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This public document was published at a cost of \$2.21 per copy, by Baton Rouge Printing Co., Inc., P. O. Box 97, Baton Rouge, La. as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:951-968. This material was printed in accordance with the standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

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Because July 10 falls on a Saturday, copy deadline for the *Louisiana Register* for July will be 12 noon, Friday, July 9.

Executive Orders

EXECUTIVE ORDER DCT 82-10

WHEREAS, the Governor's Task Force on Drinking and Driving was created by the authority of Executive Order 82-2 and amended by Executive Orders 82-3 and 82-6; and

WHEREAS, it is within the best interest of the people of our state that this task force recommend specific legislation to alleviate this severe problem; and

WHEREAS, the participation of a municipal chief of police in the work of this commission would add immeasurably to the composition and overall expertise of the commission;

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, by virtue of the powers vested in me as Governor, pursuant to the constitution and the applicable statutes of the State of Louisiana, do hereby direct the Governor's Task Force on Drinking and Driving to study these problems and make specific recommendations.

The Task Force shall continue under the jurisdiction of the Department of Public Safety and shall be composed of 20 members rather than the 19 as previously stipulated. The additional member shall be a municipal police chief.

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 13th day of May, A.D., 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 May 27, 1982, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953B, and adopted the following as an Emergency Rule:

An amendment to Bulletin 741, Page 14 to allow foreign languages as one of the substitutes for the fourth English requirement.

This emergency is necessary because the Department of Education, in conjunction with the parishes of Orleans, Jefferson and St. Bernard, is in the process of establishing a Foreign Language and International Studies Alternative School at the Interna-

tional Trade Mart to serve these parishes. The high school principals and potential students must be notified prior to the beginning of the 1982-83 school year so that schedule changes can be made for these students. This amendment is also needed in order to establish foreign language programs in the areas of tourism, hotel management and food services at the Regional Vocational Center on the Delgado Campus for high school students as well as post-secondary students.

James V. Soileau
Executive Director

Rules

RULE

Department of Agriculture Market Commission

The Department of Agriculture, State Market Commission, pursuant to the authority contained in LSA 3:405, 410-412 and in accordance with Notice of Intent published April 20, 1982, repealed Rule 7.4 of the Commission's Rules and Regulations Governing the Certification of Meat and Meat Products at a public hearing conducted on May 19, 1982.

Bob Odom
Commissioner of Agriculture

RULE

Department of Agriculture Market Commission

The Department of Agriculture, State Market Commission, pursuant to the authority contained in LSA 3:543 B and in accordance with Notice of Intent published April 20, 1982, adopted the following Procedures for Authorization and Administration of Farm Youth Loans and Loan Guarantees at a public hearing conducted on May 19, 1982:

PROCEDURES FOR AUTHORIZATION AND ADMINISTRATION OF FARM YOUTH LOANS AND LOAN GUARANTEES

1.0 Definitions

1.1 "Applicant" means a natural person applying for a Farm Youth Loan or for a Farm Youth Loan Guarantee who is a resident of Louisiana and between 10 and 20 years of age.

1.2 "Borrower" means anyone who is granted a Farm Youth Loan.

1.3 "Commission" means the State Market Commission.

1.4 "Commissioner" means the Commissioner of Agriculture.

1.5 "Department" means the Department of Agriculture.

1.6 "Farm Youth Loan" means a loan which shall be used for the purpose of raising, growing, and selling of livestock, poultry,

eggs, or agronomic, horticultural, silvacultural, or aquacultural crops.

1.7 "Farm Youth Loan Guarantee" means an agreement that, in the event of default, the state shall pay the Lender 75 percent of the principal and interest due and payable under a Farm Youth Loan secured by a chattel mortgage, crop lien or other security.

1.8 "Lender" means any bank, financial institution or federal agency making loans to any borrower who is eligible for a Farm Youth Loan Guarantee.

1.9 "Supervisor" means any vocational agriculture teacher, home economics teacher, county agent, home demonstration agent or any other person who has responsibility for direct supervision of the project for which the loan funds are used.

1.10 "Compromise Agreement" means any agreement between the borrower and the Commission or Lender, in the case of a guaranteed loan, to satisfy the loan obligation incurred by the borrower.

2.0 Applicant Eligibility Requirements

2.1 The applicant must be a resident of Louisiana and between 10 and 20 years of age, i.e., already having had a tenth birthday but not yet having a twentieth birthday.

2.2 The applicant must be a member in good standing of any 4-H Club, Future Farmers of America, Future Homemakers of America organization, or any other farm youth organization functioning within the state school system.

2.3 The applicant must present a signed statement from the recommending supervisor of the project and/or the school principal, that the applicant's scholastic work is satisfactory.

2.4 The applicant must present a signed statement by the recommending supervisor of the project that in his opinion the applicant has a need for the loan.

2.5 The applicant must present a signed statement by the recommending supervisor that he is a member in good standing of a farm youth organization recognized by the Commission and that (1) the project for which the loan will be used will be closely supervised by the recommending supervisor; (2) the applicant is eligible for the loan; and (3) the loan is recommended.

2.6 The applicant must present a signed statement by his parents or guardian that they approve of his participation in the farm youth loan program and will fully cooperate with the supervisor of the project and the Market Commission.

2.7 The applicant must clearly demonstrate to the Commission that the project for which the loan will be used will generate adequate funds to pay back the loan according to the terms of the loan.

2.8 The applicant must establish a checking or savings account at a bank of his choice for the purpose of receiving and disbursing loan funds to be used for the purposes of the loan.

2.9 The checking or savings account must require joint signatures of the applicant and project supervisor or parent/guardian for the withdrawal of funds to be used to pay expenses incurred by the project.

3.0 Time and Manner of Filing Application

3.1 Applications may be filed at any time throughout the year and may be personally delivered to the State Market Commission office in Baton Rouge or forwarded through the U.S. mail.

3.2 An application will be considered filed only upon provision of all information required in Rule 4.0.

3.3 A complete application must be physically on hand in the State Market Commission office at least 10 working days prior to the meeting at which the application will be considered by the Commission.

3.4 In the case of an application for a loan guaranty, the application must be jointly executed by the applicant and the Lender on forms provided by the Commission.

4.0 Contents of the Application

4.1 Name and addresses of the applicant and applicant's parents or guardian.

4.2 Name and address of recommending supervisor of the project.

4.3 Personal financial statement of the applicant, signed by the applicant and parents or guardian, on forms provided by the Commission.

4.4 A budget reflecting estimated expenses, income and repayment of the loan for the term of the loan.

4.5 Signed statements requested of the recommending supervisor and parents or guardian as required in Rule 2.0.

4.6 The name of the bank and the account number to which loan funds shall be deposited and authorized signatures for the withdrawal of funds.

5.0 Conditions for Approval of Application for Farm Youth Loans and Loan Guarantees

5.1 The applicant must meet all criteria for eligibility set forth in Rule 2.0.

5.2 The loan shall have a maximum term of five years.

5.3 The loan shall not exceed a maximum of \$3,000.

5.4 In the case of a guaranteed loan, the guarantee shall not exceed 75 percent of the sums, in principal and interest, due and payable under the mortgage or crop lien securing the loan.

5.5 The interest rate on any direct loan shall not exceed the interest rate charged by the Farmer's Home Administration on youth project loans.

5.6 The interest rate on any guaranteed loan shall not exceed the average prevailing rate of interest on farm loans made by banks, financial institutions or federal agencies in the community where the loan is made.

6.0 Procedures for Approval or Denial of Loan Applications and Notification of Commission Action

6.1 An application for a Farm Youth Loan or Loan Guarantee shall be submitted for Market Commission consideration at the first Commission meeting occurring at least 10 working days following submission of the completed application.

6.2 The Commission shall approve/deny such application in accordance with the criteria set forth in applicant eligibility requirements, time and manner of filing applications, contents of application, and conditions for approval of applications for loans and loan guarantees.

6.3 Upon approval of an application for a direct loan, the Commission shall immediately notify the applicant by letter of the approval along with procedures for disbursement of funds to the applicant.

6.4 Upon approval of an application for a guaranteed loan, the Commission shall immediately notify the Lender and applicant by letter of the approval along with procedures for execution of the Loan Guarantee Agreement.

6.5 Upon denial of an application for a direct loan or loan guarantee the Commission shall immediately notify the applicant, and Lender if applicable, by letter stating the reason(s) for such disapproval by the Commission.

7.0 Re-application; Review of Determination

7.1 An applicant whose application has been denied by the Commission may re-apply at any time whenever his circumstances change whereby the reasons for denial have been corrected.

8.0 Conditions for Disbursement of Loan Proceeds to the Borrower

8.1 Prior to disbursement of loan funds all legal instruments must be examined and approved by the Department Attorney.

8.2 On the date of disbursement of loan proceeds the borrower must execute a note secured by a chattel mortgage or crop lien payable to the Market Commission setting forth the terms

and conditions under which the loan will be repaid.

8.3 On the date of disbursement of loan proceeds the borrower must execute a chattel mortgage or corp lien payable to the Market Commission, which instrument shall contain, but not be limited to, the following:

- (a) The amount loaned
- (b) The rate of interest
- (c) The repayment schedule
- (d) Description of items offered as security
- (e) Provision for executory process
- (f) Provision for payment of all costs of foreclosure, including attorney's fees at 25 percent of the principal balance and interest accrued at foreclosure.

8.4 The Commissioner of Agriculture or his designee, as official representative of the State Market Commission, shall execute all necessary legal instruments at the time of the disbursement of loan proceeds.

8.5 The disbursement of loan proceeds shall be by check and shall be deposited into the bank account number on behalf of the borrower as designated on the loan application.

8.6 No loan for the purchase of livestock shall be funded until issuance of a health certificate from a licensed veterinarian certifying that the livestock to be purchased is sound, healthy, and free from all diseases.

9.0 Conditions for Concurrence in Loan Guarantees

9.1 The borrower must provide for the Market Commission file record a copy of the note and the chattel mortgage or corp lien payable to the Lender and any other data deemed necessary by the Market Commission staff.

9.2 The Loan Guaranty Agreement shall be executed by the borrower, the Lender, and the Commissioner of Agriculture, or his designee, as official representative for the State Market Commission.

10.0 Procedure Upon Default for Non-Payment

10.1 The Commission shall send written notice within 30 days to any borrower of a direct loan after any default on any payment of principal and/or interest and shall request an explanation or reason for delinquency of payment.

10.2 Within 60 days of default to any payment of principal and/or interest on a direct loan the Commission shall enter into such compromise agreements as it deems necessary to recover the sums due and payable on the loan unless prior arrangements have been made with the borrower to fulfill his loan obligation.

10.3 Any Lender who receives a loan guarantee from the Commission on a farm youth loan shall notify the borrower and the Commission by letter within 30 days of any default on any payment of principal and/or interest and shall request of the borrower an explanation or reason for delinquency of payment.

10.4 Within 60 days of default of any payment of principal and/or interest on a guaranteed loan, the Lender shall notify the Commission by registered letter of any compromise agreement entered into between the borrower and the Lender to recover the sums due and payable on the loan or of arrangements made between the borrower and Lender to fulfill his loan obligation.

10.5 The Commission may, by formal vote, offer to pay off the mortgage or the interest of the Lender on any defaulted loan covered by a loan guaranty agreement and become subrogated to the interest of the lending agency if the Commission determines that this action will protect the interest of the State in any property mortgaged to secure the loan guarantee.

Bob Odom
Commissioner of Agriculture

RULE

Department of Agriculture Market Commission

The Department of Agriculture, State Market Commission, pursuant to the authority contained in LSA 3:405, 410-412, and in accordance with Notice of Intent published on April 20, 1982, adopted the following Rules and Regulations governing the Certification of Official State Grades of Poultry, Poultry Products, and Shell Eggs at a public hearing conducted on May 19, 1982:

Market Commission

Regulations Governing the Certification of Official State Grades of Poultry, Poultry Products, and Shell Eggs

- 1.0 Establishment of Official State Grades of Poultry, Poultry Products, and Shell Eggs
- 2.0 Requirements for Certification of Poultry, Poultry Products, and Shell Eggs
- 3.0 Time Limitation for Issuance of Certificate
- 4.0 Waiver of Specification Requirements
- 5.0 Final Delivery of Product
- 6.0 Vendor's Obligations

* * * * *

1.0 Establishment of Official State Grades of Poultry, Poultry Products, and Shell Eggs

1.1 Standards established in "Regulations Governing the Voluntary Grading of Poultry Products and Rabbit Products and U. S. Classes, Standards, and Grades with Respect Thereto" (7 CFR Part 2870) shall apply to all Louisiana State grades for poultry and poultry products.

1.2 Standards established in "Regulations Governing the Grading of Shell Eggs and U. S. Standards, Grades, and Weight Classes for Shell Eggs" (7 CFR Part 2856) shall apply to all Louisiana grades for shell eggs.

2.0 Requirement for Certification of Poultry, Poultry Products, and Shell Eggs

2.1 The examination, acceptance and certification of poultry, poultry products, and shell eggs shall be in accordance with U. S. Department of Agriculture, AMS, Poultry Grading Branch poultry and egg grading and inspection requirements.

2.2 Each master or shipping container of poultry and egg products shall be legibly labeled to show the contract number, net weight, U. S. grade, inspection mark, plant name and address, kind, class, and weight range.

2.3 An official U. S. Poultry Products Grading Certificate (PY-210) certifying compliance with specifications must accompany each delivery of product. A PY-210 covering poultry and eggs must be issued no more than five days prior to delivery. The certificate must contain the purchase order number of the purchasing agency.

2.4 A Louisiana certificate of condition examination and origin must be issued no more than seventy-two hours prior to delivery and must accompany each delivery of product to a state agency or political subdivision of the state. The certificate of condition examination and origin must contain:

- a) the origin of the product, except as provided in Rule 2.5 below
- b) the purchase order number of the purchasing agency
- c) verification of (i) wholesomeness of the product, i.e., no change in the product since initial inspection, and (ii) compliance with the specifications of the purchase order

2.5 The purchase order of the purchasing agency must indicate whether or not the vendor has claimed a preference based on provision of Louisiana agricultural products. When the purchase order of the purchasing agency does not indicate that the

vendor has claimed a Louisiana agricultural products preference, no certification as to origin of the product will be made.

2.6 Each master or shipping container of poultry, poultry products, and shell eggs meeting the specifications of the purchase order shall be stripped on the outside of the container with non glossy filament tape or equivalent. All tape used for sealing purposes must be approved by the State Department of Agriculture. The tape shall be placed so that it must be torn to open the container.

2.7 Each master or shipping container must be stamped with the USDA contract compliance stamp and certificate number. The stamp imprint must be legible and placed partially on the container and partially on the tape on the end of the container.

2.8 All containers of Louisiana agricultural products must be stamped with a Louisiana agricultural products stamp.

3.0 Time Limitation for Issuance of Certificate

3.1 A State of Louisiana condition examination and origin certificate must be issued not more than 72 hours prior to the scheduled delivery of the product to the purchasing agency.

4.0 Waiver of Specification Requirements

4.1 The purchasing agency may waive the requirements for sealing of the container when the contents are ice-packed rather than frozen, but may do so only at purchasing agency's risk. When the purchasing agency waives the requirement for sealing of the container, a written statement of waiver must be provided to the Department of Agriculture.

4.2 Waivers and amendments to specification requirements may be made only with concurrence of the purchasing agency and the vendor.

4.3 A written statement of the precise nature of the changes in the specifications must be provided to the Louisiana Department of Agriculture representative prior to any examination of the product.

4.4 Failure to include information concerning the Louisiana agricultural products preference of the vendor on the purchase order shall constitute a waiver of the vendor's right for a certificate of origin.

5.0 Final Delivery of Product

5.1 Final acceptance of the product will be the responsibility of the purchasing agency.

5.2 Products may be rejected for the following reasons:

- a) No certificate affixed;
- b) Sealing tape on container broken;
- c) No official stamp affixed;
- d) Obvious deviations from specification requirements

without appropriate written notice of changes in specification requirements

5.3 Purchasing agency may accept product with minor deviations from specification requirements without written statement of agreed-upon changes, but shall do so at purchasing agency's risk.

6.0 Contractor's Obligations

6.1 Vendors requesting certification services under these regulations must provide such assistance as may be necessary to expedite the examination and certification of products and the taping of containers, including provision of the necessary tape.

6.2 Vendors desiring certification services must notify the Department of Agriculture at least 24 hours in advance of need. Vendors who fail to give at least 24 hours advance notice of need will be subject to a penalty of fifty dollars, regardless of the time required for the services or the fees assessed.

6.3 The costs of all examination and certification services shall be paid by the vendor at the rate of \$18.96 per hour (\$4.74 per quarter hour) required to conduct the examination, provided that no specific charge shall be made for certification of product when inspection is simultaneously performed.

6.4 Vendor must reimburse the Department of Agriculture for travel expenses of the inspector providing services, at the rate specified in State Travel Regulations.

Bob Odom
Commissioner of Agriculture

RULE

Department of Agriculture Market Commission

The Department of Agriculture, State Market Commission, pursuant to the authority contained in LSA 3:405 and in accordance with Notice of Intent published on April 20, 1982, adopted the following Rules and Regulations Governing Operations of Produce Assembly Centers at a public hearing conducted on May 19, 1982:

MARKET COMMISSION Rules and Regulations

Governing Operations of Produce Assembly Centers

1.0 Operation of center

1.1 The produce assembly center will be operated by the Louisiana Department of Agriculture; the center manager will be a state employee.

1.2 Only produce for consignment will be marketed through the produce assembly center.

1.3 Official grading services will be available through the produce assembly center.

1.4 The produce assembly center will arrange for transportation of the produce from the produce assembly center.

1.5 The produce assembly center will not operate during months when no produce is available for consignment. At least 15 days' advance notice of closure of the center will be given by publication in a newspaper of general circulation in the area in which the produce assembly center is located.

2.0 Requirements for produce to be marketed through the produce assembly center

2.1 All produce must be graded by official graders at the produce assembly center.

2.2 Only USDA #1 and USDA #2 grades will be accepted for consignment.

2.3 All produce must be packaged in containers which are acceptable in the produce trade. Containers will be available at cost at the produce assembly center.

3.0 Consignment of produce and payment policy

3.1 A commission of five percent of the selling price will be charged on all produce marketed through the produce assembly center. Fees will be used to defray the operating expenses of the center.

3.2 The five percent commission will be due and payable upon receipt by the seller of the purchase price of the produce.

3.3 The produce assembly center manager will deduct the commission of five percent from the sales revenues received from the buyer and pay over the remainder to the seller.

3.4 The revenues from sales of produce will be paid over to the seller by the produce assembly center manager immediately upon receipt of the sales revenues from the buyer, but no later than 30 days after delivery of the produce to the produce assembly center.

3.5 In any circumstances where the sales revenues are not received by the produce assembly center manager within 30 days after delivery of the produce to the center, the produce assembly center reserves the right to pay over only 75 percent of the agreed-upon selling price, subject to correction upon receipt of

revenues from the sale of the produce.

3.6 Separate accounting records will be maintained on transactions for each seller, and any seller may examine the accounting records for his account at any time during regular business hours.

4.0 Marketing advisory service

4.1 The produce assembly center manager will establish and maintain contact with major produce buyers throughout the country to determine the most advantageous crops for marketing.

4.2 Results of the produce assembly center manager's surveys of produce buyers will be posted at the center and will be made available to producers in the area.

4.3 At least once each year, prior to planting season, the State Department of Agriculture and the Cooperative Extension Service will conduct an informational forum to disseminate information on potential markets for produce. General information meetings may be held at other times throughout the year as deemed appropriate by the Department of Agriculture.

5.0 Right of Refusal

5.1 The produce assembly center will not accept any produce for consignment which does not meet USDA #1 or USDA #2 grade standards, according to the findings of official graders.

5.2 The produce assembly center will not accept any produce for which no markets are available.

Bob Odom
Commissioner of Agriculture

RULE

Department of Agriculture Livestock Sanitary Board

The Department of Agriculture, Livestock Sanitary Board, pursuant to the authority contained in LSA 3:2223, relative to the authority of the Board to enact regulations for eradication of the disease of brucellosis in cattle, and in accordance with Notice of Intent published on May 20, 1982, adopted the following amendments to its Rules and Regulations at a public hearing conducted on June 10, 1982:

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

(5) As of January 1, 1982, all female calves and cows born after January 1, 1982, that are over four months of age or older must be officially calfhood vaccinated for brucellosis to be brought into Louisiana for breeding purposes.

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

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

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

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

- (a) 1 through 5
- (b) F (Full mouth) or FM
- (c) S (Smooth mouth)
- (d) O (Broken mouth)

A new Subsection 2 of Section 7 of Regulation 8, reading as follows, was adopted:

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

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

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

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

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

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

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

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

C. EXPOSED HERD

1. A herd that has intermingled with or otherwise been exposed to brucellosis infected animals

2. Cattle separated only by a single fence or cattle where there is direct drainage from brucellosis quarantined premises, or herds in common range with brucellosis infected herds

3. All herds other than dairies negative to the BRT and Certified Brucellosis Free Herds tested within the past 12 months, owned by an individual, partnership, corporation, or association that are within 50 miles of an infected herd owned by such individual, partnership, corporation, or association.

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

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

Bob Odom
Commissioner of Agriculture

RULE

Department of Agriculture Livestock Sanitary Board

The Department of Agriculture, Livestock Sanitary Board, pursuant to the authority contained in LSA 3:2095 and in accordance with Notice of Intent published on May 20, 1982, adopted the following amendment to its Rules and Regulations at a public hearing conducted on June 10, 1982:

Regulation 28, Section 3, Paragraph 4 was amended to

read as follows:

4. A fee of \$3 shall be charged to accredited veterinarians for conducting Coggins test at state laboratories. Invoices will be forwarded to the veterinarian monthly for these charges.

Bob Odom
Commissioner of Agriculture

RULE

Department of Agriculture State Entomologist

The Commissioner of Agriculture, pursuant to the authority contained in LSA 3:2302 and in accordance with Notice of Intent published May 20, 1982, has adopted the following amendments to the Rules and Regulations governing the Apiary Program: Rule 1.20 has been amended to read as follows:

Super - A standard frame hive body (all depths) Rule 9.1 has been amended to read as follows:

All colonies of bees infected with American Foulbrood shall be destroyed by burning the frames, bees and combs in the presence of or by an inspector. Hive bodies, top and bottom boards saved from infected colonies shall be moved from the yard during the burning process and are to be scorched or properly treated to remove possible sources of re-infestation before re-use.

Bob Odom
Commissioner of Agriculture

RULE

Department of Corrections Office of the Secretary

Assignment of Inmates Outside Institutions
Department Regulation No. 10-15 dated 30 July 1973, is hereby rescinded, effective immediately.

This Regulation is superceded by Department Regulation Nos. 30-14 and 30-14(A) dated 1 January 1979.

John T. King
Secretary

RULE

Department of Corrections Office of the Secretary

Adult Services

Adult Offender Furlough and Temporary Releases

1. **PURPOSE.** The purpose of this regulation is to establish the adult offender furlough and temporary release policy of the Department of Corrections.

2. **RESPONSIBILITY.** Wardens and Correctional Treatment Administrations of each adult correctional institution and the Office of Adult Services and directors of work release programs are responsible for implementing this regulation and advising all adult offenders and affected employees of its contents.

3. **LEGAL AUTHORITY.** R.S. 15:811(C), 15:831 and 15:833.

4. **GENERAL.** Adult offender furloughs or temporary releases from any adult correctional facility of the Department of Corrections may be granted only by the Secretary and shall be

approved by him before they begin and he reserves sole discretion in determining eligibility. The period during which the adult offender will be on furlough or temporary release will be clearly indicated in the approval.

5. DEFINITIONS.

a) **FURLOUGH** - A release from incarceration without security supervision for the purpose of maintaining family ties or for needed medical care.

b) **TEMPORARY RELEASE** - A release from incarceration without security supervision because of death or serious illness of a close family member or for an interview with a prospective employer.

c) **CLOSE FAMILY MEMBER** - Means the father, mother, wife, husband and children of the inmate and, when recommended by the warden, the grandparents, legal guardians, brothers, or sisters.

d) **FURLOUGH VIOLATION** - Includes the commission of new offenses as well as any misconduct resulting in any disciplinary action while on furlough or temporary release.

6. PROCEDURES.

a) Furlough and temporary release requests should be reviewed by the head of the unit to which the adult offender is assigned to determine that the application is justified and is not in contravention of this regulation.

b) Necessary verification of furlough plans, transportation, coordination with family or medical facility are the responsibility of the warden recommending the furlough or temporary release.

c) Requests are to be forwarded to the Office of Adult Services where it shall be determined whether the sheriff, and if specifically requested, the district attorney and/or the chief of police of the locality where the adult offender is going objects. The Office of Adult Services will notify the warden at the originating institution of the Secretary's decision regarding the furlough.

d) When a request is received from a sheriff or warden of a non-departmental facility, the Office of Adult Services shall certify to the Secretary that the adult offender meets the same eligibility standards as those required of inmates in the custody of the Department.

e) Furlough requests for adult offenders on work release or maintenance status may be processed and approved for up to one year at a time.

f) All incidences of furlough violations by participating adult offenders shall be reported to the Office of Adult Services which shall compile a yearly report on or before April 1, of each year, indicating the nature of the incident, age of offender, original offense, length of sentence, prior criminal record and other characteristics found to be predictive of success or failure. The Office of Adult Services will include in the report any suggested changes in eligibility standards dictated by the experiences of the previous year.

7. **ELIGIBILITY.** Adult offenders must meet the following criteria in order to be eligible for a furlough or temporary release:

a) Must have been in custody for a period of not less than one year for the current offense and at least three months of the year must have been in a Department of Corrections' facility, or have been approved by the sheriff, if in the sheriff's custody.

*b) Must not be serving a sentence for any of the following crimes:

- 1) First or second degree murder or attempted murder;
- 2) Aggravated or attempted aggravated rape;
- 3) Forcible rape;
- 4) Aggravated kidnapping;
- 5) Aggravated arson;
- 6) Armed robbery;
- 7) Attempted armed robbery;
- 8) Producing, manufacturing, distributing or dispensing or

possession with intent to produce, manufacture, distribute, or dispense a controlled dangerous substance classified in Schedule I or Schedule II of R.S. 40:964;

9) Sentenced as a habitual offender under R.S. 15:529.

Note: Subsection (b) does not apply to adult offenders within the last six months of their term of incarceration (earliest release date) or to adult offenders assigned to the Governor's mansion crew.

c) Must be free of detainers except for court costs or misdemeanors.

d) Must not have been found guilty by a court or Department of Corrections' disciplinary board of escape or attempted escape during the preceding three years.

e) Must be of minimum security status and have exhibited exemplary behavior.

f) Must submit a furlough or temporary release plan, stating the purpose of the furlough, the destination and the name of the person with whom the adult offender will stay. A responsible member of the adult offender's family or some other previously approved person must sign a statement agreeing to be responsible for the adult offender and shall insure that transportation is provided for the adult offender. A copy of the plan must be forwarded with the request to the Office of Adult Services. In cases of extreme emergency, portions of this requirement may be waived by the Secretary.

8. LENGTH AND FREQUENCY OF FURLOUGHS.

a) Furloughs and temporary releases will be approved for a definite period, not to exceed five days, except medical furloughs which shall be for such period as deemed necessary by the Secretary and appropriate medical personnel.

b) Adult offenders on maintenance status may be recommended by the appropriate warden for a regular furlough each quarter of a calendar year, not to exceed a total of 48 hours in duration.

c) Adult offenders on work release may be recommended for regular monthly furloughs of no more than 48 hours each during the final six months of their confinement. These furloughs will serve as an aid to reintegration into society.

d) In lieu of a regular furlough, adult offenders on work release or maintenance status may be granted two special holiday furloughs of up to five days coinciding with Christmas, Easter or Independence Day (July 4); the exact dates to be determined each year by the Secretary.

e) Adult offenders other than those on work release or maintenance status may not be granted more than two furloughs (normally at Christmas, Easter or Independence Day) each calendar year. There is no limit on the number of temporary releases which may be granted.

9. ADMINISTRATIVE REQUIREMENTS.

a) Request for furloughs should be submitted at least 30 days prior to the beginning date of the requested furlough or 30 days prior to the period in which the furloughs for work release and maintenance adult offenders are to be granted.

b) Furloughs should not be requested for adult offenders even though they meet criteria established herein when it is known to the warden or responsible official that the inmate might present a danger to himself or to the public, should he be released from direct custody.

c) Furloughs may be approved by telecopied communication should the appropriate warden feel that the situation is of such an emergency nature that this procedure is justified.

10. EFFECTIVE DATE AND CANCELLATION. The effective date of this regulation is June 20, 1982. This regulation supercedes Department Regulation 30-7 dated December 20, 1978.

John T. King
Secretary

RULE

Department of Corrections Office of the Secretary

Inmate Rules and Regulations

Department Regulation No. 10-17 dated 21 April 1976, is hereby rescinded, effective immediately.

