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# Executive Orders

## EXECUTIVE ORDER DCT 80-7

WHEREAS, due to natural and incidental man-made catastrophes and disaster which have resulted and will continue to result from the torrential rains, highwater levels and flooding of certain areas of the State of Louisiana, causing, or threatening to cause widespread and severe damage and injury, including loss of life or property; and

WHEREAS, persons and property in and near False River in Pointe Coupee Parish may be victimized or threatened by such catastrophes and disasters; and

WHEREAS, the seriousness of the current emergency has been publicly announced by the Police Jury of Pointe Coupee Parish, Louisiana with the request that specific emergency action be taken; and

WHEREAS, when such conditions exist and valid requests are made to him, it is necessary and appropriate, under the constitution and laws of this state, for the Governor to take such action as he considers necessary and appropriate to protect lives and property to the end that existing hazards and dangers will be decreased and hopefully eliminated; and

WHEREAS, power boat navigation on False River during this time of crisis can only serve to cause damage and injury and to maintain the level of or to increase existing hazards and danger to life and property; and

WHEREAS, the Chief Executive of Louisiana is required to act in the public interest in times of emergency, catastrophe, and disaster,

NOW, THEREFORE, by virtue of the powers vested in me to preserve law and order and to curtail and reduce the injury and damage to persons and property resulting from catastrophe and disaster, I, DAVID C. TREEN, acting under the authority granted to me and the duties imposed upon me by Article 4, Section 5(A) and (J) of the Louisiana Constitution of 1974, Act 636 of 1974 as amended by Section 1 of Act 645 of 1975 (The Louisiana Disaster Act of 1974), do hereby, and for an indefinite period not to exceed 30 days from this date, order and proclaim that power boat navigation on False River be and the same is hereby prohibited.

IN WITNESS WHEREOF, I have hereunto set my hand officialy 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 17th day of May, A.D., 1980.

David C. Treen  
Governor of Louisiana

## EXECUTIVE ORDER DCT 80-8

WHEREAS, the State of Louisiana recognizes the importance of its rural areas to the state's economic, social and cultural well-being; and

WHEREAS, these rural areas are suffering population decline, economic stagnation and increased demand for government services; and

WHEREAS, state, federal, and local governments and agencies are vitally interested in maintaining and developing rural areas of Louisiana;

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, by virtue of the power vested in me by the constitution and the laws of this state, do hereby create a Gov-

ernor's Rural Development Council which will allow public officials, government agencies and private agencies to assemble and develop coordinated programs for rural development.

BE IT FURTHER RESOLVED, that the Governor's Rural Development Council shall propose means to coordinate state, federal and local governmental resources with private resources to develop rural areas of Louisiana. The activities of the Council shall include but not be limited to:

Research on rural conditions and problems and governmental actions to alleviate these conditions;

Development of intergovernmental programs for the development of rural areas that will allow for the more efficient use of public resources;

Provide advice to the Governor and the Legislature on the need for and suggested composition of a state rural development policy;

Formation of subcommittees composed of Council members and other appropriate public and private interests to impact on specific rural development problems.

BE IT FURTHER RESOLVED, that said Council shall be composed of six members to be appointed by the Governor one from each of the following organizations: 1) the Louisiana Association of Planning and Development Districts, 2) the Louisiana Farm Bureau, 3) the Louisiana Municipal Association, 4) the Police Jury Association of Louisiana, 5) the Louisiana Ozarks Regional Commission, 6) a representative of commercial agribusiness.

The Louisiana Commissioner of Agriculture; the Secretary of the Louisiana Departments of Commerce, Health and Human Resources, Natural Resources, Transportation and Development, Urban and Community Affairs, and Wildlife and Fisheries; the Director of the Louisiana Cooperative Extension Service and the Executive Director of the Louisiana State Planning Office will serve as ex-officio members representing state agencies.

The State Executive Director, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture; State Director, Farmers Home Administration, U.S. Department of Agriculture; the State Conservationist, Soil Conservation Service, U.S. Department of Agriculture; the Louisiana Economic Development Representative, Economic Development Administration, U.S. Department of Commerce; the District Engineer, New Orleans District, U.S. Army Corps of Engineers; and the Regional Director, Federal Region VI, U.S. Department of Housing and Urban Development will serve as ex-officio members representing federal agencies.

The Louisiana Congressional Delegation is requested to designate a representative to this Council.

The Louisiana Senate and the Louisiana House of Representatives are each requested to designate a representative to this Council.

BE IT FURTHER RESOLVED, that the Governor's Rural Development Council shall elect a chairman from among its members and meet at the discretion of its members but not less often than once each quarter.

IN WITNESS WHEREOF, I have hereunto set my hand officialy and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 27th day of May, A.D., 1980.

