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# Executive Orders

## EXECUTIVE ORDER NO. DCT-20

WHEREAS, Tropical Storm Chris caused extremely heavy rainfall in northern portions of Louisiana, resulting in flooding and damage to residential and commercial property; and

WHEREAS, the Police Juries of Madison Parish and Richland Parish, as well as the municipalities of Delhi and Tallulah have, by resolution, petitioned the State of Louisiana to declare a State of Emergency to exist as a result of extensive flooding within their jurisdiction.

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, under the authority of Act No. 636, the Louisiana Disaster Act of 1974, do hereby proclaim a State of Emergency to exist within the territorial limits of these areas.

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 16th day of September, A.D., 1982.

David C. Treen  
Governor of Louisiana

## EXECUTIVE ORDER NO. DCT 82-21

WHEREAS, it has been reported to me by the Commissioner of Administration that the receipts of the Treasury appear likely to fall short of revenue estimates for the fiscal year 1982-83; and

WHEREAS, continued maintenance of the appropriated level of expenditures will result, assuming the accuracy of current revenue estimates, in a deficit; and

NOW, THEREFORE, pursuant to the authority granted me by Section 9 of Act 13 of the 1982 Regular Session of the Legislature, and by R.S. 39:55, it is hereby ordered that all departments and all budget units not within a department submit revised budgets effecting a 4.4 percent reduction in General Fund appropriations to the Commissioner of Administration not later than October 25, 1982, all in accordance with the further instructions of the Commissioner of Administration,

Provided, that the following appropriations are exempt from this order: Louisiana State Employees Retirement System; Louisiana Educational Retirement System; State Police Retirement System; Louisiana State University Unfunded Retirement System; Supplemental Police Pay; Supplemental Sheriff's Pay; Supplemental Firemen's Pay; State General Fund Minimum Foundation Program; Day Care Center Minimum Foundation Program; Higher Education Consent Decree Programs; and Statutory Expenses for the Judiciary.

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 15th day of October, 1982.

David C. Treen  
Governor of Louisiana

# Emergency Rules

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

The State Board of Elementary and Secondary Education, at its meeting of September 23, 1982, exercised those powers conferred by the emergency provisions of the Administrative Procedures Act R.S. 49:953B and adopted the following as an emergency Rule:

"Persons who as of September 1, 1982 had completed all course requirements in effect prior to that date for certification in supervision and administration or as school superintendent, but who had not met the experience requirements, shall be permitted to be certified in these areas when the experience requirements in effect prior to September 1, 1982 have been met, and in the interim such persons shall not be cited for noncompliance with the revised requirements which became effective September 1, 1982."

In 1980, BESE adopted a substantial increase in the requirements for certification in the administrative and supervisory services with an implementation date of September 1, 1982. Many individuals completed the course requirements which were in effect prior to September 1, 1982, but, due to employment dates, were unable to meet the three-five year experience requirement. So that these individuals would not be required to meet the revised standards, this alteration to the policy will allow them to become certified upon completion of the experience requirement.

James V. Soileau  
Executive Director

## DECLARATION OF EMERGENCY

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

The Department of Health and Human Resources, Office of Family Security has exercised the emergency provisions of the Administrative Procedure Act R.S. 49:953B to provide Medicaid effective October 1, 1982 to any child for whom the state makes adoption assistance or foster care maintenance payments under Title IV-E of the Social Security Act.

This action is necessary to ensure that Medicaid coverage continues for children previously certified for Medicaid as a child for whom the state makes foster care payments under Title IV-A whose IV-A eligibility was transferred to Title IV-E effective October 1, 1982. It also provides Medicaid coverage for those children for whom the state makes adoption assistance payments under Title IV-E to ensure that these children receive medical care necessary to maintain their health and well-being.

This action is in response to final Federal Regulations published in the July 1, 1982 issue of the *Federal Register* (volume 47, No. 127, pages 28652-28658).

Roger P. Guissing  
Secretary

# Rules

## RULE

### Department of Agriculture Structural Pest Control Commission

The Louisiana Department of Agriculture, Structural Pest Control Commission, pursuant to the authority contained in LSA 40:1263 B and in accordance with Notice of Intent published on September 20, 1982, adopted the following Rules and Regulations governing the administration of the Structural Pest Control Law, LSA 40:1261-1274, at a public hearing held on October 6, 1982 at the State Capitol, Baton Rouge, Louisiana.

Copies of these Rules may be obtained from James Arceneaux, 9151 Interline Blvd., Baton Rouge, LA 70809 during office hours 8 - 4:30, Monday through Friday.

These Rules and Regulations will become effective January 1, 1983.

Bob Odom  
Commissioner

## RULES

### Department of Culture, Recreation and Tourism Office of Cultural Development Division of the Arts

The Department of Culture, Recreation and Tourism, Office of Cultural Development, Division of the Arts, and Louisiana State Arts Council, pursuant to the authority in LRS 49:951, et seq., Act 265 of 1977, and in accordance with the Notice of Intent published in the September 20, 1982 issue of *Louisiana Register*, adopted the amendments to the program guidelines for the funding and administration of the state's arts grant program.

Copies of the complete set of grant program guidelines, as amended for 1983-84, are available from the Division of the Arts, 666 North Foster, Baton Rouge, Louisiana. The revisions of the guidelines for 1983-84 consist of: changes in deadlines and time-lines for submitting, review and funding of applications for grants-in-aid; adding a professional advisory panel for reviewing Block Grants applications; limiting the maximum amount that may be requested by applicants under the grant programs; and a few minor technical changes to clarify selected narrative passages.

Interested persons may obtain a copy of the revised *Program Guidelines for State Arts Grants: 1983-84* by written request from the Division of the Arts, Box 44247, Baton Rouge, LA 70804.

Mrs. Lawrence H. Fox  
Secretary

## RULES

### Board of Elementary and Secondary Education

Rule 3.01.51.ee

The Board adopted an amendment to Bulletin 741, pages 16 and 16a as recommended by the State Department of Educa-

tion relative to "Proficiency Examinations and Credit Examinations."

Rule 4.01.90.a(1)

The Board adopted an amendment to page 4C, Program Requirements: Teacher Caseload and Scheduling, Item b, of the *Regulations for the Implementation of State-funded Compensatory Remedial Programs*, Regular School Year as follows:

"The State-funded compensatory/remedial teacher shall provide each eligible student in the state compensatory/remedial program a minimum of 70 hours of instruction for language arts and 70 hours of instruction for mathematics or until the deficiencies as identified on the State Basic Skills Test have been mastered as determined by the local education agency. No more than 12 students shall be served by one compensatory/remedial teacher per instructional period. (Board Policy) A school system which has provided 70 hours of remediation per subject area has complied with its remediation obligation."

Rule 4.03.45

The Board adopted a policy that it shall be mandatory for all vocational-technical schools to be covered by comprehensive general liability insurance and automotive liability insurance.

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, raised the minimum Federal Tax Refund Offset amount from \$150 to \$300, effective November 1, 1982. This Rule change is in accordance with Sections 2331 and 2336 of P.L. 97-35 and Louisiana R.S. 46:236.1 which require the IV-D agency to effect procedures to obtain payment of past-due support from overpayments made to the Secretary of the Treasury. This change has been implemented to reduce the administrative costs of current Federal Tax Refund Offset procedures by eliminating intercept cases which result in returning collections to absent parents.

Roger P. Guissinger  
Secretary

## RULE

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

The Department of Health and Human Resources, Office of Family Security, has updated the Maximum Allowable Costs (MAC) for certain drugs, as required by federal regulations. The new Maximum Allowable Cost (MAC) determinations are now in effect for the following drugs:

Acetaminophen w/codeine, oral tablet 300 mg./60 mg.	0.1458
Ampicillin, oral capsule, 250 mg.	0.0422
Ampicillin, oral liquid, 125 mg./5 ml.	0.0114
Penicillin, VK, oral tablet, 250 mg.	0.0417
Penicillin, VK, oral tablet, 500 mg.	0.0649
Penicillin, VK, oral liquid, 125 mg./5 ml.	0.0109

Tetracycline, HC1, oral capsule,  
500 mg. 0.0394

In no case may a recipient be required to provide payment for any difference in a prescription price that may occur with the implementation of MAC, nor may our office use a cost which exceeds the established maximums except as follows. DHHS's regulations provide that when a physician certifies that a specific brand is medically necessary for a particular patient, then the MAC limitations for that medication will not apply. In this case, their specific guidelines provide that:

- 1) the certification must be in the physician's handwriting;
- 2) the certification may be written directly on the prescription or on a separate sheet which is attached to the prescription;
- 3) a standard phrase written on the prescription, such as "brand necessary" will be acceptable.
- 4) a printed box on the prescription blank that could be checked by the physician to indicate brand necessity is **unacceptable**;
- 5) a handwritten statement transferred to a rubber stamp and then stamped on the prescription blank is unacceptable.

This policy was implemented August 12, 1982, and was published as an Emergency Rule in the *Louisiana Register* on August 20, 1982.

This action will allow the Medical Assistance Program to be in compliance with federal regulations, effective August 12, 1982, which were published in the June 28, 1982, *Federal Register*, Volume 47, Number 124, pages 27968 through 27973. Compliance with these regulations assures continued federal financial participation in Louisiana's Medical Assistance Program.

Roger P. Guissinger  
Secretary

#### **RULE**

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

The Department of Health and Human Resources, Office of Family Security, has amended the approved waiver document for provision of Home and Community based services. Deeming of income and resources will be excluded from parents and spouses to applicants who utilize any of the three Home and Community based services (Homemaker, Habilitation, and Adult Day Care) in lieu of care in a Skilled Nursing Facility (SNF) or Intermediate Care Facility (ICF) (including Intermediate Care for the Mentally Retarded (ICF/MR) which would otherwise be required. The applicants must meet all other eligibility conditions as specified in current policy.

This Rule applies only to those individuals using one of the three Home and Community based services who would otherwise require SNF/ICF services.

This Rule:

1) Allows the provision of Medical Assistance to individuals determined to be in need of Home and Community based services for which they would otherwise be ineligible, because of deeming of income and resources of parents or spouse; and

2) Allows this agency to utilize provisions for alternative care to eliminate unnecessary utilization and reduce the cost of institutional care for eligible individuals.

Implementation of this Rule is based on an amendment to the approved waiver document (Section 2176 of Public Law 97-35) which has been granted by the Health Care Financing Administration.

This policy was implemented September 1, 1982, and was published as an Emergency Rule in the *Louisiana Register* on August 20, 1982.

Roger P. Guissinger  
Secretary

#### **RULE**

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

The Department of Health and Human Resources, Office of Family Security, has excluded from the Title XIX Medical Assistance Program the drug known as Heptavax-B. This drug is not payable and will be excluded under the category "miscellaneous drugs".

Roger P. Guissinger  
Secretary

**RULE**

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

Effective October 20, 1982, the Department of Health and Human Resources, Office of Health Services and Environmental Quality, Family Planning Program, is changing the criteria for charging fees to its family planning patients. The lower limit for charging fees is changed from persons at or above 150 percent of poverty to those at or above 100 percent poverty.

In accordance with the United States Government, Depart-

ment of Health and Human Services Guidelines for Project Grants, Part I, 6.3; United States Government, Department of Health and Human Services, Public Health Services Act, Section 1001, Sub-part A, Part 59 5a, Title 42 Code of Federal Regulation, all family planning patients whose gross family income is above 100 percent (rather than the current 150 percent) poverty as determined by the U. S. Office of Management and Budget shall pay a fee for each service provided as indicated on the fee adjustment schedule.