This Regulation is superceded by the Disciplinary Rules and Procedures for Adult Prisoners dated 15 March 1981.

John T. King
Secretary

RULE

Department of Corrections Office of the Secretary

Adult Services

Classification, Initial Classification and Reclassification Board

1. PURPOSE. The purpose of this regulation is to establish uniformity in the initial classification and reclassification of prisoners.

2. RESPONSIBILITY. It is the responsibility of wardens to implement this regulation at their respective institutions and to convey its contents to the inmate population and all affected employees.

3. DEFINITIONS.

a) CLASSIFICATIONS - A process by which prisoners are subdivided into groups, based on a variety of considerations which include:

1. Determination by and assignment to appropriated-custody status;

2. Program placement based on inmate needs and available services - medical, mental health, vocational, educational and work;

3. Designation to proper housing assignment within the institution;

4. Schedule review of assignments to a prisoner's needs and progress.

b) INITIAL CLASSIFICATION - The first assignment of a prisoner to custody status, quarters and job assignments, after he has been designated an institution to serve his/her sentence based on Department of Corrections Regulation 30-14.

c) RECLASSIFICATION - Scheduled, systematic review of classification status in programming, custody, quarters and job assignment. Includes interim information on institutional behavior and program participation and permits changes that may be warranted in custody, quarters and job assignments.

d) CUSTODY STATUS - The degree of staff supervision appropriated to monitor a prisoner's behavior.

4. PROCEDURES.

a) Each warden shall establish an Initial Classification and Reclassification Board (hereinafter referred to as Board) composed of the following officials:

1. Academic or vocational representative,
2. Security representative (Captain or higher),
3. A ranking classification officer.

NOTE: Other persons may be assigned to assist the Board but shall not be voting members. More than one Board may be established if necessary. The warden will appoint a chairperson for each board established.

b) A majority vote shall carry. Two members will suffice for a quorum when compelling reasons prevent the third member

from attending, however, a unanimous vote will be necessary in any finding. If a split vote should occur, the decision shall be delayed pending the next regular meeting when all three members are present.

c) The Board shall meet weekly or at least bi-weekly at a time and location designated by the warden.

d) The Board is expected to use the following variables in deliberations concerning assignments and classifications:

1. Time in facility (new assignments)
2. Institutional security (paramount)
3. Mental health
4. Conduct record
5. Facility needs (special skills)
6. Job availability
7. Emergency
8. Tenure in one job
9. Custody status
10. Crime
11. Previous work experience
12. Physical health
13. Education

e) After the initial orientation period, a prisoner may apply through his/her institution classification officer for a change in custody and job assignment. An inmate's request should not normally be honored until he/she has completed 90 days of disciplinary free time in current assignment and has not appeared before a previous reclassification Board within a 90 day period.

f) A reassignment/reclassification may be requested by:

1. Inmate
2. Job supervisor
3. Administrative request
4. Academic/vocational request.

g) New arrivals will ordinarily be assigned as field hands, to kitchen duties or any routine job where continued vacancies exist.

h) Where no opening exists in a requested job when the request is approved by the Board, the request shall be placed in a backlog file. Assignment, when an opening occurs, shall be by seniority on the list. No inmate can be on more than one backlog list at one time. The inmate's name can be removed for misconduct or by subsequent Board action. The inmate may request that his name be removed, however, actual removal must be by subsequent Board action and must be in the best interest of the institution.

i) Emergency assignments/classifications may be made by the Warden, or his designee, at any time if it is in the best interest of the institution. When the cause of the emergency assignment/classifications no longer exists, the Board will consider the inmate for reclassification at the earliest opportunity.

j) All reclassification requests should be processed and prisoners determined ineligible should be notified in writing as to the reasons for their ineligibility. Those prisoners determined eligible should be notified at least 48 hours prior to the next regular Board meeting.

k) All Board results are subject to the review and approval of the Warden of the concerned institution.

l) All classifications and reclassifications shall be recorded on the location sheet in the prison record. The results of each Board meeting shall be maintained in such a manner that they can be readily retrieved for inspection.

This regulation supercedes Department Regulation 30-16 dated March 17, 1970.

John T. King
Secretary

RULE

Department of Corrections Office of the Secretary

Parole Hearings

Department Regulation No. 10-9 dated 25 September 1969, is hereby rescinded, effective immediately.

This Regulation is superceded by the Rules, Regulations, Procedures, Criteria, Policies, and Guidelines of the Louisiana Board of Parole.

John T. King
Secretary

RULE

Department of Corrections Office of the Secretary

Student Rules and Regulations

Department Regulation No. 10-17 (a) dated 7 February 1977, is hereby rescinded, effective immediately.

This Regulation is superceded by Juvenile Disciplinary Rules dated 1 May 1979.

John T. King
Secretary

RULES

Board of Elementary and Secondary Education

Rule 3.07.12

The Board adopted a policy that a student with a GED diploma will not be allowed to return to school to receive a regular high school diploma.

Rule 4.01.92

The Board adopted the *Guidelines for Summer School Programs Funded by the State* (1982) for remediation of eligible children in the areas of Language Arts and Mathematics as amended as follows:

GUIDELINES FOR SUMMER SCHOOL PROGRAMS FUNDED BY THE STATE - 1982

Eligibility

Financial assistance is available to local school systems to provide remediation in a state approved summer school for any student not achieving the established performance standard of 75 percent on the State Basic Skills Test in language arts and/or mathematics.

Standards

All summer schools receiving state funding for remediation shall apply on the appropriate state forms to the State Department of Education for approval of each summer school program according to *Standards for Elementary Summer Schools* pp. 34a-c, Bulletin 741, *Handbook for School Administrators*. Summer schools found not in compliance with state standards shall reimburse the state allocation.

Pupil/Teacher Ratio

The pupil/teacher ratio shall not exceed 12 students per teacher per subject area.

Funding

Each local school system will be allocated \$250 per student per subject area by June 30, 1982. These funds may be used during the 1982 summer school session and/or the 1982-83

school year. When additional funds for state-funded compensatory/remedial educational programs is appropriated by the 1982 legislature, each local school system will be allocated an additional allotment per student per subject area.

Student Assessment and Exit Criteria

Prior to a student's exit from the compensatory/remedial program each school system shall assess each student to determine the mastery of skills in which the student was deficient as identified on the State Basic Skills Tests.

Evaluation

Each school system shall participate in the evaluation of the State Compensatory Education Program conducted by the Department. The Department shall provide guidelines for the evaluation.

Rule 3.08.00

The Board adopted a revision to Section VI (Monitoring) of the *Home Study Guidelines*.

Rule 3.07.10.a

The Board adopted the three year Louisiana State Plan for Adult Education (1982-85).

Rule 3.07.11.c

The Board rescinded Motion 8-H-5 of the BESE Minutes of November 19, 1981 which granted the parish and city school boards the authority to waive the age requirement for taking the GED test and returned this authority to the Board.

Rule 4.01.50.a

The Board Adopted the *Nonpublic School Testing Guidelines*.

James V. Soileau
Executive Director

RULE

Louisiana State University Board of Supervisors

Amendment to Regulations

Chapter II

Section 2-7 Tenured and Term Appointments, Academic Staff.

"a. Faculty Ranks. Faculty members and other members of the academic staff of comparable rank, including librarians, may be appointed for a specified term ("term appointment") or indefinitely ("tenured appointment") depending on rank and experience. Appointment or tenure on one campus of the LSU System carries no implication of appointment or tenure on another campus. Academic employees are tenured only with respect to their academic ranks and not with respect to administrative titles or assignments.

"Tenure is not a guarantee of lifetime employment, particularly in the face of institutional change or financial exigency. It does assure that the employee will not be dismissed without adequate justification and without due process."

"Term employees are appointed for specified periods of time as indicated on the appointment form."

"Professors and Associate Professors are tenured and are appointed for an indefinite period of time, except that the initial appointment and subsequent reappointments through not more than four years of total service to the LSU campus involved may be made for a stipulated term. Persons promoted to the rank of Professor or Associate Professor after less than four years of service on the campus may be continued to term appointment through no more than the fourth year. Persons holding a professorial rank (Professor, Associate Professor or Assistant Professor) while being paid by a grant or contract do not acquire tenure through the

passage of time but may become tenured only by specific individual recommendation through appropriate channels and approval by the President."

"Assistant Professors are appointed for terms no longer than three years. Upon reappointment after seven years of service in rank on a particular campus, Assistant Professors receive tenure. A thorough review will be made during the fifth year of service so that notice of termination may be given if necessary no later than the end of the sixth year of service. If reappointment as Assistant Professor for the seventh year is recommended, special justification must be provided. The University may, at its discretion, count prior service on the same campus toward the seven-year evaluation period for an Assistant Professor to achieve indeterminate tenure. The ultimate decision shall be left with the President, to be applied in each individual case for which the respective campus recommends granting indeterminate tenure counting prior service favorably."

"Those who rank as Instructor or Associate shall be on an annual appointment."

M. D. Woodin
Secretary to the Board

RULE

Division of Administration Property Control Section

The Property Control Section intends to revise the State Property Control Regulations as follows:

SECTION I.

5.0 ITEMS OF PROPERTY TO BE INVENTORIED.

5.1 All items of movable property having an acquisition cost of \$100 or more, and certain gifts and other property having an appraised value of \$100 or more must be placed on inventory. The term "movable" distinguishes this type of equipment from equipment attached as a permanent part of a building or structure. All acquisitions of qualified items must be tagged with a State of Louisiana identification tag and all pertinent information forwarded to the State Property Control Director within 10 days after receipt of the items.

Dan Pickens
Assistant Director

RULE

Department of Health and Human Resources Office of Human Development

The Department of Health and Human Resources, Office of Human Development has adopted, effective June 20, 1982, the following amendments to the Client Placement Program policy:

Due to Office of Human Development funding limitations for the current fiscal year, effective immediately funding approval by the State Placement Director must be secured prior to any actual placement in the Client Placement System. Prior approval must be secured for all placements with the following exceptions:

(1) Placement in public and private ICFMR facilities can occur without prior approval, as these placements are funded by Title XIX, and do not impact the Client Placement budget.

(2) Court-ordered placements involving transfer of the custody of an individual to DHHR can occur without prior approval only to assure compliance with the order of a court. It is not the

intent of this policy to increase the number of court adjudicated cases.

(3) Placement can occur in extremely emergent cases where there is a life-threatening situation or where there is a potentially dangerous environment for a client. Notification must be made to the State Placement Director the same or following working day.

Funding will cease to be approved when expenditures exceed available funds, based on a month prororation of monies.

Roger P. Guissinger
Secretary

RULE

Department of Health and Human Resources Office of Licensing and Regulation

The Department of Health and Human Resources, Office of Licensing and Regulation, is adopting the following regulations regarding the disposal of fetal remains subsequent to an abortion pursuant to Louisiana Revised Statute 40:1299.35.14. Regulations on this subject were implemented by Emergency Rule effective March 31, 1982. The amended regulations are as follows:

Each physician who performs or induces an abortion shall adopt policies and procedures which will address at a minimum the requirements contained herein. The policies and procedures shall be in writing and signed and dated by the individual who has appropriate responsibility. In the event the abortion is performed in a hospital, then it shall be the responsibility of the hospital to formally adopt policies and procedures addressing these requirements.

In addition to the record maintenance required in 1299.35.8, and specifically in accord with oral information furnished by the physician as specified in 1299.35.6 B(3), the physician shall inform the woman after she has undergone an abortion of the options available for disposal of fetal remains as enumerated in 1299.35.14 and in these regulations.

ACCEPTED METHODS

I. Abortions Performed in Hospitals Licensed by the State of Louisiana

A. As stipulated in 1299.35.14.B, at the option of the woman who has undergone an abortion or, in the case of a minor, her mother, father, or legal guardian, the fetal remains may be disposed of in accordance with R.S. 8:651 et seq. It shall be the responsibility of the patient, or when appropriate, a responsible family member or legal guardian to assure that the fetal remains are removed from the premises within an appropriate length of time not to exceed 24 hours after having been informed of the options available when the patient or the appropriate family member or legal guardian opts to dispose of the fetal remains.

B. If disposition of the remains is not addressed according to R.S. 8:651 et seq., then disposal becomes the responsibility of the physician and/or hospital.

1. The hospital shall be so equipped as to have the capability of total destruction of all pathology (including fetal remains) by incineration. The incinerator shall be of such size and design as to have the capability of total consumption of all material processed. Processing procedures will be equivalent to those which are being utilized in hospitals which have been accredited by the Joint Commission on Accreditation of Hospitals. All fetal remains will be processed through this system when disposal becomes the responsibility of the physician and/or hospital.

2. All fetal remains will be disposed of in this manner within a 24-hour period subsequent to the examination by the Pathology Department unless the provisions of 1299.35.13 otherwise inter-

vene. Experimentation on fetal remains is prohibited unless the experimentation is done for potential therapeutic value. Testing of the conceptus (fetal remains, placenta and cord) is permitted only to diagnose any medical problems of the woman. Disposal will be accomplished within a 24-hour period subsequent to the conclusion of all medical studies and evaluations.

3. In the event the hospital, where abortions are performed, is not equipped as specified in (B.1) above, it may make arrangements with a facility that is so equipped to provide this service. In the event the hospital cannot make arrangements with a facility equipped as specified in (B.1) above, then disposal can be accomplished through the sanitary disposal system provided for by the municipality or other political subdivision responsible for providing disposal systems and approved by the Louisiana Office of Health Standards and Environmental Quality for disposal of waste matter.

II. Abortions Performed in Medical Facilities Other Than Hospitals (First trimester abortions)

A. The preferred method of disposal is as stipulated in Section I. However, it is impractical to impose these standards upon licensed practitioners such as smaller clinics, physician offices and ambulatory surgical centers but such facilities may install equipment and adopt policies and procedures in accordance with the provision of Section I if they so elect.

B. In such medical facilities other than hospitals where abortions are performed, the facilities may develop written agreements with hospitals which provide the services as stipulated in Section I-B-3.

C. In these medical facilities as defined in Section II.A which are not equipped with acceptable incinerating equipment, disposal can be accomplished through the sanitary disposal system which has been provided by the municipality or other political subdivision responsible for providing disposal systems and approved by the Louisiana Office of Health Standards and Environmental Quality for disposal of waste matter.

D. All informed consents, approvals and recordkeeping as stipulated in Act 774 and as required in those regulations shall be accomplished by practitioners as defined in II.A above.

Roger P. Guissinger
Secretary

6-20-82

RULE

Department of Health and Human Resources Office of the Secretary

Comprehensive Annual Social Services Program Plan for
Louisiana
July 1, 1982 - June 30, 1983

The Department of Health and Human Resources has adopted the Title XX Block Grant Comprehensive Annual Services Program (CASP) Plan for July 1, 1982 through June 30, 1983.

The CASP will offer the following services:

- Adoption (pre-placement to termination of parental rights)
- Counseling (assessment, evaluation and appropriate therapy)
- Day Care for Children (direct care for portion of the 24-hour day)
- Employment (assessment, placement, counseling)
- Health Related (assistance in obtaining and utilizing necessary health care)
- Home Delivered and Congregate Meals (preparation and delivery of meals)
- Home Management (instruction, training, counseling)

- Homemaker (direct personal in-home care)
- Housing Improvement (counseling, advocacy, minor home repairs)
- Information and Referral (assessment, information, referrals, follow-up)
- Protection for Adults and Children (investigation, assessment, evaluation, intervention, shelter care, counseling, referrals, and follow-up)
- Placement (direct care and treatment on a 24-hour basis)
- Socialization (opportunities for personal, cultural and social enrichment)
- Substitute Care (evaluation, placement, counseling)
- Transportation (travel to and from service resources)
- Training and Treatment (evaluation, counseling, training, referrals)
- Community Planning for Services to Children (administrative support of the service delivery system)

Persons eligible for services are:

- (1) Recipients of Aid to Families with Dependent Children (AFDC) and those persons whose needs were taken into account in determining the needs of AFDC recipients.
- (2) Recipients of Supplemental Security Income payments or state supplemental payments, and individuals eligible for such payments except for their income.
- (3) Persons whose gross monthly income is not more than 57.8 percent of the state's median income for a family of four adjusted by family size. A family of four with a gross monthly income of not more than \$971 is eligible for services.
- (4) Persons without regard to income, who are in need of Protection, Adoption, Substitute Care, Placement, and/or Information and Referral Services.
- (5) Persons who are members of groups identified in the proposed plan to receive certain services except child day care.

Copies of the Title XX State Plan (CASP) are available without charge upon request to: Governor's TIE Line, Box 44004, Baton Rouge, LA 70804. Telephone: 1-800-272-9868 (8 a.m. - noon) (1 p.m. - 5 p.m.).

Roger P. Guissinger
Secretary

6-20-82

RULE

Department of Health and Human Resources Office of the Secretary Civil Rights Bureau

The Department of Health and Human Resources Office of the Secretary Civil Rights Bureau, is adopting the following Rule, effective immediately.

SERVICES AND/OR BENEFITS COMPLAINT PROCEDURE

It is the policy of the Department of Health and Human Resources (hereafter referred to as the Agency) to resolve all complaints alleging discrimination based on age, race, color, sex, handicap, religious creed, national origin and political belief in the provision of any agency service. Facilities providing service through the agency shall include all DHHR Offices, which are service or benefit oriented and subcontractors or vendors thereof such as doctors, hospitals, daycare centers and nursing homes. Any person who believes that he or she or any specific class of persons has been subjected to discrimination based on the above mentioned factors in any agency program, may personally or by a representative file a written complaint. Verbal and written complaints of discrimination relating to the Special Supplemental Food Program for Women, Infants and Children (WIC) and the Food Stamp Program shall be accepted when filed in accordance with

Item 8c. The identity of complainants shall be kept confidential except to the extent necessary for the conducting of the investigation. Any act or acts of intimidation or retaliation against any individual making a complaint shall be prohibited.

APPLICABILITY

The policy shall apply to all DHHR Offices providing financial, supplemental, social or health care services. The policy shall also apply to any agency providing these services on contractual basis.

STANDARDS

1. A complaint may be filed with DHHR/BCR, DHHS or USDA at the following addresses:

Department of Health and Human Resources (DHHR), Office of the Secretary, Bureau of Civil Rights, 150 Riverside Mall - Room 404, Baton Rouge, LA 70801.

Department of Health and Human Services (DHHS), Regional Office for Civil Rights, 1200 Main Tower, Suite 1900, Dallas, TX 75202.

U.S. Department of Agriculture (USDA), Office of the Secretary, Washington, D. C. 20250.

2. The complaint must be filed no later than 180 days from the date of the alleged discriminatory act or acts.

3. The complaint must describe the type of discrimination alleged, indicate when and where such discrimination took place, and describe all pertinent facts and circumstances surrounding the alleged discrimination.

4. After determining that the complaint falls within the jurisdiction of DHHR-BCR, the Director of DHHR-BCR will initiate a prompt and thorough investigation of the complaint.

5. The complainant must be given a status report within 30 days of receipt of the complaint.

6. DHHR-BCR will maintain records to show the nature of the complaint, the details of the investigation and the actions taken.

7. All complaint records will be available for review by DHHR, USDA and other responsible officials.

8. Food Stamps and WIC

a. Complaints relating to the Food and Nutrition Service Program (FNS) including the Food Stamp Program (administered by the Office of Family Security, OFS) and WIC (administered by the Office of Health Services and Environmental Quality, OHSEQ) that allege discrimination but have other programmatic problems will be referred to OFS' Inquiry Services Section, the Appeals Section, DHHR-Office of the Secretary or the OHSEQ, whichever is applicable.

b. Those Civil Rights complaints received by the Appeals Section, DHHR Office of the Secretary, will be referred to the Bureau for Civil Rights (BCR). All WIC Civil Rights complaints received or accepted by the BCR, the Office of Health Services and Environmental Quality, as well as other local and state offices or agencies shall be forwarded to the addresses indicated below. The BCR may assist FNS-USDA to expedite resolutions by collecting investigative data and implementing corrective action subject to FNS approval:

Director, Supplemental Food Programs Division (WIC), Food and Nutrition Services (FNS), United States Department of Agriculture, Washington, D. C. 20250.

Send copy to: Regional Administrator, Food and Nutrition Service, 1100 Commerce Street, Dallas, TX 75242 and Bureau for Civil Rights, 150 Riverside Mall - Rm. 404, Baton Rouge, LA 70801.

c. Verbal Complaints - Complaints of discrimination relating to the Food Stamp and WIC Programs shall be accepted both verbally and in writing when filed within 180 days of the alleged discriminatory action. The filing period can be extended, in certain instances, by the Secretary of Agriculture or Food and Nutrition

Service. Anonymous complaints, verbal or written, shall also be accepted. It is necessary that the information be sufficient to determine the identity of the agency or individual toward which the complaint is directed and to indicate the possibility of a violation. However, no complaint shall be rejected on the basis of lack of merit. In the event a complainant makes the allegations in person or through a telephone conversation, and refuses or is not inclined to place such allegations in writing, the person to whom the allegations are made shall write up the elements of the complaint for the complainant. Every effort shall be made to have the complainant provide the following information:

- (1) Name, address and telephone number of complainant, or other means of contacting the complainant.
- (2) The specific location and name of the entity delivering the service or benefit.
- (3) The nature of the incident or action that led the complainant to feel discrimination was a factor.
- (4) The basis on which the complainant feels discrimination exists (race, color, or national origin.)
- (5) The names, titles, and business addresses of persons who may have knowledge of the discriminatory action.
- (6) The date(s) during which the alleged discriminatory actions occurred, or if continuing, the duration of such actions.

PROCEDURES

NOTE: Applicable to Food Stamps and all other DHHR Service and or Benefit Programs except the Supplemental Food Program for Women, Infants and Children (WIC) See Item 8 above.

1. All complaints will be acknowledged within five working days of receipt of complaint.
2. The complaint investigation will include but not be limited to the following steps: a minimum of steps a, c, and d must be followed in all investigations.
 - a) Interviewing the complainant to get all details of the complaint.
 - b) Interviewing community leaders and others who would be in a position to provide further information.
 - c) Contacting the Office of the facility complained against to secure information about the complaint incident and the overall arrangement for providing services.
 - d) Obtaining copies of any appropriate documents, records, or statistics which would support or rebut the complaint.
3. After the investigation, the Civil Rights Director of DHHR-BCR will determine the validity of the complaint and advise the complainant and agency complained against in writing of the determination.
4. If it is concluded that the complaint is valid, necessary steps must be taken by the office's assistant secretary or agency administrator to correct the discriminatory practice within a designated period of time and to prevent any recurrence of such practice.

The Bureau for Civil Rights shall submit to Food and Nutrition Service a report on each Food Stamp discrimination complaint. The report shall contain the findings of the investigation and, if appropriate, the corrective action planned or taken.

Steps 2 and 3 of the Procedure will be completed within 60 days from receipt of a complaint, or within such additional time as may be allowed by the director of DHHR-BCR for good cause shown. In the written notice of the decisions, the complainant shall be advised that if he/she is not satisfied with the decision, it may be appealed to DHHR-OCR, USDA or other appropriate federal regulatory agencies.

Roger P. Guissinger
Secretary

RULE

Department of Health and Human Resources Office of the Secretary

Effective July 1, 1982 the Department of Health and Human Resources will implement the following policies: DHHR Policy on Use of Restraints, Seclusion, and Medication with Gary W. Classmembers; DHHR Policy on Reporting Alleged Abuse, Neglect, Mistreatment and/or Death of Gary W. Classmembers; and pre-Movement Staffing Policy and Procedures for Gary W. Classmembers. Each of these policies outlines special procedures to be followed with Gary W. classmembers and are written in compliance with terms of the federal court orders and the Memorandum of Agreement between the parties of the Gary W. et al vs. State of Louisiana et al civil action.

These policies affect Gary W. classmembers and do not affect other citizens of this State.

DHHR POLICY ON USE OF RESTRAINTS, SECLUSIONS AND MEDICATIONS WITH GARY W. CLASSMEMBERS

I. INTRODUCTION

The Department of Health and Human Resources, through negotiating sessions with parties before the Special Master in the Gary W. case, agreed to disseminate behavior management policies interactive of those outlined in the Principal Order of Gary W. et al vs. State of Louisiana et al, dated October 28, 1976. Each Office is responsible for assuring that internal behavior management practices comply with this order. Illustrations of non-compliance as used in this policy were provided by the Special Master's Office. Reference numbers as used in this policy (examples 3.8, 3.12) refer to specific sections of the Principal Order.

II. DEFINITIONS

Legend Drug: those drugs requiring a prescription for dispensing under federal law.

Non-legend Drugs: those drugs which do not require a prescription for dispensing under federal law (i.e., aspirin, petroleum jelly, etc.).

Superintendent: the person who is primarily responsible for the operation of any facility; director; administrator. This definition also includes the individual specifically designated by the superintendent to act on his behalf during his absence from the facility, such as the duty officer.

Qualified Professional:

- (a) A psychologist with at least a master's degree from an accredited program and with specialized training or two years of experience in treating emotionally disturbed, mentally retarded or learning disabled children whose condition is similar to the condition of the children being served.
- (b) A physician licensed under State law to practice medicine or osteopathy and with specialized training or two years of experience in treating emotionally disturbed, mentally retarded or learning disabled children whose condition is similar to that of the children being served.

Active Physical Restraints: this includes any device which acts to limit or restrict mobility of an individual's body or body part or parts excepting those devices specifically prescribed by a physician for bracing or for therapeutic positioning. Examples of active physical restraints include posey belts, ankle cuffs, safety restraints, and straight jackets.

III. MEDICATION AND CHEMICAL RESTRAINT

3.8 "The medication prescribed for each child [classmember] shall be noted in his records. At least monthly the attending physician shall review the drug regimen of each child [classmember] under his care. All prescriptions shall be written with a termination date, which shall not exceed 30 days. * The child's [classmember's] records shall state the effects of psychoactive medica-

*DHHR interprets this requirement as applicable to prescriptions for legend drugs only.

tion on the child [classmember]. Unnecessary or excessive medication shall not be administered by any child [classmember].”

3.9 “Medication shall not be used as punishment, for the convenience of staff, as a substitute for a treatment program, or in quantities that interfere with the child’s [classmember’s] treatment program.”

3.10 “No medication shall be administered except by persons who have been appropriately trained.”

Illustrations:

A. A classmember was reported to be receiving a high dosage of psychoactive medications, but was not participating in any behavior modification program.

B. A classmember receiving the following medications was observed sleeping when he or she should have been in class and at lunch: haldol, dilatin, thorazine, phenobarbital, and mellaril. Staff described the classmember as lazy and as one who sleeps excessively.

IV. SECLUSION AND TIME OUT

3.11 “No child [classmember] shall be placed alone in a locked room, either as punishment or for any other purpose. Legitimate ‘time out’ procedures may be utilized under close and direct professional supervision.”

3.12 “These standards shall apply to ‘time out’ procedures.”

3.121 “They are to be imposed only when less restrictive measures are not feasible;”

3.122 “Placement shall be in an unlocked room with a staff member constantly nearby in a place where the staff member can supervise the child [classmember];”

3.123 “The child [classmember] shall have access to bathroom facilities as needed;”

3.124 “The period of isolation or segregation shall not exceed 12 hours unless renewed by a qualified professional;”

3.125 “Except in an emergency situation in which it is likely that a child [classmember] would harm himself or others, the decision to place a child [classmember] in ‘time out’ shall be made pursuant to a written order by a qualified professional, following a personal interview with the child [classmember] and an evaluation of the episode or situation said to require isolation or segregation. Any such order must specify the terms and conditions of ‘time out’ and the rationale for the decision; and ”

3.16 “Emergency use of ‘time out’ shall be limited to a period of not more than one hour and shall conform to all of the provisions set forth in subparagraphs 3.121 - 3.123 of this paragraph. (The attention of the parties is invited to the situation that may be presented by a child [classmember] who may harm himself or others by running away repeatedly. Their suggestions with respect to appropriate additional provisions are invited).”

Illustrations:

A. An auditor reported that seclusion was frequently employed as punishment.

B. An auditor reported that on a specific date a classmember was left in the quiet room by staff. The auditor also observed that the classmember was left unattended in the quiet room for more than an hour and that the classmember was not checked during that time.

V. PHYSICAL/MECHANICAL RESTRAINT

3.13 “Physical restraints shall be employed only when absolutely necessary to protect the child [classmember] from injury to himself or to prevent injury to others. Restraints shall not be employed as punishment, for the convenience of staff, or as a substitute for a treatment program. A child [classmember] shall be restrained only if alternative techniques have failed and only if such restraint imposes the least possible restriction consistent with its

purpose; and then only in accordance with the following standards:”

3.131 “An order for restraint shall be in writing and shall not be in force for longer than 12 hours.”

3.132 “Except in an emergency situation only qualified professionals may authorize the use of restraints.”