David C. Treen  
Governor of Louisiana

## EXECUTIVE ORDER DCT 80-9

WHEREAS, by Public Law 94-482 Congress established the National Occupational Information Coordinating Committee for the purposes of improving coordination among vocational educa-

tion, vocational rehabilitation, and manpower training programs, and to develop a source of information which will facilitate the accurate analysis and prediction of occupational supply and demand; and

WHEREAS, the Congressional Act mandates each state receiving funds under the Comprehensive Employment and Training Act of 1973 (CETA) to participate in this occupational information program, and to form a State Occupational Information Coordinating Committee, and to create a coordinated system of employment information; and

WHEREAS, in order to provide more realistic employment opportunities and to generate information necessary to achieve the related but distinct objectives of vocational, educational, and rehabilitative programs, there should be developed uniform definitions of employment terminology, standards for estimating jobs, standards for estimating the labor force, and standard occupational classifications; and

WHEREAS, all of the above are national goals which can best be accomplished by full cooperation and coordination of efforts between the Federal government and the governments of the participating states; and

WHEREAS, this Administration is aware of the urgent need to manage public vocational programs in the most efficient manner and to provide a system of common information so as to contribute to the development of our state's economy; and

WHEREAS, the Congress has appropriated funds to initiate a coordinated occupational information system; and

WHEREAS, by participation in this program the State of Louisiana will realize many benefits, including improved governmental response to the needs of employers and job seekers, more effective management, more reliable occupational information for the use and benefit of public entities and private enterprise alike, more clearly identified employment opportunities, and improved reporting on the labor market.

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, by the power and authority vested in me by the Constitution and the laws of the State, do hereby create and establish in the Department of Labor the State Occupational Information Coordinating Committee. Fiscal responsibility shall be vested in the State Department of Labor which embraces the Office of Employment Security. The Committee shall be an interagency public body composed of the Assistant Secretary of the Office of Employment Security, Department of Labor; the Assistant Secretary of the Office of Rehabilitation Services, Department of Health and Human Resources; the Director of the State Employment and Training Council; and a representative of the Vocational-Technical Education Committee of the State Board of Elementary and Secondary Education (The State Board of Vocational Education).

The Committee shall:

1) Create an occupational information system for the State of Louisiana. This system, shall be housed in the Department of Labor, shall serve the State's programs in vocational education, vocational rehabilitation, manpower training, and economic development.

2) Execute an interagency agreement for the purpose of coordinating a program of occupational information.

3) Develop a delivery system which will provide occupational and educational information to be used for career choice and job search purposes.

4) Develop information on labor demand and supply, using uniform employment definitions, standard estimation and projection procedures, and standard occupational classifications.

5) Upon request, provide State agencies, members of the Legislature, or private citizens with accurate, pertinent information.

6) Submit an annual plan of operation to the Louisiana Department of Labor and the National Occupational Information Coordinating Committee.

BE IT FURTHER PROVIDED, that only the four statutory members as established by the Congressional Act, who are the administrators of the State Manpower Services, Vocational Education, Vocational Rehabilitation, and Employment Security Programs, or their delegated representatives, may decide any matter concerning the expenditure of funds.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 27th day of May, A.D., 1980.

David C. Treen  
Governor of Louisiana

### EXECUTIVE ORDER DCT 80-10

WHEREAS, the State of Louisiana's telecommunications services represents a multimillion dollar annual expenditure; and

WHEREAS, modern day telecommunications services is one of the most effective tools of management; and

WHEREAS, consolidated management of the state's telecommunications systems can result in a significant cost savings to state government; and

WHEREAS, consolidated purchase lease and/or a procurement of telecommunication equipment, circuits, lines and instruments can assure that a uniform and high quality of telecommunication service can be provided to all of state government; and

WHEREAS, consolidated billing for service can allow the state to take advantage of the use of high volume, low cost, intra and inter state private line telecommunication circuits and switching systems; and

WHEREAS, emerging new technologies in telecommunication services must be investigated and integrated into the state telecommunication system when applicable,

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, by virtue of the authority vested in me under the Constitution and laws of this State, specifically Louisiana Revised Statutes, Title 39, do hereby establish and affirm the duties and responsibilities of the Office of Telecommunications Management, a subdivision of the Division of Administration, as herein after prescribed.

The Office shall establish, manage and operate, through either state ownership or commercial leasing, telecommunication systems and services as they affect management and operation of state government. Telecommunications system or service as defined in this order, shall mean the equipment, personnel, policies and means necessary to provide:

- 1) Central telephone systems and telephone networks,
- 2) Teleprocessing and data transmission networks,
- 3) Teletype and facsimile networks,
- 4) Satellite services,
- 5) Radio paging services,
- 6) Mobile telephone service,
- 7) Intercom and electro-mechanical paging system,
- 8) Any and all systems based on emerging and future telecommunication technologies, and
- 9) Any other telecommunication service or activity mandated to the agency by statute, rule, regulation or order.

State agencies as referred to in this order are those state agencies defined in Louisiana Revised Statutes, Title 39.

The Office shall act as the sole centralized customer for the acquisition, billing and record keeping of all leased telecommunication systems or services provided to state agencies.

The Office, under the authority of the Centrex Revolving Fund, shall charge respective user agencies for their proportionate cost of the installation, maintenance and operation of the telecommunications systems and services, including the operation of the Office.

# Emergency Rules

The Office shall develop coordinated telecommunications systems or services within and among all state agencies, departments and institutions, and require, where appropriate cooperative utilization of telecommunication equipment and services by aggregating users.

The Office shall review, coordinate, approve or disapprove all requests by state agencies for the procurement, through purchase or contract for lease, of telecommunications systems or services including telecommunication proposals, studies and telecommunication consultation contracts.