Roger P. Guissinger  
Secretary

**FEE ADJUSTMENT SCHEDULE**

% Poverty Income Family Size	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII
	100%	100% 9% of Charge	110% 18% of Charge	120% 27% of Charge	130% 36% of Charge	140% 45% of Charge	150% 54% of Charge	160% 63% of Charge	170% 72% of Charge	180% 81% of Charge	190% 90% of Charge	200% 100% of Charge
1		\$ 4,680	\$ 5,148	\$ 5,616	\$ 6,084	\$ 6,552	\$ 7,020	\$ 7,488	\$ 7,956	\$ 8,424	\$ 8,892	\$ 9,360
2		6,220	6,842	7,464	8,086	8,708	9,330	9,952	10,574	11,196	11,818	12,440
3		7,760	8,536	9,312	10,088	10,864	11,640	12,416	13,192	13,968	14,744	15,520
4		9,300	10,230	11,160	12,090	13,020	13,950	14,880	15,810	16,740	17,670	18,600
5		10,840	11,924	13,008	14,092	15,176	16,260	17,344	18,428	19,512	20,596	21,680
6		12,380	13,618	14,856	16,094	17,332	18,570	19,808	21,046	22,284	23,522	24,760
7		13,920	15,312	16,704	18,096	19,488	20,880	22,272	23,664	25,056	26,448	27,840
8		15,460	17,006	18,552	20,098	21,644	23,190	24,736	26,282	27,828	29,374	30,920
9		17,000	18,700	20,400	22,100	23,800	25,500	27,200	28,900	30,600	32,300	34,000
10		18,540	20,394	22,248	24,102	25,956	27,810	29,664	31,518	33,372	35,226	37,080
11		20,080	22,088	24,096	26,104	28,112	30,120	32,128	34,136	36,144	38,152	40,160
12		21,620	23,782	25,944	28,106	30,268	32,430	34,592	36,754	38,916	41,078	43,240
13		23,160	25,476	27,792	30,108	32,424	34,740	37,056	39,372	41,688	44,004	46,320
14		24,700	27,170	29,640	32,110	34,580	37,050	39,520	41,990	44,460	46,930	49,400
15		26,240	28,864	31,488	34,112	36,736	39,360	41,984	44,608	47,232	49,956	52,480
16		27,780	30,558	33,336	36,114	38,892	41,670	44,448	47,226	50,004	52,782	55,560
17		29,320	32,252	35,184	38,116	41,048	43,980	46,912	49,844	52,776	55,708	58,640

**RULE**

**Department of Health and Human Resources  
Office of Mental Health and Substance Abuse**

Subject: Public Psychiatric Hospital Overflow Policy and Purchase of Emergency Private Psychiatric Hospital Services for Youth in Louisiana

In accordance with the authority vested in the Office of Mental Health and Substance Abuse (OMHSA) by Title 28 of the Revised Statutes of 1950 and in accordance with Section 2121 et seq. of Title 40, the following policies and procedures are adopted for management of the current grave situation of public psychiatric youth hospital overflow and purchase of emergency private psychiatric hospital services for youth in Louisiana.

**I. Purpose**

To provide acute psychiatric and substance abuse care and evaluation for children and adults who cannot be served by state OMHSA hospitals because of lack of appropriate bed space. Purchase of services will be accomplished with private Louisiana hospitals to provide mental health and substance abuse in-patient services when, and only when:

A. A psychiatrist, who confirms the emergency, has evaluated the individual and determined him to be gravely disabled or dangerous to self or others due to psychiatric illness or substance abuse, and

B. No bed is available in any state OMHSA hospital, and

C. No less restrictive alternative is feasible that would be appropriate, such as:

1. OMHSA emergency out-patient services for the youth and/or family, including day treatment

2. Residential treatment

3. Group home

4. Specialized foster care

D. Approval for use of private OMHSA hospital funds will

only be given prior to placement, and only when the individual at the time referred is actively suicidal or homicidal due to mental illness or substance abuse.

**II. Monitoring**

To be accomplished via continuation of OMHSA Youth and Adult Hospital Overflow Studies determining:

A. Need for mental health and substance abuse hospitalization for youth.

B. Utilization of funds: routine analyses will be made of all obligations committed to by OMHSA. If appropriated funds are fully allocated prior to the end of any fiscal year no further approvals for private care will be made except by direct approval of the Legislative Budget Committee and/or Interim Emergency Board.

**III. Procedure for OMHSA FUNDING PRIVATE HOSPITAL PLACEMENTS**

A. Current OMHSA Hospital Overflow procedures will be followed:

1. Upon receipt of a referral by a state OMHSA hospital, the hospital will determine if the referral is appropriate and whether admission is required. If a bed is available and the referral appropriate, the hospital will follow its usual and customary procedures to admit the patient, in accordance with the Mental Health Law.

2. If a bed is unavailable, the state OMHSA hospital will call OMHSA State Office to report the overflow situation.

3. OMHSA State Office will return the call to the referral source to determine:

a. That the youth or young adult has been seen by a psychiatrist who confirms the need for emergency hospital admission.

b. If the youth or young adult has been referred to the local OMHSA Center/Clinic, and if not an emergency, referral will be made in order to secure a second opinion as to the need for hospitalization.

c. Whether emergency out-patient services through the local OMHSA Centers/Clinics, including day treatment, can be utilized as an interim measure while the individual's name is placed on the state OMHSA hospital's waiting list.

4. Once the OMHSA Center/Clinic has established that immediate hospitalization is needed:

a. OMHSA State Office will contact all other appropriate state OMHSA hospitals for a vacancy. If a vacancy is found, immediate admission will occur.

b. If no vacancy is found, OMHSA will initiate efforts to determine Title XIX eligibility. If eligible, admission to a private Louisiana hospital accepting such payments will occur.

c. If ineligible for Title XIX, admission will occur at another appropriate Louisiana private hospital.

#### IV. Linkage with DHHR/Office of Human Development Client Placement System:

Immediate Referral of all appropriate overflow clients will be made to the appropriate Office of Human Development office to accomplish the following:

A. Referral for review by the Regional Review Committee within 60 days. This action will occur whether the individual has been referred for outpatient services and placed on a waiting list, or admitted to OMHSA hospital or private Louisiana Hospital and

B. Immediate action by the OHD Case Coordinator who will contact the family to complete the family assessment, including financial information:

1. The family's ability to contribute financially will be determined according to the Client Placement fee schedule. If private hospital placement is approved, the fee established will be paid by the individual or family to the hospital, and those deductions will be made from the state's liability.

2. Insurance payments to the hospital

3. Title XIX payments to the hospital

4. If either 2) or 3) are feasible, such financial sources will be the hospital's first reimbursement dollar. Further Title XIX shall be considered payment in full.

5. SSI eligibility and payment to Hospital.

C. The OHD Case Coordinator will be responsible for insuring that provisions for partial payment are made in the form of:

1. Family financial contribution to the private hospital

2. Insurance coverage to the hospital

3. Title XIX payments to the hospital

4. SSI payments to hospital

D. OMHSA State Office will be responsible for insuring that payment is made to the hospital for the remaining difference, or for the total cost if other contributions are not feasible.

#### V. Limitations to coverage of private hospital costs

A. Eligibility for funding must be established prior to the individual's entry into the private hospital. There will be no retroactive payment prior to establishing eligibility.

B. Funding will be approved initially for not more than 28 days. At the end of this period (or before):

1. The individual will be discharged to the home or other less restrictive setting.

2. The youth will be transferred to a state OMHSA hospital.

3. If for any reason continued private hospitalization is necessary past the 28-day limit, the hospital will be responsible for securing approval for continued funding from OMHSA State Office. Any such extension must be approved by OMHSA State Office:

a. Every 28 days thereafter

b. When and only when, documentation from the treating physician supports the need for the extension.

c. There is continued unavailability of an appropriate public OMHSA bed.

C. Once a placement in an appropriate OMHSA hospital is offered, funding for private hospitalization ceases as of designated date for admission to an OMHSA hospital, if confirmation is received by an OMHSA psychiatrist that transfer will not cause harm to the individual.

D. At any time OMHSA can request a second psychiatric opinion to confirm that hospitalization is needed for the individual's best interest.

E. Educational costs shall not be paid by OMHSA/DHHR. These costs are the responsibility of the local education authority.

F. At the time of the emergency placement, determination will be made for method of payment of psychiatrists fees. If psychiatric services are to be included in the hospital bill, payment for the psychiatrist's services will be made to the hospital. In all other situations, payment will be made directly to the treating psychiatrist.

#### VI. Agreement Provisions

A. Private provider must be willing to accept from OMHSA State Office referrals who meet the eligibility requirements for OMHSA emergency funding, provided an appropriate bed is available.

B. Private provider must be willing to abide by the 28-day maximum stay and accept responsibility for contacting OMHSA State Office if an extension is necessary.

C. Private provider must agree to submit copies of all evaluations, but a minimum of a social, psychiatric, psychological and medical, to OMHSA State Office within 10 days of admission. Thereafter, weekly progress reports must be submitted. Payment will be withheld until appropriate reports are submitted.

D. Private provider must be willing to make further treatment recommendations upon discharge of the youth, concerning:

1. Place of discharge

a. Home, or other independent living situation

b. Foster home

c. Group home

d. Residential treatment center

e. State psychiatric hospital

E. Private provider must be willing to allow OMHSA, through Headquarters staff, to have on-site review privileges.

F. Private providers shall not discriminate against any proposed admission due to color, race, religion, sex or national origin.

J. Rahn Sherman, MD

Assistant Secretary

### **RULE**

#### **Department of Health and Human Resources Office of Mental Retardation**

The Department of Health and Human Resources, Office of Mental Retardation, is adopting the amended Minimum Standards for Adult Day Services. These standards shall apply to all agencies who receive funding through the Office of Mental Retardation's adult day services program and who provide services to the mentally retarded adults.

#### **STANDARDS FOR ADULT DAY SERVICES**

##### **I. Introduction**

"Adult day services" means services provided in the community for mentally retarded adults. Adult day services include, but are not limited to, structured work programs, prevocational

programs, socialization and self-help programs, and behavior management programs. Standards for Adult Day Services are applicable to all programs which provide remunerative work opportunities for program participants. Adult Day Services are designed for mentally retarded adults who are not presently able to participate in a less structured vocational environment. Adult Day Services should take the form of work production opportunities provided in a realistic work environment and with appropriate supervision. Such work opportunities may be provided in a day center, a work station in industry, or through supervised work provided away from the day center.

Adult Day Services may also take the form of prevocational skills training. Prevocational training is appropriate for individuals lacking the prerequisite skills which would enable them to participate in a work environment. For individuals in this category, individual program plans should be written that address existing skill deficits which preclude full participation in a work program. Prevocational skills training may include work adjustment training, self-help skills training, and other such appropriate training designed to assist each program participant in functioning successfully in a work environment.

The Adult Day Services Program may also address training experiences designed to enable individuals to progress toward normal living within his/her community. Persons planning individual program plans may look at nonwork needs of program participants and may wish to recommend training designed to help the individual function more independently at work, in the neighborhood around the day center and in getting to and from work. Examples of nonwork related training activities are how to use public transportation, money management, and how to access public recreation facilities.

## II. Purposes

Adult Day Programs funded through the Office of Mental Retardation shall operate for the purpose of:

- a. Providing daily services to mentally retarded individuals in the community.
- b. Providing opportunity for and access to extended remunerative employment for individuals whose handicapping condition is a continuing barrier to competitive employment.
- c. Providing the habilitation services necessary for successful participation and employment in a work environment.
- d. Maximizing the opportunity for the individual to earn wages.
- e. Ensuring that program participants have access to and opportunity for participation in his/her least restrictive vocational environment.
- f. Providing the prevocational skills training which may be needed by program participants to enable them to function more independently and to participate to any degree in a remunerative work program.

## III. Standards

### A. Eligibility

1. The agency shall request a determination of Title XIX eligibility by the Office of Family Security for all applicants to the Adult Day Services Program.
2. All program participants in the Adult Day Services Program funded through the Office of Mental Retardation shall meet the following eligibility criteria:
  - a. Twenty-two years of age or older.
  - b. Diagnosis of mental retardation by a licensed psychologist.
  - c. Verification of a current physical examination.
  - d. Development by a multidisciplinary evaluation team of a generic services plan recommending placement in a day program.
  - e. Decision by an Admissions Committee that placement

in an Adult Day Services Program is an appropriate placement.

f. Agreement by the applicant to participate in the Adult Day Services Program.

### B. Intake and Orientation

1. The agency shall have written criteria for admission of individuals to its Adult Day Services Program.
2. The agency shall have a written policy for constituting an admissions committee to review appropriateness of services.
3. The agency shall refer all applicants to its Adult Day Services Program to the Division of Vocational Rehabilitation for a vocational screening.
4. The agency shall have a written policy concerning orientation of applicants to the program goals and services available through the Adult Day Services Program.
5. The agency shall ensure that applicants agree in writing to participate in the Adult Day Services Program.
6. The agency shall have a written appeal procedure and shall ensure that individuals denied admission to or terminated from the Adult Day Services Program are notified in writing of such an appeal procedure.

### C. Program Participant Records

1. The agency shall have a written policy concerning confidentiality of or access to program participant records and the time period for maintaining such records.
2. The agency shall maintain a file on each program participant in the Adult Day Services Program which contains the following:
  - a. Office of Mental Retardation (OMR) - approved Application for Services.
  - b. Integrated multidisciplinary evaluation report.
  - c. OFS Medical Evaluation Form (OFS Form 149-A).
  - d. Generic Services Plan.
  - e. Written statement of certification of appropriateness of services.
  - f. Mental Retardation Service Plan.
  - g. Program Participant performance reports.
3. The agency shall maintain additional information in the program participant record as required by the Office of Mental Retardation.