3.133 “A child [classmember] placed in restraint shall be checked at least every 30 minutes by staff trained in the use of restraints, and a record of such checks shall be kept.”

3.134 “Mechanical restraints shall be designed and used so as not to cause physical injury to the child [classmember] and so as to cause the least possible discomfort.”

3.135 “Opportunity for motion and exercise shall be provided for a period of not less than ten minutes during each two hours in which restraint is employed.”

3.136 “Daily reports shall be made to the superintendent by those qualified professionals ordering the use of restraints, summarizing all such use of restraints, the types used, the duration, and the reasons therefor.”

3.137 “Emergency use of restraints shall be authorized only by the superintendent of the institution, shall be limited to a period of not more than one hour and shall conform to all of the provisions set forth in subparagraphs 3.133 - 3.135 of this paragraph.”

Illustrations:

A. Staff reported to an auditor that restraints were used with a classmember, but the auditor found no record of it in the classmember’s file.

B. Staff of the Special Master’s Office were told that staff ties a classmember to his/her wheelchair to avoid having to pursue him/her as the classmember is active.

C. An ambulatory classmember was observed by the Judge and the Special Master restrained in a rocking chair due to staff shortage.

VI. INSTRUCTIONS TO OFFICES

Each Office will immediately notify its employees and those service providers for whom it has funding authority of the following:

1. The use of active physical restraints except as provided for in the Gary W. Court Order is strictly prohibited by DHHR.
2. The use of medication for non-therapeutic reasons as a chemical restraint is strictly prohibited by DHHR.
3. The use of seclusion is strictly prohibited by DHHR.

The above will be required information for dissemination to all new employees, where appropriate, prior to assumption of duties.

Any DHHR employee found to be in violation of this policy will be subject to disciplinary actions such as official reprimand, suspension, and dismissal.

Individuals and agencies in the private sector serving DHHR clients shall adopt this policy and enforce it including provisions for disciplinary action with employees found to violate the policy. The DHHR will enforce this policy through progressive sanctions which could include a plan of corrective action, a moratorium on placements, and the removal of DHHR funded clients.

Where more stringent federal or state regulations govern a facility’s behavior management practices, this policy will not supercede those regulations.

DHHR POLICY ON REPORTING ALLEGED ABUSE, NEGLECT, MISTREATMENT AND/OR DEATHS OF GARY W. CLASSMEMBERS

A. POLICY STATEMENT

Effective immediately, any instance of alleged abuse, neglect, mistreatment, and/or death of any Gary W. Classmember shall be reported by DHHR to the Special Master within 24 hours

of learning of the incident. Written confirmation of the verbal report shall be made within 72 hours to the Special Master and all parties. Follow-up correspondence from where the incident occurred shall verify the investigative proceedings and disciplinary and/or legal actions taken. The following policy and procedure shall be binding on all placement and program providers.

B. DEFINITIONS OF ABUSE AND NEGLECT

"Abuse" is the inflictions by a person responsible for the classmember's care, of physical or mental injury or the causing of the deterioration of a classmember. This includes but is not limited to such means as sexual abuse and/or the exploitation or overwork of a classmember to such an extent that his health, moral or emotional well-being is endangered.

"Neglect" is the failure, by a person legally responsible for a classmember's care to provide for the care and maintenance of the classmember, the proper or necessary support, education as required by law, or medical, surgical or any other care necessary for her/his well-being. No classmember who is being provided treatment in accordance with a recognized religious method of healing in lieu of medical treatment shall for that reason alone be considered to be neglected or abused.

A person responsible "for a classmember's care" is defined for purpose of this policy as: foster parent, an employee of a public or private residential facility or other person providing residential care.

Special Condition - In terms of this policy abuse/neglect shall be considered to include those cases in which a classmember is incarcerated during the time the alleged abuse/neglect occurred. In such instances of alleged abuse/neglect of an incarcerated classmember, the allegation should be forwarded to the Gary W. Project Office immediately so that the proper investigatory authority may be informed.

Facilities include: a public or private residential institution, community living residence, foster home, nursing home, and other residential living accommodations subject to licensing or regulation by the Department of Health and Human Resources.

C. EXAMPLES OF MISTREATMENT

Abuse and neglect in a facility can occur in two forms.

The first is abuse and neglect as a result of social or institutional policies, practices or conditions. It usually affects the larger group of classmembers in residence and should have the specific attention of staff from the Division of Licensing and Certification.

The second form is abuse or neglect committed by an employee or resident of the facility or another individual against a classmember in residence. This type may occur more frequently. In cases involving the employee committing the abuse and neglect it is usually violating the institution's stated policies and rules.

The two forms of abuse and neglect are included in the examples which follow. The investigating team must clearly distinguish which actions against classmembers are the result of institutional policies, practices and conditions and which are due to the behavior of individuals who violate the policies and practices of the facility.

Physical Abuse and Neglect - This includes physical mistreatment; observed intent to injure whether or not actual injury occurs; lack of care which results in illness or other physical difficulty; medical or chemical abuse through misuse or over use of medication; damage through lack of adequate protection against injury or risk (inadequate supervision); excessive punishment; locking in or locking out; inadequate food, clothing, or shelter.

Types of physical abuse may include resident/resident, staff/resident, outside/resident, and self-inflicted abuse.

Sexual Abuse - When the facility and/or staff, permit or participate in sexual activity with or among residents, or any sexual activity by individuals unable through age or capacity to make a reasonable choice. This may include rape or attempted rape;

fondling; voyeurism; exhibitionism. It may be linked to neglect through inadequate supervision of residents, or the failure to provide sufficient clothing or privacy.

Emotional and Intellectual Damage - Stems from the failure of the institution to provide opportunities for each child to achieve his/her potential for emotional and intellectual development. This would include verbal threats which may cause emotional damage.

Environmental Neglect and Abuse - Takes place when the facility fails to provide adequate protection for residents against dangers in the physical environment.

Denial of Basic Civil Rights - Failure to allow visitation by appropriate persons, denial of communications or censoring mail; inaccessibility to outside contacts by telephone or other means; lack of confidentiality of records; lack of parental involvement in treatment; unauthorized solicitation or acceptance of resident's funds; unauthorized work with or without compensation, loss of compensation as punishment.

Special Condition - Note special condition involving incarcerated classmembers in Section A.

D. PROCEDURES

1. State and Non-State Facilities:

Upon the death or allegation of abuse/neglect/mistreatment of any Gary W. Classmember, the facility administrator shall immediately verbally inform the Gary W. Project Office of the allegation or death (phone 342-4799 or 5604).

If there is any question as to whether a resident is in fact a certified classmember in the Gary W. case, the facility should contact the Gary W. Project Office for confirmation.

Effective September 10, 1981, the Gary W. Project Office will have answering service coverage of the above two numbers from 4:30 p.m. to 8 a.m. on week nights, from 4:30 p.m. on Fridays to 8 a.m. for weekends, and during state holiday periods. The following information shall be reported to the answering service personnel when reporting an incident:

1. Name of the facility
2. Name of the facility staff person making the report
3. Telephone number of the staff person to be contacted for details
4. Name of the Gary W. Classmember
5. Type of incident
6. Time incident occurred

If for any reason, the verbal message cannot be communicated directly to the Gary W. Project Office, the respective Assistant Secretary's Office or contracting Office for the facility involved shall be notified and assume responsibility for initial contacts in accordance with provisions of this Section. Immediate notification shall be given to the Gary W. Project Office to assure coordination of functions.

The initial verbal report to the Project Office shall contain data on the nature of the allegation or circumstances of death, immediate action taken and planned follow-up of the facility. Please see reporting form being used by the Gary W. Project Office. The facility staff person making the verbal report should be prepared to provide as much of the information requested on this form that is available at this time.

In no instance shall notification to the Project Office be delayed beyond the start of the following day after the facility administrator is informed of the alleged incident or death. The administrator is responsible for internal measures to assure him or his appropriate designee is notified immediately upon any death or allegation of abuse, neglect, or mistreatment.

Written results of the preliminary internal facility investigation shall be submitted to reach the Project Office (P. O. Box 3776, Baton Rouge, LA 70821) within 7 calendar days of the alleged incident or death so that it may be forwarded to the Special Master and all parties. A copy should be forwarded simultaneously to the

respective Assistant Secretary's Office or contracting office for the facility involved. At a minimum, the written report shall include confirmation of the alleged incident or death, summary of investigation conducted, findings, disciplinary/legal action taken, determination of what measures are to be instituted to prevent reoccurrence (if appropriate) and time frames for accomplishment. *If a full investigation has not been completed, this shall be duly noted with steps yet to be taken outlined and dates for completion indicated. Initial reporting within the 7 day time frame shall not be delayed pending completion of a full investigation.*

In every instance of death or allegation of abuse, neglect or mistreatment, parents/legal guardians or other relatives of record are to be notified in accord with existing agency procedures.

2. Foster Care/Home/Independent Living, etc.:

Any death or allegation of abuse, neglect, mistreatment of any Gary W. Classmember shall be reported to the Project Office as outlined above. The Case Coordinator or other appropriate state authority receiving initial notification of the death or alleged incident shall be responsible for follow-up as mandated in the foregoing procedures.

3. Gary W. - Project Office:

Upon receipt of verbal notification of death, alleged abuse, neglect, or mistreatment, the Project Office shall immediately report by telephone to the Office of the Special Master. In every instance, notification will be attempted on the same date as information is received. If for any reason such attempts are unsuccessful, written notification shall be mailed the same date as the verbal information is received. Attempts to report verbally to the Special Master shall continue until accomplished.

The Project Office shall maintain appropriate records to assure that time frames delineated earlier are met and shall make whatever follow-ups are necessary to assure that information is gathered and forwarded in timely fashion. Any deviation from established procedure shall immediately be conveyed to the Special Master and the Office responsible for service delivery.

A copy of all written reports from the Project Office shall be forwarded to the plaintiffs and plaintiff intervenor in addition to the Special Master. Copies of correspondence received on deaths or alleged incidents shall be forwarded by the Project Office no later than the following working day.

A complete file on each incident or death shall be maintained by the Project Office and be subject to review by the Special Master, plaintiffs and intervenor. Periodic reports (at least every 6 months) shall be made by the Project Office to the Secretary of the Department of Health and Human Resources of the number and types of incidents and deaths reported.

E. FACTORS TO BE CONSIDERED DURING THE INVESTIGATION PROCESS

The following factors must be considered and evaluated in determining the validity of the complaint. This guideline is provided to assist the facility in assessing the total situation. The internal facility report should reflect that the following factors were addressed in the investigation.

Factors relating to the resident:

1. Name, age, reason for admission, duration of placement.
2. Whether or not there has been involvement in previous incidents.
3. Resident's level or classification in the facility.
4. Review of educational, medical, psychological, and social reports pertaining to the resident.
5. Provision of medical attention for trauma.
6. Nature of the incident, factors precipitating the incident, and subsequent actions.

Factors relating to the staff:

1. Identifying information, work history and role of the

alleged perpetrator.

2. Whether or not there has been involvement in previous incidents.

3. Nature of the incident, factors precipitating the incident, names of witnesses, and subsequent actions.

4. Interviews with witnesses should include details of time, place, roles in the incident, injuries sustained and acts precipitating the incident.

5. Interviews with uninvolved staff for understanding relationships among staff and residents, patterns of institutional mistreatment, and the facility system.

If at any point during the course of the investigation of the facts there is indication that a criminal act has taken place, it is the facility's responsibility to inform local law enforcement. It is the responsibility of the facility administrator to determine with local law enforcement which incidents of a criminal nature are to be reported.

F. GENERAL

None of the above is intended to replace, modify or otherwise change existing Office/Departmental procedures regarding the investigation of deaths or allegations of abuse, neglect or mistreatment. This procedure is solely for the purpose of assuring a uniform system of data collection and reporting to the Special Master on all Gary W. Classmembers.

DHHR PRE-MOVEMENT STAFFING POLICY AND PROCEDURES FOR GARY W. CLASSMEMBERS

The following policy and procedures are in effect immediately and remain in effect for each classmember pending completion of the 2.1 evaluation process and implementation of a final individual comprehensive service plan. While DHHR intends to hold the movement of classmembers to a minimum during the evaluation process, it must be recognized that in some instances delaying a move may not be possible or in a classmember's long-ranged interests. It is, therefore, the intent of the process outlined below that careful review, planning, and consideration, with accompanying documentation, will be required in transferring a classmember to another facility or community-based residence. The policy assumes that, where appropriate, proposed residential placements have been reviewed and approved through the Regional Review process. Pre-movement staffing procedures will in no way replace the Regional Review Committee within its defined scope of responsibility.

I. NOTICE OF INTENT TO MOVE CLASSMEMBERS (under ordinary circumstances)

A. Responsibility for notification rests with the facility from which transfer will be made.

B. Time of notification is 30 days prior to date of transfer.

C. Parties to be notified include the following:

1. Classmember
2. Classmember's parent or guardian or representative
3. Responsible Office (OMR, OHD, OMHSA, etc.) headquarters

4. Gary W. Project Office

5. OHD Case Coordinator

D. Additional notifications will be made in the following manner:

1. The Gary W. Project Coordinator will notify the Special Master

2. The Special Master will notify Plaintiff's Counsel

E. The facility will notify the Gary W. Coordinator in writing within five working days of determination of plans to transfer a classmember. The Gary W. Project Office will notify the Special Master's Office in writing promptly upon receipt of written notification from the facility of impending transfer.

II. PRE-MOVEMENT STAFFING

A. The purpose of the staffing is to review appropriateness of proposed new living arrangements and associated program components to meeting the habilitative needs of a classmember for whom movement is planned.

B. Functions of the team are defined below:

1. To assure adequacy of the plan, and
2. To accept the plan as presented, or
3. To reject the plan as presented, or
4. To modify the plan or make recommendations for its enhancement.

C. The pre-movement staffing will be held during the 30 day period prior to classmember's transfer.

D. Components of the plan for transfer:

1. Classmember's identifying information and legal status.
2. Current placement Individualized Plans of Treatment (if relevant).
3. Proposed placement plan which includes a comprehensive description of services to be provided, logistical considerations, and transitional follow-up. The following information must be presented:

- a. Proposed placement's address, telephone number, and contact person's name.
- b. Anticipated date of placement.
- c. Proposed educational, pre-vocational, vocational, or other day program.
- d. Proposed date of enrollment or other starting date for daytime activity.

e. Method through which consent for placement was obtained including any steps taken to assure that classmember was made knowledgeable of placement for which consent was requested.

f. Significant others' nature or degree of relationship(s), location(s), frequency of contact, and attitude(s) toward proposed placement.

g. History of any previous placements relevant to the proposed placement, successes and/or reason for failure of placements.

h. Current social functioning: peer relationships, degree of participation in recreational activities, relationships with authority figures.

i. Classmember's strengths and personal or vocational aspirations.

j. Significant behavior problems and information concerning any existing behavior management program which may be useful in new placement: target behavior(s), data collection method, reinforcers, consequences (if any).

k. Medical history and current status including names, dosages, and purpose of medications and prescribing physician's name and phone number.

l. Financial status and plans for transferring benefits, resources, and other entitlements (i.e., Medicaid card).

m. Inventory of personal property and plans for transfer of property to new placement location.

n. Plans for transporting classmember to new placement.

o. Plan for transitional follow-up or supervision of new placement including case manager's name, address, and phone number.

p. Identification of community resources which classmember will use in new placement: transportation, recreational, religious, therapeutic, etc.

E. The following individuals will be invited to attend the pre-movement staffing:

1. A representative of facility from which movement is being made.

2. A representative of facility to which movement is being made.

3. A representative from current day program (i.e., SSD#1, LEA personnel, or vocational personnel).

4. OHD case coordinator.

5. Any other assigned DHHR case coordinators.

6. Classmember, if appropriate.

7. Parent, guardian, or representative.

8. Other staff of current placement who have either direct knowledge of the classmember or professional expertise relevant to classmember's condition and educational or habilitative needs.

9. A representative from Long Term Care, if appropriate.

10. The Special Master or her designee. (The Special Master or her designee will monitor the staffing process and participate in discussion of plans, but will not be a party to team decision making).

III. DOCUMENTATION

A. A report of the pre-movement staffing will include significant items of discussion and rationale for decisions made by the team.

B. Parties present for the staffing, including classmember, parent or guardian or representative, and the Special Master or her designee, will sign an attendance sheet.

C. The report of the meeting, the movement plan, and the attendance sheet will be filed in the classmember's case record. A copy will be sent to the Gary W. Coordinator for DHHR. The Gary W. Coordinator will forward a copy to the Special Master.

IV. EXTRAORDINARY CIRCUMSTANCES

A. Extraordinary circumstances include the following:

1. Medical emergency with implications for extended disability, and when such disability or serious threat to health requires a change in residential placement before the pre-movement conference could reasonably be scheduled.

2. Behavioral emergency wherein classmember's behavior represents a serious threat to his/her safety or to the safety of others. (Property damage with significant financial or legal consequences or with concurrent risk of physical harm may also be considered).

3. Loss of current placement as a residential resource for classmember.

4. Sudden opportunity for a less restrictive placement where prior planning has indicated that this is appropriate.

5. Demand for movement by parent or guardian of a voluntary minor or by tutor or curator of an adult under continuing tutorship or interdiction.

6. Demand for movement, presented in writing, by a voluntarily admitted classmember of majority age who has not been interdicted.

7. Arrest of judicial commitment to another facility.

B. The procedure for staffing classmembers whose movement takes place under extraordinary circumstances follows:

1. The physical movement of a classmember may take place as necessary under conditions described above.

2. The movement will not, however, be considered a definite plan until the staffing requirements as outlined under Part II have been met.

3. Notification requirements are modified such that verbal notification of the Gary W. Project Office must take place as soon as possible and be confirmed in writing within five working days. Written notification will include a thorough review of the extraordinary circumstances, and the date movement did (or will) take place.

4. Responsibility for planning and holding the pre-movement staffing conference will shift to the new facility. A representative of the former residential facility should attend the staffing.

5. Pre-movement staffing will be held at the earliest time at which informational and staff participation requirements can be met, but not later than 20 working days from date of first notification.

V. EXCEPTION TO PRE-MOVEMENT STAFFING POLICY

A. Acute treatment of medical or psychiatric illness, when it is reasonable to expect that the classmember will return to his/her previous residential placement, will not require implementation of the procedures outlined in this policy. Should it, however, become evident during the course of acute treatment, that the classmember will require extended medical or psychiatric care or a new residential placement, notification and staffing requirements will be met. Timelines will begin with the time at which a determination is made that the classmember is not likely to return to his/her residential placement within a reasonably predictable period of time.

B. Elopement, when the whereabouts of a classmember is unknown, will not require publication and staffing as described in this policy.

VI. COMPLICATIONS TO PROCESS

A. The Department of Health and Human Resources or its Offices will not be deemed to be in violation of this policy because of any of the following events when every reasonable effort has been made to comply or to reach compromise solutions:

1. Refusal or inability of a classmember, parent, guardian or representative to attend a staffing conference within prescribed time frames.

2. Refusal of any staff person not employed by or through contract with the Department of Health and Human Resources to attend a staffing conference within prescribed time frames.

3. Refusal or inability of a classmember or his/her parent, guardian, or representative to provide placement or program information within prescribed time frames for the staffing conference.

4. Refusal of any person or agency not a part of or under contract with DHHR to provide placement or program information for the staffing conference within prescribed time frames.

5. Refusal of the Special Master to attend or to appoint a representative to the staffing conference within prescribed time frames.

6. Refusal of the classmember, or his/her parent, guardian, or representative to accept or follow the recommendations of the pre-movement staffing team.

7. Refusal of residential or program provider to accept or follow the recommendations of the pre-placement staffing team when that provider is not a part of or under contract with DHHR.

8. Any other circumstances beyond the direct control of DHHR.

B. Such complications and all efforts to resolve them must be thoroughly documented and filed in the classmember's record.

C. Copies of documentation will be provided to the headquarters of the Office responsible for the facility from which movement occurred.

D. Copies of documentation will be provided to the Gary W. Project Coordinator who will forward and discuss events with the Special Master's Office.

E. Complications will not preclude the need for a staffing meeting.

Copies of these policies may be secured from the Gary W. Project Coordinator, Box 3776, Baton Rouge, Louisiana 70821.

Roger P. Guissinger
Secretary

RULE

Department of Natural Resources Office of Forestry

The Louisiana Forestry Commission at its regular quarterly meeting Tuesday, June 8, 1982, and under authority granted by L.R.S. 56:1503, amended by Act 169 of 1969 and pursuant to Notice of Intent published May 20, 1982, has adopted the following price increases at which forest tree seedlings are sold to land-owners, effective July 1, 1982: regular pine seedling increase from \$16.50 per M to \$19 per M; special pine seedlings increase from \$25 per M to \$30 per M; hardwood seedlings increase from \$50 per M to \$60 per M.

D. L. McFatter
Assistant Secretary

RULE

Department of the Treasury Board of Trustees of the State Employees Group Benefits Program

AMENDMENT TO THE PLAN DOCUMENT

Page 8E.

"The term 'employee' shall also include medical residents, known as House Officers, employed by state-owned medical facilities. The enrollment and continued participation of these medical residents will be governed by an inter-agency agreement between the Board of Trustees of the State Employees Group Benefits Program and the (Appropriate State Agency)."

James D. McElveen
Executive Director

RULE

Department of the Treasury Board of Trustees of the State Employees Group Benefits Program

The Board of Trustees of the State Employees Group Benefits Program, at its meeting on May 26, 1982, adopted the following Rule to affirm its emergency Rule adopted on April 20, 1982:

The major medical lifetime benefit be and is hereby increased from \$100,000 to \$500,000 per person for all active employees under 70 years of age and for all retired employees under 65 years of age, effective May 1, 1982.

The lifetime major medical benefit be and is hereby increased from \$50,000 to \$250,000 per person for all active employees age 70 or over and for all retired employees age 65 or over, effective May 1, 1982.

James D. McElveen
Executive Director

RULE

Department of the Treasury Board of Trustees of the State Employees Group Benefits Program

RESOLUTION

WHEREAS, the Board of Trustees of the State Employees

Group Benefits Program was created by Act 745 of 1979 and charged with the responsibility of administering life and health insurance benefits for state employees on an actuarially sound basis; and

WHEREAS, pursuant to this grant of authority, the Board of Trustees of the State Employees Group Benefits Program presently bills approximately 500 agencies and political subdivisions for monthly premiums; and

WHEREAS, some agencies and political subdivisions are consistently delinquent in remitting reconciled invoices and the proper funds to this program in payment for life and health coverage; and

WHEREAS, these agencies and political subdivisions, through payroll deduction, receive the employee portion of the insurance premium at least one month prior to the date premiums are due to this program; and

WHEREAS, the Board of Trustees of the State Employees Group Benefits Program cannot properly verify employee coverage to hospitals and health care providers without a reconciled, up-to-date monthly invoice; and

WHEREAS, without a reconciled, up-to-date monthly invoice, coverages are denied and overpayments may occur:

THEREFORE, BE IT RESOLVED, by the Board of Trustees of the State Employees Group Benefits Program, that on and after July 1, 1982, the entire monthly premiums, consisting of the employee's and employer's portions, and the agency's properly reconciled monthly invoice must be remitted to the program within 30 days after the date they are due. In the event complete payment and a properly reconciled invoice are not received within this 30 day period, the payment of claims on behalf of the employees of the delinquent agency or political subdivision may be suspended until such time as complete payment and a properly reconciled invoice are received by the program.

FURTHER, BE IT RESOLVED, that the Executive Director and his staff will notify the participating agencies and political subdivisions of this action and implement procedures to carry out the provisions of this resolution.

James D. McElveen
Executive Director

Notices of Intent

NOTICE OF INTENT

Department of Agriculture
State Entomologist

In accordance with the provisions of LSA 49:951, et seq., the Administrative Procedure Act, and LSA 3:1655, relative to the authority of the State Entomologist, notice is hereby given that the State Entomologist, Louisiana Department of Agriculture, will

enact the following Rule relative to fees for inspection of nurseries and greenhouses:

"Fees shall be levied for the inspection of nursery stock grown or propagated for sale or distribution as follows:

a. \$25 for nurseries with acreage of more than 2,500 square feet and/or greenhouse space of more than 200 square feet;

b. \$5 for nurseries with acreage of 2,500 square feet or less and/or greenhouse space of 200 square feet or less.

The above fees will be pro-rated for the period July 1, 1982, through January 31, 1983. The following pro-rated portion of the above annual fee will be due for the period July 1, 1982, through January 31, 1983:

a. \$14.50 for nurseries with acreage of more than 2,500 square feet and/or greenhouse space of more than 200 square feet;

b. \$3 for nurseries with acreage of 2,500 square feet or less and/or greenhouse space of 200 square feet or less.

Thereafter, the total fees of \$25 and \$5, as above stated, shall be payable for each annual period beginning on February 1 and ending on January 31.

All monies derived from the collection of said fees shall be deposited in a special fund and used to help defray the expenses incurred for salaries for inspecting said nursery stock."

Written comments will be accepted up to and including July 7, 1982, by the following: Dr. John Impson, State Entomologist, Box 44456, Baton Rouge, Louisiana 70804, or may be presented in person at the office of the State Entomologist, 9181 Interline Boulevard, Baton Rouge, Louisiana.

Bob Odom
Commissioner of Agriculture

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Nursery fees

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

There will be no increased costs (savings) to the agency as a result of this amendment.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

In Fiscal Year 1982-83 the Department will receive \$4,375 from the fees, which represents a prorata (7/12ths) for the seven-month period from July 1, 1982, until January 31, 1983; whereas in subsequent years, the Department will receive approximately \$7,500 from fee collections.

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

Owners of nurseries/greenhouses will benefit from changing the due date to a more convenient time, in that they will not have to renew permits during a busy sales season.

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

There will be no effect on competition and employment in the private or public sector.

John Compton, Jr.
Deputy Commissioner

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Commerce Board of Commerce and Industry

The Louisiana Board of Commerce and Industry intends to adopt the following amendments to the Rules regarding Industrial Ad Valorem Tax Exemption under Article 7 Part 2 Section 21 (F) of the Louisiana Constitution of 1974 at its regular meeting on August 25, 1982. The proposed amendments are:

RULE 1. Use of Louisiana Contractors, Labor and Supplies

The Board of Commerce and Industry requires manufacturers and their contractors to give preference and priority to Louisiana manufacturers and, in the absence of Louisiana manufacturers, to Louisiana suppliers, contractors, architects, engineers, and labor, except where not reasonably possible to do so without added expense or substantial inconvenience or sacrifice in operational efficiency or the absence of expertise in the particular industry or field of competency involved. In considering applications for tax exemption, special attention will be given to those applicants agreeing to use, purchase and contract for machinery, supplies and equipment manufactured in Louisiana, or, in the absence of Louisiana manufacturers, sold by Louisiana residents, and to the use of Louisiana contractors, architects, engineers, and labor in the construction and operation of proposed tax exempt facilities. It is a legal and moral obligation of the manufacturers receiving exemptions to favor Louisiana manufacturers, suppliers, contractors, architects, engineers, and labor, all other factors being equal.

RULE 2. Time Limits for Filing of Applications

(a) A written notification of intent to apply for tax exemption must be filed with the Office of Commerce and Industry on the prescribed form at least 15 days prior to the beginning of construction or installation of facilities.

(b) Application for tax exemption must be filed with the Office of Commerce and Industry on the form prescribed not later than three months before completion of the project or the beginning of operations, whichever occurs first.

A cut off date for processing tax applications to be considered for tax exemptions is four weeks prior to Board meetings. The Assistant Secretary is authorized, at his discretion, to accept certain applications beyond this date.

NOTE: RULE 2 applies to all applications other than those covered in RULE 3.

RULE 3. Miscellaneous Capital Additions

Tax exemption applications on miscellaneous capital additions totaling less than \$3,000,000 may be filed in the following manner:

(a) (Capital additions totaling less than \$3,000,000 in one calendar year.)

Not later than January 31 of each year, application for tax exemption shall be filed on the prescribed form with the Office of Commerce and Industry, listing the nature, the date, and the amount of the miscellaneous capital additions completed during the preceding calendar year, and deducting therefrom such replacements made, if any, at their original cost. Such amounts shall be clearly identifiable on the records of the manufacturer.

Since the assessment date for Orleans Parish is August 1, applications for tax exemption on miscellaneous capital additions in this parish should be filed not later than August 31 and should cover items completed since August 1 of the preceding year.

(b) (Capital additions reaching an accumulated total of \$3,000,000 during the calendar year.)

Application for tax exemption on the prescribed forms must be filed with the Office of Commerce and Industry whenever miscellaneous capital additions on which exemption is to be requested reach an accumulated amount of \$3,000,000.