The Office shall establish and define telecommunications systems and services specifications and designs so as to assure compatibility of telecommunication systems and services within state government.

The Office shall provide a continuous comprehensive analysis and inventory of telecommunications costs, facilities, systems and personnel within state government.

The Office shall promote, coordinate and/or assist in the design and engineering of emergency telecommunications systems, including but not limited to "911" service, emergency medical services and other emergency telecommunications services.

The Office shall advise and provide consultation to agencies and institutions of telecommunications management planning and related matters and provide training to users within state government in telecommunications technology and system use.

The Office shall develop policies, procedures and long range plans, consistent with the protection of citizens' rights to privacy and access to information, for the acquisition and use of telecommunications systems, and to base such policies or current information about state telecommunications activities in relation to the full range of emerging technologies.

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 2nd day of June, A.D., 1980.

David C. Treen  
Governor of Louisiana

## EXECUTIVE ORDER DCT 80-11

WHEREAS, Executive Order No. 80-7, issued the 17th day of May, 1980, ordered and proclaimed power boat navigation on False River to be prohibited; and

WHEREAS, such Executive Order was issued because power boat navigation on False River at that time could have caused damage and injury to life and property; and

WHEREAS, the threat of danger has passed and such emergency condition no longer exists,

NOW, THEREFORE, by the powers vested in me, and acting under the authority granted to me and the duties imposed upon me by Article 4, Section 5 (A) and (J) of the Louisiana Constitution of 1974, and Act 636 of 1974, as amended by Section 1 of Act 645 of 1975 (The Louisiana Disaster Act of 1974), I, DAVID C. TREEN, Governor of the State of Louisiana, do hereby cancel and rescind Executive Order No. 80-7, ending the prohibition of power boat navigation on False River.

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 6th day of June, A.D., 1980.

David C. Treen  
Governor of Louisiana

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

The State Board of Elementary and Secondary Education, at its meeting on May 22, 1980, exercised those powers conferred by the emergency provisions of the Administrative Procedures Act R.S. 49:953B in order to protect the welfare of the handicapped children of the State of Louisiana.

The Board adopted a policy change regarding employment of school psychologists as presented by the State Department of Education. This policy change was adopted for temporary implementation to expire as of January 1, 1981, in order that persons meeting these adopted requirements could perform evaluations this summer. Otherwise evaluations could be delayed because of limited personnel. This change would permit evaluations to be conducted quicker to better serve the needs of the handicapped children of the State of Louisiana.

### Policy Change Regarding Employment of School Psychologists

A school psychologist or school psychological assistant certified under the provisions of the Board of Elementary and Secondary Education established in Bulletin 746 and who meets the following criteria shall be considered as meeting the requirements in Section 432 (d) of the regulations implementing Act 754 for an educational consultant on each multidisciplinary team.

1. At least three semester hours in psycho-educational assessment, educational diagnosis, or academic assessment which includes the administration, scoring and interpretation of academic achievement tests.

2. At least three semester hours in the remediation of reading or learning problems, task analysis, curriculum development, or diagnostic-prescriptive instruction.

3. Three semester hours in course work covering behavioral intervention strategies in the classroom.

4. At least one year of experience conducting psycho-educational evaluations and providing recommendations for educational interventions. This experience requirement may be satisfied by either:

a. Supervised internship or externship experience of one school year (minimum nine months or one thousand clock hours) or the equivalent, the successful completion of which is verified by the university or the individual's transcripts, or;

b. One year of successful experience as a school psychologist in a public or private school setting providing services which included psycho-educational assessment and recommendations for educational interventions, such duties being a regular aspect of the school psychologists job description. This experience shall be documented by the job description and verified in writing by the individual's immediate supervisor for the required year.

c. A combination of documented university practicum or internship experience and at least six months work experience, the combination of which covers at least a full school year, and which is verified as in (a) and (b) above.

When a psychologist as described above is used on the multidisciplinary team for a child, that student's teacher (or if on secondary level counselor or chosen "lead teacher") shall be a full member of that evaluation team and must be present at the evaluation staffing and sign the report as a full member of the multidiscipline team.

These criteria shall be in effect until new certification requirements for school psychologists are revised in accordance with the intent of this policy. Persons who qualify under the provisions of this policy shall retain their qualified status subject to certification renewal requirements to be specified in the new certification re-

quirements for school psychologists.

Rationale: The intent of P.L. 94-142 and Act 754 with respect to evaluations conducted by multidisciplinary appraisal teams is to ensure appropriate and valid evaluations for placement and instructional decisions for suspected handicapped children.

Certain evaluation areas (e.g., hearing) clearly fall within the professional expertise of one discipline (e.g., audiological evaluations). Other evaluations may be conducted by trained professionals in more than one discipline, and educational evaluations are of this type.

Educational consultants and qualified school psychologists may both be trained to administer, interpret and make recommendations on the basis of educational and "psycho-educational" instruments.

Formal training programs in school psychology include considerable course work and practicum experience in educational assessment and intervention. The accreditation standards of the National Council for Accreditation of Teacher Education (NCATE) and the National Association of School Psychologists (NASP) require that school psychology training programs include in their curriculum content areas such as:

- a. Instructional and remedial techniques
- b. Psycho-educational assessment
- c. Consultation
- d. One thousand hours of internship experience
- e. Behavioral interventions.

