the application against the various selection criteria and must document to the state the source of information and the method used to compile the information for the application. The state will provide the information necessary to rate applicants on the general indicators of distress. Existing sources of information, such as areawide

analyses, state plans or needs assessments, and data from the Bureau of the Census, should be used whenever possible. Local surveys may be necessary to document the information submitted in the application. Documentation of the state's selection process and copies of applicant ratings will be available upon request for public review.

The state shall establish deadlines for submission of applications, and notify all eligible units of local government through a direct mailing.

A. Data — Data used in the general indicators of distress is from the United States Bureau of the Census and the Department of Treasury.

B. Program Design — The program as a whole must principally benefit low-and moderate-income persons and directly address and have an impact on the applicant's needs. All activities contained within such programs must either benefit low-to-moderate income persons, or aid in the prevention or elimination of slums or blight, or meet other community development needs having a particular urgency.

C. Single Purpose Grants

(1) Definition. A Single Purpose Grant provides funds for one need, consisting of an activity which may be supported by auxiliary activities. Funds are available to address serious problems with housing and economic conditions or public facilities which affect the public health and safety and which principally affect persons of low- and moderate-income.

(2) Selection System For Single Purpose Grants. All single purpose applications will be rated and scored in two major categories: General Indicators of Distress (maximum 50 possible points) and the Specific Activity Category (maximum of 150 possible points). The total possible points for a single purpose grant is 200 points.

a) General Indicators of Distress. (50 Points) Each applicant will be rated against all other applicants in each of the following categories:

	Maximum Possible Points
1. Fiscal Distress Indicator	
per capita taxes	20
per capita income	
2. Percentage of Poverty Persons	15
3. Number of Poverty Persons	15
<hr/>	
Total Possible Points	50

1) Fiscal Distress Indicator - per capita taxes/per capita income - 20 points. All applicants are compared in terms of ratio of per capita taxes to per capita income. Individual scores are obtained by dividing each applicant's ratio, by the highest ratio obtained by any applicant and multiplying by 20.

2) Percentage of Poverty Persons - 15 points. All applicants are compared in terms of the percentage of their population below the poverty level. Individual scores are obtained by dividing each applicant's percentage of persons in poverty by the highest percentage of persons in poverty of any applicant and multiplying by 15.

3) Number of Poverty Persons - 15 points. All applicants are compared in terms of the number of persons whose incomes are below the poverty level. Individual scores are obtained by dividing each applicant's absolute number of persons in poverty by the greatest number of persons in poverty of any applicant and multiplying by 15.

b) Specific Program Criteria - 150 Points. There will be three specific program categories: 1) Economic Development; 2) Public Facilities; and 3) Housing. Each applicant will be rated against all other applicants proposing projects in the same Specific Program Category. The criteria for rating each of the specific programs are as follows:

1) ECONOMIC DEVELOPMENT

i. Program Impact (Maximum Possible Points - 75)

(1) Number of permanent jobs created or retained X 2

(2) Private/Public ratio: Firm Private sector financial commitment/CDBG funds X 2

(3) Percent of funds recaptured by unit of local government X 1½

(4) Tax revenue attributable to local project X 2

A firm financial commitment from the private sector investor will be required upon submission of the application. Each application will be given preliminary points for each of the above items, relative to other applicant's performance for that specific item. Once the preliminary points for all four categories are determined and summed for all applicants, the applicants will again be ranked from highest to lowest number of total preliminary points. The top ranked application will receive 75 points. All other applicants will receive points based on how they score relative to that highest score:

$$\text{Program Impact Points} = \frac{\text{applicant's score}}{\text{highest score}} \times 75 \quad (\text{total possible points})$$

If a project creates or retains fewer than 10 permanent jobs, or has a private funds/public funds ratio of less than 2:1, 0 points will be awarded for Program Impact.

ii. Cost Effectiveness (Maximum Possible Points - 25)