RULE 9. Assessed Property

The Board of Commerce and Industry will not consider for tax exemption any manufacturing establishment, or addition thereto, once such establishment or addition has been in operation for a period of six months unless the assessor of the parish in which the establishment or addition is located certifies in writing that said establishment or addition is not on the tax rolls. If the establishment or addition is on the tax rolls the Board of Commerce and Industry will consider granting tax exemption if the assessor and the Louisiana Tax Commission both agree in writing to remove the establishment or addition from the tax rolls should the tax exemption be granted.

Under no circumstances will the Board of Commerce and Industry grant a tax exemption to any manufacturing establishment or addition, thereto, if the application is received more than one year after it began operations. Applications filed under Rule 3 that are more than six months late will not be considered.

These Rules are promulgated pursuant to Article 7 Part 2 Section 21(F) of the Louisiana Constitution of 1974 and L.R.S. 36:108 B.

A copy of the proposed amended Rules may be obtained by writing to Rex M. Shearer, Financial Inducement Director, Office of Commerce and Industry, Box 44185, Baton Rouge, LA 70804 or by request in person at his office on the Tenth floor of the State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana.

Written comments will be accepted up to and including July 6, 1982. Rex Shearer is the person responsible for responding to inquiries about the amendments to the Rules.

John W. Foltz
Assistant Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Article VII, Part 2, Section 21 (F) of LA Constitution-Industrial Tax Exemption

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

While it is difficult to measure the total cost impact on the Office of Commerce and Industry and to the state, there should be a savings of five to ten percent of the manhours spent on the program because of the Rule changes; however, the normal growth of the program is from seven to fourteen percent so there would be no net cost savings.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There will be no effect on revenue collections.

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

There are no costs or benefits to affected groups.

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

There will be no effect on competition and employment.

Rex M. Shearer
Director

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Commerce Cemetery Board

(La. R.S. 8:1 through 904, both inclusive)

In accordance with applicable provisions of the Administrative Procedure Act, R.S. 49:951 et seq., the Louisiana Cemetery Board intends to amend and supplement its Rules and Regulations by renumbering Part 6 entitled "Construction, Divisibility," to read "8" instead of "6"; to add a new Part, to be numbered Part 6 relating to cemetery care funds and in particular to implement the authority and responsibility of the Board vested in it by R.S. 8:451 through 467, both inclusive, and R.S. 8:501 through 510, both inclusive and to add a new Part, to be numbered Part 7 relating to and setting forth the qualifications of applicants for a certificate of authority.

The proposed amendments will be available for public inspection between the hours of 8:30 a.m. and 5 p.m. on any working day after April 20, 1982 at the office of the Board, 210 Veterans Memorial Boulevard, Suite 103, Metairie, Louisiana 70005.

Interested persons may submit their views and opinions up to 15 days following publication of this Notice of Intent to Ms. Frances C. Mayeaux, Administrative Director, Louisiana Cemetery Board, 210 Veterans Memorial Boulevard, Suite 103, Metairie, LA 70005, or in writing to her.

Frances C. Mayeaux
Administrative Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Eight

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

These Rules will not result in any costs or savings to the agency.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

These Rules will not affect revenue collections in any manner.

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

Adoption of these Rules will incur minimal administrative costs to Cemetery Authorities. Cemetery Authorities will be required to make quarterly deposits to the perpetual care trust funds thus enlarging the funds. Since Cemetery Authorities receive the earnings from fund investments, with which to maintain their cemeteries, the larger the fund becomes, the more income it will generate, to the benefit of the cemetery authority and, in turn, to the public, which has been guaranteed that the cemetery grounds will be maintained.

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

No anticipated effect on competition and/or employment among affected groups.

W. C. Raspberry, Jr.
Chairman

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Commerce Office of Financial Institutions

The Commissioner of Financial Institutions, in exercise of his powers specifically enumerated in R.S. 902B and R.S. 950.1D, hereby gives notice of his intention to amend the Rule published in Volume 6, Number 12, *Louisiana Register* dated December 20, 1980, pertaining to the conversion of state chartered savings and loan associations from mutual to stock form of charter.

PROPOSED AMENDMENT TO RULE

So much of Section V of the rule governing the conversion of state chartered savings and loan associations from mutual to stock form as reads:

V. Content of Applicant's Plan of Conversion. The Applicant's plan of conversion shall comply with the requirements of the FLSIC, including the determination of the eligibility record date and supplemental record date (if applicable) with respect to subscription rights to purchase the Applicant's conversion stock, except, however, that officers, directors and employees of the Applicant in their individual capacities as officers, directors and employees, will be permitted to purchase in the specific subscription offering category established for that purpose an amount no greater than 20 percent of the total shared being offered in the plan of conversion.

is amended to read:

V. Content of Applicant's Plan of Conversion. The Applicant's plan of conversion shall comply with the requirements of the FSLIC, including the determination of the eligibility record date and supplemental record date (if applicable) with respect to subscription rights to purchase the Applicant's conversion stock, and provides that the total number of shares which officers and directors of the converting insured institution and their associates may purchase in the conversion shall not exceed 35 percent of the total offering of shares in the case of a converting insured institution with total assets of less than \$50 million, or 25 percent of the total offering of shares in the case of a converting insured institution with total assets of \$500 million or more; in the case of converting insured institutions with total assets in excess of \$50 million but less than \$500 million, the percentage shall be no more than a correspondingly appropriate number of shares based on total asset size (for example, 30 percent in the case of a converting insured institution with total assets of \$275 million).

The change in FLSIC Regulations was published in Volume 47, Number 89, *Federal Register*, dated May 7, 1982.

Interested persons may submit written comments on the proposed amendment to our Rule through 4:30 p.m., July 5, 1982, to the following address: Hunter O. Wagner, Jr., Commissioner, Office of Financial Institutions, Box 44095-Capitol Station, Baton Rouge, Louisiana 70804.

He is the person responsible for responding to inquiries on the proposed amendment.

Hunter O. Wagner, Jr.
Commissioner of Financial Institutions

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Conversion from Mutual to Stock

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

This amendment to an existing Rule will not increase

the operating costs of the Office of Financial Institutions in any manner.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

The implementation of this amendment to an existing Rule will not affect revenues in any manner.

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

Existing Rules and Statutes limit ownership of stock by directors, officers and employees in a converting savings and loan association to an amount no greater than 20 percent of the total shares being offered in the plan of conversion. This amendment will permit officers, directors and employees of converting institutions to own up to 25 percent of the stock of large institutions and up to 35 percent of the stock of small institutions.

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

This amendment will not affect employment or competition in any manner.

Hunter O. Wagner, Jr.
Commissioner

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT
Department of Commerce
Office of Financial Institutions

Under authority granted by R.S. 6:902B, the Commissioner of Financial Institutions intends to adopt the following amendment to Rule of Volume 6, Number 9 of *Louisiana Register* dated September 20, 1980 for purpose of providing a means by which state chartered associations may have authority consistent with that proposed for federal associations by the Federal Home Loan Bank Board in Section 9855 of the *Federal Register*, Volume 47, No. 45, March 8, 1982.

PROPOSED AMENDMENT

Delete Section III. as it appears and substitute the following:

III. Pre-Authorized Subsidiary Investments

Pre-authorized activities of a subsidiary corporation, performed directly or through one or more wholly owned subsidiaries or joint ventures shall consist of one or more of the following:

A. Loan origination, purchasing, selling and servicing.

B. Acquisition of unimproved real estate lots and other unimproved real estate for the purpose of prompt development and subdividing.

C. Development and subdivision of and construction of improvements, including improvements to be used for commercial or community purposes when incidental to a housing project, for sale or for rental on, real estate referred to in subdivision B of this subparagraph.

D. Acquisition of improved residential real estate and mobile home lots to be held for sale or rental.

E. Acquisition of improved residential real estate for remodeling, rehabilitation, modernization, renovation, or demolition and rebuilding for sale or for rental.

F. Engage in real estate brokerage services if real estate laws, Rules and Regulations are complied with.

G. Serving as an insurance broker, agent, or underwriter if insurance law, Rules and Regulations are complied with.

H. Serving as a title insurance company if insurance laws, Rules and Regulations are complied with.

I. Preparation of state and federal tax returns.

J. Acquisition of real estate to be used for association offices and related facilities.

K. Partial or complete ownership of computer center that provides services for the parent association and others.

L. Make consumer loans as outlined in LRS 9:3510, et seq.

M. Perform debt collection services.

N. Issue letters of credit as part of their commercial lending.

O. Operate coin and currency services by contracting with Federal Reserve banks or commercial banks to make coin and currency available. This includes delivery and security arrangements.

P. Engage in the leasing of consumer and business goods.

Q. A subsidiary may act as agent for the parent association except that it shall not receive payments on new or established savings accounts, nor shall it perform any duties for the association other than those specifically authorized herein.

R. Other activities which may be approved by the Commissioner.

Delete Section V. as it appears and substitute the following:

V. Investment and Debt Limitation

A. Investments in subsidiary corporations shall include investment in its capital stock, obligations, both secured and unsecured, or other securities of the service corporation, and shall not, in the aggregate, exceed ten percent of the association's total assets. The limitation does not apply to subsidiaries organized solely as a holding corporation for business property as outlined in R.S. 6:822F.

B. The subsidiary corporation engaged solely in the activities specified in Paragraph III.A. above, may incur debt in a ratio of 10:1 of the subsidiary's consolidated net worth.

C. Subsidiary corporations engaged in activities other than that authorized in Paragraph III.A. above shall not incur debt in the aggregate in excess of the parent association's net worth less the aggregate investment in all subsidiary capital stock, obligations, both secured and unsecured, and other securities of the subsidiary corporation.

Interested persons may submit written comments on the proposed amendment through 4:30 p.m., July 5, 1982 to the following address: Hunter O. Wagner, Jr., Commissioner, Office of Financial Institutions, Box 44095 - Capitol Station, Baton Rouge, LA 70804. He is the person responsible for responding to inquiries about the proposed amendment.

Hunter O. Wagner, Jr.
Commissioner of Financial Institutions

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Amendment to Service Corporation Rule

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

The implementation of this Rule will not in itself increase the operating budget of this department; however the gradual implementation of all the new powers being authorized for savings and loan associations and the normal growth of these institutions will eventually require an increase in examination personnel.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

By granting State Chartered Savings and Loan Associations parity with Federal Associations, they will be encouraged to retain their state charter and continue to pay semi-

annual assessments into the general fund.

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

Affects consumers who are attempting to make a mortgage loan or need a mortgage loan related service. This amendment will enhance the earnings of State Chartered Savings and Loan Associations and make available to consumers, services not previously available at State Chartered Savings and Loan Associations.

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

This amendment will place State Chartered Savings and Loan Associations on a par with Federal Associations when competing for home mortgage related services. Increased competition between financial institutions will normally benefit the consumers.

Hunter O. Wagner, Jr.
Commissioner

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. The Board approved the *Standards for Compliance and Accreditation Program* for public elementary and secondary education.

2. The Board approved the Louisiana Program Plan for the Administration of Vocational Education — Five Year Plan, 1983-1987.

3. Revised Bulletin 1191, *School Transportation Handbook* (1982) as submitted by the Department of Education.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m. July 5, 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: Standards for Compliance and Accreditation Program

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

There are no implementation costs for the *Standards* since all costs associated with the Compliance and Accreditation Program are being advertised as part of the *Guidelines*.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There is no effect on revenues to affected groups.

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

The Compliance and Accreditation Program is an accreditation system for public schools and parishes that utilizes onsite reviews. The purpose of the system is to improve the quality of education in Louisiana school systems. Standards for schools and parishes, derived from legislation, regulations and Board Policy, serve as the basis for onsite reviews. These reviews determine areas of need in parishes and

schools reported to the parishes. Development of plans for action ensure appropriate changes to upgrade educational programs.

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

There is no impact 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: Program Plan**

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

Federal vocational education funds received by Louisiana are matched 50-50, but there are no implementation costs otherwise.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There will be no effect on revenue collections.

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

Benefits to eligible recipients, i.e., local education agencies, vocational technical schools, and teacher training institutions, are vocational education programs requiring approximately \$16 million.

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

Vocational education funds are used for training purposes as well as to conduct program improvement and support services for vocational education. Budget cuts will decrease program offerings.

George B. Benton
Deputy Superintendent

Mark C. Drennen
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Bulletin 1191**

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

The approximate cost of printing 150 revised copies of Bulletin 1191 is \$525.00.

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 costs involved for the 66 parish and city school systems. The updating of Bulletin 1191 will enable each system to operate their transportation program in accordance with current state laws and School Transportation procedures.

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

No effect on competition and employment.

George B. Benton
Deputy Superintendent

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Trustees for State Colleges and Universities

In accordance with the laws of the state of Louisiana and with reference to the provisions of Title 30 of the Louisiana Revised Statutes of 1950, as amended, and under the authority of Article VIII, Section 6 of the 1974 Constitution, a public hearing will be held in the Board of Trustees Conference Room, 151 Riverside Mall, Baton Rouge, Louisiana, beginning at 9:30 a.m. on July 30, 1982. At such hearing the Board will consider amendment to PART VIII, Section 5D - Minimum Class Attendance Regulations - of the Board of Trustees for State Colleges and Universities Policies and Procedures.

The Board of Trustees for State Colleges and Universities shall accept written comments until 4:30 p.m., July 22, 1982 at the following address: Susan Sheets, Assistant Director, Academic Research and Planning, Board of Trustees for State Colleges and Universities, 151 Riverside Mall, Baton Rouge, LA 70801.

Bill Junkin
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: 8.5D Minimum Class Attendance Regulations

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

There will be no fiscal or economic impact to the Board of Trustees nor to the institutions within the Trustees' system other than cost of printing and dissemination.

Projected cost for printing and dissemination of Rule: 315 copies @ .02837 per copy is 8.95. Postage \$14.40. Total: \$23.35.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There will be no effect on revenue collections.

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

There will be no cost or benefit change to affected groups.

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

There will be no effect on competition and employment.

Bill Junkin
Executive Director

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 Title 39, intends to adopt the following Rules for Conduct of Hearing for protests. The text of the proposed Rules is as follows:

CONDUCT OF HEARING

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

Definition of Hearing Officer: "The chief procurement

officer or his designee shall have authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve a protest of an aggrieved person concerning the solicitation or award of a contract. This authority shall be exercised in accordance with regulations." (Title 39:1671 B)

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.

OPENING THE HEARING

1. The hearing officer, before he begins the hearing, should inquire of each person present his name and address (including correct spelling), the capacity on which he appears at the hearing, and whether or not he intends to testify.

2. The hearing officer may then dictate for the record as follows:

"This is a hearing before the Hearing Officer of the Division of Administration, State Purchasing, in reference to the protest of Bid Proposal Number _____ filed by _____. This hearing is being held at _____ before _____, Hearing Officer."

3. The hearing officer may then summarize for the file the nature of the protest. The protest must be in writing.

4. The hearing shall be limited to issues presented in the written protest.

CONDUCT OF HEARING

1. The procedural burden is on the protesting party. It is his duty to establish the complete and accurate facts pertinent to the issue under consideration.

2. The protesting party will be given the opportunity to present his case first. Other parties will have the opportunity to present responses in order determined by the hearing officer.

OATH

1. The hearing shall be informal and oaths are not required.

Testimony of Parties

1. The hearing officer should at all times be in control of the hearing. He may conduct the direct examination of the witnesses. In that examination the hearing officer should allow each party to tell his story in full and in his own way.

2. Only one person should testify at a time. The hearing officer should prevent interruption. When a number of witnesses are to be heard or in mass hearings, one chair may be designated as the witness chair. Individuals will sit in that chair when they testify and will move out of it when they have finished.

3. Questions should be short, simple and direct. Only one question should be asked at a time, and the witness should be required to answer it before proceeding to the next question. Questions should be kept interrogative. If the hearing officer finds himself making a statement to a witness, he should conclude by asking him whether that statement is correct.

4. Witnesses should be instructed to speak slowly and clearly. When a witness uses proper names in his testimony, the hearing officer should ask how they are spelled and should get the witness to identify the individual according to position, i.e., president of the company, attorney, etc. If dates are mentioned, the day, month and year should be given. The hearing officer should ask witnesses to explain form numbers, symbols or technical terms which appear in their testimony.

5. The hearing officer should see to it that a person's testimony is as nearly as possible complete before the next witness is questioned.

6. Under no circumstances should the hearing officer permit harassment or intimidation of witnesses or engage in such practice. The dignity of the tribunal, the decorum of a hearing, and the ordinary courtesies due to parties and witnesses require also that

the hearing officer prevent haranguing, altercations, or any other form of rowdiness during the hearing.

7. In an informal hearing, cross-examination is not allowed. Questions are at the discretion of the hearing officer.

Adjournment and Continuances

1. Whether a hearing shall be adjourned or continued is discretionary with the hearing officer. In exercising that discretion, he should remember that useless delays should be avoided.

2. When the hearing officer adjourns or continues a hearing, he should consult with the parties about fixing a convenient date for further hearing.

3. When adjourning a hearing, the hearing officer should state for the record who requested the adjournment, why it is being granted, and his recommendations for a further hearing.

4. The hearing officer may adjourn the hearing and then continue at some later time the same day.

Conclusion of Hearing

1. In concluding the hearing, the hearing officer should be careful to inform all parties of their right to appeal from his decision. This advice should not, however, take the form of encouraging further appeal.

2. Written notification of the decision shall be made in a timely fashion, in any case that the hearing officer anticipates that decision cannot be rendered within 14 days of receipt of the protest, the hearing officer shall set a date agreeable on the record.

Record of Testimony

1. The record shall be made by a court stenographer with transcripts made available upon request to all interested parties at cost. In addition, the records of previous actions, exhibits, reports and all related papers become part of the record.

2. The hearing officer is responsible for the record. Statements can be made "off the record" only when he so directs. This device should be used only when an informal discussion may clarify the issues and avoid excessive testimony of matters not in dispute. The hearing officer should require the parties to confirm on the record the chief conclusions of the "off the record" discussion.

EVIDENCE

Admission of Evidence

1. Only testimony pertinent to the issues involved in the protests shall be admitted. Technical rules of evidence will not be applicable. Hearsay testimony will be admitted. Hearsay testimony may be considered by the hearing officer in making his decision only to substantiate or corroborate other direct testimony.

2. Hearing officer should receive all pertinent evidence, without regard to statutory rules of evidence. The mere admission of evidence will not entitle it to credence or to use as a basis for the decision. It is the function of the hearing officer to pick out the relevant and probative evidence to be used as a basis for his decision.

3. Hearing Officer should exercise a rule of reason in admitting and using evidence. It should not allow parties to give testimony which is clearly immaterial, irrelevant, personal or slanderous.

4. If a party objects on technical grounds to the admission of pertinent evidence, the hearing officer may note the objection, but should admit the evidence.

5. If offered evidence does not appear directly related to the matters in dispute, the hearing officer may admit it if he thinks it may throw a light on the issues. The true worth of such evidence may be better assessed after all the testimony has been taken. Liberality in admitting evidence also helps to satisfy parties that they have had an opportunity to make a full presentation of their case.

Weight of Evidence

1. In deciding what weight should be allotted to the various items of evidence, the hearing officer may exercise the widest discretion permissible under the law of the state. The hearing officer is best able to assess the credibility of the witnesses who testified before him and to evaluate the probative effect of the evidence. To attempt to limit his action by specific Rules or "presumptions" would only damage his independence without guaranteeing a just decision based on the merits of the case.

2. In general, the hearing officer should be careful to base his decision upon strictly reliable evidence. He should be conscious of the weakness and disadvantages of evidence that might be excluded under the formal Rules and should try to check and corroborate such evidence whenever possible.

3. The hearing officer's freedom from technical Rules of evidence does not release him from the general duty of acquainting the parties with all the evidence which he will consider and to give them an opportunity to explain or refute. This opportunity is an essential step in evaluating evidence. Review of evidence by the opposing parties will help the hearing officer to determine what weight it should be given.

Exhibits

1. The hearing officer shall admit, regardless of objection, all papers, books, and records submitted which have a bearing upon the issues of the protest. As in the case of other evidence, it is for the hearing officer to determine the effect to be given them.

2. The hearing officer should number all exhibits consecutively, and he should read the number and description of the exhibit into the record. (For example, the hearing officer may state for the record: "The claimant hands me a letter dated June 20, 1980, written to him and signed by Elmer Brown, President, Q Steel Company. This is numbered exhibit number one.")

3. When documentary evidence presented by the parties cannot be left with the hearing officer to be included in the file, then copies should be made. If such evidence consists of short letters, records, entries contained in ledgers, or the like, the hearing officer may find it advisable to dictate it into the record in its entirety.

APPEALS

Decision

1. The basis for appeal is stated in the law as follows: "R.S. Title 39:1681 Administrative Appeals Procedures - Authority of the Commissioner of Administration. The Commissioner of Administration shall have the authority to review and determine any appeal by an aggrieved person from a determination by the State Director of Purchasing or his designee which is authorized by R.S. 39:1671, R.S. 1672, or R.S. 39:1673."

Form of Decision

1. The opening paragraph should give a brief resume' of the protest, giving the date the protest was filed, the decision and the basis for that decision. (With minutes of protest hearing attached.)

2. The second paragraph should show the date, time and place the hearing was held, and who appeared at the hearing.

Disposition of Decision and File

1. Under an appeal, additional evidence may be submitted to the Commissioner of Administration, only if relevant and not obtainable at the hearing.

2. The Commissioner of Administration decides whether a future hearing is necessary.

Interested persons may submit comments or questions to Linda Alwood, Assistant Commissioner of Administration, Box 44095, Baton Rouge, Louisiana, 70804, prior to 4:30 p.m. on July 9, 1982.

E. L. Henry
Commissioner of Administration

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

Rule Title: Conduct of Hearing

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

Hugh M. Carleton
Director

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 R.S. 39:1594-1736, intends to adopt the following changes in the Purchasing Rules and Regulations as follows:

PURCHASING RULES AND REGULATIONS

In accordance with the
LOUISIANA PROCUREMENT CODE
Revised Statutes: Title 39:1594-1736

**SECTION I
COMPETITIVE SEALED BIDDING
R.S. 39:1594**

A. Content of the Invitation for Bids

1. **Invitations for Bids.** No purchases where the estimated cost is over \$5,000 shall be made except by advertising in accordance with R.S. 39:1594 and sending out written invitations for bids to at least eight bona fide, qualified bidders and where feasible, use should be made of State Purchasing's computerized vendor list. All advertisements or written invitations for bids shall contain general descriptions of the classes of commodities on which bids are wanted and shall state:

- a. The date and time when bids will be received, opened and publicly read.
- b. The names and locations of the Louisiana agencies for which the purchases are to be made.
- c. Where and how specifications and bid forms may be obtained.

The invitation for bids shall be submitted on standard forms (Form DA-101 or FACS-101). All pertinent information shall be full and complete including specifications, quantities, units, packaging and number of containers to the case.

2. **Content.** The invitation for bids shall include the following:

- a. The purchase description, evaluation factors, delivery or performance schedule, and inspection and acceptance requirements not included in the purchase description; and
- b. The contract terms and conditions, including warranty and bonding or other security requirements, as applicable.

3. **Incorporation by Reference.** The invitation for bids

may incorporate documents by reference provided that the invitation for bids specifies where such documents can be obtained.

4. **Special Conditions.** If any special conditions are to apply to a particular contract they shall be included in the invitation for bids.

5. **Types of Purchases** - Purchases are made in two different ways:

a. Open Market Purchases initiated by a requisition and consumated with the issuance of a purchase order, after bidding.

b. Contract Purchases - after bidding, purchase contracts are awarded to cover state requirements over a period of time at a specified and agreed upon price. Purchases are made by issuance of a release order against the contract.

B. Bidding Time

Bidding time is the period of time between the date of distribution of the invitation for bids and the date set for opening of bids. In each case bidding time will be set to provide bidders a reasonable time to prepare their bids. A minimum of 21 days shall be provided unless the chief procurement officer or his designee deems that a shorter time is necessary for a particular procurement. However, in no case shall the bidding time be less than 10 days, except as provided in R.S. 39:1598 and Section IV of these Rules and Regulations.

C. Addenda Modifying Plans and Specifications

Addenda modifying plans and specifications shall not be issued within a period of 72 hours prior to the advertised time for the opening of bids, excluding Saturdays, Sundays and any other legal holidays. If the necessity arises to issue an addendum modifying plans and specifications within the 72 hour period prior to the advertised time for the opening of bids, then the opening of bids shall be extended exactly one week, without the requirement of re-advertising.

D. Bidder Submissions

1. **Bid Forms.** All written bids, unless otherwise provided for, must be submitted on, and in accordance with, forms provided, properly signed with ink. Bid prices shall be typewritten or in ink. Bids must be received at the address specified in the invitation for bids prior to bid opening time in order to be considered. Telephone quotations for formal bids will not be accepted. Telegraphic alterations to bids received before bid opening time will be considered provided formal bid and written telegram have been received and time-stamped before bid opening time.

2. **Special Envelope.** All bids should be submitted in special bid envelope furnished for that purpose. Bids presented in other than special bid envelope may not be considered. In the event bid contains bulky subject material, the special bid envelope must be firmly affixed to the mailing envelope.

3. **Bid Samples and Descriptive Literature.**

a. Descriptive literature means information available in the ordinary course of business which shows the characteristics, construction, packaging, or operation of an item which enables Louisiana to consider whether the item meets its specifications and needs.

b. Bid sample means a sample to be furnished by a bidder to show the characteristics of the item offered in the bid.

c. Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items bid.

d. The invitation for bids shall state whether bid samples or descriptive literature should be submitted. Regardless of any attempt by a bidder to condition the bid, unsolicited bid samples or descriptive literature are submitted at the bidder's risk, will not be examined or tested, and will not be deemed to vary any of the provisions of the invitation for bids.

e. When required, samples must be received not later than the time set or specified for bid opening, free of expense to

Louisiana, marked plainly with name and address of bidder, bid number and opening date of bid, also memorandum indicating whether bidder desires return of sample or samples. Providing they have not been used or made useless through tests, when requested, samples submitted will be returned at bidder's risk and expense. All samples submitted are subject to mutilation as the result of tests by the agency. Failure to submit samples when requested will result in disqualification or nonconsideration of bid.

f. The invitation for bids shall include any special conditions regarding the return or the purchase of samples.

4. **Conditional Bids.** Qualified bids are subject to rejection in whole or in part.

5. **All or Part.** Bids may be considered for all or part of total quantities.

6. **Bids Binding.** Unless otherwise specified all formal bids shall be binding for a minimum of 30 days. Nevertheless, if the lowest responsive and responsible bidder is willing to keep his price firm in excess of 30 days, the State may award to this bidder after this period has expired or the period as specified in the formal bid.

7. **Net Prices.** Bid prices, unless otherwise specified, must be net including transportation and handling charges fully prepaid by contractor to destination.

8. **Taxes.** All bids and quotations shall be submitted exclusive of all federal taxes. Tax exemption certificate will be furnished when necessary. Louisiana state sales tax should not be included in the bid price unless otherwise specified in the invitation for bids. Same shall be added to invoice and will be paid by the state agency. Other applicable State taxes may be included in bid price.

E. Bidder Lists

1. **Purpose.** Bidder lists may be compiled to provide Louisiana with the names of businesses that may be interested in competing for various types of Louisiana contracts. Unless otherwise provided, inclusion or exclusion of the name of a business does not indicate whether the business is responsible in respect to a particular procurement or otherwise capable of successfully performing a Louisiana contract.

2. **Public Availability.** Names and addresses on bidder lists shall be available for public inspection provided these lists shall not be used for promotional, commercial, or marketing purposes.

3. If a business on the bidders list does not respond to six consecutive invitation for bids, its name may be removed from the bidders list.

F. Pre-Bid Conferences

Pre-bid conferences may be conducted to explain the procurement requirements. They shall be announced to all prospective bidders known to have received an invitation for bids. The conference should be held long enough after the invitation for bids has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids. Nothing stated at the pre-bid conference shall change the invitation for bids unless a change is made by written amendment as provided in Subsection F (Amendments to Invitations for Bids) and the invitation for bids and the notice of the pre-bid conference shall so provide.

G. Amendments to Invitation for Bids

1. **Form.** Amendments to invitation for bids shall be identified as such. The amendment shall reference the portions of the invitation for bids it amends.

2. **Distribution.** Amendments shall be sent to all prospective bidders known to have received an invitation for bids.

3. **Timeliness.** Amendments shall be distributed not later than three working days before bid opening.

H. Pre-Opening Modification or Withdrawal of Bids

1. **Procedure.** Bids may be modified or withdrawn by written or telegraphic notice received at the address designated in

the invitation for bids prior to the time set for bid opening.

2. **Withdrawal of Bids.** A written request for the withdrawal of a bid or any part thereof will be granted if the request is received prior to the specified time of opening. If a bidder withdraws a bid, all bid documents shall remain the property of the state.

3. **Disposition of Bid Security.** Bid security, if any, shall be returned to the bidder when withdrawal of the bid is permitted.

4. **Records.** All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.

I. Late Bids

Formal bids, amendments thereto, received at the address designated in the invitation for bids after time specified for bid opening will not be considered, whether delayed in the mail or for any other causes whatsoever.