### D. Evaluation and Assessment

1. Psychological evaluation reports shall not be more than two years old at the time of admission to the Adult Day Services Program.
2. The findings of the multidisciplinary evaluation shall be reviewed and updated, if necessary, at least every three years.
3. Assessment services shall be provided to each program participant to assess and gather information needed to develop the mental retardation service plan (see E-3). Information related to the individual's functioning in the following areas shall be obtained:

- a. Physical
- b. Behavioral
- c. Social
- d. Vocational
- E. Mental Retardation Service Plan

1. The agency, through its program staff, shall develop within 30 days of admission and by the anniversary date thereafter a mental retardation service plan for each program participant which is developed in accordance with requirements of the Office of Mental Retardation.

2. The agency shall notify each program participant of the time and date of the planning conference to develop the mental retardation service plan.

3. In developing the mental retardation service plan, the program planning committee shall review and consider assessment information related to the individual's functioning in the

following areas: physical, behavioral, social, and vocational.

4. The agency shall ensure that the program participant is involved in developing the mental retardation service plan.

5. The agency staff responsible for carrying out the mental retardation service plan shall be involved in developing the plan.

6. Written semi-annual performance reports shall be shared with each program participant.

F. Program Guidelines

1. When appropriate, the agency shall have a valid certificate issued by the Wage and Hour Division of the U.S. Department of Labor to operate a sheltered work program.

2. The agency shall ensure that program participants have daily access to a minimum of six hours of active programming.

3. Each program participant shall be paid at a rate equal to his productivity through either a piece rate or hourly wage system.

4. The agency shall provide each program participant a written statement for each pay period which indicates gross pay, hours worked, and deductions.

5. The agency shall retain current community wage rate information on all production operations available in its Adult Day Services Program.

6. The agency shall assess each program participant's performance on specific job tasks for the purpose of developing the mental retardation service plan.

7. The agency shall assess each program participant's strengths and limitations in the area of work-related behavior for the purpose of developing the mental retardation service plan.

8. The agency shall provide work skill training designed to assist each program participant in attaining his/her work skill goals thereby enabling him/her to perform specific job tasks.

9. The agency shall provide work adjustment training services designed to assist each program participant in functioning successfully in a work environment.

G. Reporting

1. The agency shall provide the Office of Mental Retardation with a monthly report which indicates the following:

a. Days in attendance by each program participant.

b. Total gross wages paid to each program participant.

c. Total hours in work production by each program participant.

H. General Staffing Provisions

1. The agency shall have a staff organizational chart of the Adult Day Services Program which has been approved by the agency governing board.

2. The agency shall hire an individual to be responsible for the administration and direction of the Adult Day Services Program.

3. Agency staff in the Adult Day Services Program funded by the Office of Mental Retardation shall meet the qualifications for employment as established by the Office of Mental Retardation.

4. The agency shall have at least two full-time staff in the Adult Day Services Program and shall maintain a staff/program participant ratio as established by the Office of Mental Retardation.

5. The agency shall have written job descriptions for all staff in its Adult Day Services Program.

I. Inservice Training

1. The agency shall have on staff at least one employee who has successfully completed the Office of Mental Retardation Basic Production Practices training series.

2. The agency shall have at least one employee on duty at all times who holds a certificate for successful completion of an approved first aid course.

J. Monitoring

1. The agency shall make available to staff of the Office of Mental Retardation all records and information needed to monitor compliance with these standards for Adult Day Services.

K. Licensing

1. The agency shall have a valid license issued by the Department of Health and Human Resources, Office of Licensing and Regulation to operate an Adult Day Services Program.

L. Behavior Management

1. The agency shall conduct its behavior management programs in accordance with Department of Health and Human Resources policy on Behavior Management.

Roger P. Guissinger  
Secretary

*La. Register 10-20-83*

**RULE**

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

The Department of Health and Human Resources, Office of the Secretary, is adopting the guidelines for the Community Residential Development Fund as published in the September 20, 1982 *Louisiana Register*, as follows:

A. Definition of Community Residential Development Fund:

The Community Residential Development Fund was established by Act 770 of the 1981 Louisiana Legislature for the purpose of granting loans to eligible private, non-profit organizations to pay for the initial costs of development of community residential programs. Community residential programs, as defined by Act 770, are residential programs for not less than four nor more than six physically and/or mentally disabled persons at one program site and would include such programs as community (group) homes, supervised apartments, or out-of-home respite care. Funds for the loan program are located within the Office of the Secretary to be used by the appropriate program Offices (i.e., Mental Retardation, Human Development, and Mental Health and Substance Abuse). The maximum amount available to any one organization is \$45,000.

B. Eligible Organizations:

In order to be eligible to apply for funds under the Community Residential Development Fund, the applicant organizations must, at a minimum, meet the following criteria:

1. Must be classified non-profit according to the requirements of S. 501 (c)(3) of the Internal Revenue Code of 1954, 26 U.S.C. 501. (c)(3);

2. Must agree to serve clients of the Department of Health and Human Resources;

3. Must serve clients whose mental or physical disability is not a result of the aging process and whose impairment limits one or more major tasks: walking, seeing, hearing, speaking, or breathing; and is attributable to any physiological disorder or condition, cosmetic disfigurement, or loss of limbs affecting one or more of the body's systems: neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular; or any mental or psychological disorder such as mental retardation, organic brain syndrome, and emotional or mental illness; and

4. Must provide a ten percent match to the borrowed amount either in cash or in real property or in kind.

C. Allowable Costs:

The costs of development which can be paid by this loan would include the following categories:

1. The downpayment for the purchase and/or construction of a home, duplex, or apartment(s);

2. The modification/renovation of such facility;

3. The purchase of equipment, fire/safety devices, and/or

furniture for the facility; and

4. Costs incurred during the development phase of the program prior to and up to one month after admission of clients. Such costs could include:

- a. The payment of salaries of personnel connected with the development and/or first month of operation of the program;
- b. The payment of rent, utilities, food and other general operating expenses during the development phase and/or the first month of operation; and
- c. The purchase of insurance during the development and/or the first month of operation.

Line item changes may be made only with prior approval from the appropriate program office.

#### D. Application Process:

1. Notification of the availability of funds for establishing community residential programs will be given through the Department and its Offices of Mental Retardation, Human Development, and Mental Health and Substance Abuse. Each Office shall designate its own Community Residential Development Fund Coordinator.

2. Interested/potential applicants shall request application packets from the Community Residential Development Fund Coordinator of the appropriate program office. The determination of which program office is appropriate will be based on the client population the applicant plans to serve. Those serving the mentally retarded will apply to the Office of Mental Retardation, those serving the mentally ill/emotionally disturbed and the autistic through the Office of Mental Health and Substance Abuse, and those serving the physically handicapped through the Office of Human Development. These Offices can be contacted at the following addresses; Office of Mental Retardation, 721 Government Street, Baton Rouge, LA 70802; Office of Mental Health and Substance Abuse, 655 North Fifth Street, Baton Rouge, LA 70802; Office of Human Development, 1755 Florida Boulevard, Baton Rouge, LA 70802.

3. The application packet will be mailed or delivered within five working days of receipt of request.

4. The applications will be due into the appropriate program offices by the first working day in November.

5. If the service provider anticipates operating expenses to be reimbursed through the Title XIX (Medicaid) Program, a simultaneous application shall be made to the Department's Division of Health Planning and Development. This will place the provider in compliance with Section 1122 of the Social Security Act which provides for review of all new health care facilities which are reimbursed through Medicare, Medicaid, and Maternal and Child Health programs. Three copies of the application, along with a questionnaire enclosed in the application packet, shall go to the Division of Health Planning and Development. Policy and guidelines for Section 1122 are included in the application packet. The Division of Health Planning and Development will accept the same application form as the Community Residential Development Fund.

6. The evaluation process will include an on-site inspection for the proposed facility by the program office and the Office of Licensing and Regulation. The program offices will be responsible for evaluating the application and proposed budget. During the evaluation process, applicants may be called to review and negotiate the application and proposed budget by the appropriate program office.

7. Following the evaluation process, the program offices will prioritize the applications according to the stated criteria for evaluation. The prioritized applications will be forwarded to the Office of the Secretary of DHHR for final approval.

8. Applicants will be notified by the Office of the Secretary of DHHR as to the final decision by January 15.

9. The agreements will be signed and the funds obligated by January 31.

#### E. Criteria for Evaluating Applications:

The program offices of Mental Retardation, Mental Health and Substance Abuse, and Human Development will be responsible for the evaluation and prioritization of applications/proposals. Each Office shall review those applications/proposals for the client population they are legislatively charged to serve. The following criteria will be utilized in evaluating applications by each of the program offices:

1. The experience of the applicant with similar programs and populations;

2. Need for the program for the clientele/geographical area;

3. The adequacy of programmatic components and services to be offered;

4. The degree of coordination between the proposed program and the necessary support services;

5. Demonstration of understanding of the principles behind the development of community residential programs;

6. Documentation that the program is the least restrictive setting for the clients to be served (for example, substitute family care for infants would be a more appropriate least restrictive environment than a community home for infants);

7. The proposed site has been reviewed by the appropriate program office and the Office of Licensing and Regulation to assure that it is or can be brought into compliance with licensing and certification standards;

8. The facility (house, apartment, duplex, etc.) must fit into the neighborhood where it will be established. (Labels, signs, or other distinguishing features which could draw attention to the program and its clients are prohibited.);

9. The site is separated from the location of the day programs in which the clients engage;

10. The site is not within 1,000 feet of another facility serving handicapped persons or another congregate living setting;

11. Access to and from the site should be convenient for its residents, staff, and others;

12. The soundness, justifiability, and practicability of the applicant organizations' budget request;

13. Documented financial need based upon the submitted financial solvency statement;

14. Operational funds have been committed by DHHR or another appropriate source;

15. How the proposed facility would fit into DHHR's current program priorities (for example, the placement of Gary W. classmembers); and

16. The applicant's commitment to the project as evidenced through at least a 10 percent cash or real property or in kind match as well as the amount of funds requested under the Community Residential Development Fund.

#### F. Repayment Procedure:

1. Repayment of the loan shall commence upon completion of the first year of operation and shall be made in equal payments during each month thereafter for the next 60 months. Such payments are due by the last day of the month and are considered delinquent thereafter. Delinquent payments are subject to a monthly interest penalty computed in accord with the rate paid of the past previous sale of the U. S. Treasury Bills prior to but covering the same period of time as the delinquency. Loan payments that are delinquent by more than two months may cause the entire principal to be due and payable as outlined in Section F.2. of these Rules. The repayment checks should be made out to the Community Residential Development Fund. For purposes of rate setting, the Department of Health and Human Resources will allow costs met through the Community Residential Development Fund

to be considered as reimbursable costs.

2. If the service provider which has received a loan under this fund ceases to accept appropriate clients, provide adequate care and maintenance to clients, or files papers of bankruptcy, the remaining unpaid portion of the loan shall be due and payable within a one-year period from the date on which the Department has notified the provider that the program has ceased to provide care or that the provider has filed bankruptcy proceedings. In addition to the remaining unpaid portion of the loan, an interest penalty shall also be due and payable on that portion of the loan which has been repaid. The interest penalty shall be computed beginning with the month in which the loan was finalized. The rate shall be that of the last previous sale of U. S. Treasury Bills prior to but with the same length of maturity as the time over which the loan has been repaid. If repayment had taken place over a longer period of time than the maximum maturity date of U. S. Treasury Bills, the one year Bill rate shall be utilized. The amount of the principal and interest shall constitute a lien in favor of the state against all real and personal property of the organization. The lien shall be perfected by the appropriate officer of the department by executing and acknowledging a statement of the name of the organization and the amount due on the loan and a copy of the promissory note which shall be recorded by the department with the clerk of the district court in the parish where the organization is located. If the organization has filed a petition for bankruptcy, the department shall file and enforce the lien in the bankruptcy proceedings. Otherwise, the lien shall be enforced in a manner prescribed by law. All funds received by the department from the enforcement of this lien shall be deposited in the Community Residential Development Fund in the state treasury.

3. If the private, non-profit organization is unable to continue to provide the specified services due to the termination of their lease by the lessor or to natural disaster, they may be granted a period of grace of up to one year in order to reestablish their program. During this period of grace, the repayment formula as described in R.S. 46:2394 shall be suspended until such time as the program is reestablished. If after the maximum one-year grace period the organization is unable to reestablish the program, the defaulting provisions of this section, as outlined in R.S. 46:2395, will go into effect.

#### G. The Annual Statement:

The private, non-profit organizations receiving loans under this fund shall submit to the appropriate DHHR program offices an annual statement setting forth the residential services they have provided during the year together with such other information as the department shall require. Those requirements for each organization include:

1. An accounting of expenditures made during the year for both start-up and on-going operational expenses;
2. A listing of personnel connected with the program during that year of operation complete with resumes and job descriptions;
3. The number of clients served and the nature of their disabilities;
4. A listing of the types of day programs utilized by clients during the year (i.e., Day Developmental Training Services, Sheltered Workshops, Day Hospital, College, Competitive Employment, etc.);
5. A description of the coordination that occurred with other agencies and services in the community/area;
6. Identifying gaps in services in the organization's community for the client-type served;
7. Identifying problems encountered, if any, during the year (examples include such elements as zoning, neighborhood opposition, client difficulties with law enforcement, accessing existing resources, safety issues).