Efforts are currently under way to begin formal school psychology training programs in Louisiana which will meet NCATE accreditation requirements and which will train school psychologists to provide a broad range of psychological services in the schools, for more than the traditional role of only a "tester". Although many school psychologists in Louisiana do not have the necessary training and experience to conduct psycho-educational evaluations and make recommendations for educational interventions, others do have these skills either as a result of additional graduate study in education in Louisiana or as a result of receiving their training in formal school psychology programs in other states.

It would be to our advantage, in terms of service needs, manpower needs, and cost-efficiency, to fully utilize the training and experience of our personnel. It is also our belief that the adoption of this recommended policy would encourage psychologists currently employed in Louisiana to obtain the training advocated in this recommendation as such training will be recommended in the revised certification requirements for school psychologists which will be presented for your adoption by the end of this calendar year.

James V. Soileau  
Executive Director

## DECLARATION OF EMERGENCY

### Department of Natural Resources Office of Conservation

Pursuant to the provisions of R.S. 49:953B, the Commissioner of Conservation has adopted Section 185.22(b) of Statewide Order 29-0-1 relative to in situ processing activities in connection with surface mining activities under the Louisiana Surface Mining Program.

This rule is being adopted on an emergency basis due to the Surface Mining Control and Reclamation Act of 1976. Failure to adopt Section 185.22(b) could imperil approval by the Department of the Interior of final authority for the State of Louisiana over surface coal mining operations within the State and an imminent peril to public welfare requires this emergency action.

This rule is designed to clarify the existing Section 185.22(b) as it presently appears in Statewide Order 29-0-1 and as it applies to in situ processing activities.

This section shall be effective on or after June 20, 1980.

### Rule

#### Section 185.22(b)

An application for a permit for operations covered by this Section shall be made according to all requirements of 30 CFR Subchapter G applicable to underground mining activities, which are, for the specific and limited purposes of this Section, hereby adopted and made a part hereof. In addition, the mining and reclamation operations plan for operations involving in situ processing activities shall contain information establishing how those operations will be conducted in compliance with the requirements of Part 228, including:

1. Delineation of proposed holes and wells and production zone approval of the Office;
2. Specification of drill holes and casings proposed to be used;
3. A plan for treatment, confinement or disposal of all acid-forming, toxic-forming or radioactive gases, solids, or liquids constituting a fire, health, safety or environmental hazard caused by the mining and recovery process; and
4. Plans for monitoring surface and ground water and air quality, as required by the Office.

R. T. Sutton  
Commissioner of Conservation

# Rules

## RULE

### Department of Agriculture State Market Commission

#### Procedures for Authorization and Administration of

#### State Market Commission Loans and Loan Guarantees

##### 1.0 Eligibility.

1.1 Any person, firm, corporation, partnership, or association engaged in the marketing, processing, and/or storage of Louisiana farm products shall be eligible for a State Market Commission loan or loan guaranty, upon proper application and approval therefore, as set forth herein.

1.2 "Farm products" means any agronomic, horticultural, silvicultural, or aquacultural crop; any commercially raised livestock or raw product derived therefrom; or any final derivative resulting from a combination or breakdown of raw farm products.

1.3 Costs associated with the purchase, construction, or necessary improvement of any agricultural plant shall be eligible for a State Market Commission loan.

1.4 The State Market Commission shall give priority to persons, firms, corporations, partnerships, and associations which utilize Louisiana agricultural products to the maximum extent possible.

1.5 The State Market Commission shall also give preference to those persons, firms, partnerships, corporations, and associations which, at the time of the loan application, provide, or expect to provide upon completion of a facility, new or expanded job opportunities for the Louisiana work force.

##### 2.0 Time for filing applications.

2.1 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 United States Mail.

2.2 An application will be considered filed only upon provision of all information required in Rule 3.0.

2.3 A complete application, consisting of all information required in Rule 3.0, must be physically on hand in the State Market Commission office at least twenty working days prior to the State Market Commission meeting at which the application will be consi-

dered by the Commission.

### 3.0 Contents of Application.

3.1 Every applicant for a Market Commission loan, whether for a direct or participation loan, or for a loan guaranty, shall submit the following information to the State Market Commission:

- (a) Names and addresses of all principals.
- (b) A statement of the nature and amount of the interest held by each principal.
- (c) Sworn statement of the relationship, if any, of any of the principals with any state official and/or with any employee of the State Department of Agriculture.
- (d) Location and legal description of the property to be offered as security.
- (e) Evidence that title is or can be vested in the name of the applicant.
- (f) Personal financial statements of every principal of the firm, corporation, partnership, or association, prepared in accordance with generally accepted accounting principles. In the case of corporations and cooperative associations, every member of the Board of Directors, by whatever name known, must provide personal financial statements.
- (g) Credit analyses of the principals, to be provided by an independent source, such as a bank or other lending institution.
- (h) A property appraisal, prepared in accordance with Rule 4.0 hereof, of all movable and immovable property to be offered as security.
- (i) Listing of all equipment and furnishings, both movable and immovable by destination, with amortization tables as appropriate, if equipment and furnishings will be offered as part of the security.
- (j) Evidence of rejection, with written reasons therefor, from at least two private lending institutions in the area or at least two public lending institutions other than the State Market Commission.
- (k) Evidence of satisfactory interim financing.
- (l) A three-year projected cash flow statement.
- (m) An evaluation of the professional management capability of the individual(s) primarily responsible for the operation of the facility, to be provided by an independent, reputable source not involved in the firm, partnership, corporation, or association.
- (n) An explanation of how the marketing facility for which the loan is sought will benefit the community in which the facility is to be located.
- (o) Written authorization for the State Market Commission to perform any credit check(s) which the Commission may, in its discretion, deem advisable.