J. Receipt, Opening and Recording of Bids

1. **Receipt.** Upon receipt, all bids and modifications will be time-stamped but not opened. They shall be stored in a secure place until bid opening time.

2. **Opening and Recording.** Bids and modifications shall be opened publicly, in the presence of one or more witnesses, at the time and place designated in the invitation for bids. The names of the bidders, the bid price, and such other information as is deemed appropriate by the procurement officer, shall be read aloud or otherwise made available and shall be recorded. The opened bids shall be available for public inspection, in accordance with Chapter I, Title 44.

3. **Postponed Openings; Exceptions.** In the event that bids are scheduled to be opened on a day that is a federal holiday or if the Governor proclaims a previously unscheduled non-working day, bids scheduled to be opened on that day should be opened on the next working day at the same address and time specified in the invitation for bids.

K. Mistakes in Bids

1. **Correction or Withdrawal of Bids.** Patent errors in bids or errors in bids supported by clear and convincing evidence may be corrected, or bids may be withdrawn, if such correction or withdrawal does not prejudice other bidders, and such actions may be taken only to the extent permitted under these regulations. Carelessness in quoting prices or in preparation of bid will not relieve the bidder. Erasures, write-overs, or corrections in bids should be explained over bidder's signature.

2. Mistakes Discovered After Opening.

a. **Minor Informalities.** Minor informalities are matters of form rather than substance evident from the bid document, or insignificant mistakes that can be waived or corrected without prejudice to other bidders; that is, the effect on price, quantity, quality, delivery, or contractual conditions is not significant. The chief procurement officer may waive such informalities or allow the bidder to correct them depending on which is in the best interest of Louisiana. Examples include the failure of a bidder to:

(1) Return the number of signed bids required by the invitation for bids;

(2) Sign the bid, but only if the unsigned bid is accompanied by other signed material indicating the bidder's intent to be bound.

(3) Sign or initial explanation of erasures, writeovers, or corrections in bids.

b. **Mistakes Where Intended Bid is Evident.** If the mistake and the intended bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetic-

al errors. When an error is made in extending total prices, the unit bid price will govern. Under no circumstances will a unit bid price be altered or corrected.

L. **Bid Guaranty and Bond**

1. **Bid Guaranty.** When specified in the invitation for bids or advertisement for bids, a bond or certified check, made payable to the Department of the Treasury of the state of Louisiana, in the amount of five percent of the bid, must accompany each bid.

2. **Performance Bond.** When required, the successful bidder must furnish a satisfactory bond of a surety company licensed to do business in Louisiana with all fees current, in a sum equal to the amount and in accordance with the specifications in the invitation for bids.

M. **General Guaranty**

Contractor agrees to:

1. Save the state, its agents and employees harmless from liability of any nature or kind for the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented, invention, article or appliance furnished or used in the performance of the contract of which the contractor is not the patentee, assignee, or licensee.

2. Protect the state against latent defective material or workmanship and to repair or replace any damages or marring occasioned in transit.

3. Furnish adequate protection against damage to all work and to repair damages of any kind, to the building or equipment, to his own work or to the work of other contractors, for which he or his workmen are responsible.

4. Pay for all permits, licenses and fees and give all notices and comply with all laws, ordinances, Rules and regulations of the city or town in which the installation is to be made, and of the state of Louisiana.

5. Protect the state from loss in case of accident or fire.

N. **Bid Evaluation and Award**

1. **General.** The contract is to be awarded "to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids." See R.S. 39:1594 (G) (Competitive Sealed Bidding, Award) of the Louisiana Procurement Code. The invitation for bids shall set forth the requirements and criteria which will be used to determine the lowest responsive bidder. No bid shall be evaluated for any requirements or criteria that are not disclosed in the invitation for bids.

2. **Responsibility and Responsiveness.** Responsibility of prospective contractors is covered by Section VI (Responsibility and Prequalification) of these regulations. Responsiveness of bids is covered by R.S. 39:1591 of the Louisiana Procurement Code which defines "responsive bidder" as "a person who has submitted a bid which conforms in all material respects to the invitation for bids."

3. **Product Acceptability.** The invitation for bids shall set forth the evaluation criteria to be used in determining product acceptability. It may require the submission of bid samples, descriptive literature, technical data, or other material. It may also provide for:

a. Inspection or testing of a product prior to award for such characteristics as quality or workmanship;

b. Examination of such elements as appearance, finish, taste, or feel; or

c. Other examinations to determine whether the product conforms with any other purchase description requirements.

The acceptability evaluation is not conducted for the purpose of determining whether one bidder's item is superior to another but only to determine that a bidder's offering is acceptable as set forth in the invitation for bids. Any bidder's offering which does not meet the acceptability requirements shall be rejected.

4. **Determination of Lowest Bidder.** Following determination of product acceptability as set forth in Subsection M,3 of this Section, if any is required, bids will be evaluated to determine which bidder offers the lowest cost to Louisiana in accordance with the evaluation criteria set forth in the invitation for bids. Only objectively measurable criteria which are set forth in the invitation for bids shall be applied in determining the lowest bidder. Examples of such criteria include but are not limited to transportation cost, and ownership or life-cycle cost formulae. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible such evaluation factors shall:

a. Be reasonable estimates based upon information Louisiana has available concerning future use; and

b. Treat all bids equitably.

5. **Restrictions.** A contract may not be awarded to a bidder submitting a higher quality item than that required by the invitation for bids unless the bid is also the lowest bid as determined under Subsection A of this Section. Further, this Section does not permit negotiations with any bidder.

O. **Tie Bids.**

1. **Definition.** Tie bids are low responsive bids from responsible bidders that are identical in price and which meet all the requirements and criteria set forth in the invitation for bids.

2. **Award.** In the discretion of the chief procurement officer or the head of a purchasing agency, award shall be made in any manner that will discourage tie bids. A written determination justifying the manner of award must be made.

3. **Resident Business Preference.** In state contracts awarded by competitive sealed bidding, resident businesses shall be preferred to nonresident businesses where there is a tie bid and where there will be no sacrifice or loss in quality.

P. **Awarding of Bids**

1. **Rejection of Bids.** The right is reserved to reject any or all bids in whole or in part, and to award by items, parts of items, or by any group of items specified. Also the right is reserved to waive technical defects when the best interest of the state thereby will be served.

2. **Increase or Decrease in Quantities.** Unless otherwise specified in the invitation for open-market bids, the right is reserved to increase or decrease the quantities of any item or items shown in the bid by 10 percent.

3. **Information on Bid Results.** Information pertaining to results of bids may be secured by visiting the agency daily, except weekends and holidays, during normal working hours.

4. **Cash Discounts.**

(a) Open Market Bids - Cash discounts will be considered in determining awards. Time shall be counted from date of delivery at destination or from date correct invoice is received from contractor, if latter date is later than date of delivery. A cash discount for less than 30 days will not be considered in making an award.

(b) Contracts - Cash discounts will be accepted and taken but will not be considered in determining awards. Time shall be counted as indicated in Section (a) above.

5. **Availability of Funds.** A contract shall be deemed executory only to the extent of appropriations available to each agency for the purchase of such articles.

6. **Assignments.** No contract or purchase order may be assigned, sub-let or transferred without written consent of the commissioner.

7. **All or None Bids.** A business may limit a bid on acceptance of the whole bid, whereupon the state shall not thereafter reject part of such bid and award on the remainder. An award shall be made to the "all or none" bid only if it is the overall low bid on all items, or those items bid.

Overall low bid shall be that bid whose total bid, including all amount; be in an individual's bid or a computation of all low

bids on individual items of those bids that are not conditioned "all or none".

(a) **Open Market Purchases.** Purchase orders. When multiple items are contained on any solicitation and the state chooses to make an item or group award, in order to save the state the cost of issuing a different purchase order, an award may be made to a vendor who is not low bidder on that item if the total bid for said item is \$500 or less and the difference between the low bidder and the bidder receiving the award is \$25 or less.

An "all or none" bid may be awarded in a similar fashion, to save the state the cost of issuing another purchase order, if the difference in the overall cost between the low vendor or vendors is \$25 or less and no single item exceeds \$500.

Q. **Documentation of Award**

Following award, a record showing the basis for determining the successful bidder shall be made a part of the procurement file.

R. **Publicizing Awards**

Written notice of award shall be sent to the successful bidder. In procurements over \$20,000, each unsuccessful bidder shall be notified of the award provided that he submitted with his bid a self-addressed stamped envelope requesting this information. Notice of award shall be made available to the public.

S. **Deliveries**

1. **Interpretation.** Deliveries must be made as directed when not in conflict with bid. If no delivery instruction appears on an order it will be interpreted to mean prompt delivery required. The decision of the chief procurement officer as to reasonable compliance with delivery terms shall be final. Burden of proof of delay in receipt of commodities shall rest with the contractor.

2. **Extension of Time.** Any extension of time on delivery as specified must be in writing by the chief procurement officer with such extension applicable only to the particular item or shipment affected.

3. **Additional Charges.** No delivery charges shall be added to invoices except when express delivery is substituted on order for less expensive methods specified in contract. In such cases, when requested by the agency, difference between freight or mail and express charges may be added to the invoice.

4. **Weight Checking.** Deliveries shall be subject to reweighing over official scales designated by the state. Payments shall be made on the basis of net weight of materials delivered.

5. **Rejection Deliveries, Payment for Used Portion.** Payment for any used portion of delivery found (as a result of tests or otherwise) to be inferior to specifications or contract requirements, will be made by the state on an adjusted price basis.

6. **Contracts - Reduction in Prices.** All state of Louisiana agencies will receive the benefit of any reduction in price on any unshipped portion of any commodity contract. In the event the contractor reduces his price to any one state agency or political subdivision of the state, or makes a general reduction in price, all state agencies being supplied under these contracts are automatically entitled to the lower price; and the contractor shall rebate to all state agencies in a proportional amount. Also, in the event the total purchases of all state agencies of any items covered by the contract entitle the state to a greater quantity discount, the state shall receive the quantity discount appropriate to the total amount of actual purchases made by all state agencies. All price reductions made by any supplier under these contracts, designed for the benefit of any state agency, shall be made directly to Purchasing, Division of Administration. Also, the state of Louisiana agencies shall report any offer of a reduction in contract price to Purchasing, and the right is reserved to accept or reject such offers; but the best interest of the state as a whole will always be considered.

7. **Ordering Procedure.** The Division of Administration, or any state of Louisiana agency, may issue release orders for

materials and supplies required by them under any commodity contract. In some instances only Purchasing, Division of Administration may issue a purchase order where stated quantities are purchased. Such purchase orders will state the item, or items, and the quantity of each, required for the state agency's needs, as well as all other pertinent data necessary to assist the contractor to make prompt delivery. In no event shall any deliveries of any kind be made without proper authorization.

8. **Invoices.** Upon delivery of each order and its acceptance by the state agency, the supplier shall bill the state agency by means of invoice and the invoice shall make reference to the purchase order number, contract award number, and/or purchase requisition number. All invoices shall be submitted by the supplier on the supplier's own invoice forms, in duplicate, directly to the accounting office of the state agency as required by the purchase order. Invoices shall have the state sales tax added and the same shall be paid by the state agency.

9. **Payment.** After receipt and acceptance of order and receipt of valid invoice, payment will be made by the state agency within 30 days. Payment will be made at the respective unit prices shown on the bid or price schedule, less any percentages off list price, less federal excise tax, less cash discount earned.

SECTION II SMALL PURCHASES R.S. 39:1596

Any procurement not exceeding the amount established by executive order of the Governor may be made in accordance with Small Purchase Procedures prescribed by such Executive Order, except that procurement requirements shall not be artificially divided so as to constitute a Small Purchase under this Section.

See appropriate Executive Order entitled "Small Purchases."

SECTION III SOLE SOURCE PROCUREMENT R.S. 39:1597

A. **Application**

The provisions shall apply to all sole source procurements unless emergency conditions exist as defined in Section IV (Emergency Procurements) of these regulations.

B. **Statutory Provision**

R.S. 39:1597 (Sole Source Procurement) of the Louisiana Procurement Code provides in pertinent part: "A contract may be awarded for a required supply, service, or major repair without competition when, under regulations, the chief procurement officer or his designee above the level of procurement officer determines in writing that there is only one source for the required supply, service, or major repair item."

C. **Conditions for Use of Sole Source Procurement**

Sole source procurement is permissible only if a requirement is available from a single supplier. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror for that item. Examples of circumstances which could necessitate sole source procurement are:

1. Where the compatibility of equipment, accessories, or replacement parts is the paramount consideration;
2. Where a sole supplier's item is needed for trial use or testing;
3. Procurement of items for resale;
4. Procurement of public utility services.
5. Registered breeding stock may be purchased on a selective basis without bids, after approval as to price and quality of such stock by the Commissioner of Agriculture and a specialist of the department of Louisiana State University to be designated by the head of the department.

6. Other livestock may be purchased on a selective basis without bids after approval as to health by the Commissioner of Agriculture, provided that the cost per head does not exceed \$1,000; any livestock purchases above this amount must have prior approval of the chief procurement officer.

The determination as to whether a procurement shall be made as a sole source shall be made by the chief procurement officer, head of a purchasing agency, or designee of such officer. Such determination shall be in writing. Such officer may specify the application of such determination and its duration. In cases of reasonable doubt, competition should be solicited. Any request by a using agency that a procurement be restricted to one potential contractor shall be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need.

D. Purchase of Antiques, Used or Demonstrator Equipment

If it should become necessary for a state agency to secure antiques, used or demonstrator equipment or supplies due to inability to secure new equipment or because of absolute lack of funds, the chief procurement officer will give such consideration only if supplied with the following data:

1. Requisition fully describing equipment.
2. Signed bid or bids secured by agency.
3. If only one bid secured, statement as to why there is no competition.
4. Letter or signed statement from bidder or bidders guaranteeing quality and condition of merchandise offered.
5. Letter from agency head justifying why it is necessary to purchase used merchandise, and the approximate cost of same if purchased new.
6. Letter from qualified, responsible person connected with state agency, stating he has personally examined equipment or supplies, giving his opinion as to condition and value.
7. Appraisals from one or more disinterested experts who are familiar with the type of equipment, giving their opinion as to price, value and condition.

E. Record of Sole Source Procurements

A record of sole source procurements shall be maintained that lists:

1. Each contractor's name;
2. The amount and type of each contract;
3. A listing of the supplies, services, or major repairs procured under each contract; and
4. The identification number of each contract file.

The record for the previous fiscal year shall be submitted to the legislature at the beginning of the legislative session.

SECTION IV
EMERGENCY PROCUREMENTS
R.S. 39:1598

A. Application

The provisions of this Section apply to every procurement made under emergency conditions that will not permit other source selection methods to be used.

B. Definition of Emergency Conditions

An emergency condition is a situation which creates a threat to public health, welfare, or safety such as may arise by reason of floods, epidemics, riots, equipment failures, or such other reason as may be proclaimed by the commissioner of administration. The existence of such condition creates an immediate and serious need for supplies, services, or major repairs that cannot be met through normal procurement methods and the lack of which would seriously threaten:

1. The functioning of Louisiana government;
2. The preservation or protection of property; or
3. The health or safety of any person.

C. Scope of Emergency Procurements

Emergency procurement shall be limited to only those supplies, services, or major repair items necessary to meet the emergency.

D. Authority to Make Emergency Procurements

Any Louisiana agency may make emergency procurements of up to \$5,000 when an emergency condition arises and the need cannot be met through normal procurement methods, provided that, whenever practical, approval by the procurement officer of the Louisiana agency or the chief procurement officer shall be obtained prior to the procurement. Prior to all such emergency procurements of \$5,000 or more, the chief procurement officer, head of a Louisiana agency, or either officer's designee shall approve the procurement.

E. Source Selection Methods

1. **General.** The source selection method used shall be selected with a view to the end of assuring that the required supplies, services, or major repair items are procured in time to meet the emergency. Given this constraint, such competition as is practicable should be obtained. Any offer accepted shall be confirmed in writing.

2. **After Unsuccessful Competitive Sealed Bidding.** Competitive sealed bidding is unsuccessful when bids received pursuant to an invitation for bids are unreasonable, noncompetitive, or the low bid exceeds available funds as certified by the appropriate fiscal officer, and time or other circumstances will not permit the delay required to resolicit competitive sealed bids. If emergency conditions exist after or are brought about by an unsuccessful attempt to use competitive sealed bidding, an emergency procurement may be made.

F. Determination and Record of Emergency Procurement

1. **Determination.** The procurement officer or the agency official responsible for procurement shall make a written determination stating the basis for an emergency procurement and for the selection of the particular contractor. Such determination shall be sent promptly to the chief procurement officer.

2. **Record.** A record of emergency procurements shall be maintained that lists:

- a. Each contractor's name;
- b. The amount and type of each contract;
- c. A listing of the supplies, services, or major repairs procured under each contract; and
- d. The identification number of each contract file.

The record for the previous fiscal year shall be submitted to the legislature at the beginning of the legislative session.

SECTION V
CANCELLATION OF SOLICITATIONS;
REJECTION OF BIDS OR PROPOSALS
R.S. 39:1599

A. Scope

The provisions of this Section shall govern the cancellation of solicitations issued by Louisiana and rejections of bids or proposals in whole or in part.

B. Policy

Solicitations should only be issued when there is a funded, valid need unless the solicitation states that it is for informational purposes only. Preparing and distributing a solicitation requires the expenditure of Louisiana time and funds. Businesses likewise incur expense in examining and responding to solicitations. Therefore, although issuance of a solicitation does not compel award of a contract, a solicitation is to be cancelled only when there are cogent and compelling reasons to believe it is in Louisiana's best interests.

C. Cancellation of Solicitations - Notice

Each solicitation issued by Louisiana shall state that the

solicitation may be cancelled as provided in these regulations.

D. Reasons for Cancellation

1. A solicitation may be cancelled in whole or in part when the chief procurement officer or the head of a purchasing agency determines in writing that such action is in Louisiana's best interest for reasons including but not limited to:

- a. Louisiana no longer requires the supplies, services, or major repairs;
- b. Proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable;
- c. Ambiguous or otherwise inadequate specifications were part of the solicitation;
- d. The solicitation did not provide for consideration of all factors of significant cost to Louisiana;
- e. Prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
- f. All otherwise acceptable bids received are at unreasonable prices; or
- g. There is reason to believe that the bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.

2. When a solicitation is cancelled, prior to opening, notice of cancellation shall be sent to all businesses solicited.

3. The notice of cancellation shall:

- a. Identify the solicitation;
- b. Briefly explain the reason for cancellation; and
- c. Where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurements of similar supplies, services, or major repairs.

4. **Documentation.** The reasons for cancellation shall be made a part of the procurement file and available for public inspection.

E. Rejection of Individual Bids or Proposals

1. **General.** This Subsection applies to rejections of individual bids in whole or in part.

2. **Notice in Solicitation.** Each solicitation issued by Louisiana shall provide that any bid may be rejected in whole or in part when in the best interests of Louisiana as provided in these regulations.

3. **Reasons for Rejection.**

a. **Bids.** As used in this Section "bid" means any bid submitted in competitive sealed bidding and includes submissions under Section II (Small Purchases). Reasons for rejecting a bid include but are not limited to:

(1) The business that submitted the bid is nonresponsible as determined under Section VI (Written Determination on Non-responsibility Required) of these regulations;

(2) The bid is not responsive, that is, it does not conform in all material respects to the invitation for bids; see Section I (Responsiveness of Bids) of these regulations; or

(3) The supply, service, or major repair items is unacceptable, that is, it fails to meet the specifications or permissible alternates or other acceptability criteria set forth in the invitation for bids; see Section I, Subsection N, (Bid Evaluation and Award, Product Acceptability).

F. Disposition of Bids

When bids or proposals are rejected, or a solicitation cancelled after bids are received, the bids or proposals which have been opened shall be retained in the procurement file.

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SECTION VI RESPONSIBILITY AND PREQUALIFICATION R.S. 39:1601 and 1602

A. Definitions

1. **Responsible Bidder or Offeror** means "a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance." See (Definitions of Terms Used in this Article, Responsible Bidder or Offeror) R.S. 39:1601 of the Louisiana Procurement Code. For the purpose of these regulations, "capability" as used in this definition means capability at the time of award of the contract.

2. **Prequalification for Inclusion on Bidders Lists** means determining that a prospective bidder or offeror satisfies the criteria established for receipt of solicitations when and as issued.

3. **Solicitation** means an invitation for bids, or any other document, such as a request for quotations, issued by Louisiana for the purpose of soliciting offers to perform a Louisiana contract.

4. **Suppliers**, as used in R.S. 39:1602 (Prequalification of Suppliers) of the Louisiana Procurement Code, means prospective bidders or offerors.

B. Application

A determination of responsibility or nonresponsibility shall be governed by this Section.

C. Standards of Responsibility

1. **Standards.** Factors to be considered in determining whether the standard of responsibility has been met include whether a prospective contractor has:

- a. Available the appropriate financial, material, equipment, facility, and personnel resources and expertise, or the ability to obtain them, necessary to indicate capability of meeting all contractual requirements;
- b. A satisfactory record of performance;
- c. A satisfactory record of integrity;
- d. Qualified legally to contract with Louisiana; and
- e. Unreasonably failed to supply any necessary information in connection with the inquiry concerning responsibility.

Nothing herein shall prevent the procurement officer from establishing additional responsibility standards, provided that these additional standards are set forth in the solicitation.

2. **Information Pertaining to Responsibility.** The prospective contractor shall supply information requested by the procurement officer concerning the responsibility of such contractor. If such contractor fails to supply the requested information, the procurement officer shall base the determination of responsibility upon any available information or may find the prospective contractor nonresponsible if such failure is unreasonable.

D. Ability to Meet Standards

The prospective contractor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:

1. Evidence that such contractor possesses such necessary items;
2. Acceptable plans to subcontract for such necessary items; or
3. A documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.

E. Duty Concerning Responsibility

Before awarding a contract, the procurement officer must be satisfied that the prospective contractor is responsible.

F. Written Determination of Nonresponsibility Required

1. If a bidder or offeror who otherwise would have been

awarded a contract of \$5,000 or more is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the chief procurement officer, or head of a purchasing agency. A copy of the determination shall be sent promptly to the nonresponsible bidder or offeror. The determination shall be made part of the procurement file.

2. Give such bidder who is proposed to be disqualified a reasonable opportunity to be heard at an informal hearing at which such bidder is afforded the opportunity to refute the reasons for the disqualification.

G. Prequalification

Prospective suppliers may be prequalified for particular types of supplies and services.

SECTION VII TYPES OF CONTRACTS R.S. 39:1611 - 1615

A. Centralization of Contracting Authority

If the central purchasing agency has entered into a statewide contract for supplies or services, all state governmental bodies, excluding those exempt from central purchasing by R.S. 39:1572.B, shall use such statewide contracts when procuring such supplies or services unless given written exemption by the chief procurement officer.

B. Policy Regarding Selection of Contract Types

1. **General.** The selection of an appropriate contract type depends on factors such as the nature of the supplies, services, or major repairs to be procured, the uncertainties which may be involved in contract performance, and the extent to which Louisiana or the contractor is to assume the risk of the cost of performance of the contract.

The objective when selecting a contract type is to obtain the greatest value of supplies, services, or major repairs at the lowest cost or price to Louisiana. In order to achieve this objective, the chief procurement officer, before choosing a contract type, should review those elements of the procurement which directly affect the cost and risk of performance and profit incentives bearing on the performance.

Among the factors to be considered in selecting any type of contract are:

- a. The type and complexity of the supply, service, or major repair items being procured;
- b. The difficulty of estimating performance costs such as the inability of Louisiana to develop definitive specifications, to identify the risks to the contractor inherent in the nature of the work to be performed, or otherwise to establish clearly the requirements of the contract;
- c. The administrative costs to both parties;
- d. The degree to which Louisiana must provide technical coordination during the performance of the contract;
- e. The effect of the choice of the type of contract on the amount of competition to be expected;
- f. The stability of material or commodity market prices or wage levels;
- g. The urgency of the requirement; and
- h. The length of contract performance.

2. **Use of Unlisted Contract Types.** The provisions of this Subpart list and define the principal contract types. In addition, any other type of contract, except cost-plus-a-percentage-of-cost, may be used provided the chief procurement officer or head of a purchasing agency determines in writing that such use is in Louisiana's best interest.

C. Cost-Plus-a-Percentage-of-Cost Contracts

The cost-plus-a-percentage-of-cost system of contracting shall not be used.

D. Fixed-Price Contracts

1. **General.** A fixed-price contract is the preferred and generally utilized type of contract. A fixed-price contract places responsibility on the contractor for the delivery of the product or the complete performance of the services or major repairs in accordance with the contract terms at a price that may be firm or subject to contractually specified adjustments. The fixed-price contract is appropriate for use when there is a reasonably definitive requirement, as in the case of major repairs or standard commercial products. The use of a fixed-price contract when risks are unknown or not readily measurable in terms of cost can result in inflated prices and inadequate competition; poor performance, disputes, and claims when performance proves difficult; or excessive profits when anticipated contingencies do not occur.

2. **Firm Fixed-Price Contract.** A firm fixed-price contract provides a price that is not subject to adjustment because of variations in the contractor's cost of performing the work specified in the contract.

3. **Fixed-Price Contract with Price Adjustment.** A fixed-price contract with price adjustment provides for variation in the contract price under special conditions defined in the contract, other than customary provisions authorizing price adjustments due to modifications to the work. The formula or other basis by which the adjustment in contract price can be made shall be specified in the solicitation and the resulting contract. Conditions governing price adjustments and documentation required for substantiation should be considered carefully and defined precisely in the solicitation and the resulting contract. Any adjustment allowed may be downward only or both upward and downward. Clauses providing for most-favored-customer prices for Louisiana, that is, the price to Louisiana will be lowered to the lowest priced sales to any other customer made during the contract period, may be used. Examples of conditions under which adjustments may be provided in fixed-price contracts are:

- a. Changes in the contractor's labor contract rates (such as in contracts for coal;)
- b. Changes due to rapid and substantial price fluctuations, which can be related to an accepted index (such as contracts for gasoline, heating oils, and dental gold alloys). If the contract permits unilateral action by the contractor to bring about the condition under which a price increase may occur, the contract shall reserve to Louisiana the right to reject the price increase and terminate without cost the future performance of the contract. Notice of such price increase shall be given within such time as is specified in the contract.

E. Cost-Reimbursement Type Contracts

1. **General.** The cost-reimbursement type contract provides for payment to the contractor of allowable costs incurred in the performance of the contract as determined in accordance with (Cost Principles) of R.S. 39:1603 and provided in the contract. This type of contract establishes at the outset an estimated cost for the performance of the contract and a dollar ceiling which the contractor may not exceed (except at its own expense) without prior approval or subsequent ratification by the procurement officer and, in addition, may provide for payment of a fee. The contractor agrees to perform as specified in the contract until the contract is completed or until the costs reach the specified ceiling, whichever first occurs. This contract type is appropriate when the uncertainties involved in contract performance are of such magnitude that the cost of contract performance cannot be estimated with sufficient reasonableness to permit use of any type of fixed-price contract. In addition, a cost-reimbursement contract necessitates appropriate monitoring by Louisiana personnel during performance so as to give reasonable assurance that the objectives of the contract are being met. It is particularly suitable for research, development, and study type contracts.

2. **Determination Prior to Use.** A cost-reimbursement type contract may be used only when the commissioner of administration determines in writing that:

a. Such a contract is likely to be less costly to Louisiana than any other type or that it is impracticable to obtain otherwise the supplies, services, or major repairs;

b. The proposed contractor's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated; and

c. The proposed contractor's accounting system is adequate to allocate costs in accordance with generally accepted accounting principles.

3. **Cost Contract.** A cost contract provides that the contractor will be reimbursed for allowable costs incurred in performing the contract.

4. **Cost-Plus-Fixed Fee Contract.** This is a cost-reimbursement type contract which provides for payment to the contractor of an agreed fixed fee in addition to reimbursement of allowable, incurred costs. The fee is established at the time of contract award and does not vary whether or not the actual cost of contract performance is greater or less than the initial estimated cost established for such work. Thus, the fee is fixed but not the contract amount because the final contract amount will depend on the allowable costs reimbursed. The fee is subject to adjustment only if the contract is modified to provide for an increase or decrease in the work specified in the contract.

F. Cost Incentive Contracts

1. **General.** Cost incentive contracts provide for the sharing of cost risks between Louisiana and the contractor. This type of contract provides for the reimbursement to the contractor of allowable costs incurred up to ceiling amount and establishes a formula whereby the contractor is rewarded for performing at less than target cost (that is, the parties' agreed best estimate of the cost of performing the contract) or is penalized if it exceeds target cost. Profit or fee is dependent on how effectively the contractor controls cost in the performance of the contract.