The annual statement (six in all for each organization) shall be submitted within 60 days upon completion of each year of service.

Roger P. Guissinger  
Secretary

## RULE

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

Under the authority of the Environmental Affairs Act, L.R.S. 30:1066 (1) and (7) and 1084 B (1) and in accordance with the provisions in L.R.S. 49:951 et seq., the Louisiana Environmental Control Commission adopted revisions to the Louisiana Air Quality Regulations at the September 23, 1982 hearing. The revisions were forwarded and found acceptable by the Joint Committee on Natural Resources prior to adoption by the Commission.

The Commission adopted revisions to Sections 22.22.1 (A) and 22.22.2 (A) which state the test criteria to be followed by gas trucks and terminals. The revisions state the identical test criteria but remove the reference to Federal regulations and reference instead the Air Division Source Test Manual.

Revise Section 22.22.1 (A) of the Air Quality Regulations to read as follows:

A. Gasoline trucks and their vapor collection systems shall not sustain a pressure change of more than three inches of water (0.75 k Pa) in five minutes when pressurized to 18 inches of water (4.5 k Pa) or evacuated to six inches of water (1.5 k Pa) using the test procedure described in Method A of the Division's Source Test Manual.

Revise Section 22.22.2 (A) of the Air Quality Regulations to read as follows:

A. Loading and unloading operations at gasoline terminals shall not produce a reading equal to or greater than 100 percent of the lower explosive limit (LEL, measured as propane) at 2.5 centimeters around the perimeter of a potential leak source as detected by a combustible gas detector using the test procedure described in Method B of the document referenced in Section 22.22.1 (A).

The Commission also established the Air Quality Division Source Test Manual, Methods A and B, which are actual test procedures based on the EPA guidance document Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems. These procedures will be incorporated into the Air Quality Regulations.

#### AIR QUALITY DIVISION SOURCE TEST MANUAL

#### METHOD A PRESSURE-VACUUM TEST PROCEDURES FOR LEAK TIGHTNESS OF TRUCK TANKS

##### 1. PRINCIPLE

Pressure and vacuum are applied to the compartments of gasoline truck tanks and the change in pressure/vacuum is recorded after a specified period of time.

##### 2. APPLICABILITY

This method is applicable to determining the leak tightness of gasoline truck tanks in use and equipped with vapor collection equipment.

##### 3. DEFINITIONS

3.1 **Truck tank.** Any container, including associated pipes and fittings, that is used for the transport of gasoline.

3.2 **Compartment.** A liquid-tight division of a truck tank.

3.3 **Truck tank vapor collection equipment.** Any piping, hoses, and devices on the truck tank used to collect and route the gasoline vapors in the tank to the bulk terminal, bulk plant, or service station vapor control system.

#### 4. APPARATUS

4.1 **Pressure source.** Pump or compressed gas cylinder of air or inert gas sufficient to pressurize the truck tank to 6250 pascals (25 inches H<sub>2</sub>O) above atmospheric pressure.

4.2 **Regulator.** Low pressure regulator for controlling pressurization of the truck tank.

4.3 **Vacuum source.** Vacuum pump capable of evacuating the truck tank to 2500 pascals (10 inches H<sub>2</sub>O) below atmospheric pressure.

4.4 **Manometer.** Liquid manometer, or equivalent, capable of measuring up to 6250 pascals (25 inches H<sub>2</sub>O) gauge pressure with  $\pm 25$  pascals ( $\pm 0.1$  inch H<sub>2</sub>O) precision.

4.5 **Test cap for vapor recovery hose fittings.** This cap should have a tap for manometer connection and a fitting with shut-off valve for connection to the pressure/vacuum supply hose.

4.6 **Pressure/vacuum relief valves.** The test apparatus shall be equipped with an in-line pressure/vacuum relief valve set to activate at 7000 pascals (28 inches H<sub>2</sub>O) above atmospheric pressure or 3000 pascals (12 inches H<sub>2</sub>O) below atmospheric pressure, with a capacity equal to the pressurizing or evacuating pumps.

4.7 **Caps for liquid delivery line.**

4.8 **Pressure/Vacuum supply hose.**

#### 5. PRETEST CONDITION

5.1 **Purging of vapor.** The truck tank shall be purged of gasoline vapors and tested empty. The tank may be purged by any safe method such as flushing with diesel fuel or heating fuel.

5.2 **Location.** The truck tank shall be tested where it will be protected from direct sunlight.

#### 6. TEST PROCEDURE

6.1 The dome covers are to be opened and closed.

6.2 Connect static electrical ground connections to tank. Attach the delivery and vapor hoses, remove the delivery elbows, and plug the liquid delivery fittings.

6.3 Attach the test cap to the vapor recovery line of the truck tank.

6.4 Connect compartments of the tank internally to each other if possible. (If not possible, each compartment must be tested separately.)

6.5 Connect the pressure/vacuum supply hose and the pressure/vacuum relief valve to the shut-off valve. Attach the pressure source to the hose. Attach a manometer to the pressure tap.

6.6 Open the shut-off valve in the vapor recovery hose cap. Applying air pressure slowly, pressurize the tank, or alternatively the first compartment, to 4500 pascals (18 inches H<sub>2</sub>O).

6.7 Close the shut-off valve and allow the pressure in the truck tank to stabilize, adjusting the pressure if necessary to maintain 4500 pascals (18 inches H<sub>2</sub>O). When pressure stabilizes, record the time and initial pressure.

6.8 At the end of five minutes, record the time and final pressure.

6.9 Disconnect the pressure source from the pressure/vacuum supply hose, and slowly open the shut-off valve to bring the tank to atmospheric pressure.

6.10 Connect the vacuum source to the pressure/vacuum supply hose.

6.11 Slowly evacuate the tank, or alternatively the first compartment, to 1500 pascals (6 inches H<sub>2</sub>O).

6.12 Close the shut-off valve and allow the pressure in the truck tank to stabilize, adjusting the pressure if necessary to main-

tain 1500 pascals (six inches H<sub>2</sub>O) vacuum. When the pressure stabilizes, record the time and initial pressure.

6.13 At the end of five minutes, record the time and final pressure.

6.14 Repeat steps 6.5 through 6.13 for each compartment if they were not interconnected.

#### 7. ALTERNATIVE TEST METHODS

Techniques, other than specified above, may be used for purging and pressurizing the truck tanks, if prior approval is obtained from the Assistant Secretary, with the Administrators' concurrence. Such approval will be based upon demonstrated equivalency with the above method.

#### METHOD B

#### GASOLINE VAPOR LEAK DETECTION PROCEDURE BY COMBUSTIBLE GAS DETECTOR

##### 1. PRINCIPLE

A combustible gas detector is used to indicate any incidence of leakage from gasoline truck tanks and vapor control systems. This qualitative monitoring procedure is an enforcement tool to confirm the continuing existence of leak-tight conditions.

##### 2. APPLICABILITY

This method is applicable to determining the leak-tightness of gasoline truck tanks during loading without taking the truck tank out of service. The method is applicable only if the vapor control system does not create back-pressure in excess of the pressure limits of the truck tank compliance leak test. For vapor control systems, this method is applicable to determining leak-tightness at any time.

##### 3. DEFINITIONS

3.1 **Truck tank.** Any container, including associated pipes and fittings, that is used for the transport of gasoline.

3.2 **Truck tank vapor collection equipment.** Any piping, hoses, and devices on the truck tank used to collect and route the gasoline vapors in the tank to the bulk terminal, bulk plant, or service station vapor control system.

3.3 **Vapor control system.** Any piping, hoses, equipment, and devices at the bulk terminal, bulk plant, or service stations, which is used to collect, store, and/or process gasoline vapors.

##### 4. APPARATUS AND SPECIFICATIONS

4.1 **Manometer.** Liquid manometer, or equivalent, capable of measuring up to 6250 pascals (25 inches H<sub>2</sub>O) gauge pressure with  $\pm 25$  pascals (0.1 inch H<sub>2</sub>O) precision.

4.2 **Combustible gas detector.** A portable hydrocarbon gas analyzer with associated sampling line and probe.

4.2.1 **Safety.** Certified as safe for operation in explosive atmospheres.

4.2.2 **Range.** Minimum range of 0-100 percent of the lower explosive limit (LEL) as propane.

4.2.3 **Probe diameter.** Sampling probe internal diameter of 0.625 cm (¼ inch).

4.2.4 **Probe length.** Probe sampling line of sufficient length for easy maneuverability during testing.

4.2.5 **Response time.** Response time for full-scale deflection of less than eight seconds for detector **with** sampling line and probe attached.

##### 5. TEST PROCEDURE

5.1 **Pressure.** Place a pressure tap in the terminal, plant, or service station vapor control system, as close as possible to the connection with the truck tank. Record the pressure periodically during testing.

5.2 **Calibration.** Calibrate the combustible gas detector with 2.2 percent propane by volume in air for 100 percent LEL response.

5.3 **Monitoring procedure.** During loading or unload-

ing, check the periphery of all potential sources of leakage of the truck tank and of the terminal, plant, or service station vapor collection system with a combustible gas detector.

5.3.1 Probe distance. The probe inlet shall be 2.5 cm from the potential leak source.

5.3.2 Probe movement. Move the probe slowly (2.0 cm/second). If there is any meter deflection at a potential leak source, move the probe to locate the point of highest meter response.

5.3.3 Probe Position. As much as possible, the probe inlet shall be positioned in the path of (parallel to) the vapor flow from a leak.

5.3.4 Wind. Attempt as much as possible to block the wind from the area being monitored.

5.4 **Recording.** Record the highest detector reading and location for each incidence of leakage.

Persons requesting copies and/or further information concerning the revisions listed below may contact Gus Von Bodungen, Office of Environmental Affairs, Box 44066, Baton Rouge, LA 70804-4066, or phone (504) 342-1206.

B. Jim Porter  
Assistant Secretary

## RULE

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

Under the authority of the Environmental Affairs Act, L.R.S. 30:1066 (1) and (7) and 1084 B (1) and in accordance with the provisions in L.R.S. 49:951 et seq., the Louisiana Environmental Control Commission adopted a revision to the Louisiana State Implementation Plan for Ozone Abatement at the September 23, 1982 hearing. Preceding final adoption of the revision by the Commission, it was forwarded and found acceptable by the Joint Committee on Natural Resources.

The revisions to Page 21A should read as follows:

The plan submitted between March and November 1979 and approved by the Environmental Protection Agency, projects attainment of the ozone standard by December 31, 1982. This is being accomplished without the additional hydrocarbon reductions resulting from the installation of secondary seals on volatile organic compound storage tanks with external floating roofs. Consequently, since the plan shows attainment by December 31, 1982 and the plan is approved, the Air Quality Division intends to allow the emissions abated by the use of secondary seals to be used in the growth allowance for the parish where reduction occurs.

Persons requesting copies and/or further information concerning the revision may contact Gus Von Bodungen, Office of Environmental Affairs, Box 44066, Baton Rouge, LA 70804-4066, or phone (504) 342-1206.

B. Jim Porter  
Assistant Secretary

## RULE

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

Under the authority of the Environmental Affairs Act,

L.R.S. 30:1066 (1) and (7) and 1084 B (1) and in accordance with the provisions in L.R.S. 49:951 et seq., the Louisiana Environmental Control Commission adopted revisions to the Louisiana Air Quality Regulations at the August 26, 1982 hearing. Preceding final adoption of the revisions by the Commission, they were forwarded and found acceptable by the Joint Committee on Natural Resources.

The Commission adopted a revision to Section 6.10.2 which relaxes the reporting requirements for facilities on a compliance scheduled from semi-annual to annual.

The Commission also adopted a revision to Section 5.1 which refers to the booklet entitled "Rules of Procedure, Louisiana Environmental Control Commission." As these latest regulations supercede those in the Air Quality Regulations, Sections 5.2, 5.3 and 5.4 will be deleted.

Persons requesting copies and/or further information concerning the revisions listed below may contact Gus Von Bodungen, Office of Environmental Affairs, Box 44066, Baton Rouge, LA 70804-4066, or phone (504) 342-1206.

## LOUISIANA AIR QUALITY REGULATIONS REVISIONS

Revise Section 6.10.2 of the Air Quality Regulations to read as follows:

6.10.2 Any compliance schedule extending over 18 or more months from the date of its adoption shall provide for annual reports indicating increments of progress towards compliance with Commission regulations and standards.