3.2 Every applicant for a loan for new construction shall provide, in addition to the information required by Rule 3.1, the following information:

- (a) Blueprints and construction specifications, if available at date of application. In the absence of blueprints and construction specifications, the applicant shall provide a written description of the planned construction at the time of application, to be followed by blueprints and construction specifications as set forth herein. It is not the intent of the Market Commission to require unnecessary expenditure of the applicant's funds; however, in the event that blueprints and construction specifications cannot be provided at the time of application, any applicant receiving approval for a loan shall be required to provide, within 90 days after approval of the loan, either (1) copies of blueprints and construction specifications, or (2) a written statement of the reasons for delay in provision of such blueprints and construction specifications. Reasons acceptable to the Market Commission shall include, but not be limited to, failure of the architect to timely provide all drawings and specifications.
- (b) A statement of the number of jobs to be made available upon completion of the facility.
- (c) Evidence of adequate operating funds for a period of at least one year following completion of the facility.

(d) A projected construction schedule, with anticipated completion date.

3.3 Every applicant for a loan for the purchase or expansion of existing facilities shall provide, in addition to the information required by Rule 3.1, the following information:

- (a) Profit and loss statements for the three years immediately preceding date of the application.
- (b) Balance sheets for the three years immediately preceding date of the application.
- (c) Statement demonstrating the marketability of the product or process for which the funds are sought.
- (d) Such additional market data as will enable the State Market Commission to determine the advisability of loan approval.
- (e) A statement of the number of jobs existing at the time of the application and the number of additional jobs to be created as a result of the proposed purchase and/or expansion of the facility.
- (f) Blueprints of the existing facility, if purchase is contemplated, and, in the case of proposed expansions, blueprints of the existing and proposed facility. The applicant shall provide a detailed statement of reasons when prints cannot be provided. In the event that blueprints and specifications cannot be provided at the time of the application, any applicant receiving approval for a Market Commission loan will be required to provide blueprints and construction specifications within 90 days after approval of the loan. The Market Commission may, however, at its discretion, waive the requirement for provision of blueprints and construction specifications for simple additions, but shall waive such requirement only in open session with adequate explanation for its actions.

3.4 Any applicant for a loan guarantee shall provide, in addition to the information required by Rule 3.1, a letter of commitment from a lending institution setting forth the terms and conditions upon which the loan sought to be guaranteed will be made.

### 4.0 Appraisal.

4.1 The State Market Commission shall develop and maintain for public examination at any time a listing of approved appraisers and a file of the credentials of such approved appraisers.

4.2 In order to have his or her name included on the State Market Commission Listing of Approved Appraisers, an applicant shall submit the following information:

- (a) A personal financial statement, prepared in accordance with generally accepted accounting principles.
- (b) At least three written statements of his or her competence as an appraiser from organizations such as banks or other financial institutions, real estate boards or licensed real estate brokers, mortgage loan institutions, and so forth.
- (c) A written statement of his or her areas of expertise in appraising property.
- (d) A written statement of his or her years of experience as an appraiser.
- (e) Evidence of inclusion on the approved appraising listing of any state or federally chartered banks, or such public agencies as the Small Business Administration, the Farmers Home Administration, the Production Credit Association, the Federal Housing Authority, or other similar institution.
- (f) A written statement containing any additional information which the applicant thinks would be beneficial to the Market Commission's determination of qualifications.

4.3 Applicants for inclusion on the State Market Commission Listing of Approved Appraisers shall pay a fee of twenty-five dollars at the time of filing request for inclusion on the list, which fee shall be deposited in the General Fund of the State of Louisiana and shall be non-refundable to the applicant regardless of the decision of the Market Commission with respect to the listing.

4.4 Any applicant for listing on the State Market Commission Listing of Approved Appraisers who is denied a listing may appeal the decision of the State Market Commission under the general appeals procedures of the State Department of Agriculture.

4.5 Pending development of a comprehensive Listing of Approved Appraisers, the Market Commission may approve appraisers on an individual basis, but the Market Commission shall not approve appraisers in the absence of all information required under Rule 4.2 after November 1, 1980.

4.6 Applicants for inclusion on the State Market Commission Listing of Approved Appraisers may make application at any time throughout the calendar year, and the names of approved applicants shall be added to the listing immediately upon approval action by the Market Commission.

4.7 All applicants for a Market Commission direct or participation loan, or loan guaranty, must submit, as a part of the application package, an appraisal performed by an appraiser selected as follows from the State Market Commission Listing of Approved Appraisers:

(a) The applicant may review the file of credentials of approved appraisers, except for personal financial statements, and shall select from the Listing of Approved Appraisers three appraisers who are acceptable to the applicant.