2. Fixed-Price Cost Incentive Contract.

a. **Description.** In a fixed-price cost incentive contract, the parties establish at the outset a target cost, a target profit (that is, the profit which will be paid if the actual cost of performance equals the target cost), a cost-sharing formula which provides a percentage increase or decrease of the target profit depending on whether the cost of performance is less than or exceeds the target cost, and a ceiling price. After performance of the contract, the actual cost of performance is arrived at based on the total incurred allowable cost as determined in accordance with Part 7 (Cost Principles) of these regulations and as provided in the contract. The final contract price is then established in accordance with the cost-sharing formula using the actual cost of performance. The final contract price may not exceed the ceiling price. The contractor is obligated to complete performance of the contract, and, if actual cost exceeds the ceiling price, the contractor suffers a loss.

b. **Objective.** The fixed-price cost incentive contract serves three objectives. It permits the establishment of a firm ceiling price for performance of the contract which takes into account uncertainties and contingencies in the cost of performance. It motivates the contractor to perform the contract economically since cost is in inverse relation to profit; the lower the cost, the higher the profit. It provides a flexible pricing mechanism for establishing a cost sharing responsibility between Louisiana and contractor depending on the nature of the supplies, services, or major repairs being procured, the length of the contract performance, and the performance risks involved.

3. **Cost-Plus Contract with Cost Incentive Fee.** In a cost-plus contract with cost incentive fee, the parties establish at the outset a target cost; a target fee; a cost-sharing formula for

increase or decrease of fee depending on whether actual cost of performance is less than or exceeds the target cost, with maximum and minimum fee limitations; and a cost ceiling which represents the maximum amount which Louisiana is obligated to reimburse the contractor. The contractor continues performance until the work is complete or costs reach the ceiling specified in the contract, whichever first occurs. After performance is complete or costs reach the ceiling, the total incurred, allowable costs reimbursed in accordance with (Cost Principles) of these regulations and as provided in the contract are applied in the cost-sharing formula to establish the incentive fee payable to the contractor. This type contract gives the contractor a stronger incentive to efficiently manage the contract than a cost-plus-fixed-fee contract provides.

4. **Determinations Required.** Prior to entering into any cost incentive contract, the commissioner of administration shall make the written determination required by Subsection D (Cost-Reimbursement Type Contracts, Determination Prior to Use) of these Regulations. In addition, prior to entering any cost-plus contract with cost incentive fee, the procurement officer shall include in such written determination the determination required by Subsection E of these Regulations.

G. Performance Incentive Contracts

In a performance incentive contract, the parties establish at the outset a pricing basis for the contract, performance goals, and a formula for increasing or decreasing the compensation if the specified performance goals are exceeded or not met. For example, early completion may entitle the contractor to a bonus while late completion may entitle Louisiana to a price decrease.

H. Time and Materials Contracts; Labor Hour Contracts

1. **Time and Materials Contracts.** Time and materials contracts provide for payment for materials at cost and labor performed at an hourly rate which includes overhead and profit. These contracts provide no incentives to minimize costs or effectively manage the contract work. Consequently, all such contracts shall contain a stated cost ceiling and shall be entered into only after the commissioner of administration determines in writing that:

a. Louisiana personnel have been assigned to closely monitor the performance of the work; and

b. No other type of contract will suitably serve Louisiana's purpose.

2. **Labor Hour Contracts.** A labor hour contract is the same as a time and materials contract except the contractor supplies no material. It is subject to the same considerations, and the commissioner of administration shall make the same determinations before it is used.

I. Definite Quantity and Indefinite Quantity Contracts

1. **Definite Quantity.** A definite quantity contract is a fixed-price contract that provides for delivery of a specified quantity of supplies or services either at specified times or when ordered.

2. **Indefinite Quantity.** An indefinite quantity contract is a contract for an indefinite amount of supplies or services to be furnished as ordered that establishes unit prices of a fixed-price type. Generally an approximate quantity or the best information available is stated in the solicitation. The contract may provide a minimum quantity Louisiana is obligated to order and may also provide for a maximum quantity provision that limits Louisiana's obligation to order.

3. **Requirements Contracts.** A requirements contract is an indefinite quantity contract for supplies or services that obligates Louisiana to order all the actual, normal requirements of designated using agencies during a specified period of time. For the protection of Louisiana and the contractor, requirements contracts shall include the following:

a. A provision which requires Louisiana to order its normal requirements of the supplies or services covered. However,

Louisiana may reserve in the solicitation and in the resulting contract the right to take bids separately if a particular quantity requirement arises which exceeds an amount specified in the contract;

b. Two exemptions from ordering under the contract when:

(1) The chief procurement officer approves a finding that the supply or service available under the contract will not meet a nonrecurring, special need of Louisiana;

(2) Supplies are produced or services are performed incidental to Louisiana's own programs, such as industries of correctional institutions and other similar industries that can satisfy the need.

J. **Progressive and Multiple Awards**

1. **Progressive Award.** A progressive award is an award of portions of a definite quantity requirement to more than one contractor. Each portion is for a definite quantity and the sum of the portions is the total definite quantity required. A progressive award may be in Louisiana's best interest when awards to more than one bidder or offeror for different amounts of the same item are needed to obtain the total quantity or the time or times of delivery required.

2. **Multiple Award.** A multiple award is an award of an indefinite quantity contract for one or more similar supplies or services to more than one bidder or offeror, and Louisiana is obligated to order all of its actual, normal requirements for the specified supplies or services from those contractors. A multiple award may be in Louisiana's best interest when award to two or more bidders or offerors for similar products is needed for adequate delivery, service, or availability, or for product compatibility. In making a multiple award, care shall be exercised to protect and promote the principles of competitive solicitation. Multiple awards shall not be made when a single award will meet Louisiana's needs without sacrifice of economy or service. Awards shall not be made for the purpose of dividing the business or avoiding the resolution of tie bids. Any such awards shall be limited to the least number of suppliers necessary to meet the valid requirements of using agencies. All eligible users of the contract shall be named in the solicitation, and it shall be mandatory that the requirements of such users that can be met under the contract be obtained in accordance with the contract, provided, that

a. Louisiana shall reserve the right to take bids separately if a particular quantity requirement arises which exceeds an amount specified in the contract;

b. Louisiana shall reserve the right to take bids separately if the chief procurement officer approves a finding that the supply or service available under the contract will not meet a non-recurring or special need of Louisiana;

c. The contract shall allow Louisiana to procure supplies produced, or services performed, incidental to Louisiana's own programs, such as industries of correctional institutions and other similar industries, when such supplies or services satisfy the need.

3. **Intent to Use.** If a progressive or multiple award is anticipated prior to issuing a solicitation, the method of award should be stated in the solicitation.

4. **Determination Required.** The chief procurement officer shall make a written determination setting forth the reasons for a progressive or multiple award, which shall be made a part of the procurement file.

K. **Leases**

1. **Description.** A lease is a contract for the use of equipment under which title does not pass to Louisiana.

2. **Use.** A lease may be entered into provided:

a. It has been competitively bid in accordance with these Rules and Regulations and/or the applicable executive director.

b. It is in the best interest of Louisiana;

c. All conditions for renewal and costs of termination are set forth in the lease; and

d. The lease is not used to avoid a competitive procurement.

L. **Multi-Year Contracts - General**

1. **Description.** The multi-year method of contracting is to be used when special production of definite quantities of supplies for more than one fiscal period is necessary to best meet Louisiana needs but funds are available only for the initial fiscal period. Special production refers to production for contract performance which requires alteration in the contractor's facilities or operations involving high start-up costs. The contractual obligation of both parties in each fiscal period succeeding the first is subject to the appropriation and availability of funds therefor. When funds are not appropriated to support continuation of performance in a subsequent year of a multi-year contract, the contract for such subsequent year shall be terminated. When a contract is terminated under these conditions, no additional funds shall be paid to the contractor as a result of such action. A multi-year contract is also appropriate when it is in the best interest of Louisiana to obtain uninterrupted services extending over more than one fiscal period, where the performance of such services involves high start-up costs, or where a changeover of service contractors involves high phase-in/phase-out costs during a transition period.

2. **Objective.** The objective of the multi-year contract is to promote economy and efficiency in procurement by obtaining the benefits of sustained volume production and consequent low prices, and by increasing competitive participation in procurements which involve special production with consequent high start-up costs and in the procurement of services which involve high start-up costs or high phase-in/phase-out costs during changeover of service contractors.

3. **Multi-Year Contract Regulations Inapplicable.** Subsection L (Conditions for Use of Multi-Year Contracts) and Subsection M (Multi-Year Contract Procedure) apply only to contracts for supplies or services described in this Section and do not apply to any other contract including, but not limited to, contracts for construction and leases (including leases of real property.)

M. **Conditions for Use of Multi-Year Contracts**

A multi-year contract may be used when it is determined in writing by the chief procurement officer that:

1. Special production of definite quantities is required to meet Louisiana needs; and

2. That such a contract will serve the best interests of Louisiana by encouraging effective competition or otherwise prompting economies in Louisiana procurement; and

3. A multi-year contract will serve the best interests of Louisiana by encouraging effective competition or otherwise promoting economies in Louisiana procurement. The following factors are among those relevant to such a determination:

a. Firms which are not willing or able to compete because of high start-up costs or capital investment in facility expansion will be encouraged to participate in the competition when they are assured of recouping such costs during the period of contract performance;

b. Lower production costs because of larger quantity or service requirements, and substantial continuity of production or performance over a longer period of time can be expected to result in lower unit prices;

c. Stabilization of the contractor's work force over a longer period of time may promote economy and consistent quality; or

d. The cost and burden of contract solicitation, award, and administration of the procurement may be reduced.

4. Unless otherwise provided by law, a contract for supplies or services may be entered into for periods of not more than three years, if funds for the first fiscal year of the contemplated

contract are available at the time of contracting. Payment and performance obligations for succeeding fiscal years shall be subject to the availability and appropriation of funds therefor. No contract shall be entered into for more than one year unless the length of the contract was clearly stated in the specifications. Any lease or similar agreement affecting the allocation of space in the state Capitol shall have the prior approval of the Legislative Budgetary Control Council if it extends for more than one year.

N. Multi-Year Contract Procedure

1. **Solicitation.** The solicitation shall state:

a. The amount of supplies or services required for the proposed contract period;

b. Whether a unit price discounted off of established catalog price shall be given for each supply or service, and that such unit prices or discount shall be the same throughout the contract; (except to the extent price adjustments may be provided in the solicitation and resulting contract);

c. That the multi-year contract will be cancelled only if funds are not appropriated or otherwise made available to support continuation of performance in any fiscal period succeeding the first; however, this does not affect either Louisiana's rights or the contractor's rights under any other termination clause in the contract;

d. That the chief procurement officer must notify the contractor that the funds are, or are not, available for the continuation of the contract for each succeeding fiscal period;

e. Whether bidders or offerors may submit prices for:

(1) The first fiscal period only;

(2) The entire time of performance only or

(3) Both the first fiscal period and the entire time of performance;

f. That a multi-year contract may be awarded and how award will be determined including, if such prices are submitted, how prices for the first fiscal period and entire time of performance will be compared (including the dollar amount of deductions of savings of administrative costs resulting from use of a multi-year contract, provided such savings can be reasonably estimated).

2. **Award.** Award shall be made as stated in the solicitation and permitted under the source selection method utilized. Care should be taken when evaluating multi-year prices against prices for the first fiscal period that award on the basis of prices for the first period does not afford the successful bidder or offeror an undue competitive advantage in subsequent procurements.

3. **Cancellation.**

a. "Cancellation," as used in multi-year contracting, means the cancellation of the total requirements for the remaining portion of the contract because funds were not appropriated or otherwise made available.

b. Cancellation results when the procurement officer notifies the contractor of nonavailability of funds for contract performance for any subsequent fiscal period.

c. These provisions on cancellation of multi-year contracts do not limit the rights of Louisiana or the contractor under any termination clause of the contract if the contract is terminated pursuant to that clause rather than cancelled as provided in this Subsection.

O. Option Provisions

1. **Contract Provision.** When a contract is to contain an option for renewal, extension, or purchase, notice of such provision shall be included in the solicitation. When such a contract is awarded by competitive sealed bidding, exercise of the option shall be at Louisiana's discretion only, and shall be at the mutual agreement of Louisiana and the contractor.

2. **Exercise of Option.** Before exercising any option for renewal, extension, or purchase, the chief procurement officer should attempt to ascertain whether a competitive procurement is

practical, in terms of pertinent competitive and cost factors, and would be more advantageous to Louisiana than renewal or extension of the existing contract.

3. **Lease with Purchase Option.** Unless a requirement can be met only by the leased supply as determined in writing by an officer above the level of the procurement officer, a purchase option in a lease may be exercised only if the lease containing the purchase option was awarded under competitive sealed bidding. Before exercising such an option the chief procurement officer shall:

a. Investigate alternative means of procuring comparable supplies and

b. Compare estimated costs and benefits associated with the alternative means and the exercise of such option, for example, the benefit of buying new state-of-the-art equipment compared to the estimated, initial savings associated with exercise of a purchase option.

P. Penal or Charitable Institution Manufactured Products

Louisiana Statutes provide that any class of materials, supplies and services which any charitable, reformatory or penal institution of the state is prepared to supply in whole or in part through the labor of inmates, shall be given preference to the extent that such products are of equal quality to, and can be supplied at prices not higher than, those of the lowest acceptable bid received in response to advertisements. The Statutes further provide a penalty for evasion: "Any intentional violation of this Section by any such department, institution, agency, or political subdivision which continues after notice from the governor to desist, shall constitute a malfeasance in office and shall subject the officers responsible for this violation to suspension and removal from office, as may be provided by law and other cases of malfeasance."

SECTION VIII

PLANT OR SITE INSPECTION; INSPECTION OF SUPPLIES OR SERVICES

R.S. 39:1621 and 1622

A. Statutory Provision

R.S. 39:1621 (Right to Inspect Plant) of the Louisiana Procurement Code states:

"The state may, at reasonable times, inspect the part of the plant or place of business of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded by the state."

B. Inspection of Plant or Site

Circumstances under which the state may perform inspections include, but are not limited to, inspections of the contractor's plant or site in order to determine:

1. Whether the standards set forth in Section 39:1601 (Standards of Responsibility - Rules and Regulations) have been met or are capable of being met; and

2. If the contract is being performed in accordance with its terms.

C. Access to Plant or Place of Business

The state may enter a contractor's or subcontractor's plant or place of business to:

1. Inspect supplies or services for acceptance by the state pursuant to the terms of a contract;

2. Audit cost or pricing data or audit the books and records of any contractor or subcontractor pursuant to R.S. 39:1622 (Right to Audit Records) of the Louisiana Procurement Code; and

3. Investigate in connection with an action to debar or suspend a person from consideration for award of contracts pursuant to R.S. 39:1672 (Authority to Debar or Suspend) of the Louisiana Procurement Code.

D. Inspection of Supplies and Services

Louisiana contracts may provide that the state may inspect

supplies and services at the contractor or subcontractor's facility and perform tests to determine whether they conform to solicitation requirements, or, after award, to contract requirements, and are therefore acceptable. Such inspections and tests shall be conducted in accordance with the terms of the solicitation and contract.

E. Conduct of Inspections

1. **Inspectors.** Inspections or tests shall be performed so as not to unduly delay the work of the contractor or subcontractor. No inspector other than the procurement officer may change any provision of the specifications or the contract without written authorization of the procurement officer. The presence or absence of an inspector shall not relieve the contractor or subcontractor from any requirements of the contract.

2. **Location.** When an inspection is made in the plant or place of business of a contractor or subcontractor, such contractor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.

3. **Time.** Inspection or testing of supplies and services performed at the plant or place of business of any contractor or subcontractor shall be performed at reasonable times.

F. Inspection of Major Repair Projects

On-site inspection of major repairs shall be performed in accordance with the terms of the contract.

SECTION IX REPORTING OF SUSPECTED COLLUSIVE BIDDING OR NEGOTIATIONS R.S. 39:1626

A. Statutory Provision

R.S. 39:1626 (Reporting of Anticompetitive Practices) of the Louisiana Procurement Code provides:

1. **Notification to the Attorney General.** When for any reason collusion is suspected among any bidders or offerors, a written notice of the relevant facts shall be transmitted to the attorney general.

2. **Retention of all Documents.** All documents involved in any procurement in which collusion is suspected shall be retained for a minimum of six years or until the attorney general gives written notice that they may be destroyed, whichever period is longer. All retained documents shall be made available to the attorney general or a designee upon request and proper receipt therefor.

B. Anticompetitive Practices

For the purposes of the Section, an anticompetitive practice is a practice among bidders or offerors which reduces or eliminates competition or restrains trade. An anticompetitive practice can result from an agreement or understanding among competitors to restrain trade such as submitting collusive bids or proposals, or result from business actions which have the effect of restraining trade, such as controlling the resale price of products. Indications of suspected anticompetitive practices include identical bids or proposals, rotated low bids or proposals, sharing of the business, "tie-in" sales, resale price maintenance, and group boycotts. See Identical Bidding (Section F) (Possible Anticompetitive Practices).

C. Independent Price Determination

Every solicitation shall provide that by submitting a bid or offer, the bidder or offeror certifies that the price submitted was independently arrived at without collusion.

D. Reporting Suspected Anticompetitive Practices

The chief procurement officer, in consultation with the attorney general, shall develop procedures, including forms, for reporting suspected anticompetitive practices. A procurement

officer who suspects that an anticompetitive practice has occurred or may be occurring shall follow these procedures.

E. Detection of Anticompetitive Practices

In order to ascertain whether or not an anticompetitive practice may have occurred or may be occurring, the procurement officer will often find it necessary to study past procurement including, as appropriate, the following:

1. A study of the bidding history of a supply, service, or major repair items over an amount of time sufficient to determine any significant bidding patterns or changes;

2. A review of similar Louisiana contract awards over a period of time; or

3. Consultation with outside sources of information, such as bidders or offerors who have competed for similar Louisiana business in the past but who are no longer competing for such business.

F. Identical Bidding

The term "identical bidding" means the submission by bidders or offerors of the same total price or the same price on a particular line item. The submission of identical bids may not signify the existence of collusion. In some instance, price controls imposed by state or federal governments result in the submission of identical bids. Bids may also be identical as a result of chance. Identical bids for supplies are more likely to occur due to chance if:

1. The supply is a commodity with a well-established market price or a brand name with a "suggested retail price";

2. The quantity being purchased is small in relation to the supplier's total sales;

3. Early delivery is required; or

4. Transportation expenses are low relative to total costs.

In seeking to determine whether collusion has taken place, the procurement officer should view the identical bids against present and past pricing policies of the bidders or offerors, the structure of the industry involved including comparisons of prices f.o.b. shipping point and f.o.b. destination, and the nature of the supply, service, or major repairs involved, such as whether it is a basic chemical or material. Identical bids may also result from resale price maintenance agreements which are described in Section G3. (Possible Anticompetitive Practices, Resale Price Maintenance).

G. Possible Anticompetitive Practices

1. **General.** The practices which are described in Subsection 2 through Subsection 6 of this Section and which the procurement officer suspects might be anticompetitive shall be reported in accordance with Section D (Reporting Suspected Anticompetitive Practices).

2. **Rotated Low Bids or Proposals.** Rotated low bids or proposals result where all bidders or offerors participating in the collusive scheme submit bids but by agreement alternate being the lowest bidder or offeror. In order to determine whether rotation may be occurring, the procurement officer must review past similar procurements in which the same bidders or offerors have participated.

3. **Resale Price Maintenance.** The practice of resale price maintenance consists of an agreement between a manufacturer and a distributor or a dealer to fix the resale price of a supply. A procurement officer should consider the possibility that such an agreement exists where prices offered adhere to an established pattern, such as a published price schedule, and identical bidding occurs.

4. **Sharing of the Business.** Sharing of the business occurs where potential bidders or offerors allocate business among themselves based on the customers or the territory involved. Thus a procurement officer might discover that a potential bidder or offeror is not participating in a state procurement because a particular Louisiana agency, or a particular territory has not been

allocated to such bidder or offeror by the producer or manufacturer.

5. **“Tie-in” Sales.** “Tie-in” sales are those in which a bidder or offeror attempts to sell one supply or service only upon the condition that the procurement officer purchase another particular supply or service.

6. **Group Boycott.** A group boycott results from an agreement between competitors not to deal with another competitor or not to participate in, for instance, a state procurement until the boycotting competitors’ conditions are met by the boycotted competitors or the state. The boycott of a competitor by other competitors may have an effect on the market structure or price of a supply, service, or major repair items needed by the state.

SECTION X SPECIFICATIONS R.S. 39:1651-1657

A. Definitions

The following definitions are not in any order of preference.

1. **Brand Name Specification** means a specification calling for one or more products by manufacturers’ names or catalog numbers.

2. **Brand Name or Equal Specification** means a specification which uses a brand name specification to describe the standard of quality, performance, and other characteristics needed to meet state requirements, and which also provides for the submission of equivalent products.

3. **Qualified Products List** means a list of supplies, services, or major repair items described by model or catalog numbers, which, prior to solicitation, Louisiana has determined will meet the applicable specification requirements.

4. **Specification** means any description of the physical, functional, or performance characteristics, or of the nature of a supply, service, or construction item. The specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply, service, or construction item for delivery. Unless the context requires otherwise, the terms “specification” and “purchase description” are used interchangeably throughout these regulations.

5. **Specification for a Common or General Use Item** means a specification which has been developed and approved for repeated use in procurements in accordance with the provisions of R.S. 39:1651 (A) and (B).

B. General Purpose and Policies

1. **Purpose.** The purpose of a specification is to serve as a basis for obtaining a supply, service, or major repair item adequate and suitable for the state’s needs in a cost effective manner, taking into account, to the extent practicable, the costs of ownership and operation as well as initial acquisition cost. It is the policy of the state that specifications permit maximum practicable competition consistent with this purpose. Specifications shall be drafted with the objective of clearly describing the state’s requirements.

2. **Nonrestrictiveness.** All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply, service, or major repair item, or procurement from a sole source, unless no other manner of description will suffice. In that event, a written determination shall be made that is not practicable to use a less restrictive specification.

3. **Use of Functional or Performance Descriptions.** Specifications shall, to the extent practicable, emphasize functional or performance criteria while limiting design or other detailed physical descriptions to those necessary to meet the needs of the state. To facilitate the use of such criteria, using agencies shall endeavor to include as a part of their purchase requisitions the

principal functional or performance needs to be met. It is recognized, however, that the preference for use of functional or performance specifications is primarily applicable to the procurement of supplies and services. Such preference is often not practicable in major repairs apart from the procurement of supply type items for a major repair project.

4. **Preference for Commercially Available Products.** It is the general policy of this state to procure standard commercial products whenever practicable. In developing specifications, accepted commercial standards shall be used and unique requirements shall be avoided, to the extent practicable.

5. **Escalation and De-escalation Clauses.** Bid specifications may contemplate a fixed escalation or de-escalation in accordance with the United States Bureau of Labor Statistics, Consumer Price Index and Wholesale Price Index. Bids based on specifications which are subject to a recognized escalation index shall be legal and valid.

C. Availability of Documents.

Except as provided in Section A (3) (Qualified Products List) regarding testing and confidential data, specifications and any written determination or other document generated or used in the development of a specification shall be available for public inspection pursuant to R.S. 44.1.

D. Authority to Prepare Specifications

1. **Statutory Authority of the Chief Procurement Officer and State Agencies.** The chief procurement officer is authorized to prepare specifications in Section 39:1652 Duties of the Chief Procurement Officer subject to the authority granted purchasing agencies in Section 39:1653 (Exempted Items) of the Louisiana Procurement Code.

2. **Delegation of Authority to State Agencies.** The chief procurement officer may delegate in writing the authority to prepare and utilize specifications to purchasing agencies and using agencies for any type of supplies, services, or major repairs provided such delegations may be revoked by the chief procurement officer.

3. Authority to Contract for Preparation of Specifications.

a. A contract to prepare specifications for state use in procurement of supplies or services may be entered into when a written determination is made by the chief procurement officer or the head of a purchasing agency authorized to prepare such specifications that there will be no substantial conflict of interest involved and it is otherwise in the best interests of the state.

b. Whenever specifications are prepared by other than Louisiana personnel, the contract for the preparation of specifications shall require the specification writer to adhere to the requirements of this regulation.

4. **Small Purchase and Emergency Authority.** If a specification for general or common use or a qualified products list exists for an item to be procured under R.S. 39:1596 (Small Purchases), it shall be used except as otherwise provided by the chief procurement officer or the head of a purchasing agency. If no such specification exists, purchasing and using agencies are hereby granted the authority to prepare specifications for use in such purchases. In an emergency under R.S. 39:1598 (Emergency Procurements), any necessary specifications may be utilized by the purchasing or using agency without regard to the provisions of this Subsection A (4) (Specifications).

E. Procedures for the Development of Specifications

1. Provisions of General Application

a. **Application of Section.** This Section applies to all persons who may prepare a specification for state use, including the chief procurement officer, the head of a purchasing agency, the head of a using agency, the designees of such officers, and also consultants, architects, engineers, designers, and other draftsmen

of specifications used for public contracts.

b. **Specification of Alternates May be Included.** To the extent feasible, a specification may provide alternate descriptions of supplies, services, or major repairs items where two or more design, functional, or performance criteria will satisfactorily meet the state's requirements.

c. **Use of Existing Specification.** If a specification for a common or general use item has been developed in accordance with Section (2) or a qualified products list has been developed in accordance with Section (2) for a particular supply, service, or major repair item, or need, it shall be used unless the chief procurement officer or the head of a purchasing agency makes a written determination that its use is not in Louisiana's best interest and that another specification shall be used.

2. Special Additional Procedures.

a. Specifications for Common or General Use Items.

(i) **Preparation and Utilization.** A specification for common or general use shall, to the extent practicable, be prepared to be utilized:

(A) When a supply, service, or major repair item is used in common by several using agencies or used repeatedly by one using agency, and the characteristics of the supply, service, or major repair item as commercially produced or provided remain relatively stable while the frequency or volume of procurements is significant;

(B) Where the state's recurring needs require uniquely designed or specially produced items; or

(C) When the chief procurement officer, or the head of a purchasing or using agency authorized to prepare such specifications, finds it to be in Louisiana's best interest.

In the event a using agency requests the preparation of a specification for a common or general use item, the chief procurement officer shall prepare such a specification if such officer determines the conditions in Subsections (A), (B), or (C) of this Subsection have been met.

(ii) **Comments on the Draft.** The chief procurement officer, or the head of a purchasing or using agency preparing a specification for a common or general use item, shall provide the using agencies, and a reasonable number of manufacturers and suppliers as such officer deems appropriate, an opportunity to comment on the draft specification.

(iii) **Final Approval.** Final approval of a proposed specification for a common or general use item shall be given only by the chief procurement officer, or by the head of a purchasing or using agency authorized to give such approval.

(iv) **Revisions.** Revisions to specifications for common or general use items which do not change the technical elements of the specifications but which are necessary for clarification may be made upon approval of the chief procurement officer, or the head of a purchasing or using agency authorized to approve such specifications. Interim revisions to fit the requirements for a particular procurement which change the technical elements of the specification may be made by the chief procurement officer, or the head of a purchasing or using agency authorized to approve such a specification. All other revisions shall be made in accordance with Subsections (2)(a)(ii) through (iv) of the Section.

(v) **Cancellation.** A specification for a common or general use item may be cancelled by the chief procurement officer, or by the head of a purchasing or using agency authorized to give final approval to such specifications.

b. Brand Name or Equal Specification.

(i) **Applicability of Subsection (2)(b) of this Section.** Subsection (2)(b) of this Section shall apply whenever brand names are used in specifications except as provided in Subsection (2)(c) of this Section.

(ii) **Use.** Brand name or equal specifications may be prepared to be used when the chief procurement officer or head of a purchasing agency determines in writing that:

(A) No specification for a common or general use item or qualified products list is available; or

(B) Time does not permit the preparation of another form of specification, not including a brand name specification; or

(C) The nature of the product or the nature of Louisiana's requirements makes use of a brand name or equal specifications suitable for the procurement; or

(D) Use of a brand name or equal specification is in Louisiana's best interest.

(iii) **Designation of Several Brands.** Brand name or equal specifications shall seek to designate three or as many different brands as are practicable as "or equal" references and shall state that substantially equivalent products to those designated will be considered for award.

(iv) **Required Characteristics.** Unless the chief procurement officer or the head of a purchasing or using agency authorized to finally approve specifications determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics which are required.

(v) **Nonrestrictive Use of Brand Name or Equal Specifications.** Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.

(c) Brand Name Specification

(i) **Use.** Since use of a brand name specification is restrictive, it may be used only when the procurement officer makes a written determination that only the identified brand name item or items will satisfy the state's needs.

Examples of circumstances which could necessitate proprietary procurement are:

(A) Revolving-fund purchases for resale, such as groceries, canned goods, packing house products, drug sundries, candy, tobacco and other similar items.