Delete Sections 5.2, 5.3 and 5.4 of the current regulations.

Revise Section 5.1 to read as follows:

5.1 For details on meetings of the Commission, see the booklet entitled "Rules of Procedure, Louisiana Environmental Control Commission."

B. Jim Porter  
Assistant Secretary

## RULE

### Department of Natural Resources Office of the Secretary Coastal Management Section

The Secretary hereby adopts the following Rule, in accordance with Louisiana Revised Statutes 49:951 et seq., the Administrative Procedure Act and Louisiana Revised Statutes 49:213.11 and 49:213.18 of the Louisiana Coastal Zone Management Act, and pursuant to Notice of Intent published in the March 20, 1982 issue of the *Louisiana Register*, and following public hearing and a meeting of the Coastal Commission held on April 19, 1982:

Appendix c1

Rules and Procedures for Coastal Use Permits  
Part III. Permit Application, Issuance and Denial

H. Decisions on Permits

(2) If the staff of the permitting body recommends issuance of the permit, the permitting body will forward two copies of the proposed permit to the applicant. A letter of transmittal to the applicant shall include the recommendations to the Secretary and the anticipated date on which the application shall be presented to him for action. Unless good cause is then presented in support of changes to the permit and the conditions therein, the permit will be presented to the Secretary for action in such form.

Part IV. Stay of Activities Under Permits Pending Appeal

A. General

(1) A request to stay activities under the permit may be

filed with the Commission. In the interest of justice, the commission may stay all or a portion of the activities authorized under the permit. The stay order shall terminate upon disposition of the appeal or earlier if so ordered by the Commission.

Part IV, Modification, Suspension or Revocation of Permits, is renumbered and identified Part V, Modification, Suspension or Revocation of Permits; Part V, General Permits is renumbered and identified, Part VI, General Permits; Part VI, Determinations as to Whether Uses are of State Concern or Local Concern is renumbered and identified Part VII, Determinations as to Whether Uses are of State Concern or Local Concern; and Part VII, Determination as to Whether a Coastal Use Permit is required is renumbered and identified Part VIII, Determination as to Whether a Coastal Use Permit is Required.

Appendix c5

Procedural Rules for the Hearing of Appeals By  
The Louisiana Coastal Commission

A. Meetings

(4) Upon Notification that an appeal and request to stay activities authorized by a permit has been timely filed, the chairman shall call a meeting to be held within seven days, unless later because of force majeure, to consider the request for a stay.

Frank P. Simoneaux  
Secretary

**RULE**

**Department of Natural Resources  
Resource Recovery and Development Authority**

The Louisiana Resource Recovery and Development Authority hereby amends its Rules of Procedure by revising Section 7.1 to read as follows:

7.1 COMPETITIVE NEGOTIATIONS: As authorized by R.S. 30:1150.7A(19), the following procedures shall be used by the Authority to conduct competitive negotiations for the procurement of full-service arrangements for the design, construction and operation of resource recovery facilities and systems as deemed necessary, desirable or convenient by the Authority. Use of this competitive negotiation procedure shall exempt the Authority from the provisions of R.S. 39:1551 - 39:1736, R.S. 39:1481 - 39:1526, R.S. 38:2310 - 38:2316, and R.S. 38:2181 - 38:2225. Procurements not related to full-service arrangements for design, construction and operation of resource recovery facilities and systems shall be accomplished under the provisions of Section 7.2, 7.3 and 7.4 of these Rules and other applicable law.

7.1.1 Definitions: In accordance with Section 1.5 of these Rules, the following special definitions are provided:

(a) Full-Service Arrangement - means an arrangement wherein a single vendor contracts with the Authority to be responsible for, as a minimum, the design, construction, operation and maintenance of a resource recovery facility or system.

(b) Request for Proposal - means an official solicitation in writing prepared pursuant to this Section for the purpose of inviting two or more vendors to submit detailed proposals to supply services for the design, construction, operation and maintenance of a resource recovery facility or system.

(c) Request for Qualifications - means an official solicitation in writing prepared pursuant to this Section for the purpose of inviting two or more vendors to submit a qualifications statement to be used in evaluating the capabilities of each vendor to successfully supply services for the design, construction, operation and maintenance of a resource recovery facility or system.

(d) Vendor - a person who proposes to provide or provides services for the design, construction, operation and maintenance of a resource recovery facility or system.

7.1.2 Records; Public Access: Except as required by R.S. 30:1076, R.S. 30:1150.7D and Section 7.5 of these Rules, all data, documents, and other materials prepared by or for the Authority or supplied to the Authority for purposes of this Section shall be treated by the Authority as public records in accordance with the Public Records Act (R.S. 44:1 - 44:42). Proposals and qualifications statements received from vendors which contain technical data, financial information, overhead rates, and trade secrets submitted by a person under this Section shall not be disclosed to any member of the public without prior written consent of said person. The Authority may assess charges for copies of records furnished to the public in accordance with R.S. 39:241.

7.1.3 Competitive Negotiation Procurement Procedures; Summary: The competitive negotiation procurement process shall consist of the following steps:

- (a) Issuance of a Request for Qualifications (RFQ)
- (b) Receipt of Qualification Statements
- (c) Evaluation of Qualification Statements
- (d) Issuance of draft Request for Proposals (RFP)
- (e) Receipt of Comments on draft RFP
- (f) Issuance of Formal RFP
- (g) Receipt of Proposals
- (h) Proposal Evaluation
- (i) Selection of Vendors for Negotiations
- (j) Negotiations
- (k) Award of Contract(s)
- (l) The Authority may, at its sole discretion, utilize one of the following modifications to this process:

(1) Dispense with steps (a) - (c) of this process and begin with step (d), "Issuance of a draft Request for Proposal."

(2) Initiate steps (a) and (d) simultaneously, with only those vendors found qualified under steps (a) - (c) to receive a formal RFP.

Should the Authority decide to begin the process with modification (1) or (2), the reason for this decision shall be stated in the written notice required under Paragraphs (a) and/or (d) of Subsection 7.1.4 of these Rules, as applicable.

7.1.4 Competitive Negotiation Procurement Procedures  
(a) Issuance of a Request for Qualifications (RFQ); Contents, Notice, Questions, Charges:

(1) Contents - If the Authority determines that a Request for Qualifications (RFQ) is desirable, it shall prepare or cause to be prepared an RFQ. The purpose of the RFQ shall be to solicit information from vendors demonstrating the ability of the vendor, its employees, and any subcontractors to perform the services required. The contents of the RFQ shall include, but not be limited to, a general description of the project and the services desired, required vendor qualification data to be provided such as financial information, experience in design of resource recovery facilities or systems, experience in construction and/or operation and maintenance of resource recovery facilities or systems and/or public works or other facilities of similar size and complexity to the resource recovery facility or system being procured, and availability of any proprietary equipment or processes which may be required for the project, whether through direct ownership of rights or through licensing or similar arrangements. The contents of the RFQ shall also include the procedures and criteria (including weights, if any) to be used for evaluating the qualifications statements, and a statement that vendors who do not submit qualifications statements will be precluded from participation in procedures for changes specified in Paragraphs 7.1.5(b) and (c), and procedures for questions regarding the RFQ.

(2) Notice - Once the RFQ has been approved by the Authority for issuance, the Authority shall announce the availability of the RFQ through a written public notice. The written public notice shall contain, as a minimum, a general description of the project, the name and address of the Authority, where and how the RFQ may be obtained, the price to be charged for the RFQ in accordance with Subparagraph (a) (4) of this Subsection, where qualifications statements are to be sent, the deadline for receipt of qualification statements, the date, time and place that vendors found to be qualified will be announced, and a statement that vendors who do not submit qualifications statements will be precluded from participation in procedures for changes specified in Paragraphs 7.1.5(b) and (c). The public notice shall be advertised in the official journal of the state and in one or more newspapers of general circulation in the state at least once a week for three different weeks, the last advertisement appearing not less than thirty days prior to the last day for receipt of statements. The notice may also be placed in those national trade journals which serve potential full-service vendors. In addition, on or before the first day the notice is published in the Official Journal of the state, the notice shall be mailed to vendors who are known by the Authority to be in a position to furnish such services.

(3) Questions - Questions from vendors regarding the RFQ must be in writing and must be received by the Authority at least fifteen days prior to the deadline for receipt of qualifications statements. All responses by the Authority shall be provided to all vendors who requested the RFQ from the Authority at least seven days prior to the deadline for receipt of qualifications statements. A question-and-answer meeting may be held by the Authority in lieu of this written process, at least twenty-one days prior to the last day for receipt of qualifications statements. If such a meeting is held, a taped or written record of the meeting will be made available for inspection at the office of the Authority until the deadline for receipt of qualifications statements.

(4) Charges - The Authority may charge and collect from each person who requests an RFQ a fee established in accordance with R.S. 39:241.

(b) Receipt of Qualifications Statements: The Authority shall accept qualifications statements up to the day and time specified as a deadline in the Notice of Availability of the RFQ, or specified as a deadline by the Authority pursuant to a change authorized under Subsection 7.1.5 of these Rules.

(c) Evaluation of Qualifications: The Authority shall evaluate the qualifications statements received in accordance with the evaluation procedures and criteria specified in the RFQ and shall determine, based on the information presented, whether each vendor is qualified to offer the services required. After all statements have been evaluated, each vendor shall be mailed a list of all vendors found to be qualified. Each vendor found not to be qualified shall be so notified and, if requested by the vendor, shall be provided with a statement of the reason or reasons therefor.

(d) Issuance of a Draft Request for Proposals (RFP); Contents, Notice; Charges:

(1) Contents - Prior to the issuance of a formal Request for Proposals (RFP) for services on a project authorized under this Section, the Authority shall prepare or have prepared a draft Request for Proposals. The contents of the draft RFP shall include, but not be limited to, a summary of the procurement process, background data on the project, an anticipated time schedule for initiation and completion of construction, required vendor qualifications, qualifications evaluation procedures and criteria (including weighting, if any), performance standards for the proposed resource recovery facility or system, details of financing and contractual conditions, and details of the proposal evaluation and selection process, the specified length of time the Authority will require vendor proposals to remain in effect, and a statement that

vendors who do not submit proposals will be precluded from participation in procedures for changes specified in Paragraphs 7.1.5(b) and (c) unless the Authority has qualified vendors under Paragraphs 7.1.4(a) - (c), in which case the provisions of Paragraph 7.1.4(a) shall apply. The information on vendor qualifications and qualifications evaluation shall not be required in the draft RFP if the Authority has qualified vendors under Paragraphs (a) - (c) of this Subsection.

Notice - Once the draft RFP has been approved by the Authority for issuance to receive comments, the Authority shall announce the availability of the draft RFP through a written public notice unless Paragraphs (a) - (c) of this Subsection. If the Authority has qualified vendors, the Authority shall send the draft RFP to all qualified vendors as well as to consultants and advisors of the Authority, governmental entities involved in the project, and others deemed appropriate by the Authority. Other persons may obtain an informational copy of the draft RFP upon request. If the Authority has not qualified vendors, then the written public notice shall contain, as a minimum, general description of the project, the name and address of the Authority, where and how the draft RFP may be obtained, the price to be charged for the draft RFP in accordance with Subparagraph (d) (3) of this Subsection, where comments are to be sent and the deadline for receipt of comments. The public notice shall be advertised once in the official journal of the state and in one or more newspapers of general circulation in the state at least thirty days prior to the last day comments will be accepted. The notice also may be placed in those national trade journals which serve potential full-service vendors. In addition, on or before the day the notice is published in the official journal of the state, the notice shall be mailed to vendors who are known by the Authority to be in a position to furnish such services.

(3) Charges - The Authority may charge and collect from each person who requests a draft RFP a fee established in accordance with R.S. 39:241.

(e) Receipt of Comments on the Draft RFP: A period of at least thirty days will be allowed for receipt of written comments after the draft RFP has been made available for review. At the discretion of the Authority, a question-and-answer meeting regarding the draft RFP may be held during the thirty-day comment period. Comments made to the Authority at any such meeting must be reduced to writing and submitted to the Authority by the deadline for receipt of comments in order to be considered.

(f) Issuance of a Formal Request for Proposals:

(1) Contents - The formal RFP shall consist of the draft RFP as modified, changed or altered by the Authority solely at its discretion, based on the comments received or in accordance with Subsection 7.1.5 of these Rules.

(2) Notice - Once the formal RFP has been approved by the Authority for issuance, the Authority shall announce the availability of the formal RFP through written public notice unless the Authority has qualified vendors under Paragraphs (a) - (c) of this Subsection. If the Authority has qualified vendors, the formal RFP shall be sent to all qualified vendors, as well as to consultants and advisors of the Authority, governmental entities involved in the project, and others deemed appropriate by the Authority. Other persons may obtain an informational copy of the formal RFP upon request. If the Authority has not qualified vendors, then the written public notice shall contain, as a minimum, a general description of the project, the name and address of the Authority, where and how the formal RFP may be obtained, the price to be charged in accordance with Subparagraph (f) (4) of this Subsection, where proposals are to be sent, the deadline for receipt of proposals, the date, time and place that the vendor or vendors selected for negotiations will be announced, and a statement that vendors who do not submit proposals will be precluded from participation in procedures for changes specified in Paragraphs 7.1.5(b) and (c).