This will be calculated by dividing total CDBG funds used by the number of permanent jobs created or retained to determine CDBG cost per permanent job created or retained. Raw scores will be arrayed and the top ranked application will receive 25 points. All other applicants will receive points based on how they score relative to the lowest cost per job created:

$$\text{Cost Effective Points} = \frac{\text{lowest cost per job}}{\text{applicants cost per job}} \times 25$$

No points will be awarded if cost per job created or retained exceeds \$10,000.

iii. Benefit to Low-Moderate Income Persons (Maximum Possible Points - 50)

This will be calculated by determining the number of permanent jobs created or retained that are or will be held by low-moderate income persons (as defined by the state) and dividing that number by the total number of permanent jobs created or retained. The resulting raw scores would be arrayed and the top ranked applicant would receive 50 points. All other applicants will receive points based on how they score relative to that highest score:

$$\text{Low/Mod Benefit Points} = \frac{\text{applicant's score}}{\text{highest score}} \times 50$$

2) PUBLIC FACILITIES

i. Program Impact

Maximum Impact 100

The project would bring a community's substandard infrastructure into conformance with state or national standards and/or would completely remedy documented infrastructure deficiencies in a particular geographical area which threatens public health and safety, and is cost effective.

Moderate Impact 65

The project would result in substantial progress being made towards achieving local conformance to state or national standards and/or towards remedying infrastructure deficiencies that pose documented threats to public health and safety, and is cost effective.

Minimal Impact 30

The project would improve a community's infrastructure but would address only documented needs which are not a threat to public health and safety and is cost effective.

Insignificant Impact 0

The project would improve a community's infrastructure but has insignificant documentation of community needs.

The state has rated most communities' water supply, sewer, and solid waste and utility systems. Each community has a fire insurance rating. Projects which would bring substandard systems into compliance with these standards would receive 100 points. Projects which would remedy documented threats to public health and safety would also receive 100 points. The applicant would have to document the threat by using independent and appropriate sources, when possible, (i.e., accidents occurring on a blind street corner or bottle neck, evidence of well contamination or seepage from septic tanks, etc.)

Projects which would make substantial progress toward remedying deficiencies but which would not completely resolve them or bring systems into state compliance would receive 65 points.

Projects which involve public improvements or facilities which do not pose threats to public health or safety would receive 30 points.

Projects which involve public improvements or facilities which do not include sufficient documentation will receive 0 points.

ii. Benefit to Low-Moderate Persons (Maximum Possible Points - 50). This will be calculated by dividing the number of low moderate income persons benefiting (as defined by state) by the total number of persons benefiting. The resulting raw scores will be arrayed and the top ranked applicant will receive 50 points. All other applicants will receive points based on how they score relative to that highest score:

$$\text{Low/Mod Benefit Points} = \frac{\text{applicant's score}}{\text{highest score}} \times 50$$

3) HOUSING

i. Program Impact (Maximum Possible Points - 75). This

will be determined by dividing the total number of proposed units to be rehabilitated or demolished, less 10 percent, by the total number of substandard units in the total area in which rehabilitation or demolition will be permitted, that is:

$$\frac{\# \text{ of units to be rehabed or demolished less 10 percent}}{\# \text{ of owner-occupied substandard units in area in which rehab or demolition will be permitted}} = \text{Raw Score}$$

The raw scores of each housing application will be ranked and the top ranked applicant(s) will receive 75 points. All other applicants will receive points based on how they score relative to that highest score:

$$\text{Program Impact Points} = \frac{\text{applicant's score}}{\text{highest score}} \times 75$$

If less than 25 percent of identified need would be met 0 points would be awarded. This system also permits up to 10 percent of the rehabs to be located outside of target areas without affecting impact scores in any way. Ten percent of the total rehab monies may also be used for emergency repairs. All units, except the emergency rehabs, must be brought up to at least the Section 8 Existing Housing Quality Standards and HUD's Cost Effective Energy Conservation Standards. Only owner-occupied units are eligible for rehabilitation.

ii. Cost Effectiveness (Maximum Possible Points - 25).