(b) The applicant shall notify the Market Commission in writing the names of the three appraisers selected by the applicant.

(c) The Market Commission staff shall select one appraiser from the list of three appraisers submitted by the applicant and shall notify the applicant in writing of the appraiser selected by the staff to perform the appraisal.

(d) The applicant and the State Market Commission staff shall meet with the appraiser selected and negotiate a fee satisfactory to the applicant and the appraiser.

(e) The agreement for performance of the appraisal shall be in writing for the protection of all parties, the agreement to be prepared by the State Market Commission staff unless the applicant wishes to secure private legal counsel.

(f) Failure to agree upon a fee shall result in selection of another appraiser. In such circumstance, the applicant shall be permitted to add one additional name, selected from the Listing of Approved Appraisers, to the list and the Market Commission staff shall again select from the list and follow the procedures outlined in Rule 4.7.

4.8 The applicant shall be responsible for payment of the agreed-upon appraisal fee.

4.9 The Market Commission may, at its discretion, directly employ an appraiser listed on the Listing of Approved Appraisers to conduct any appraisal.

(a) When the Market Commission directly employs an appraiser, such appraisal shall be performed at the cost of the Market Commission.

(b) The applicant shall cooperate fully with any appraiser employed directly by the Market Commission.

(c) The Market Commission shall give weight to the appraisal performed by the appraiser selected by the applicant as well as to the appraisal performed by the appraiser employed by the Commission.

4.10 The listing of any appraiser on the State Market Commission Listing of Approved Appraisers shall be valid for a period of two years from the date of the Commission's approval.

(a) Thirty days prior to the second anniversary of each listing, the Market Commission staff shall notify the appraiser, at the last address furnished by the appraiser, of the date on which approval for listing will terminate.

(b) The appraiser so notified may renew his or her listing for an additional two-year period upon payment of a five dollar renewal fee, without the necessity for submission of the information required in Rule 4.2.

4.11 The Market Commission staff may recommend to the Market Commission at any time the removal from the Listing of Approved Appraisers the name of any appraiser who, in their judgment, should be removed.

4.12 Any appraiser so removed from the Listing of Approved Appraisers shall be immediately notified in writing of the removal

and may appeal such removal under the general appeals procedures of the State Department of Agriculture.

4.13 Upon request, the Market Commission shall furnish any applicant or interested citizen a copy of the Listing of Approved Appraisers.

5.0 Conditions for approval of application for Market Commission loan.

5.1 The applicant must provide all required information at least twenty working days prior to the meeting at which the application will be considered. The Market Commission shall not consider any incomplete application.

5.2 The applicant must appear in person at the meeting at which the application will be considered, in order to provide any additional information which may be required by the Market Commission.

5.3 Approval of the loan must not result in encumbrance(s) on the property offered as security in excess of seventy-five percent of the appraised value of the property.

5.4 The period for which the loan is requested must not exceed five years, provided, however, that the State Market Commission may, under conditions hereinafter set forth, extend the period of the loan for an additional period not to exceed a total of fifteen years from the date of the original loan, as required under R.S. 3:407 (G).

5.5 Approval of a direct loan application shall be limited to seventy-five percent of the value of the property offered as security when covered by a first mortgage to the State Market Commission.

5.6 Approval of a direct loan application shall be limited to fifty percent of the value of the property offered as security when covered by a second mortgage to the State Market Commission.

5.7 Approval of a loan guaranty application shall be limited to seventy-five percent of the total amount required by the borrower.

5.8 Approval of a direct loan or seventy-five percent of the amount expended for purchase, construction, or necessary improvement to facilities that manufacture containers for farm products must be secured by a first mortgage to the Market Commission if the amount loaned is in excess of fifty percent of the value of the property offered as security, but may be secured by a second mortgage to the Market Commission if the amount loaned is fifty percent or less than the value of the property offered as security, as provided in R.S. 3:407 (C) (3).

5.9 A market assessment and/or feasibility study conducted or secured by the Market Commission staff must support the advisability of the loan.

5.10 The loan application must satisfy all legal requirements, as evidenced by the written approval of the Department attorney.

6.0 Conditions for disbursement of Market Commission loan proceeds and Market Commission concurrence in loan guarantees.

6.1 Prior to the setting of a date for the loan closing, the applicant must submit satisfactory proof that the facility, if new construction and/or additions to the existing facilities, has been completed in accordance with the plans submitted to the Commission for its consideration of the loan application.

6.2 Prior to the setting of a date for the loan closing, the applicant must provide a copy of the note and the mortgage to be executed at the closing for examination and approval by the Department attorney.

6.3 Prior to the setting of a date for the loan closing, the applicant must provide a copy of a plat survey by a registered surveyor, provided, however, that the Department attorney is authorized to waive, in writing, provision of the survey, at his discretion.

6.4 Prior to the setting of a date for the loan closing, the applicant must provide evidence of adequate title insurance.

6.5 Prior to the setting of a date for the loan closing, the applicant must carry and provide evidence of the following insurance coverage:

(a) Public liability insurance of \$500,000, naming the Market



Commission as additional insured. The applicant must also provide a certificate evidencing such insurance, which certificate must provide that the insurance cannot be cancelled without thirty days prior notice to the State Market Commission.