(B) Revolving-fund purchases of foods for cafeterias, dining halls or dormitories.

(C) Standard replacement parts such as automobiles, machinery, and equipment.

(D) Repairs to automobiles, machinery, equipment, etc.

(ii) **Competition.** The procurement officer shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section III (Sole Source Procurement) of these regulations.

(iii) **Reports.** The chief procurement officer shall submit reports to the commissioner or cabinet department head within 90 days after the end of the fiscal year stating any brand name specification used; the number of suppliers solicited; the identity of these suppliers; the supplier awarded the contract; and the contract price.

d. Qualified Products List.

(i) **Use.** A qualified products list may be developed with the approval of the chief procurement officer, or the head of a purchasing or using agency authorized to develop qualified products lists, when testing or examination of the supplies or major repair items prior to issuance of the solicitation is desirable or necessary in order to best satisfy state requirements.

(ii) **Comments, Final Approval, Revisions, and Can-**

cellation. Comments on, final approval of, and revisions to the proposed criteria and methodology for establishing and maintaining a qualified products list, and the cancellation thereof, shall follow the procedures of Subsections 2 (a) (ii), (iii), (iv), and (v) of this section applicable to specifications for common or general use items.

(iii) **Solicitation.** When developing a qualified products list, a representative group of potential suppliers shall be solicited in writing to submit products for testing and examination to determine acceptability for inclusion on a qualified products list. Any potential supplier, even though not solicited, may offer its products for consideration.

(iv) **Testing and Confidential Data.** Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with prior published requirements. Except as otherwise provided by law, trade secrets, test data, and similar information provided by the supplier will be kept confidential when requested in writing by the supplier. However, qualified products lists test results shall be made public but in a manner so as to protect the confidentiality of the identity of the competitors by, for example, using numerical designations.

SECTION XI
SUPPLY MANAGEMENT
R.S. 39:1564
(Authority of State Director of
Purchasing)

A. Definitions

Supplies for the purpose of this Section, means tangible personal property owned by the state.

B. Quality Assurance, Inspection, and Testing

The chief procurement officer shall take such steps as deemed desirable to ascertain or verify that supplies, services, or major repair items conform to specifications. In performing this duty, the chief procurement officer may establish inspection and testing facilities, employ inspection personnel, enter into arrangements for the joint or cooperative use of laboratories, and contract with others for inspection or testing work as needed. The chief procurement officer may delegate responsibility for inspection and testing to using agencies.

C. Warehouse and Storage

The chief procurement officer shall exercise general supervision of any receiving, storage, and distribution facilities and services maintained and operated by the office of the chief procurement officer or using agencies.

D. Inventory Management

The chief procurement officer shall have supervision of all inventories of tangible personal property belonging to the state or any of its agencies. This responsibility shall not, however, relieve any agency of accountability for tangible personal property and other supplies under its control. All warehouses and similar storage areas shall be inventoried annually.

E. Transfer of Excess and Surplus Supplies

Insofar as feasible and practical, the chief procurement officer will transfer inventoried excess supplies to other state agencies.

SECTION XII
INTERGOVERNMENTAL REGULATIONS
R.S. 39:1702 (COOPERATIVE PURCHASING)

A. Scope

This Part applies to cooperative purchasing and other cooperative activities authorized by Title 39:1702.

B. Cooperative Purchasing Shall Not Adversely Affect Employees

No employee of any public procurement unit participating

in any cooperative purchasing activity authorized by Part VII (Intergovernmental Relations) of the Louisiana Procurement Code shall suffer any loss of salary, seniority, tenure, or pension rights, or be adversely affected as a result of any such activity.

C. Cooperative Purchasing Agreement in Form of Open-ended State Contract

Any agreement between the state and a local public procurement unit entered into pursuant to R.S. 39:1702 (Cooperative Purchasing Authorized) of the Louisiana Procurement Code which provides that certain open-ended state procurement contracts shall be available to the local public procurement unit, shall also provide that:

1. The state shall conduct the procurements in compliance with the Louisiana Procurement Code;

2. When the local public procurement unit agrees to procure any supply or service under the state contract, its requirements for such supply or service shall be obtained by placing purchase orders against the appropriate state contract in accordance with the terms and conditions of such contract;

3. Payment for supplies or services ordered by the local public procurement unit under state contracts shall be the exclusive obligation of such jurisdiction;

4. Inspection and acceptance of supplies or services ordered by the local public procurement unit under state contracts shall be the exclusive obligation of such jurisdiction;

5. The state may terminate the agreement for failure of the local public procurement unit to comply with the terms of the contract or pay a contractor to whom the state has awarded an open-ended contract;

6. The exercise of any warranty rights attaching to supplies or services received by the local public procurement unit under state contracts shall be the exclusive obligation of such jurisdiction; and

7. Failure of a local public procurement unit which is procuring supplies or services under a state contract to secure performance from the contractor in accordance with the terms and conditions of its purchase order will not necessarily require the state or any other local public procurement unit to consider the default or to discontinue procuring under the contract.

D. Supply of Personnel, Information, and Services

Requests made to a public procurement unit by another public procurement unit or external procurement activity to provide or make available personnel, services, information, or technical services pursuant to R.S. 39:1706 (Supply of Personnel, Information, and Technical Services) of the Louisiana Procurement Code shall be complied with only to the extent that the chief procurement officer determines that it is practical and feasible to do so in terms of personnel, time, and other resources.

Interested persons may submit comments or questions to Linda Alwood, Assistant Commissioner of Administration, Box 44095, Baton Rouge, Louisiana 70804, prior to 4:30 p.m. on July 23, 1982.

E. L. Henry
Commissioner of Administration

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

Rule Title: Louisiana Procurement Code

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

Hugh M. Carleton
State Purchasing Director

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Human Resources, Office of Family Security, proposes to implement monthly reporting for all Aid to Families with Dependent Children (AFDC) recipients certified as a result of incapacity and related Food Stamp cases as mandated by federal regulations as published in the *Federal Register*, Vol. 47, No. 25, Friday, February 5, 1982 pp. 5679-5680 (45 CFR 233.36 and 45 CFR 233.37).

AFDC recipients certified as a result of incapacity as defined in 45 CFR: 233.90 (a)(6)(c)(1)(iv) shall be required to submit a monthly report because the AFDC error-prone profile indicates a disproportionate number of errors in the category.

The Office of Family Security shall require, as a condition of eligibility, the recipients listed above to submit a completed report form to the agency monthly to provide the following:

1) Budget month income, family composition, and other circumstances relevant to the amount of the assistance payments; and

2) Any changes in income, resources, and other relevant circumstances affecting continued eligibility which the assistance unit expects to occur in the current month or future months.

3) Stepparent's income and alien sponsor's income and resources where appropriate.

A public hearing has been scheduled for July 6, 1982, at 9 a.m. in the Louisiana State Library Auditorium, First Floor, 760 Riverside N., Baton Rouge, LA.

Interested persons may submit written comments on the proposed Rule through July 5, 1982, at the following address: R. K. Banks, Acting Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804.

Roger P. Guissinger
Secretary

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

Rule Title: Monthly Reporting in AFDC Incapacity Cases

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)
The estimated cost to the agency in FY 82-83 is

\$2,909.50 (Federal) and \$2,902.50 (State) and in FY 83-84 it is \$3,174 (Federal) and \$3,174 (State). The estimated savings in FY 82-83 are \$44,192 (State) and \$89,116 (Federal) and in FY 83-84 it is \$58,923 (State) and \$118,822 (Federal). Administrative Costs are reimbursed at a 50 percent rate and the federal match for benefit cost is 66.85 percent. These figures netted out mean a savings to the agency of \$127,489 in FY 82-83 and \$171,396 in FY 83-84.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)
There is no effect on collections.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)
The above named recipients will be required to submit a monthly report of their circumstances. They will be provided with the report form and a stamped envelope.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
There is no effect on competition and employment.

R. K. Banks
Acting Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Human Resources, Office of Family Security proposes to discontinue the provision of permanent cataract eyeglasses or cataract lenses following cataract surgery from the Title XIX Medical Assistance program except for EPSDT eligible.

Interested persons may submit written comments through July 5, 1982 to R. K. Banks, Acting Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804. He is the person responsible for responding to inquiries about the proposed Rule.

Roger P. Guissinger
Secretary

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

**Rule Title: Deletion of permanent cataract glasses
or lenses following cataract surgery.**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)
The following figures represent the agency's savings: FY 81-82 - No impact, FY 82-83 - \$33,696, FY 83-84 - \$35,044.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)
There is no effect on revenue collection.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)
Approximately 216 recipients in the Title XIX program will be affected as coverage for cataract glasses will be deleted.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
There is no effect on competition and employment.

R. K. Banks
Acting Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security proposes to adopt the following Rule changes in the General Assistance program in regard to allowable resources:

1) Cash resources

a) Any cash on deposit with a funeral home for prepaid burial shall be considered as cash in determining the amount of an applicant/client's resources.

b) If the applicant/client has a joint bank account with a person not a member of his family unit, the total amount of cash in the account shall be considered to belong to the applicant/client.

2) Power - driven conveyance - Equity value up to \$1,200 in one power-driven land conveyance shall not be considered in determining resource eligibility. The amount of equity above \$1,200 shall be considered a countable resource. Equity in all other power-driven land or water conveyances is subject to the resource limit with one exception. If a family's chief mode of transportation is by motorboat, and no automobile is owned, the equity in that boat, up to \$1,200, shall not be considered.

The equity value is the fair market value minus encumbrances. The fair market value of licensed automobiles, trucks and vans will be determined by the value of those vehicles as listed in the National Automobile Dealers Association's (NADA) Used Cars Guide Book, generally referred to as the "blue book."

These proposed Rule changes are being implemented to bring the General Assistance program requirements on resources into congruence with the Aid to Families with Dependent Children program requirements.

Interested persons may submit written comments on the proposed Rule through July 6, 1982, at the following address: R. K. Banks, Acting Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804.

Roger P. Guissing
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: GA Resource Policy Changes

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

Implementation of this Rule will cost approximately \$23.10 for printing of revised manual pages in FY 82-83. A case review of a sample of GA recipients indicated none would become ineligible due to excess resources as a result of the proposed Rule. It is anticipated, therefore, that any savings from a client becoming ineligible due to the proposed Rule would be negligible.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

No increase or decrease in revenues is anticipated as a result of the proposed action.

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

GA recipients with excess resources will not be eligible for cash and medical assistance. A case review of a sample of GA recipients indicated none would become ineligible due to excess resources as a result of the proposed Rule. It is anticipated, therefore, that the number of clients becoming ineligible due to the proposed Rule would be negligible.

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

No impact on competition or employment is anticipated as a result of this action.

R. K. Banks
Acting Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security proposes to impose a maximum limit on the reimbursement rate for certain home and community based services provided through the Medical Assistance Program. Reimbursement to providers for the provision of adult day health, homemaker and habilitation services shall not exceed 75 percent of the cost of institutional placement in an Intermediate Care Facility I.

Interested persons may submit written comments through July 6, 1982 to R. K. Banks, Acting Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804. He is the person responsible for responding to inquiries about the proposed Rule.

Roger P. Guissing
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: MAP Reimbursement for Adult Day Health, Homemaker and Habilitation Services

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

There are no implementation costs attached to this proposed agency Rule. The proposed rate ceiling on the home and community based services will not cut expenditures since current reimbursement rates do not exceed this maximum.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There is no effect on revenue collections.

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

No cost or benefits to providers or recipients of home and community based services will result.

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

There is no effect on competition and employment.

R. K. Banks
Acting Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security proposes to implement two statewide average

rates for new Intermediate Care Facilities for the Mentally Retarded (ICF/MR) computed according to the size of the facility. The two rates will be set for facilities with more than 15 beds and facilities with 15 or fewer beds. New facilities are defined as facilities that have not participated in any Department of Health and Human Resources program.

Interested persons may submit written comments through July 5, 1982 to R. K. Banks, Acting Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804. He is the person responsible for responding to inquiries regarding this proposed policy.

Roger P. Guissinger
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: ICF/MR Facilities State-wide Rates

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

The estimated savings to the agency are as follows: FY 81-82, No impact; FY 82-83, (\$397,972); FY 83-84, \$-0-

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There will be no effect on revenue collections.

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

There will be no costs and benefits to affected groups.

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

There will be no effect on competition and employment.

R. K. Banks
Acting Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, proposes to implement monthly reporting for: 1) all Aid to Families with Dependent Children (AFDC) recipients who are head of the household for the Food Stamp certification and also the payee for the grant; 2) Refugee Resettlement and Cuban/Haitian Entrants (E Category) recipients who are head of the household for the Food Stamp certification and also the payee for the grant as mandated by federal regulations as published in the *Federal Register*, Vol. 47, No. 25, Friday, February 5, 1982 pp. 5679-5680 (45 CFR 233.36, and 45 CFR 233.37).

All AFDC and E Category recipients who are head of the household for the Food Stamp certification and also the payee for the grant shall be required to submit a monthly report in conjunction with the monthly reporting requirements for the Food Stamp Program. These recipients will enter the monthly reporting system as the related Food Stamp cases enter the system.

The Office of Family Security shall require, as a condition of eligibility, the recipients listed above to submit a completed report form to the agency monthly to provide the following:

1) Budget month income, family composition, and other circumstances relevant to the amount of the assistance payments; and

2) Any changes in income, resources, and other relevant

circumstances affecting continued eligibility which the assistance unit expects to occur in the current month or future months.

3) Stepparent's income and alien sponsor's income and resources where appropriate.

A public hearing has been scheduled for July 6, 1982, at 9 a.m. in the Louisiana State Library Auditorium, First Floor, 760 Riverside N., Baton Rouge, Louisiana.

Interested persons may submit written comments on the proposed Rule through July 5, 1982, at the following address: R. K. Banks, Acting Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804.

Roger P. Guissinger
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Monthly Reporting for Certain Recipients

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

The estimated costs to the agency in FY 82-83 are \$645,324 (State) and \$1,192,712 (Federal) and in FY 83-84 it is \$945,917 (State) and \$1,009,118 (Federal). The estimated savings in FY 82-83 are \$244,017 (State) and \$492,084 (Federal) and in FY 83-84 it is \$776,261 (State) and \$1,565,400 (Federal). The Administrative costs are reimbursed at 50 percent - 50 percent rate and the federal match for benefit cost is 66.85 percent. These figures netted out mean a cost to the agency of \$1,101,944 in FY 82-83 and a savings to the agency of \$386,626 in FY 83-84.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There is no effect on revenue collections.

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

Approximately 31,410 recipients will be submitting a monthly report. These recipients will be provided with a report form and a stamped envelope.

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

There is no effect on competition and employment.

R. K. Banks
Acting Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security proposes to implement Retrospective Budgeting effective August 1, 1982 for all General Assistance (GA) recipients. The agency shall determine all factors of eligibility and payment amount for the initial two months of eligibility prospectively. However, the amount of assistance for the initial two months of eligibility will be computed retrospectively if:

1) The applicant received assistance, computed retrospectively, for the preceding payment month.

OR

2) a) The initial month and/or month of application follows one month in which the payment was withheld

AND

b) The family's circumstances for the initial month and/or

month of application have not changed significantly from those reported in the corresponding budget month (e.g. loss of job).

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

A public hearing regarding this proposed policy will be held Tuesday, July 6, 1982, beginning at 1:30 p.m. in the Louisiana State Library Auditorium, First floor, 760 Riverside, Baton Rouge, Louisiana.

Interested persons may submit written comments on the proposed rule through July 6, 1982 to: R. K. Banks, Acting Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804. He is the person responsible for responding to inquiries about the proposed rule.

Roger P. Guissinger
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: General Assistance Program-Implementation of Retrospective Budgeting

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

The only cost for implementing Retrospective Budgeting for GA recipients would be for printing of revised Chapter XVIII manual pages and a GA section in the Retrospective Budgeting Handbook. The estimated cost of printing is \$29.70 for Chapter XVIII and \$313.50 for the Handbook. An additional cost of \$510.40 for destruction of old stock of OFS Form 2 (GA Budget Worksheet) would also be incurred. The total cost of implementation is \$853.60 for FY 82-83.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

No increase or decrease in revenues is anticipated as a result of the proposed action.

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

No costs or benefits to affected groups as a result of the proposed action are anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOY- MENT - (Summary)

No effect on competition and employment as a result of the proposed action is anticipated.

R. K. Banks
Acting Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Human Resources Office of Health Services and Environmental Quality Committee of Certification

Effective July 20, 1982, the Department of Health and Human Resources, Office of Health Services and Environmental Quality, through the Committee of Certification proposes to increase water and wastewater operator certification examination fees. The examination fees will be increased from \$3 for the first examination plus \$1 for each additional examination taken on the same day, with separate fees charged for water and wastewater examinations, to \$5 per examination.

Act 538 of 1972 (supplements R.S. Title 40, Louisiana

State Department of Health), which is the water supply and sewerage system operator certification law, provides for a program for the certification of Louisiana's water supply and sewerage system operators. When it went into effect, the Act prescribed certain actions by the State Health Officer: one such action was that the State Health Officer appoint a Committee of Certification to advise and assist in the administration of the program.

A duty of the Committee of Certification, which is outlined in Section 2 of Act 538, is to fix and accept fees for examinations, issuance, renewal, reinstatement or reciprocation of certificates according to the schedule of fees that it may adopt. The organizational meeting of the Committee of Certification, which was held on December 18, 1972, proposed that the water and wastewater operator certification examination fee be \$3 for the first examination plus \$1 for each additional examination taken on the same day, with separate fees charged for water and wastewater examinations.

The Committee of Certification at its annual meeting on June 29, 1981, and in accordance with provisions of Act 538 of 1972 proposed that the water and wastewater operator certification examination fees be raised to \$5 per examination.

Interested persons may submit written comments on the proposed increase in the water and wastewater operation certification examination fee through July 6, 1982 to Dr. Sarah M. Braud, Assistant Secretary, Office of Health Services and Environmental Quality, Department of Health and Human Resources, Box 60630, New Orleans, LA 70160. Dr. Braud is the person responsible for responding to inquiries regarding this proposed Rule.

Roger Guissinger
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Increase in Water and Wastewater Operator Certification Examination Fees

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

There will be no expected increase in costs to the agency to implement this Rule change. It would be expected, however, that there might be a savings to the agency in terms of man-hours involved in testing of potential certification candidates and scoring of these tests.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

Based on the actual number of tests given to date and assuming the number will remain fairly constant in the future, revenues could be expected to increase as follows:

Exam type	Number of Exams	Current Revenue	Projected Revenue	Projected Increase
initial exam	166	\$498	\$ 830	\$ 332
repeat exams	321	321	1605	1284
Total	487	\$819	\$2435	\$1616

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

The cost to the affected groups should be minimal since this will be a slight increase to an already low examination fee.

The affected groups should benefit if fewer exams are taken which would allow for faster scoring of the exams and subsequent notification of the examinees.

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

No effect is anticipated on competition and employment, as the same kinds and amounts of services will be offered.

R. K. Banks
Acting Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

date submits a total fee which is \$1.50 less than previous years.

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

There is no expected effect on competition and employment.

Merlyn M. Maillian
Executive Director

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Human Resources
Board of Nursing**

The Louisiana State Board of Nursing hereby gives notice that the Board at the July 22-23, 1982 meeting intends to adopt proposed Rules on Fees for Registration and Licensure (R.N. 1.077).

Public notification made herein indicates no final approval.

The public is made aware of the proposed changes in compliance with R.S. 49:951-968.

Proposed Rule

R.N. 1.077 Fees for Registration and Licensure

The Board shall collect in advance fees for registration and licensure services as follows:

- (1) Examination, registration and initial licensure \$35.00
- (2) Renewal of license 15.00
- (3) Late renewal of license 20.00
- (4) Verification to other states 15.00
- (5) Repeat examination 35.00
- (6) Qualifying examination 35.00
- (7) Proctor service (for other state) 35.00

Written comments may be addressed to Merlyn M. Maillian, R. N., Executive Director, Louisiana State Board of Nursing, 907 Pere Marquette Building, 150 Baronne Street, New Orleans, LA 70112 until 4:30 p.m., July 20, 1982.

Merlyn M. Maillian, R. N.
Executive Director

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

Rule Title: R.N. 1.077

Fees for Registration and Licensure

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

The only anticipated cost is that which is inherent in the Rule making procedure.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

Revenue collections are expected to increase by approximately \$102,000.

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

The cost of a license to practice as a registered nurse in Louisiana will increase by \$5 per year; late renewal will increase by \$5 per year; verification of credentials to other states will increase by \$5 per individual; the fees collected by the Board from each candidate for licensure by examination will decrease by \$20 due to the candidates submitting directly to the testing agency an examination fee (\$18.50). Each candi-

NOTICE OF INTENT

**Department of Insurance
Life and Health Division**

The Department of Insurance intends to adopt the following regulation:

REGULATION 33

Medicare Supplement Insurance Policies

Section 1. Purpose.

The purpose of this regulation is to implement Act 146 Louisiana Legislature 1981 so as to provide reasonable standardization and simplification of terms and coverages of Medicare Supplement insurance policies in order to facilitate public understanding and comparison and to eliminate provisions contained in Medicare Supplement insurance policies which may be misleading or confusing in connection either with the purchase of such coverages or with the settlement of claims and to provide for full disclosure in the sale of such coverages.

Section 2. Authority.

This regulation is issued pursuant to the authority vested in the Commissioner under R.S. 22:224.

Section 3. Applicability and Scope.

This regulation shall apply to all Medicare Supplement policies as defined in R.S. 22:224 (B).

Section 4. Effective date.

This regulation shall be effective 90 days after the date of adoption or promulgation of the regulation.

Section 5. Definitions.

A. "Medicare Supplement Coverage" is a policy of accident and sickness insurance as defined in R.S. 22:224B (1).

B. The term "Hospital" may be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals or the American Osteopathic Hospital Association.

(a) The definition of the term "hospital" shall not be more restrictive than one requiring that the hospital:

1. Be an institution licensed as a hospital and operated pursuant to law; and

2. Be primarily and continuously engaged in providing or operating, either on its premises or in facilities available to the hospital on a pre-arranged basis and under the supervision of a staff of duly licensed physicians, medical, diagnostic and major surgery facilities for the medical care and treatment of sick or injured persons on an inpatient basis for which a charge is made; and

3. Provide 24-hour nursing service by or under the supervision of registered graduate professional nurses (R.N.s).

(b) The definition of the term "hospital" may state that such term shall not be inclusive of:

1. Convalescent homes, convalescent, rest, or nursing facilities; or

2. Facilities primarily affording custodial, educational or

rehabilitory care; or

3. Facilities for the aged, drug addicts or alcoholics; or

4. Any military or veterans hospital or soldiers home or any hospital contracted for or operated by any national government or agency thereof for the treatment of members or ex-members of the armed forces, except for services rendered on an emergency basis where a legal liability exists for charges made to the individual for services.

C. "Skilled nursing facility" shall be defined in relation to its status, facilities, and available services.

(a) A definition of such home or facility shall not be more restrictive than one requiring that it:

1. Be operated pursuant to law;

2. Be approved for payment of Medicare benefits or be qualified to receive such approval, if so requested;

3. Be primarily engaged in providing, in addition to room and board accommodations, skilled nursing care under the supervision of a duly licensed physician;

4. Provide continuous 24 hours a day nursing service by or under the supervision of a registered graduate professional nurse (R.N.); and

5. Maintains a daily medical record of each patient.

(b) The definition of such home or facility may provide that such term shall not be inclusive of:

1. Any home, facility or part thereof used primarily for rest;

2. A home or facility for the aged or for the care of drug addicts or alcoholics;

3. A home or facility primarily used for the care and treatment of mental diseases or disorders or custodial or educational care.

D. With respect to the terms "accident", "accidental injury" and "accidental means" the definition shall employ "result" language and shall not include words which establish an "accidental means" test or use words such as "external, violent, visible wounds" or similar words of descriptive or characterization. The definition shall not be more restrictive than the following: "Injury or injuries for which benefits are provided means accidental bodily injuries sustained by the insured person which are the direct cause independently of disease, bodily infirmity or other cause of the loss and occur while the insurance is in force." Such definitions may provide that injuries shall not include injuries to the extent benefits are provided under any workers' compensation, employers' liability or similar law.

E. "Sickness" shall not be defined to be more restrictive than the following: Sickness means illness or disease of an insured person which first manifests itself after the effective date of insurance and while the insurance is in force. A definition of sickness may provide for a probationary period which will not exceed 30 days from the effective date of the coverage of the insured person. The definition may be further modified to exclude sickness or disease to the extent benefits are provided under any workers' compensation, occupational disease, employers' liability or similar law.

F. The definition or description of "physician" may be restricted to a type of physician to the extent allowed by law. The insurer may also include terms such as "duly qualified physician" or "duly licensed physician." The use of such terms requires an insurer to recognize and to accept, to the extent of its obligation under the contract, all providers of medical care and treatment when such services are within the scope of the provider's licensed authority.

G. The definition or description of "nurse" may be restricted to a type of nurse, such as registered graduate professional nurse (R.N.), licensed practical nurse (L.P.N.), or licensed vocational nurse (L.V.N.). If the words "nurse", "trained nurse" or "registered nurse" are used without definition, then the use of

such terms requires the insurer to recognize the services of any individual who qualified under such terminology in accordance with the applicable statutes or administrative rules of the licensing or registry board of this state.

H. A Medicare supplement policy shall include a definition of "Medicare." Medicare may be substantially defined as "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Amended," or "Title 1, Part 1 of Public Law 89-97, as enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import.

I. "Mental or nervous disorders" shall not be defined more restrictively than a definition including neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder of any kind.

J. "Replacement" is any transaction wherein new Medicare supplement insurance is to be purchased and it is known to the agent, broker or insurer at the time of application that, as a part of the transaction, existing accident and health insurance has been or is to be lapsed or the benefits thereof substantially reduced.

K. "One period of confinement" means consecutive days of in-hospital service received as an inpatient, or successive confinements when discharged from and readmission to the hospital occurs within a period of time of not more than 60 days.

Section 6. General Policy Provisions.

The following shall be applicable to "Medicare Supplement Coverage". These are minimum standards and do not preclude the inclusion of additional benefits in such coverages:

A. Pre-existing condition limitations shall not exclude coverage for more than six months after the effective date of coverage under the policy for a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of the coverage;

B. The term "Medicare benefit period" shall mean the unit of time used in the Medicare program to measure use of services and availability of benefits under Part A Medicare hospital insurance;

C. The term "Medicare eligible expenses" shall mean health care expenses of the kinds covered by Medicare to the extent recognized as reasonable by Medicare. Payment of benefits by insureds for Medicare eligible expenses may be conditioned upon the same or less restrictive payment conditions, including determinations of medical necessity as are applicable to Medicare claims;

D. Coverage, when issued, shall not be subject to any exclusions, limitations, or reductions (other than as permitted in this regulation and other applicable laws and regulations) which are inconsistent with the exclusions, limitations, or reductions permissible under Medicare, other than a provision that coverage is not provided for any expenses to the extent of any benefit available to the insured person under Medicare;

E. Coverage shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents; and

F. Coverage shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and co-payment percentage factors. Premiums may be changed to correspond with such changes;

G. Premium charged for Medicare supplement policies shall be presumed unreasonable in relation to the benefits provided if the anticipated credible loss ratio for the policy is less than 60 percent on individual policies and 75 percent on group. In determining the credibility of the anticipated loss ratio, due consid-

eration shall be given to all relevant factors included in R.S. 22:224 (E).

Section 7. Minimum Benefit Provisions.

Medicare Supplement coverages shall provide at least the following benefits to an insured person:

A. Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the sixty-first day through the ninetieth day in any Medicare Benefit period;

B. Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

C. Upon exhaustion of all Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 90 percent of all Medicare Part A eligible expenses for hospitalization not covered by Medicare, subject to a lifetime maximum benefit of an additional 365 days;

D. Coverage of 20 percent of the amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket deductible of \$200 of such expenses and to a maximum benefit of at least \$500 per calendar year.

E. A policy issued as a "Medicare Supplement Coverage" shall not include, when issued, limitations or exclusions if such limitations or exclusions are more restrictive than those of Medicare for any type of care covered under such policy.

F. No policy may be designed or referred to as Medicare Supplement, Medi-Gap, or words of similar import, unless the policy complies with all the provisions of R.S. 22:224 and this regulation.

Section 8. Disclosure Requirements.

A. Insurers issuing policies under this part shall provide to the policyholder, a Medicare supplement buyer's guide in a form prescribed by the Commissioner. Except in the case of a direct response insurers, delivery of the buyer's guide shall be made at

the time of application and acknowledgement of receipt of certification of delivery of the buyer's guide shall be provided to the insurer. Direct response insurers shall deliver the buyer's guide upon request but not later than at the time the policy is delivered.