Cost effectiveness will be measured by dividing actual funds budgeted for rehab (i.e., loans, grants, acquisitions, relocations, and demolitions) by the number of proposed rehabilitations. That is:

$$\frac{\text{loan, grant, acquisition, relocation, demolition costs}}{\text{Number of units affected}} = \text{Raw Score}$$

These scores will be arrayed and the top ranked applicant will receive 25 points. All other applicants will receive points based on how they score relative to that highest score:

$$\text{Cost Effective} = \frac{\text{lowest cost per unit}}{\text{applicant's cost per unit}} \times 25$$

Cost per unit should be between \$8,000 and \$15,000. Any average cost per unit below \$8,000 must be thoroughly documented. Any average cost above \$15,000 will receive 0 points for cost effectiveness.

iii. Benefit to Low-Moderate Income Persons (Maximum Possible Points - 50). Benefit to low-moderate income persons will be calculated by dividing the total number of households benefiting into the number of low-moderate income households (as defined by the state) benefiting, that is:

$$\frac{\text{Number of low-moderate households benefiting}}{\text{Total number of households benefiting}} = \text{Raw Score}$$

These scores will be arrayed and the top ranked applicant will receive 50 points. All other applicants will receive points based on how they score relative to that highest score:

$$\text{Low/Mod Benefit Points} = \frac{\text{applicant's score}}{\text{highest score}} \times 50$$

D. Multi-Purpose Grant

(1) Definition. A multi-purpose grant provides funds for major expenditures in more than one activity in one or more of the three program areas (Housing, Public Facilities, or Economic Development).

(2) Selection System for Housing and Public Facilities Multi-Purpose Grants. All Public Facilities multi-purpose applications will be rated and scored in two major categories, as will all Housing multi-purpose applications: General Indicators of Distress (Maximum 50 possible points) and the Specific Activity categories (150 points or more). Maximum possible points depend on the number of program areas for which the applicants apply.

a) General Indicators of Distress. (50 points) Each applicant will be rated against all other applicants on the same criteria listed under General Indicators of Distress for Single Purpose Grants.

b) Specific Program Criteria. (150 points or more) Multi-purpose applicants will be rated on the same Specific Program criteria as the single purpose grants. The scores received by the applicants will be based on the number of points they attain relative to the total number of possible points they could attain (300 if applying for two programs, 450 if applying for the maximum of three programs).

(3) Selection System for Economic Development Multi-Purpose Grants. Multi-purpose and single purpose economic development applications will be rated together on the specific activity criteria for economic development. All other activities in the multi-purpose economic development applications should directly support the economic development portion of the application.

a) General Indicators of Distress. (50 points) Each applicant will be rated against all other applicants on the same criteria listed under General Indicators of Distress for Single Purpose Grants.

b) Specific Program Criteria. (150 points) Multi-purpose economic development applicants will be rated on the same Specific Program Criteria as the Single-Purpose Economic Development applicants.

E. Submission Requirements — Applications shall be submitted in a form prescribed by the state to the appropriate state office and shall consist of the following.

(1) Program narrative statement. The program narrative statement shall consist of:

i. A brief description of the applicant's community de-

velopment problems/needs to be served by the proposed activity; an identification of which of the three possible problem areas (housing, public facilities which affect the health or safety, or economic conditions) that the project will address; and whether the program principally benefits low- and moderate-income persons, aids in the prevention or elimination of slums and blight, or meets other community development needs having a particular urgency.

ii. A description of the activity to be carried out with CDBG assistance and a financial statement estimating the cost of the project including information necessary for considering the cost-effectiveness factor. If the proposed activity is dependent on other funds for completion, the source of funds and the status of the commitment of them must also be indicated.

iii. A statement describing the impact the activity will have on the problem area selected and the needs of low- and moderate-income persons, including information necessary for considering the program impact factor.

iv. A statement on the percent of funds requested that will benefit low- and moderate-income persons. The statement should indicate the total number of persons to be served and the number of such persons that meet the definition of low and moderate income, as defined by the state.