(b) Fire and extended coverage and vandalism insurance to the full extent of the amount loaned or guaranteed by the Market Commission, naming the Market Commission as loss payee, the total amount of the insurance to meet the 80% co-insurance requirements. The applicant must also provide a certificate evidencing such insurance, which certificate must provide that the insurance cannot be cancelled without thirty days prior notice to the State Market Commission.

6.6 Prior to the setting of a date for the loan closing, the applicant must provide satisfactory proof that all materials suppliers and workmen have been fully paid.

6.7 Prior to the setting of a date for the loan closing, all legal instruments must be examined and approved by the Department attorney.

6.8 On or before the loan closing date, the applicant must provide a title opinion by a title attorney selected in accordance with Rule 7.0, which title opinion shall provide evidence of clear title and shall include, but not be limited to, the following:

(a) A property description,

(b) Identification of the property owner, with pertinent recordation data,

(c) Satisfactory evidence that all taxes due on the property have been paid,

(d) A full and complete list of all mortgages, liens, encumbrances, and/or servitudes on the property, and

(e) Such other information as may be necessary for a full recital of the facts surrounding such property.

6.9 On or before the loan closing date, the applicant must provide a mortgage certificate from the Clerk of Court for the parish in which the property is located.

6.10 On the loan closing date, in the case of direct loans or participation loans paid direct to the borrower, the borrower must execute a note secured by a first or second mortgage payable to the Market Commission setting forth in full the terms and conditions under which the loan will be repaid, and containing such endorsements as the Market Commission shall require.

6.11 On the loan closing date, in the case of direct loans or participation loans paid direct to the borrower, the borrower must execute a first or second mortgage payable to the Market Commission, which mortgage shall contain, but not necessarily be limited to, the following:

(a) The amount loaned,

(b) The rate of interest,

(c) The repayment schedule,

(d) Description of real property and all equipment and/or furnishings to be included in the security,

(e) Provision for executory process,

(f) Provision for payment of all costs of foreclosure, including attorney's fees at twenty-five percent of the principal balance and interest accrued at foreclosure,

(g) Authorization for the addition to the principal balance of the amount of any taxes and/or insurance premiums paid by the Market Commission, upon failure of the mortgagee to pay such amounts when due, to protect the security position of the Market Commission.

6.12 On the loan closing date, in the case of participation loans the proceeds for which are paid direct to the bank or other lending institution, the borrower shall provide a participation certificate executed by the bank or other lending institution, payable to the State Market Commission, setting forth in full the terms and conditions under which the Commission agrees to such participation, the security pledged for repayment, and the time within which the loan shall be liquidated.

6.13 On or before the loan closing date, in the case of a loan

guaranty, the borrower must pay to the State Market Commission an amount equal to one percent of the amount guaranteed by the State Market Commission, which payment shall be deposited in the Market Loss Fund.

6.14 In the case of all direct loans and participation loans paid directly to the borrower, the individual borrower and/or all partners of a partnership shall personally endorse the note securing the first or second mortgage.

6.15 In the case of all direct loans and participation loans paid directly to the borrower, all members of the Board of Directors, by whatever name known, of the corporation or cooperative association shall personally endorse the note, in solido, securing the first or second mortgage.

6.16 In the case of a loan guaranty, the borrower must provide for the Market Commission file record a copy of the note and the mortgage payable to the lending institution and any other data deemed necessary by the Market Commission staff.

6.17 The State Market Commission shall authorize the setting of a loan closing date and the disbursement of loan proceeds upon presentation of all information required in Rule 6.0.

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

6.19 The loan guaranty agreement shall be executed by the borrower, the lending institution, and the Commissioner of Agriculture, or his designee, as official representative of the State Market Commission.

#### 7.0 Title Opinion.

7.1 The State Market Commission shall develop and maintain for public examination at any time a listing of attorneys whose title opinions will be acceptable to the Market Commission.

7.2 In order to have his or her name included on the State Market Commission Listing of Approved Attorneys, an applicant shall submit the following information:

(a) A resume of his or her experience in the practice of real estate law.

(b) A personal financial statement prepared in accordance with generally accepted accounting principles.

(c) A list of three or more attorneys who are familiar with his or her practice in real estate law who may be contacted for reference.

7.3 Minimum requirements for approval of attorneys providing title opinions shall be as follows:

(a) One or more years since admission to the Bar,

(b) A minimum of twenty-five percent of the attorney's practice devoted to real estate matters,

(c) At least twenty-five prior real estate closings and/or title opinions,

(d) A favorable recommendation from the attorneys given as reference,

(e) Favorable recommendation from three or more lending institutions, savings and loan associations, finance companies, the Small Business Administration, the Farmers Home Administration, the Production Credit Association, the Federal Housing Authority, and other similar organizations to whom the attorney has rendered title opinion letters on property.

7.4 The attorney may also provide evidence of prior approval to write title insurance for any title insurance company.

7.5 Applicants for inclusion on the State Market Commission Listing of Approved Attorneys shall pay a fee of twenty-five dollars at the time of filing request for inclusion on the list, which fee shall be deposited in the General Fund of the State of Louisiana and shall be non-refundable to the applicant regardless of the decision of the Market Commission with respect to the listing.