The public notice of availability shall be advertised in the official journal of the state and in one or more newspapers of general circulation in the state at least once a week for the three different weeks, the first advertisement appearing not less than ninety days prior to the deadline for receipt of proposals. The notice also may be placed in those national trade journals which serve potential full-service vendors. In addition, on or before the first day notice is published in the official journal of the state, the formal RFP shall be mailed to those vendors who are known by the Authority to be in a position to furnish such services.

(3) Questions - Questions from vendors regarding the RFP must be in writing and must be received by the Authority at least forty-five days prior to the deadline for receipt of proposals. All responses to such questions by the Authority will be provided to all vendors who received an RFP from the Authority at least thirty days prior to the deadline for receipt of proposals.

(4) Charges - The Authority may charge and collect from each person requesting an RFP a fee established in accordance with R.S. 39:241.

(g) Receipt of Proposals: The Authority shall accept proposals up to the day and time specified as a deadline in the formal RFP. At the time specified, the Authority shall make public the names of the vendors who submitted proposals. The Authority may reject any proposal which is incomplete or otherwise does not conform to the requirements for submission specified in the RFP.

(h) Proposal Evaluation: Proposals shall be evaluated by the Authority in accordance with the evaluation procedures and criteria specified in the formal RFP. During the evaluation period each vendor shall be given the opportunity to meet with the Authority's evaluation team to explain and clarify the proposal. The proposal may not be modified in any manner except in response to a change issued by the Authority under Subsection 7.1.5 of these Rules. The meetings with each vendor shall be confidential and during any such meeting the Authority shall not disclose any information derived from proposals submitted by competing vendors. The evaluation process will result in a ranking of vendors to be selected for negotiations.

(i) Selection of Vendors for Negotiations: Negotiations with vendors may be conducted by one of two methods.

(1) Single Vendor Method - The vendor ranked highest after the evaluation process will be requested to enter into negotiations for a contract to perform the services required for the project and notified of the timeframe for the negotiations. If a satisfactory contract cannot be negotiated with the highest ranked proposer within the timeframe specified by the Authority, negotiations with that vendor will be terminated and negotiations with the next highest ranked vendor will be initiated. This process may continue until either a contractual agreement is finalized or all vendors have been eliminated.

(2) Multiple Vendor Method - The Authority may initially negotiate simultaneously with two or more of the potential vendors. In this event, the vendors will be ranked a second time on the basis of the results of the initial negotiations. Final negotiations will take place with the then highest ranked vendor and will proceed as in Subparagraph (i) (1) of this Subsection until a contractual agreement is reached or all vendors have been eliminated.

(j) Negotiations: Negotiations shall be conducted in closed meetings. Attendance shall be limited to a negotiating team, comprised of Authority members, Authority staff, and consultants to the Authority, representatives of the vendor, and any others who are mutually acceptable to both the vendor and the Authority including, but not limited to, members of the legislature or other representatives of parishes and municipalities to be served by the facility or system. Negotiations shall be confidential, except for the final contract or contracts which result from the process. The Authority shall have the right to make changes to the project which

the Authority deems advantageous as provided in Subsection 7.1.5 of these Rules.

(k) Award of Contract(s): Once an agreement has been reached with a vendor as to satisfactory contractual terms and conditions, the contract(s) shall be prepared by the Authority. The contract(s) shall be formally executed by both parties only after official ratification by a two-thirds majority of the Authority; however, no full-service contract shall be executed with a corporation formed under the laws of any jurisdiction other than Louisiana until such corporation has qualified to do business in the State of Louisiana pursuant to R.S. 12:301.

#### 7.1.5 Changes:

(a) Prior to the deadline for submission of qualifications, comments or proposals the Authority may at its discretion alter the contents of an RFQ, a draft RFP or a formal RFP, the procedures and /or deadline for submitting qualifications statements, comments, and/or proposals or the procedures for evaluating such. The changes shall be sent by certified mail to each person to which a copy of the RFQ, draft RFP or formal RFP has been sent.

(b) The Authority shall have the right to make changes to the project during the course of proposal evaluation and/or negotiations as provided in Paragraphs (h) and (j) of Subsection 7.1.4 of these Rules. Notice and explanation of any such changes to the project shall be furnished to all vendors who have submitted proposals or who have been selected for negotiations.

(c) If the Authority determines that a change to an RFQ, a draft RFP or a formal RFP would affect the ability of vendors to qualify pursuant to Subsection 7.1.4(c) of these Rules, or would affect the ranking of vendors developed pursuant to Subsection 7.1.4(h) of these Rules, it shall notify the appropriate vendors that a material alteration has been made, and shall allow said vendors a reasonable time to submit a revised qualifications statement and/or new or revised proposal. Vendors shall be limited to revising those portions of their original qualifications statement and/or proposal which address the material alteration. If no proposal was submitted due to disqualification of the vendor by the Authority prior to the material alteration, a complete proposal may be submitted. The Authority shall evaluate any revised qualifications statements in accordance with Subsection 7.1.4(c) of these Rules, and any new or revised proposals in accordance with Subsection 7.1.4(h) of these Rules.

(d) Vendors who do not submit qualifications statements or proposals in accordance with Subsection 7.1.4 shall be precluded from participation in the procedures set forth in this Subsection.

7.1.6 Cancellation of RFQs, RFPs and Negotiations: The Authority shall have the right to cancel outstanding RFQs, RFPs, negotiations or any other part of the competitive negotiation process at any time and without obligation except to notify in a timely manner all participants of such cancellation and provide in such notice a statement of the reason for the cancellation.

7.1.7 Type and Term of Contracts: Any type of contract which will promote the best interests of the state as determined by the Authority may be used unless specifically prohibited by any Law or other Rule. The term of any contract shall not exceed 25 years.

Frank P. Simoneaux  
Secretary  
Chairman, LRRDA

**RULE**

**Department of Public Safety  
Office of State Fire Marshal**

**EDUCATION OCCUPANCIES**

The Fire Marshal for the State of Louisiana does hereby adopt the following administration Ruling:

L.A.C. 17-4:24 Education Occupancies

L.A.C. 17-4:24.1 In those educational facilities for which plans were approved prior to January 1, 1982 and in which deficiencies have been noted because of inadequate corridor separation, lack of smoke barriers, and lack of sprinkler protection in windowless classroom buildings, the State Fire Marshal will accept as equivalent compliance to the aforementioned requirements installation of a complete smoke detection system in the corridors and hazardous areas. This system must be capable of and properly connected to sound the general fire alarm and shut down all central air handling systems.

L.A.C. 17-4:24.2 Within 45 days after service on the owner and/or operator of an inspection report and order of correction citing the deficiencies listed in paragraph 24.2, the owner and/or operator of the school must submit to the Fire Marshal a proposed plan of correction in accordance with paragraph 24.2. The approved plan of correction then must be completed within the time specified by the Fire Marshal which shall not exceed 48 months.

Carrol L. Herring  
State Fire Marshal

**RULE**

**Department of Public Safety  
Office of State Fire Marshal**

**OBSERVATION OF CONSTRUCTION**

The Fire Marshal for the State of Louisiana does hereby adopt the following amendment to administrative ruling:

L.A.C. 17-4:6 Observation of Construction

L.A.C. 17-4:6.1 For structures which by law may only be constructed with plans prepared and certified by a licensed architect or civil engineer, it shall be the duty of the owner of such a structure to provide for periodic observation of the construction of the structure to determine if the work is proceeding in accordance with the plans and specifications as approved by the Fire Marshal. The observations shall be performed by a registered architect or a registered civil engineer.

L.A.C. 17-4:6.2 Upon completion of such work, the owner shall furnish to the Fire Marshal a certificate signed by a registered architect or registered civil engineer stating that the periodic observations have been made and that to the best of the architect's or engineer's knowledge, information and belief, the work was completed in accordance with those fire safety standards and regulations stipulated in the plans and specifications previously approved by the Fire Marshal.

[L.A.C. 17-4:6.3 remains unchanged]

L.A.C. 17-4:6.4 In order to comply with the requirements of Paragraph 6.2, the owner must submit to the Fire Marshal the following certificate completed by the observer:

**CERTIFICATE OF COMPLETION**

Date \_\_\_\_\_

TO: The Louisiana State Fire Marshal  
9131 Interline Avenue, Bldg. C  
Baton Rouge, Louisiana 70809

This is to certify that the \_\_\_\_\_

(name of project by title for type or use)

located at \_\_\_\_\_

(Street/Number/Town)

was periodically observed by me, by my consultants, and/or by others in my employ during construction and, to the best of my knowledge, information and belief, has been completed in accordance with the safety provisions which were shown in the plans and specifications previously approved by the Fire Marshal.

Under penalty of law for false statements, I, \_\_\_\_\_

(Name of Architect/Civil Engineer)

License No. \_\_\_\_\_ certify that all statements contained herein are, to the best of my knowledge, information and belief, are true and correct.

Carrol L. Herring  
State Fire Marshal

**RULE**

**Department of Public Safety  
Office of State Fire Marshal**

**AMENDMENT TO L.A.C. 17-4:16 -  
UPDATE SUB PARAGRAPH 16.11**

The Fire Marshal for the State of Louisiana hereby adopts the following amendment to administrative ruling:

L.A.C. 17-4:16 Unattended Gasoline Dispensing Systems

L.A.C. 17-4:16.11 Except as otherwise provided herein, in addition to the above regulations, such systems shall comply with the applicable provisions of the National Fire Code, National Fire Protection Association (N.F.P.A.) Pamphlet No. 30, regarding the handling and use of flammable liquids as follows:

A. Those facilities for which the plans and specifications for the construction and/or remodeling have been submitted to the State Fire Marshal for approval on or before January 1, 1983 shall comply with the 1973 edition of N.F.P.A. Pamphlet No. 30.

B. Those facilities for which plans and specifications for the construction and/or remodeling are submitted to the State Fire Marshal's Office for approval on or after January 1, 1983 shall comply with the 1981 edition of N.F.P.A. Pamphlet No. 30.

Carrol L. Herring  
State Fire Marshal

**RULE**

**Department of the Treasury  
Bond Commission**

The following Rule and Regulation of the Louisiana State Bond Commission, Office of the Treasurer, was adopted pursuant to the Administrative Procedure Act of Louisiana (R.S. 49:951, et seq.) after a public hearing held thereon on September 14, 1982.

Rule 12 of the State Bond Commission's Rules and Reg-

ulations as originally adopted on November 20, 1976, and amended as of October 20, 1978, November 20, 1979, January 20, 1981 and February 20, 1981, is hereby amended to read:

12. Approval of the Department of Commerce and Industry must be obtained for projects to be funded by industrial revenue bonds, including industrial development board and public trust projects, which approval shall certify compliance with the provisions of Rule 1 adopted by the State Board of Commerce and Industry. If such approval is not obtained prior to submission of the application to the Commission, then any approval of the Commission will be made subject to approval of the Department of Commerce and Industry.

Thomas D. Burbank, Sr.  
Secretary - Director

## **RULE**

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

The Wildlife and Fisheries Commission at its regular meeting on September 28, 1982 adopted the following Rule:

WHEREAS, the driving of vehicles, motorbikes, and three-wheelers, on the levee of Bundick Lake Dam have caused ruts, holes, elimination of grass, and washing away of the levee, and

WHEREAS, the Beauregard Parish Police Jury and concerned citizens of Beauregard Parish have requested the Louisiana Wildlife and Fisheries Commission to prohibit motorized vehicles on the dam levee in order to prevent damage to the levee.

THEREFORE, BE IT RESOLVED, the Louisiana Wildlife and Fisheries Commission does hereby prohibit the driving of motorized vehicles on the Bundick Lake Dam Levee, and

BE IT FURTHER RESOLVED, that signs be erected denoting this prohibition and that agents of the enforcement division of the Department of Wildlife and Fisheries enforce this regulation.

Jesse J. Guidry  
Secretary

## **RULE**

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

The Wildlife and Fisheries Commission at its regular meeting on September 28, 1982 adopted the following Rule:

WHEREAS, the department biologists and the Chief of the Seafood Division have recommended the fishing of the oysters in Calcasieu Lake with the exception of the Calcasieu River and Ship Channel, East Fork, West Fork, and Oyster Bayou, and

WHEREAS, the Department of Health and Human Resources will examine the growing oysters of this aforementioned area and approve the waters for fishing oysters if the health standards are met, and

NOW THEREFORE BE IT RESOLVED by the Louisiana Wildlife and Fisheries Commission that the Calcasieu Lake Oyster season for 1982-83 be set in accordance with the following Rules and Regulations:

(1) That the oyster season in Calcasieu Lake be fixed to extend from one-half hour before sunrise on Monday, November 1, 1982, through one-half hour after sunset on Thursday, March

31, 1983, with the right being reserved to close said season sooner if biologically justifiable.