(2) Maps. A map of the location of the applicant's proposed activity(ies) which identifies:

i. census tracts and/or enumeration districts;

ii. boundaries of areas in which the activities will be concentrated;

iii. location of areas with minorities, showing number and percent;

iv. location of areas with low- and moderate-income persons, showing number and percent;

v. the median income of the census tract(s) or enumeration districts in which the proposed activity is to be undertaken.

(3) Submission of Additional Data. Only that data received by the deadline established for applications will be considered in the selection process unless additional data is specifically requested, in writing, by the state. Unrequested material received after the deadline will be returned to the applicant.

(4) Program Schedule. Each applicant shall submit, in a format prescribed by the state, a listing of dates for major milestones for the activity to be funded.

(5) Title VI Compliance. All applicants, shall submit in a form prescribed by the state, evidence of compliance with Title VI of the Civil Rights Act of 1964. This enables the state to determine whether the benefits will be provided on a nondiscriminatory basis and will achieve the purposes of the program for all persons, regardless of race, color, or national origin.

(6) Certifications of Assurances. The certifications of assurance required by the state, relative to Federal and State Statutory requirements, shall be submitted by all applicants.

(7) Certification of Citizen Participation. One public hearing must be held prior to application submittal. Applicants must submit a notarized proof of publication. This will document the fact that a notice was published in the Official Journal informing citizens of the public hearing.

F. Application Review Procedure

(1) The application must be received before the deadline that has been established by the state, unless the state decides that an extension of the deadline is warranted;

(2) The application requirements must be complete;

(3) The funds requested must not exceed the amount of the invitation by the state.

(4) Review and notification. Applications will be reviewed. Following the review, the state will promptly notify the applicant of the actions taken with regard to its application.

(5) Criteria for conditional approval. The state may make a conditional approval; in which case, the grant will be approved but the obligation and utilization of funds is restricted. The reason for the conditional approval and the actions necessary to remove the condition shall be specified. Failure to satisfy the condition may result in a termination of the grant. Conditional approval may be made:

- i. Where local environmental reviews have not yet been completed;
- ii. Where the requirements regarding the provision of flood or drainage facilities have not yet been satisfied;
- iii. To ensure that actual provision of other resources required to complete the proposed activities will be available within a reasonable period of time;
- iv. To ensure the project can be completed within estimated costs.

(6) Criteria for disapproval of an application. The state may disapprove an application if:

- i. Based on review of the application, it is determined that general administrative costs exceed 6 percent of total grant, and/or housing rehabilitation administrative costs exceed 12 percent of total housing costs.
- ii. Based on field review of the applicant's proposal or other information received, it is shown that the information was incorrect, and the application was improperly rated, and no longer rates sufficiently high to warrant approval when compared with other applications in the competition, given funds available.
- iii. On the basis of significant facts and data generally available and pertaining to community and housing needs and objectives, state determines that the applicant's description of such needs and objectives is plainly inconsistent with such facts and data. The data to be considered may be published data accessible to both the applicant and state such as census data, or other data available to both the applicant and state, such as recent local, areawide, or state comprehensive planning data.
- iv. Other resources necessary for the completion of the proposed activity are no longer available or will not be available within a reasonable period of time.
- v. The activities cannot be completed within the estimated costs or resources available to the applicant.

G. Program Amendments for Single Purpose and Multi-Purpose Grants — The state may consider amendments if they are necessitated by actions beyond the control of the applicant. Recipients shall request prior state approval for all program amendments involving new activities or alteration of existing activities that will significantly change the scope, location, or objectives of the approved activities or beneficiaries.

(1) New or significantly altered activities are rated in accordance with the criteria for selection applicable at the time the original application was rated. The rating of the new program or activity proposed by the amendment must be equal to or greater than the lowest rating received by a funded activity or program during that cycle of application ratings.

(2) Consideration shall be given to whether any new activity proposed can be completed promptly.

IV. IMMINENT THREAT GRANTS — Ten percent of the total funds available for distribution by the state has been reserved for funding imminent threat projects. Imminent threat projects are those which have a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and where other financial resources are not available to meet such needs. Request for these funds will be made in a manner designated by the state in the Louisiana Review Processing Statement. After a date which will be specified by the state, remaining monies will be transferred to the Housing and Public

Facilities fund.