B. Medicare supplement policies, other than those issued pursuant to direct response solicitation, shall have a notice prominently and conspicuously printed on the first page of the policy, or attached thereto, stating in substance that the policyholder shall have the right to return the policy within ten days of its delivery and to have the premium refunded if, after examination of the policy, the policyholder is not satisfied for any reason. Policies issued pursuant to direct response solicitation to Medicare eligible persons shall have a notice prominently and conspicuously printed on the first page of the policy, or attached thereto, stating in substance that the policyholder shall have the right to return the policy within 30 days of its delivery and to have the premium refunded if after examination of the policy the policyholder is not satisfied for any reason.

C. No Medicare supplement policy subject to this chapter shall be delivered or issued for delivery in this state unless an appropriate outline of coverage is completed and delivered to the applicant at the time application is made and, except for Medicare supplement policies issued by direct response insurers, a copy of the certification form signed by the prospective insured which acknowledges receipt of such outline of coverage is returned to the insurer. For direct response insurers, an appropriate outline of coverage shall be completed and delivered to the prospective insured with any information requested, or with the policy if the prospective insured's first communication with the insurer is to submit a completed application.

D. An outline of coverage in the form prescribed below shall be issued for all Medicare supplement policies. The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY NAME) MEDICARE SUPPLEMENT COVERAGE - OUTLINE OF COVERAGE

1. Read Your Policy Carefully - This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR POLICY CAREFULLY!

2. Medicare Supplement Coverage - Policies of this category are designed to supplement Medicare by covering some hospital, medical, and surgical services which are partially covered by Medicare. Coverage is provided for hospital inpatient charges and some physician charges, subject to any deductibles and co-payment provisions which may be in addition to those provided by Medicare and subject to other limitations which may be set forth in the policy. The policy does not provide benefits for custodial care such as help in walking, getting in and out of bed, eating, dressing, bathing and taking medicine (delete if such coverage is provided).

3. (For agents:) Neither (insert company's name) nor its agents are connected with Medicare.

4. (A brief summary of the major benefit gaps in Medicare Parts A and B with a parallel description of supplemental benefits, including dollar amounts, provided by the Medicare Supplement Coverage in the following order:)

Service	Benefit	This Policy Pays	You Pay
HOSPITALIZATION			
Semi-private room and board, general nursing and miscellaneous hospital services and supplies. Includes meals, special care units, drugs, lab tests, diagnostic x-rays, medical supplies, operating and recovery room, anesthesia and rehabilitation services.	First 60 days	All but \$160	
	61st to 90th day	All but \$ 40	
	90th to 150th day	All but \$80	
	Beyond 150 days	Nothing	
Service	Benefit	Medicare Pays	This Policy Pays You Pay
Posthospital skilled nursing care..In a facility approved by Medicare you must have been in a hospital for at least three days and enter the facility within 14 days after hospital discharge.	First 20 days	100% of costs	
	Additional 80 days	All but (\$20) a day	
	Beyond 100 days	Nothing	
Medical Expense	Physician's services inpatient medical services and supplies at a hospital, physical and speech therapy and ambulance.	80 % of reasonable charge (after \$60 deductible)	

5. (A statement that the policy does or does not cover the following:)

1. Private duty nursing.
2. Skilled nursing home care costs (beyond what is covered by Medicare).
3. Custodial nursing home care costs.
4. Intermediate nursing home care costs.
5. Home health care (above number of visits covered by Medicare).
6. Physician charges (above Medicare's reasonable charge).
7. Drugs (other than prescription drugs furnished during a hospital or skilled nursing facility stay).
8. Care received outside of U.S.A.
9. Dental Care or dentures, checkups, routine immunizations, cosmetic surgery, routine foot care, examinations for the cost of eyeglasses or hearing aids.

6. (A description of any policy provision which excludes, eliminates, resists, reduces, limits, delays or in any other manner operates to qualify payment of the benefits described in (4) above, including conspicuous statements:)

1. (That the chart summarizing Medicare benefits only briefly described such benefits.)
2. (That the Health Care Financing Administration or its Medicare publications should be consulted for further details and limitation.)

E. (A description of policy provisions respecting renewability or continuation of coverage, including any reservation of right to change premium.)

Section 9. Replacement.

Requirements for replacement. The requirements for replacement of an accident and sickness insurance policy by a Medicare supplement policy are as follows:

1. Application forms shall include a question designed to elicit information as to whether the insurance to be issued is intended to replace any other accident and sickness insurance presently in force. A supplementary application or other form to be signed by the applicant containing such a question may be used.
2. Upon determining that a sale will involve replacement, an insurer, other than a direct response insurer, or its agent, shall furnish the applicant, prior to issuance or delivery of the policy, the notice described below. One copy of such notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer. A direct response insurer shall deliver to the applicant upon issuance of the policy, the required notice.
3. An insurer, within five working days from the receipt of an application at its policy issuance office, shall furnish a copy of such notice to the insurer whose policy is being replaced.

NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT INSURANCE

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing accident and sickness insurance and replace it with a policy to be issued by (insert company name) Insurance Company. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

A. Health conditions which you may presently have, (pre-existing conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

B. You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best

interest to make sure you understand all the relevant factors involved in replacing your present coverage.

C. If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical/health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, re-read it carefully to be certain that all information has been properly recorded.

The above "Notice to Applicant" was delivered to me on:

(Date)

(Applicant's Signature)

NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT INSURANCE FOR DIRECT RESPONSE INSURER

According to (your application) (information you have furnished) you intend to lapse or otherwise terminate existing accident and sickness insurance and replace it with the policy delivered herewith issued by (insert company name) Insurance Company. Your new policy provides 10 days within which you may decide without cost whether you desire to keep the policy. For your own information and protection you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

(1) Health conditions which you may presently have, (pre-existing conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(2) You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(3) (To be included only if the application is attached to the policy.) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to (insert company name and address) within 10 days if any information is not correct and complete, or if any past medical history has been left out of the application.

Interested persons may submit comments on the proposed regulation, in writing, by July 8, 1982, at the following address: Donald K. Boudreaux, Chief of Consumer Affairs, Department of Insurance, Box 44214, Baton Rouge, LA 70804.

Sherman A. Bernard
Commissioner

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

Rule Title: Medicare Supplement Insurance Policies

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)
There will be no implementation costs (savings) to the agency.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)
There will be no effect on revenue collections.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)
There will be no costs and benefits to affected groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
There will be no effect on competition and employment.

Donald K. Boudreaux
Chief of Consumer Affairs

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

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

Pursuant to the provisions of R.S. 49:953, the Environmental Control Commission (ECC) gives notice that it initiated Rulemaking procedures to revise Sections 6.10.2, 5.1, 5.2, 5.3 and 5.4 of the Air Quality Regulations at their March 25, 1982 meeting. These proposed regulations are being forwarded to the Joint Committees on Natural Resources for approval. Upon their approval, the ECC will then consider adoption at the July 22, 1982 hearing.

The proposed revision to Section 6.10.2 relaxes the reporting requirements for facilities on a compliance schedule from semi-annual to annual.

The proposed revision to Section 5.1 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.

The person within the agency responsible for responding to inquiries about the proposed revisions is Gus Von Bodungen, Program Administrator, Air Quality Division, Box 44066, Baton Rouge, Louisiana 70804; telephone (504) 342-1206.

All interested persons are invited to submit written comments, speak at the public hearing, or both, about any of the actions proposed above. Comments, received in person or by mail, before the public hearing will be considered by the Commission before making the final decision on any of the proposed actions. All comments and requests to speak at the hearing should be submitted to B. Jim Porter, Assistant Secretary, Office of Environmental Affairs, Box 44066, Baton Rouge, Louisiana 70804. All documents relating to the actions on this notice are available for inspection at the following locations from 8 a.m. until 4:30 p.m.

Room 409, State Office Building, 325 Loyola Ave., New Orleans, LA

Reception area, 8th floor, State Land and Natural Resources Building, 625 North 4th Street, Baton Rouge, LA

Office of Environmental Affairs, 804 31st Street, Monroe, LA

State Office Building, 1525 Fairfield Ave., Shreveport, LA
Office of Environmental Affairs, 1155 Ryan Street, Lake Charles, LA

B. Jim Porter
Assistant Secretary

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

Rule Title: Sections 5.1, 5.2, 5.3, 5.4

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)
There will be no cost or savings to the agency.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)
There will be no effect on revenue collections.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)
There is no cost effect or change in benefits.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
There will be no effect on competition and employment.

Jerry D. Hill
Undersecretary

Mark C. Drennen
Legislative Fiscal Officer

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

Rule Title: Section 6.10.2

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)
There are no estimated implementation costs or savings to the agency.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)
There is no estimated effect on revenue collection.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)
The costs of reporting will be reduced because only one report a year is required as opposed to two.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
There is no estimated effect on competition and employment.

Jerry D. Hill
Undersecretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Public Safety
Office of Alcoholic Beverage Control**

The Office of Alcoholic Beverage Control is hereby repealing Regulation Number X in its entirety.

RULE

A. The Louisiana Alcoholic Beverage Control Board shall deem it unlawful by wholesaler permittees, their agents, servants or employees, manufacturers' agents, importers and brokers, the pricing, stocking and rotating of alcoholic beverages containing more than 6 percent alcohol by volume at retail premises. It is permissible for a wholesale permittee to assemble a display on a retailer's premises. However, this display shall not be priced or restocked.

Control Board may seek a suspension or revocation of the permit or permits of a violator and may impose such other penalties as

prescribed by law.

Interested persons may submit written testimony on this subject to the Louisiana Commission on Alcoholic Beverages, Box 66404, Audubon Station, Baton Rouge, Louisiana 70896 through July 5, 1982.

Forrest H. "Bucky" Lanning
Assistant Secretary-Commissioner

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

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)
It is estimated that there will be no costs or savings to the agency associated with implementation of this Rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)
It is estimated that there will be no effect on revenue collections associated with implementation of this Rule.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)
It is estimated that there will be no cost or benefits to affected groups associated with implementation of this Rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
It is estimated that there will be no effect on competition and employment.

Oris B. Johnson
Undersecretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Fire Marshal for the State of Louisiana hereby intends to adopt the following amendment to L.A.C. 17-4:16 Unattended Gasoline Dispensing Stations by adding a new sub-paragraph 17-4:16.12 making the following requirement for liability insurance:

In addition to the above requirements, the owner of any unattended gasoline dispensing system will be required to provide a certificate of insurance to the State Fire Marshal of the state of Louisiana in which the insurer certifies that the owner of the system has complete liability insurance coverage of at least \$5,000,000 for each location on which an unattended gasoline dispensing system is located. The \$5,000,000 liability insurance coverage will contain a hold harmless clause and a waiver of subrogation clearly indicating that no action will ever be taken by the owner or the insurer against the state of Louisiana for any incident, accident, or other possibility of liability as a result of the existence of the unattended gasoline dispensing system and the regulation of same by the State of Louisiana. All unattended gasoline dispensing systems presently operating will be required to provide to the State Fire Marshal this certificate of insurance within 30 days of the date that this regulation becomes effective. It shall thereafter be incumbent upon the owner and/or the insurer to provide a new certificate of insurance in accordance with this requirement no later than 30 days before the end of the term of the policy. In the event that the insurer desires to cancel the insurance for any reason, they are hereby required to give the state of Louisiana through the Office of State Fire Marshal 30 days notice. New owners and operators of unattended gasoline dispensing systems are required to submit their certificate of insurance at the time that they submit their plans and specifications for the construction of the facility.

Anyone having any questions with regard to this proposed administrative ruling should contact Plauche F. Villere, Jr., Attorney for the State Fire Marshal, 500 Dufossat Street, New Orleans, Louisiana 70115, (504) 897-6600. There will be a hearing on July 6, 1982 at noon in his office.

Carrol L. Herring
State Fire Marshal

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Amendment to L.A.C. 17-4:16.12
Unattended Gasoline Dispensing Systems**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)
It is estimated that implementation of this administrative ruling will produce no additional costs or savings to the agency.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)
It is estimated that implementation of this administrative ruling will have no effect on revenue collections.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)
There are very few such gasoline dispensing operations in the state, the majority of which carry at a minimum the liability insurance required by this ruling. It is uncertain as to the liability coverage of several such outlets. The present formula for calculating liability coverage is as follows: (at \$1,000,000 as compared to \$5,000,000) At \$1 million \$.32/\$100 gross receipts for bodily injury. At \$1 million \$.13/\$100 gross receipts property damage. At \$5 million \$.60/\$100 gross receipts for bodily injury. At \$5 million \$.15/\$100 gross receipts property damage. The impact of this ruling will depend upon current coverage of such stations as compared to the required coverage.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
There may be an adverse effect on competition as unattended dispensing stations will be required to maintain a high level of liability insurance while attended stations will not be required to maintain this level. That effect, however, cannot be determined at this time.

Carrol L. Herring
State Fire Marshal

Mark C. Drennen
Legislative Fiscal Officer

Committee Reports

**COMMITTEE REPORT
House of Representatives
Committee on Commerce**

Dear Governor Treen:

This letter certifies the action disapproving the Proposed Rule LAC 11-6:25.35 of the Louisiana State Racing Commission by the Subcommittee on Executive Agency Oversight and Review

of the House Committee on Commerce today at a public hearing. The Rule was first published in the November 20, 1981, issue of the *Louisiana Register*, page 597, and finally adopted on April 16, 1982.

The members of the Subcommittee, acting on behalf of the full House Committee on Commerce (R.S. 49:968(D)) and the House of Representatives (R.S. 49:968(E)), disapproved the proposed Rule in question by a favorable 6-to-0 vote. With respect to the disapproved Rule LAC 11-6:25.35 the Subcommittee determined the following:

1. The Rule would add a new Rule, designated as LAC 11-6:25.35, regarding the prohibition of horse owners or trainers from entering or causing to be entered a horse at a track of an association in which he has direct or indirect financial interest.

2. The Commission report offers no specific citation of law, as required under the Administrative Procedure Law, authorizing the adoption of this new Rule.

3. The Legislature of Louisiana had considered but not enacted legislation on this matter during the 1981 Regular Session; in fact, two measures, Senate Bill 318 by Senator Brinkhaus referred to the Senate Committee on Revenue and Fiscal Affairs on April 23, and Senate Bill 471 by Senator Rayburn referred to the Senate Committee on Finance, were not reported.

4. The House of Representatives, through the House Committee on Commission, studied various aspects of the horse racing industry during the 1981-82 interim, including the question of ownership and track interests. The findings of the study Subcommittee suggests that appointment of stewards is the critical issue rather than any outright prohibition of ownership.

5. House Bill 602 by Bagert, et al. of the 1982 Regular Session addresses this question by proposed new law, R.S. 4:147.1, to provide for appointments of the racing stewards in the case of a horse owner having an interest in a track. This bill was heard by the House Committee on Commerce on April 29, by a 12-0 vote, with only technical amendments, and finally passed on April 19, by the full House.

6. In this hearing on this Rule, the Subcommittee cited the failure of such restrictive legislation to pass in the past, and, with the pending status of HB 602, it judged that it would be premature to approve this Rule. Because the Commission's representative could not withdraw the Rule, the Subcommittee had no recourse but to disapprove it.

Under the provisions of R.S. 49:968, you have five days in which to consider the action of the Subcommittee and act on it. Attached as Attachment II is a statement of your action; please return it to the House Committee on Commerce.

Eddie Doucet
Chairman, Subcommittee on
Executive Agency Oversight and
Review, House Committee on Commerce

ACTION OF THE GOVERNOR

I disapprove the action of the House Committee on Commerce, Subcommittee on Executive Agency Oversight and Review with respect to the Proposed Rule LAC 11-6:25.35 as adopted by the Louisiana State Racing Commission.

David C. Treen
Governor of Louisiana

COMMITTEE REPORT

House of Representatives

Committee on Commerce

Dear Governor Treen:

This letter certifies the action disapproving the proposed Rule 57 of the Louisiana State Racing Commission by the Subcommittee on Executive Agency Oversight and Review of the House Committee on Commerce on May 19, 1982 at a public hearing. The Rule was published in the March 20, 1982, issue of the *Louisiana Register*, page 152. The Subcommittee acted in accordance with the Administrative Procedure Law generally, and specifically with R.S. 49:968.

The members of the Subcommittee, acting on behalf of the full House Committee on Commerce (R.S. 49:968(D)) and the House of Representatives (R.S. 49:968(E)), disapproved the proposed Rule in question by a favorable 6-to-0 vote. With respect to the disapproved Rule 57 the Subcommittee determined the following:

1. The Rule would add a new Rule, designated as 57 under LAC 11-6:53 et seq Exclusions and Ejection (R.S. 4:191 et seq).

2. Present law, enacted as Act 779 of the 1981 Regular Session, requires the Louisiana State Racing Commission to "adopt and promulgate Rules and Regulations establishing categories of persons who may be excluded or ejected from a track, race meeting, or licensed establishment."

3. Within the five categories enumerated specifically in R.S. 4:193, the Commission would have to establish further within these categories the kind of person to be excluded or ejected to avoid Rules and Regulations that may be considered broad.

4. Present reading of this Section of Title 4 suggests that the Legislature intended the Commission to more fully explain the kind of persons committing certain acts to be excluded or ejected within these five specified categories and to include additional categories, as necessary and to explain these additional categories as well.

5. Rule 57.1 particularly expresses the broadness that could be enforced with capriciousness for it permits exclusion or ejection of a person who "... is or has been improper, obnoxious, unbecoming or detrimental to the best interest of racing . . ."

6. Further, the Commission's Rule does not attempt to clarify in any manner a distinction between licensed persons and those who are unlicensed for exclusion or ejection.

7. Because R.S. 4:192 (A)(1)-(5) is the substance of this law, and the Commission has not fully and adequately complied with the legislated mandate, the Subcommittee rejected the Rule 57 on the basis that it is overly broad and does not describe the persons and activities warranting exclusion or ejection from a race track or race meeting.

8. The Subcommittee recognizes the need for the law and Rules to enforce the law, especially towards prohibiting entrance of known bookmakers (as referred to in Rule 57.3(F)) and desires the Commission to reconsider a more stringently drafted Rule.

Under the provisions of R.S. 49:968, you have five days in which to consider the action of the Subcommittee and act on it. Attached as Attachment II is a statement of your action; please return it to the House Committee on Commerce.

Eddie Doucet
Chairman, Subcommittee on
Executive Agency Oversight and
Review, House Committee on Commerce

ACTION OF THE GOVERNOR

I disapprove of the action of the House Committee on Commerce, Subcommittee on Executive Agency Oversight and Review with respect to the Proposed Rule 57 as adopted by the Louisiana State Racing Commission.

David C. Treen
Governor of Louisiana

COMMITTEE REPORT

House of Representatives Natural Resources Oversight Committee

Pursuant to the provisions of R.S. 49:968, the House of Representatives Natural Resources Committee met on May 19, 1982, and reviewed certain changes in state regulations proposed by the Louisiana Forestry Commission, for which notice of intent is scheduled to be published in the May 20, 1982, *Louisiana Register* with the following results:

- 1) Revision of prices to be effective July 1, 1982, as follows:
Regular Pine Seedlings — \$19 per M (up from \$16.50/M)
Special Pine Seedlings — \$30 per M (up from \$25/M)
Hardwood Seedlings — \$60 per M (up from \$50 /M)
Approved by a vote of 10-0.

Arthur W. Sour, Jr., Chairman
House Committee on Natural Resources

COMMITTEE REPORT

House of Representatives Natural Resources Oversight Committee

Pursuant to the provisions of R.S. 49:968, the House of Representatives Natural Resources Committee met on May 20, 1982, and reviewed certain changes in state regulations proposed by the Department of Wildlife and Fisheries, for which Notice of Intent was published in the May 20, 1982, *Louisiana Register* with the following results:

- 1) Proposed 1982-1983 Hunting Regulations/Seasons.
- 2) Prohibition of use of gill, trammel and flagg nets in Lake Claiborne, Claiborne Parish, Louisiana.

Approved by a vote of 9-0.

Arthur W. Sour, Jr., Chairman
House Committee on Natural Resources

Potpourri

POTPOURRI Department of Natural Resources Fishermen's Gear Compensation Fund Claims

In accordance with the provisions of the Fishermen's Gear Compensation Fund, ACT 673 of 1979 and in particular Section

700.4 thereof; Regulations adopted for the fund as published in the *State Register* on August 20, 1980, and also the Rules of the secretary of this department, notice is hereby given that 12 completed claims were received during the month of May, 1982, amounting to \$23,950.03. Nine claims amounting to \$9,758.37 were paid during the month of May, 1982.

Public hearings to consider completed claims have been scheduled as follows:

Thursday, July 1, 1982 at 11 a.m. in Room 109 and 110 in Cameron Parish Courthouse in Cameron, Louisiana to consider payment of the following claims against the fund:

Claim No. 82-443--Sherrill Authement, while trawling the vessel "Moore Seafood" in the Gulf of Mexico, south of Holly Beach in 12 feet of water, Cameron Parish, encountered cement sacks and a metal grating on February 20, 1982, at approximately 12 noon, causing damage to his 50 foot trawl. Amount of claim: \$500.

Claim No. 82-453--Frankie Mock, while trawling on the vessel, "Lil Velma" in the Gulf of Mexico, at LORAN-C coordinates of 26,702.7 and 46,977.0, Cameron Parish, encountered submerged pilings and shells on March 18, 1982, at approximately 1:30 p.m., causing damage to one 60 foot balloon net and the loss of one 60 foot balloon net. Amount of claim: \$1,455.

Claim No. 82-465--Elmer Peshoff, while trawling on the vessel, "Mr. Kirk," in the Gulf of Mexico, six miles east of Calcasieu Pass and one-half mile from the beach, Cameron Parish, encountered a piece of conductor pipe on May 3, 1982 at approximately 10 a.m., causing the loss of a 40 foot trawl. Amount of claim: \$700.

Claim No. 82-466--Louis Boullion, while trawling on the vessel, "The Beak" in the Gulf of Mexico, one-fourth mile east of the Calcasieu Jetties and one-half mile from the beach, Cameron Parish, encountered a submerged boat on April 30, 1982, at approximately 9 a.m., causing damage to his two 30 foot trawls. Amount of claim: \$936.

Claim No. 82-474--David Bruce Lowery, while trawling on an unnamed vessel, Louisiana Registration Number LA 3699 AJ in the Gulf of Mexico, two and three-fourths miles west of Freshwater Bayou and two and three-fourths miles from beach, Vermilion Parish, encountered an unidentified submerged obstruction, on April 2, 1982 at approximately 11:30 a.m., causing damage to his vessel and trawls. Amount of claim: \$1,986.32.

Claim No. 82-476--Sherrill Authement, while trawling on the vessel, "Moore Seafood" in the Gulf of Mexico, west of Southwest Pass, Vermilion Parish, encountered an unidentified submerged obstruction on April 1, 1982, at approximately 3 a.m., causing the loss of his vessel. Amount of claim: \$4,914.32.

Thursday, July 8, 1982 at 11 a.m., in L.S.U. Cooperative Extension Service Office, Greater Lafourche Port Commission Building, Highway 308, Galliano, Louisiana to consider payment of the following claims against the fund:

Claim No. 80-106--Antoine Chauvin of Lady Rowena, Inc., while trawling on the vessel "Lady Rowena, Inc." in the Terrebonne Bay at LORAN-C coordinates of 28,170.5 and 46,852.5, Terrebonne Parish, encountered an unidentified submerged obstruction on May 30, 1980 at approximately 9 a.m., causing damage to his trawl. Amount of claim: \$521.

Claim No. 82-462--Mervin Ledet of Rudy Joe, Inc., while trawling on the vessel, "Rudy Joe" in the Gulf of Mexico, approximately two and one-half miles east of Bayou Taylor light, east of Grand Caillou Bayou, and one-half mile from the beach, Terrebonne Parish, encountered a submerged boat on April 19, 1982, at approximately 5 p.m., causing damage to his fifty foot trawl and related gear. Amount of claim: \$498.

Claim No. 82-473--Farrel Charpentier, while traveling to a fishing area on the vessel, "Captain Farrel" in Bayou Lafourche, approximately one mile south of Golden Meadow Bridge, Lafour-

che Parish, encountered a cable on May 11, 1982, at approximately 10:30 a.m., causing damage to his cable. Amount of claim: \$450.

Claim No. 82-480--Jimmy J. Plaisance, of Captain Wayne, Inc., while trawling on his vessel, "Captain Wayne" in the Gulf of Mexico, at LORAN-C coordinates of 28,408.9 and 46,836.7 Lafourche Parish, encountered an unidentified submerged obstruction, on May 16, 1982, at approximately 12:30 p.m., causing damage to his trawl and related gear. Amount of claim: \$1,590.26.

Claim No. 82-483--Warren Sanamo, while trawling on the vessel, "My Janet" in the Gulf of Mexico, west of Comanda Pass, one-fourth mile from beach in 11 feet of water, with LORAN-C coordinates of 28,433.1 and 46,841.0 Lafourche Parish, encountered an unidentified submerged obstruction on May 21, 1982, at approximately 6 p.m., causing damage to one 50 foot trawl and related gear. Amount of claim: \$774.38.

Claim No. 82-439: Leroy J. Terrebonne, Sr.--This claim file was kept open after the public hearing on May 21, 1982. The hearing officer intends to take additional testimony at the July 8, 1982 public hearing in Galliano, Louisiana.

Friday, July 9, 1982 at 10 a.m. in the Lafitte Civic Center, City Park Drive, Lafitte, Louisiana to consider payment of the following claims against the fund:

Claim No. 81-408--Ferrell J. Savoie, while trawling on the vessel, "Foxy Mama" in Dixon Bay, approximately one-fourth mile east of Grand Pass in five to six feet of water, Plaquemines Parish, encountered a submerged log on November 20, 1981, at approximately 4:30 p.m., causing damage to his trawl. Amount of claim: \$725.

Claim No. 82-448--Gerard R. Kuhn, while trawling on the vessel, "Miss Angie" in Barataria Waterway, south of Bayou Dupont, Jefferson Parish, encountered an unidentified submerged obstruction on February 11, 1982, at approximately 5 p.m., causing damage to his boat. Amount of claim: \$5,000.

Claim No. 82-461--Albert L. Darda, Jr., while trawling on the vessel, "Misty Morn" in the Gulf of Mexico at LORAN-C coordinates of 26,895.0 and 46,965.7 Cameron Parish, encountered an unidentified submerged obstruction on March 28, 1982 at approximately 1:30 p.m., causing damage to three 55 foot trawls and related gear. Amount of claim: \$5,000.

Claim No. 82-471--Brain K. Plaisance, while trawling on the vessel, "Little Reo" in the Gulf of Mexico at LORAN-C coordinates of 28,632.7 and 46,866.1, Plaquemines Parish, encountered an unidentified submerged obstruction on May 11, 1982 at approximately 6 p.m., causing damage to his 50 foot trawl. Amount of claim: \$845.75.

Claim No. 80-100 (Rescheduled)--Roy L. Smith, while trawling on the vessel, "Sue Ann" in the Gulf of Mexico, west of Sandy Point, one and one-half miles northwest of tank battery and approximately two miles off beach, Plaquemines Parish, encountered a submerged vessel on May 6, 1980, at approximately 10:30 a.m., causing damage to his trawl. Amount of claim: \$500.

Any written objections to these claims must be received by the close of business, two days before the scheduled hearing, by the Secretary whose address is: Frank P. Simoneaux, Department of Natural Resources, Box 44396, Baton Rouge, LA 70804.

At the hearings, any person may submit evidence on any phase of the claim.

Frank P. Simoneaux
Secretary

POTPOURRI
Department of Natural Resources
Office of Conservation

UNDERGROUND INJECTION CONTROL DIVISION
Docket Number UIC 82-7

In accordance with the laws of the state of Louisiana, and with particular reference to the provisions of LRS 30:4, notice is hereby given that the Commissioner of Conservation will conduct a public hearing at 11 a.m., Wednesday, July 21, 1982, in the meeting room of the North Branch Library located on Highway 659 (West Park Ave.) in Gray, Louisiana.

At such hearing the Commissioner of Conservation or his designated representative will hear testimony relative to the application of Houma Salt Water Disposal Corporation of Route 2, Box 142A-7, Houma, Louisiana. The applicant intends to construct and operate a commercial salt water disposal well and facility in Section 26, Township 17 South, Range 18 East, Terrebonne Parish, Louisiana, and inject into the subsurface salt water generated from oil and gas production.

Prior to authorizing the use of this well for disposal of salt water, the Commissioner of Conservation must find that the applicant has met all the requirements of Statewide Order No. 29-B (August 1, 1943 as amended).

The application is available for inspection by notifying Fritz L. Spencer, Jr., Office of Conservation, Underground Injection Control (UIC) Division, Room 228, of the Natural Resources Building, 625 North 4th St., Baton Rouge, LA.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 5 p.m., July 21, 1982, at the Baton Rouge office. Comments should be directed to Commissioner of Conservation, Box 44275, Baton Rouge, La. 70804. Re: Docket No. UIC 82-7, Commercial Salt Water Disposal Well, Terrebonne Parish.

R. T. Sutton
Commissioner of Conservation

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