(2) That oyster fishing be limited only to the use of tongs and to daylight hours.

(3) The open areas shall be confined to the area of Calcasieu Lake with the exception of Calcasieu River and Ship Channel, East Fork, West Fork, and Oyster Bayou which shall be closed.

(4) The three-inch culling law shall be observed by all fishermen fishing the area and the culls shall be scattered around the perimeter of the reefs to provide for expansion of future harvesting.

(5) The taking of oysters for commercial purposes shall be limited to 15 sacks per boat per day.

(6) All oysters shall be put into sacks before leaving the oyster fishing area in Calcasieu Lake. Oysters not in sacks leaving the fishing area in Calcasieu Lake shall be confiscated and violator subject to penalty set forth in Title 56, Section 115.

(7) The taking of oysters for home consumption shall be limited to three bushels (two sacks per boat per day).

(8) All commercial fishing of oysters shall be done only with proper licenses, and the sacks of oysters be properly tagged before leaving fishing vessel. All sacks entering into commerce shall be tagged.

BE IT FURTHER RESOLVED that the Secretary be and is hereby authorized and empowered to change the limit or close said season, if biologically sound.

Jesse J. Guidry  
Secretary

## **RULE**

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

The Louisiana Wildlife and Fisheries Commission at its regular meeting held in Baton Rouge, Louisiana, August 24, 1982 adopted the following Rule:

WHEREAS, a petition containing 170 signatures of Caddo Parish residents requesting the prohibition of gill, trammel and flagg nets in Caddo Lake, Caddo Parish, Louisiana, was submitted to the Louisiana Wildlife and Fisheries Commission, and

WHEREAS, state legislators of Caddo Parish, as a result of numerous requests from their constituents, have also asked the Commission to prohibit gill, trammel, and flagg nets in Caddo Lake, and

WHEREAS, the most important commercial species in Caddo Lake is catfish and is primarily harvested with hoop nets, and can still be harvested adequately using hoop nets, slat traps, and set lines, and

WHEREAS, past research conducted by the Department has demonstrated detrimental effects of gill, trammel, and flagg nets in gamefish species in similar type impoundments as Caddo Lake.

THEREFORE BE IT RESOLVED, the Louisiana Wildlife and Fisheries Commission hereby prohibits the use of gill, trammel and flagg nets in Caddo Lake, Caddo Parish, Louisiana; and for this prohibition to become effective January 1, 1983.

Jesse J. Guidry  
Secretary

## RULE

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

The Wildlife and Fisheries Commission at its regular meeting on September 28, 1982 adopted the following Rule:

WHEREAS, the fur industry of Louisiana represents a major resource of economy and income for many of the citizens of our state; and

WHEREAS, this resource is a renewable natural one, which has proven under wise management to increase in importance in our state; and

WHEREAS, an annual harvest of the surplus animals is in keeping with wise wildlife management techniques based on scientific management; and

WHEREAS, fur prices at the trapper level were depressed during the 1981-82 trapping season resulting from the world economic situation; and

WHEREAS, the depressed price level combined with lowered abundance of nutria and muskrat yielded a moderate decrease in trapping success and effort; and

WHEREAS, additional federal restrictions imposed by the Endangered Species Office concerning out-of-state shipment for otter and bobcat furs now require placement of a possession tag by trappers or buyers to insure state origin; and

WHEREAS, the zonation concept during the past season has proved workable and beneficial in reducing late caught unprime furs and has produced favorable comments generated within the fur industry; and

NOW, THEREFORE, BE IT RESOLVED, that the Louisiana Wildlife and Fisheries Commission does hereby establish the 1982-83 fur bearers trapping season for the northern zone as being November 20, 1982 through February 15, 1983 and the southern zone as being December 1, 1982 through February 28, 1983; and

BE IT FURTHER RESOLVED, that the attached regulations governing the buying, tagging and shipment of bobcat and otter pelts are adopted for the 1982-83 trapping season.

### BOBCAT AND OTTER TAGGING REQUIREMENTS

In order to obtain federal approval to export bobcat and otter out of the United States, the Louisiana Department of Wildlife and Fisheries is required to insure that only Louisiana trapped otter and bobcat are tagged with Louisiana export tags.

In order to accomplish this, a special possession tag will be made available to fur buyers.

A blue tag for otter and a red tag for bobcat must be filled out by the trapper at the time the pelt is sold.

The information required includes trapper name, trapper license number, parish caught in and date trapped.

No bobcat or otter pelt shall be purchased from a trapper or be in the possession of a fur buyer without a possession tag.

Dealers shall not purchase bobcat or otter pelts without a possession tag attached.

No bobcat or otter pelt shall be shipped from the state without an export tag attached.

Dealers will obtain export tags for bobcat and otter by providing to the department one completed possession tag for each pelt to be shipped from the state.

It shall be illegal to falsify possession tags or attach Louisiana export tags to out-of-state bobcat or otter pelts.

Once possession tags have been received and counted by department personnel export tags will be mailed immediately.

Trappers shipping bobcat or otter out-of-state must provide

completed possession tags to the department in order to receive export tags.

Jesse J. Guidry  
Secretary

# Notices of Intent

## NOTICE OF INTENT

### Commissioner of Agriculture and Dairy Stabilization Board

In accordance with the provisions of LSA 49:951, et seq., the Administrative Procedure Act, and LSA 40:931.8 B, the Dairy Stabilization Law, notice is hereby given that the Commissioner of Agriculture and the Dairy Stabilization Board will conduct a public hearing on Wednesday, December 1, 1982, at 10 a.m., Department of Natural Resources Building, Mineral Board Hearing Room, Baton Rouge, Louisiana.

The purpose of the hearing will be to consider the adoption of comprehensive Rules and Regulations for administration of the provisions of R.S. 40:931.1-931.19, including, but not by way of limitation, the following: definitions; administration of the affairs of the Board; licenses; assessments; volume discounts; disruptive trade practices; below-cost sales; delinquent retail accounts; prohibitions, penalties, amounts; suspension/revocation of licenses; hearings under Administrative Procedure Act; and confidentiality.

Interested persons may secure a copy of the full text of the said Rules and Regulations by telephone, personal, or written request to Bob Simon, Executive Director, Dairy Stabilization Board, 4432 Florida Boulevard, Baton Rouge, LA 70806, phone 504/925-4870. Written comments will be accepted by him up to and including November 29, 1982.

Preliminary public hearings will also be conducted at the following dates, times, and locations:

New Orleans

October 29, 1982, 10 a.m.

Library, 3rd Floor Meeting Room 1

219 Loyola Avenue

Lake Charles

November 4, 1982, 10 a.m.

McNeese University - Gayle Hall

Room 104 - Section A

Shreveport

November 18, 1982, 10 a.m.

Louisiana State Exhibit Museum

Fairgrounds - West Wing

3015 Greenwood Road

Monroe

November 19, 1982, 10 a.m.

State Office Building, Room 242

122 St. John Street

All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at all of the above hearings.

Bob Odom  
Commissioner

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

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)  
There will be no implementation costs (savings) associated with this Rule change.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)  
There will be no effect on revenue collections.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)  
No additional costs. All users of the Rule (i.e., milk processors and distributors, retail grocers) will find the proposed new Rule easier to understand than the existing Rules.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
There will be no effect on competition and employment.

John Compton  
Deputy Commissioner

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Culture, Recreation and Tourism  
Office of the State Library**

The Office of the State Library intends to amend Rule IV-D of the State Aid to Public Libraries Grant which was published on page 407 of the August 20, 1981, *Louisiana Register* (Volume 7, No. 8).

Interested persons may obtain copies of this amended Rule or additional information from the address listed below. Written comments and suggestions will be accepted through November 5, 1982, at the following address: Ben Brady, Associate State Librarian, Louisiana State Library, Box 131, Baton Rouge, LA 70821-0131.

The proposed amendment is as follows:

IV. Maintenance of local effort

D. For each item of library material purchased and added to the library's shelf-list, up to two dollars in local funds is allowable to use in covering processing costs of shelf-listed items. Local funds, for the purpose of this paragraph, are those which are used to "maintain local effort" through the purchase of library materials.

Mrs. Lawrence H. Fox  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: State Aid to Public Libraries Grant**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)  
No anticipated increase in either cost or savings to the Office of the State Library since this affects only use of "local funds" of public libraries. Cost of approximately \$20 for duplication and postage to disseminate amendment of grant Rules to public libraries.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There will be no effect on revenue collections as a result of amending Rule IV D.

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

This amendment will enable public libraries which receive state aid grant funds the option to use up to two dollars in local funds in covering the costs of processing library materials which are shelf-listed as a part of their "maintenance of effort".

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

There will be no impact on competition and employment.

Mrs. Lawrence H. Fox  
Secretary

Mark C. Drennen  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

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

1. 1982 Revision of Bulletin 1213, *Minimum Standards for School Buses in Louisiana*.

2. Amend Bulletin 746, page 78, relative to certification requirements for school nurses to specify that the requirements for a Type A certificate shall include: "... a baccalaureate degree in nursing or a health related field from a regionally accredited college or university. . .".

3. The Board approved the composition of the Teacher Certification Appeals Council to include two deans and either one teacher or one administrator.

4. Regulations for Operation of the Food Preservation Program.

5. Amend Board Policy 3.01.70V(38) regarding Criteria for the Establishment and Operation of a Paraprofessional Training Unit as follows:

II. CRITERIA FOR UNIT PARAPROFESSIONALS

1. Unit paraprofessionals must complete training as specified in the Office of Special Educational Services approved instructional paraprofessional curriculum. Unit attendants must complete training as specified in the Office of Special Educational Services approved non-instructional paraprofessional curriculum. Unit paraprofessionals and unit attendants must complete training as specified in the approved curriculum within one calendar year of their assignment to the unit. Plans for a minimum of 10 hours of inservice training per year for the entire unit educating staff must be submitted annually describing content, presenters, and projected dates.

2. Unit paraprofessionals must have a minimum of one year of experience working with exceptional students. NOTE: Preferably severely/profoundly handicapped students or non-categorical preschoolers (depending on the area for which application is being submitted).

3. A unit may be established only if all needed paraprofessional positions are filled by qualified personnel.

4. A current list of qualified teachers and paraprofessionals to be used as substitutes must be on file.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., November 3, 1982, at the following address: State Board of Elementary and Secondary Education, Box 44064, Capitol Station, Baton Rouge, LA 70804.

James V. Soileau  
Executive Director

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Bulletin 1213**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)  
The cost of printing 200 copies of Bulletin 1213 is approximately \$342 which will be absorbed in the current operating budget of the agency.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)  
No effect on revenue collections.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)  
There will be no cost involved for the 66 Parish and City School Systems. The updating of Bulletin 1213 will enable each system or private contractor to purchase school buses equipped with the new equipment available in the school bus industry.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
No effect on competition and employment.

Geo. B. Benton, Jr.  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: School Nurse Certification**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)  
There are no implementation costs associated with this change.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)  
There is no effect on revenue collections.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)  
There are no costs or benefits (economically) to affected groups. This change will strengthen the requirement for Type A certification for school nurses by specifying that the baccalaureate degree be earned in nursing or a health-related field.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
There is no effect on competition and employment.

Geo. B. Benton, Jr.  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Changes in Composition of Teacher  
Certification Appeals Council**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)  
With two fewer members being reimbursed for travel expenses, it is expected that an approximate annual savings of \$1,224 will be realized.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)  
There is no effect on revenue collections.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)  
There are no costs or benefits to the affected groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
There is no effect on competition and employment.

James V. Soileau  
Executive Director

Mark C. Drennen  
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Operation of Food  
Preservation Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)  
There will be no costs (savings) to the Board of Elementary and Secondary Education or the Department of Education - Vocational Education. The Office of Health Services and Environmental Quality and the State Fire Marshal already inspect these facilities.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)  
This will have no effect on revenue collections.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)  
There will be no costs to affected groups. There will be no monetary benefits to affected groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
This will have no effect on competition and employment.

Geo. B. Benton, Jr.  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Revision to the Criteria for Establishment  
and Operation of a Paraprofessional  
Training Unit**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)  
There is no anticipated cost or savings to the agency.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)  
Adoption of this Rule would not effect revenues.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)  
Adoption of this Rule would not affect any groups outside the agency.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
It is not anticipated that approval of the change in the Criteria for the Establishment and Operation of a Paraprofes-

sional Training Unit have a direct effect on competition and employment.