V. PLANNING GRANTS

A. Subprogram Objectives. Planning is simply a rational process for allocating scarce resources. Because having limited resources is a condition with which most Louisiana municipalities and parishes, all too often, find themselves, this technical assistance set-aside for planning has been established. It will consist of one percent of the uncommitted Small Cities funds. Additionally and pragmatically, this planning set-aside will fulfill one of the three certifications required by the Housing and Community Development Act of 1981, namely: Sec. 106(d)(2)(C)(i) engages or will engage in planning for community development activities. . . ;

B. Eligible Activities. According to the Housing and Community Development Act of 1981, eligible planning activities are: Sec. 105 (a)(12)(A) to develop a comprehensive community plan; and Sec. 105(a)(12)(B) to develop a policy-planning-management capacity so that the recipient of assistance under this title may more rationally and effectively: (i) determine its needs, (ii) set long term goals and short term objectives, (iii) devise programs and activities to meet these goals and objectives, and (iv) evaluate the progress of programs in accomplishing these goals and objectives, and (v) carry out management, coordination, and monitoring of activities necessary for effective planning implementation. . . To the extent consistent with the preceding, preference will be given to those entities submitting planning requests in these areas: (1) Public Facilities, (2) Housing, and (3) Economic Development.

C. Eligible Applicants. Eligible applicants are units of general local governments eligible for CDBG funding, except those localities which are funded for a CDBG, may not apply for a Planning grant in the same fiscal year.

D. Type of Grant. A matching grant program will be available. CDBG will provide 75 percent of the requested planning project amount and the applicant entity will provide the remaining 25 percent.

Application Requirements:

(1) Application for grant of technical assistance will be required on an annual basis.

(2) The state will notify all eligible program participants of deadline dates for submittal of applications. Application for local assistance grants will take the form described below. Any incorporated municipality or parish, with the exception of entitlement areas, who have not received a CDBG grant during that fiscal year, shall be considered eligible to apply for a local assistance grant. Such eligible localities will receive notification of application form availability, application process requirements, and deadline dates. A resolution from the planning commission, where such exists, recommending the planning program will be attached to a resolution from the locality's governing body. This governing body's resolution must approve the recommendations set forth in the planning commission resolution. Resolutions will conform to standard resolutions prepared by the state. The complete application must be submitted to the state and be postmarked no later than the date indicated in the letter of instructions. The state will mail a copy of the standard resolution to interested parties who contact the state for such information.

E. Allocation of Funds for Local Planning Technical Assistance

(1) Only applicants submitting a complete application by the date discussed above will be considered. Selection of applicants for participation in the program will be determined based on HUD and state guidelines. Final determination of participation in the program will be made by the state, based on the following:

- a) Existing or anticipated need for planning to carry out a CDBG Small Cities Program;
- b) Prior successful participation in the DUCA/HUD 701

technical assistance planning program, if applicable;

c) Prior planning experience, if applicable;

d) Factors that can be utilized to determine relative planning needs of localities within the state, as determined by the state staff in consultation with other planning professionals.

(2) The planning program will be evaluated on an individual applicant basis at the time of contract execution. Such evaluations will be based on HUD guidelines and on availability of existing planning information as determined by the state in coordination with other state agencies.

(3) Eligible consultants can be either private or public entities who have an individual who meets the Professional Competency requirements of Part III, Section F of the Volume 4, Number 2 *Louisiana Register*, February 20, 1978.

(4) To the extent that the administrative requirements in the above *Register* pertain to the Planning Program, they shall be deemed effective.

These regulations are to be effective on May 20, 1982, and are to remain in force until they are amended or rescinded. Anyone having questions should contact: Gayle Joseph, Assistant Secretary, Office of Planning and Technical Assistance, Department of Urban and Community Affairs, Box 44455, Baton Rouge, Louisiana, 70804. She is the person responsible for administering this program.

Linton Ardoin
Secretary

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

WHEREAS, the Louisiana Wildlife and Fisheries Commission has reviewed the requests of the fishermen, industry and sportsmen, as well as the biological predictions and recommendations of the staff of the Office of Coastal and Marine Resources, and

WHEREAS, this consensus supports the view that this year the brown shrimp have a variable pattern of growth in the zones across the coast in inside waters, and

WHEREAS, the zone concept for Louisiana seems to serve the best interest for the brown shrimp season this year, now

THEREFORE BE IT RESOLVED that the brown shrimp season shall open in Zone 2 on May 17, 1982, at 12:01 a.m. for a minimum of 50 days, closing on or after July 5, 1982, and

BE IT FURTHER RESOLVED that Zones 1 and 3 shall open at 12:01 a.m., May 24, and

BE IT FURTHER RESOLVED that the Secretary be and is hereby authorized to extend or to close the brown shrimp season after the 50-day minimum period as biological data indicates concerning the presence or absence of small white shrimp.

Jesse J. Guidry
Secretary

Notices of Intent

NOTICE OF INTENT

Department of Agriculture Livestock Sanitary Board

In accordance with the provisions of LSA 49:951, et seq.,

the Administrative Procedure Act, and LSA 3:2223, relative to the authority of the Livestock Sanitary Board to enact regulations for eradication of the disease of brucellosis in cattle, notice is hereby given that the Livestock Sanitary Board will conduct a public hearing on the 21st Floor of the State Capitol, Baton Rouge, Louisiana, at 9:30 a.m. on June 10, 1982.

The purpose of the hearing will be to consider adoption of the following amendments and additions to the Rules and Regulations of the Board:

Regulation 1, Section 2, Paragraph 5 will be amended to read as follows:

(5) As of January 1, 1982, all female calves over four months of age must be officially calfhood vaccinated for brucellosis to be eligible to be brought into Louisiana for breeding purposes.

Regulation 3, Section 3, Paragraph B, Part 1 will be amended to read as follows:

(1) Adequate and sanitary housing for use by State-Federal personnel to conduct tests, including the Rivanol test for brucellosis. This will include running water, adequate lighting, sanitary plumbing facilities, heating and cooling when necessary, and refrigeration for biologics if the quantity to be kept on hand will warrant it. Otherwise, State-Federal personnel will furnish his own portable refrigeration.

Regulation 3, Section 6, Paragraph I will be amended to read as follows:

I. The auction veterinarian and/or State-Federal personnel may determine the age of cattle tested for brucellosis and sold through livestock auctions and auction market personnel will indicate by paint mark on the hip, as follows:

(a) Number 1 through 5 would be used to indicate the age

(b) An F would indicate full mouth

(c) An S would indicate a solid mouth

(d) An O would indicate broken mouth or a gummer

Regulation 16, Section 1, Part B, Paragraph 6, and Part C, Paragraph 1 will be amended to read as follows:

6. An exposed herd which on initial test reveals no reactors and where there has been no direct contact (including across-fence contact) with the infected herd within 120 days. If contact has occurred within 120 days of the negative test (including across-fence contact) such herd must pass a second negative test no less than 90 days from the date of the first negative herd test.

C. EXPOSED HERD

1. A herd that has intermingled with or otherwise been exposed to brucellosis infected animals. Cattle separated only by a single fence or cattle where there is direct drainage from brucellosis quarantined premises, or herds in common range with brucellosis infected herds are considered exposed. All herds other than dairies negative to the BRT and Certified Brucellosis Free Herds tested within the past 12 months, owned by an individual, partnership, corporation, or association, that are within 50 miles of an infected herd owned by such individual, partnership, corporation, or association.

Regulation 28, Section 3, Paragraph 4 will be amended to read as follows:

4. A fee of \$3.25 shall be charged to the accredited veterinarian for conducting the Coggins test at State laboratories. Invoices will be forwarded to the veterinarian monthly for these charges.

The Livestock Sanitary Board may also consider the adoption of other regulations relative to the prevention, control, and eradication of the disease of brucellosis in cattle at said public hearing.