Geo. B. Benton, Jr.  
Deputy Superintendent

Mark C. Drennen  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Southern University Board of Supervisors

The Southern University Board of Supervisors does hereby give notice in accordance with law that it intends to adopt as a permanent Rule the following schedule of fees for Summer School at the Southern University School of Law at its meeting on November 20, 1982 at 10 a.m. in the Education Building on the Southern University at New Orleans campus, 6400 Press Drive, New Orleans, LA.

Three credit hours: Tuition \$80; Law Library Fee \$5; Out-of-State Fee \$202 for a total of \$287. Six credit hours: Tuition \$140; Law Library Fee \$5; Out-of-State Fee \$202 for a total of \$347.

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

The Board of Supervisors shall accept written comments until 5 p.m., November 8, 1982 at the following address: Mrs. Henrietta Vessel, Administrative Secretary, Southern University Board of Supervisors, Box 10870, Baton Rouge, LA 70813.

Jesse N. Stone, Jr.  
President

### Fiscal and Economic Impact Statement For Administrative Rules

#### Rule Title: Establish Summer fees for Law Students

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)  
There are no estimated implementation costs associated with the establishing of fees.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)  
Projected self-generated income from the collection of student fees is \$15,875 in Summer, '82; \$17,462 in Summer, '83; and, \$19,208 in Summer, '85.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)  
Cost is to students enrolled only; no other groups or agencies are affected.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
There is no estimated effect on competition or employment.

Jesse N. Stone, Jr.  
President

Mark C. Drennen  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Southern University Board of Supervisors

Southern University Board of Supervisors does hereby give notice in accordance with law that it intends to consider for adoption an increase in tuition at its meeting on November 20, 1982 at 10 a.m. in the Education Building on the Southern University in New Orleans campus, 6400 Press Drive, New Orleans, LA.

The proposed changes include an increase of \$50 per semester for Southern University at Baton Rouge and Southern University at New Orleans and \$30 per semester for Southern University at Shreveport. Tuition for Summer school will be increased by \$25 on the Southern University at Baton Rouge and Southern University at New Orleans campuses and \$15 on the Southern University at Shreveport campus. The increase in part-time fees will be assessed on a pro-rata basis.

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

The Board of Supervisors of Southern University shall accept written comments until 5 p.m., November 8, 1982 at the following address: Mrs. Henrietta Vessel, Administrative Secretary, Southern University Board of Supervisors, Box 10870, Baton Rouge, LA 70813.

Jesse N. Stone, Jr.  
President

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

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)  
There will be no estimated implementation costs or savings to agency.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)  
Projected self-generated income from tuition will increase by approximately 26 percent on the Baton Rouge and New Orleans Campuses and 18 percent on the Shreveport Campus.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)  
Students will be affected to the extent of the increase as it impacts them individually. No groups are affected.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)  
These factors are not involved.

Jesse N. Stone, Jr.  
President

Mark C. Drennen  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Office Of The Governor Division of Administration

Notice is hereby given that the Office of the Governor, Division of Administration, under authority of Revised Statutes

Titles 39 and 49, intends to amend the Rules for Conduct of Hearing previously published in the *Louisiana Register*, Vol. 8, No. 7, Page 326. The text of the proposed Rules is as follows:

## CONDUCT OF HEARING

In accordance with the  
LOUISIANA PROCUREMENT CODE  
(Revised Statutes: Title 39)

### DEFINITIONS

1. **Hearing Officer:** The hearing officer shall be the chief procurement officer or his designee who shall exercise such authority as is granted for the conduct of protests in accordance with the provisions of the Louisiana Procurement Code. (Title 39:1551, et seq., Section 1671B)

2. **Commissioner:** The commissioner is the Commissioner of the Division of Administration.

3. **Aggrieved person:** An aggrieved person is a person who files a written protest in connection with the solicitation or award or the issuance of a written notice of intent to award a contract under the Louisiana Procurement Code and has or may have a pecuniary or other property interest in the award of the contract.

4. **Interested person:** An interested person is any person who has submitted a bid in response to an invitation for bids, a request for proposals, or other solicitation issued under the Louisiana Procurement Code who has or may have a pecuniary or other property interest which may be affected by a determination made in a protest hearing.

5. **Candidate for suspension or debarment:** A candidate for suspension or debarment is a person, who in the opinion of the chief procurement officer has committed an action giving cause for suspension or debarment pursuant to R.S. 39:1672(c).

6. **Contractor:** A contractor is a person who has been awarded a contract.

7. **Party:** A party as used herein, unless the context clearly indicates otherwise, is either a "contractor" or a "candidate for suspension or debarment" or both.

### APPLICATION

The following Rules shall apply to all hearings held in accordance with Sections 1601, 1671, 1672, and 1673 of Title 39 of the Louisiana Revised Statutes.

### INITIATION OF HEARING

1. **Responsibility of bidders and offerors:** A hearing held to consider the disqualification of a bidder or offeror shall be commenced with the giving of written notice issued by the chief procurement officer, the commissioner or head of a governmental body.

2. **Protest of aggrieved person in connection with the solicitation, award, or issuance of written notice of intent to award:** Any person who is aggrieved in connection with the solicitation, award, or issuance of written notice of intent to award may protest to the chief procurement officer. Protests with respect to a solicitation shall be submitted in writing prior to the opening of bids. Protests with respect to the award of a contract or the issuance of written notice of intent to award a contract shall be submitted in writing within sixty days after bid opening or fourteen days after contract award, whichever is later.

The written protest must state the issue(s) protested. The protest hearing is limited to the issues contained in the written protest unless there is a showing that an issue not mentioned ought to be examined in order to properly dispose of the matter, or, in the public interest, there is other good ground for consideration of other issues and evidence.

Upon receipt of a written protest in conformity with the preceding paragraph, the chief procurement officer shall cause to

issue a written notice to the aggrieved person and shall also, issue a written notice to all interested persons.

3. **Suspensions and debarments:** A hearing for a candidate for suspension or debarment for cause from consideration for award of contracts or a suspension from such consideration during an investigation where there is probable cause for such debarment shall be initiated by issuance of written notice thereof.

4. **Contract and breach of contract controversies:** Hearings on controversies between the state and a contractor based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission shall commence with issuance of written notice by the chief procurement officer on his motion for reasons set forth in the notice or at the request of the contractor communicated in writing to the chief procurement officer and the head of the governmental body of the state utilizing the supplies, services, or major repairs under the contract.

### NOTICE

The written notice required to be sent in order to commence a hearing within the foregoing section of these Rules for the adjudicatory hearings provided for to parties, aggrieved persons, or interested persons who do not waive their rights shall include:

A statement of the time, place, and nature of the hearing;

A statement of the legal authority and jurisdiction under which the hearing is to be held;

A reference to the particular sections of the statutes and Rules involved;

A short and plain statement of the matters asserted.

If the chief procurement officer is unable to state the matters in detail at the time notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, the chief procurement officer shall issue a more detailed notice prior to the date set for the hearing.

In addition to the requirements of the notice set forth above, the notice may contain a statement advising all parties, aggrieved persons, or interested persons as applicable that failure to participate in the noticed hearing shall serve to waive any and all further administrative remedies.

Whenever practical, the notice shall be served by return receipt certified mail. Where time or other factors render mail service impractical, the chief procurement officer may effect service by any other means reasonably calculated to communicate the written notice.

### HEARING; RECORD

1. **Hearing:** An opportunity shall be afforded all parties, aggrieved persons, or interested persons to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

The hearing officer may, in his discretion, request written views from a governmental body which will be directly affected by the outcome of the adjudicatory hearing and give such weight to the submission as the facts and the law require. A copy of such written submission shall be provided to all parties, aggrieved persons, or interested persons participating in the adjudicatory proceeding.

Informal disposition may be made of any case of adjudication by stipulation, agreed settlement, consent order, or default.

2. **Record:** The record shall contain:

All pleadings, motions, intermediate rulings;

Evidence received or considered or a resume thereof if not transcribed;

A statement of matters officially noticed except matters so obvious that statement of them would serve no useful purpose;

Offers of proof, objections, and rulings thereon;

Proposed findings and exceptions;

Any decision, opinion, or report by the officer presiding at the hearing.

The hearing officer shall have all proceedings before him recorded electronically and may in his discretion, or shall upon written request of any party, aggrieved person, or interested person, cause to be made a full transcript of said proceedings.

The cost of a transcript shall be paid by the Division of Administration when the hearing officer elects upon his motion to transcribe the proceedings. In such event, any party, aggrieved person, or interested person requesting a copy shall be given a copy upon first paying the actual cost thereof or upon payment of the cost of a portion of the transcript if the request is for a particular portion of the transcript.

The cost of a transcript shall be paid by the party, aggrieved person, or interested person when a transcript is made at their request. Copies requested shall be paid for by the party, aggrieved person, interested person, or the hearing officer as the case may be.

Findings of fact made by the hearing officer shall be based exclusively on the evidence and on matters officially noticed.

#### RULES OF EVIDENCE; OFFICIAL NOTICE; OATHS AND AFFIRMATIONS; SUBPOENAS; DEPOSITIONS AND DISCOVERY; AND CONFIDENTIAL PRIVILEGED INFORMATION

1. **Rules of evidence:** The hearing officer (a) may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonable prudent persons in the conduct of their affairs. He shall give effect to the Rules of privilege recognized by law. He may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties, aggrieved person, or interested persons will not be prejudiced substantially, any part of the evidence may be received in written form. (b) All evidence, including records and documents in the possession of the governmental agency of which the hearing officer desires to avail himself, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the parties before being received in evidence.

2. **Official notice:** Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within a governmental agency's specialized knowledge. Parties, aggrieved persons, or interested persons shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. A governmental agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

3. **Oaths and affirmations:** The hearing officer shall have the power to administer oaths and affirmations, regulate the course of the hearings, set the time and place for continued hearings, fix the time for filing of briefs and other documents, and direct the parties to appear and confer to consider the simplification of the issues. The hearing officer shall also have authority to raise issues not otherwise raised by persons party to a hearing where such an issue is pertinent to a proper disposition of the matter.

4. **Subpoenas:** The hearing officer shall have power to sign and issue subpoenas requiring attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence. No subpoena shall be issued until the

party, aggrieved person, interested person, or governmental agency who wishes to subpoena the witness first deposits a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations, and to state the results thereof, shall receive such additional compensation from the party, aggrieved person, interested person, or governmental agency who wishes to subpoena such witness as may be fixed by the hearing officer with reference to the value of the time employed and the degree of learning or skill required. Whenever any person summoned neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, the hearing officer may apply to the judge of the district court for the district within which the person so summoned resides or is found, for an attachment against him as for a contempt.

5. **Depositions and discovery:** The hearing officer, governmental agency, or any party, aggrieved person, or interested person may take the depositions of witnesses, within or without the state, in the same manner as provided by law for the taking of depositions in civil actions in courts of record. Depositions so taken shall be admissible in the record of the hearing. The admission of such depositions may be objected to at the time of hearing and may be received in evidence or excluded from the evidence by hearing officer in accordance with the rules of evidence provided in these Rules.

6. **Confidential and privileged information:** Records and documents, in the possession of a governmental body, the hearing officer, or any officer or employee, including conclusions drawn therefrom which are deemed confidential and privileged shall not be made available for adjudication proceedings and shall not be subject to subpoena by any person or other state or federal agency.

Such records or documents shall only include any private contracts, geological and geophysical information and data, trade secrets and commercial or financial data, which are obtained by an agency through a voluntary agreement between the agency and any person, which said records and documents are designated as confidential and privileged by the parties when obtained, or records and documents which are specifically exempt from disclosure by statute.

#### DECISIONS AND ORDERS OF THE HEARING OFFICER

If the subject matter of the hearing is not resolved, the hearing officer shall, within fourteen days of the conclusion of a protest hearing, or within a reasonable time of the conclusion of a hearing to determine responsibility, suspension or debarment, or a controversy between the state and a contractor, issue a written decision stating the reasons for the action taken and informing the party, aggrieved person, or interested person of the right to administrative review and thereafter judicial review where applicable.

A copy of the decision or order shall be mailed or otherwise furnished the party, aggrieved person, or interested person immediately.

The decision of the hearing officer shall become final and conclusive unless the decision is fraudulent or the party, aggrieved person, or interested person adversely affected by the decision or order has timely appealed administratively to the commissioner.

The final decision of the hearing officer shall not be subject to the review of the commissioner when the decision is rendered in a proceeding to determine responsibility of a bidder or offeror. Notice of the right to judicial review of the final decision shall accompany service of the final decision.

A bidder or offeror who is disqualified shall have the right to request a rehearing before the hearing officer. This right must be exercised within ten days of the date of receipt of the decision of