Written comments will be accepted by Dr. William B. Fairchild, State Veterinarian, Box 1951, Baton Rouge, Louisiana 70802 up to and including June 8, 1982, or may be presented in person at the hearing.

All interested persons will be afforded a reasonable opportunity to submit data, views, or arguments, orally or in writing, at the public hearing.

Bob Odom
Commissioner

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Brucellosis/EIA**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)
There will be no additional costs or savings to the agency if these rules are adopted.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)
Adoption of the proposed amendment of the EIA test fee will result in additional self-generated revenues of approximately \$8,500 per year.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)
(1) No change as a result of item (1) above. (2) All but approximately 10 of the auction barns are now in compliance with the new definition of space required for brucellosis testing personnel. These 10 barns may choose to renovate their facilities (approximately \$1,000-\$10,000) **or** allow all card-positive animals to be branded as brucellosis reactors without providing space necessary to conduct the Rivanol test. (3) The EIA fee increase will be passed along by vets to individual owners of horses being tested for EIA; the increased cost to the owners will be 25 cents per animal tested.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
No effect on competition or employment in the public or private sector from the adoption of any of these rules.

C. T. Raby, DVM
Assistant Commissioner

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Agriculture
Livestock Sanitary Board**

In accordance with the provisions of LSA 49:951, et seq., the Administrative Procedure Act, and LSA 3:2223, relative to the authority of the Livestock Sanitary Board to enact regulation for eradication of the disease of brucellosis in cattle, notice is hereby given that the Livestock Sanitary Board will conduct a public hearing on the 21st Floor of the State Capitol, Baton Rouge, Louisiana, at 9:30 a.m. on June 10, 1982.

The purpose of the hearing will be to consider the adoption of the following amendments and additions to the Rules and Regulations of the Board:

The following new Subsection 2 of Section 7 of Regulation 8 will be adopted:

2. Guidelines for conducting a referendum to make brucellosis testing and brucellosis vaccination of all adult cows mandatory on a parishwide basis:

(a) The referendum shall be conducted by the Livestock Sanitary Board in conjunction with the cattle producers organizations. The referendum will be held within 90 days after issuance of the call for the referendum. All producers of cattle in the affected

area shall be eligible to participate in the referendum.

(b) At the referendum, the question of total mandatory vaccination of all adult cattle in the area along with the brucellosis testing requirements of the cattle shall be submitted to a vote of all producers of cattle in the area.

(c) If a majority of the eligible cattle producers vote in favor of mandatory brucellosis vaccination of all adult cattle in the area, all producers of cattle in the area shall be required to test and vaccinate all adult cattle.

(d) The following herds may be exempt from adult vaccination requirements at the owner's request should the referendum be held and the cattle producers vote in favor of it.

1. Certified brucellosis free herds
2. Herds that test negative for brucellosis and all the cows in the herd are official calfhood vaccinates
3. Herds of registered cattle
4. Dairy herds identified as having negative ring test.

Subsection B (3) of Section 3 of Regulation 18 will be amended to read as follows:

(3) If a majority of the eligible cattle producers vote in favor of mandatory brucellosis vaccination of all adult cattle in the area, all producers of cattle in the area shall be required to test and vaccinate all adult cattle.

The Livestock Sanitary Board may also consider the adoption of other regulations relative to the prevention, control, and eradication of the disease of brucellosis in cattle at said public hearing.

Written comments will be accepted by Dr. William B. Fairchild, State Veterinarian, Box 1951, Baton Rouge, Louisiana 70802 up to and including June 8, 1982, or may be presented in person at the hearing.

All interested persons will be afforded a reasonable opportunity to submit data, views, or arguments, orally or in writing, at the public hearing.

Bob Odom
Commissioner

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

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)
No increased costs or savings to the agency.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)
No effect on revenue collections.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)
No additional costs and/or benefits to affected groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
No estimated effect on competition or employment.

C.T. Raby, DVM
Assistant Commissioner
Office of Animal Health Services

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Agriculture
State Entomologist**

In accordance with the provisions of LSA 49:951, et seq., the Administrative Procedure Act, and LSA 3:2302, relative to the