7.6 Any applicant for listing on the State Market Commission Listing of Approved Attorneys who is denied a listing may appeal the decision of the State Market Commission under the general appeals procedures of the State Department of Agriculture.

7.7 Pending development of a comprehensive Listing of

Approved Attorneys, the Market Commission may approve attorneys on an individual basis, but the Market Commission shall not approve attorneys for title opinions in the absence of all information required under Rule 7.2 after November 1, 1980.

7.8 Applicants for inclusion on the State Market Commission Listing of Approved Attorneys may make application at any time throughout the calendar year, and the names of approved applicants shall be added to the listing immediately upon approval action by the Market Commission.

7.9 The applicant for a Market Commission loan shall be responsible for the payment of any fee for the required title opinion.

7.10 The listing of any attorney on the State Market Commission Listing of Approved Attorneys shall be valid for a period of two years from the date of the Commission's approval.

(a) Thirty days prior to the second anniversary of each listing, the Market Commission staff shall notify the attorney, at the last address furnished by the attorney, of the date on which approval for the listing will terminate.

(b) The attorney so notified may renew his or her listing for an additional two year period upon payment of a five dollar renewal fee without the necessity for submission of the information required in Rule 7.2.

7.11 The Market Commission staff may recommend to the Market Commission at any time the removal from the Listing of Approved Attorneys any attorney who, in their judgment, should be removed.

7.12 Any attorney so removed from the State Market Commission Listing of Approved Attorneys shall be immediately notified in writing of the removal and may appeal such removal under the general appeals procedures of the Department of Agriculture.

7.13 Upon request, the State Market Commission shall furnish any applicant or interested citizen a copy of the Listing of Approved Attorneys.

#### 8.0 Termination of approval for loan.

8.1 Loan proceeds shall remain committed, after approval of the loan, for the following periods, which shall begin to run from the date of the State Market Commission approval for the loan:

(a) For new construction and/or expansion of existing facilities ranging from 0 to 50,000 square feet - four hundred fifty days,

(b) For new construction and/or expansion of existing facilities ranging from 50,001 to 100,000 square feet - seven hundred twenty days,

(c) For new construction and/or expansion of existing facilities in excess of 100,001 square feet - eight hundred sixty days.

8.2 At the expiration of the period of commitment as indicated in Rule 8.1, and in the absence of evidence of completion of all work, approval for the loan shall be terminated by the Market Commission, provided, however, that approval may be extended on a month-to-month basis by the Market Commission upon submission of reasons acceptable to the Commission for the delay in completion. In the event that the Market Commission extends the period of time for finalization of the loan beyond the period indicated in Rule 8.1, the Market Commission shall do so only in open session with adequate explanation for its actions.

8.3 If approval for any loan is terminated as provided in Rule 8.2, the applicant shall be required to provide a complete current loan application in order to be again considered for approval.

#### 9.0 Interest on Market Commission loans.

9.1 The State Market Commission shall, at its first regularly scheduled meeting in each calendar year, establish its interest rate for that calendar year.

9.2 The interest rate established by the Market Commission shall be not less than the average of the rates charged by the Small Business Administration, the Farmers Home Administration, and the Bank of Cooperatives, as required under the provisions of R.S. 3:407 (H).

9.3 The interest rate in effect at the time of the loan approval shall govern the interest to be paid on the loan.

#### 10.0 Requirements subsequent to disbursement of loan proceeds.

10.1 Each year, on the anniversary of the disbursement of loan proceeds, each loan recipient, whether a direct or participation loan or a loan guaranty, shall provide the following:

(a) A listing of all stockholders, with the number of shares held by each, at any time during the previous year.

(b) A statement of its operations, including an analysis of profits and losses.

(c) A statement of financial condition, including but not limited to a Balance Sheet for the most recently completed fiscal year of the firm, partnership, corporation, or association.

(d) A personal financial statement of all principals, including all members of the Boards of Directors of corporations and cooperatives, who have endorsed in solido on the note or are liable for repayment of the loan.

10.2 Each recipient of a loan guaranty shall authorize the bank or other lending institution holding the loan record to file quarterly statements with the Market Commission showing the principal balance remaining outstanding and any defaults in payment.

#### 11.0 Balloon notes and re-scheduling of payments.

11.1 The Market Commission shall not approve a final balloon note payment in excess of seventy-five percent of the total amount of the original loan.

11.2 If the State Market Commission votes in open session to approve re-scheduling of a balloon note, such re-scheduled payments shall be financed at the interest rate prevailing at the time of renewal.

11.3 No payment schedule shall be extended to more than a total of fifteen years from date of the final loan disbursement to date of the final payment under the loan.

11.4 Any balloon note shall be personally endorsed by the individual, by all partners if the note is for a partnership, and/or by all members of the Board of Directors if the note is for a cooperative association or a corporation.

11.5 Any request for a renewal of a balloon payment shall be accompanied by:

(a) A statement of current financial condition, including Profit and Loss Statement and Balance Sheet for the most recent full year of operation, prepared in accordance with generally accepted accounting principles.

(b) Names and addresses of all stockholders, and the number of shares held by each.

(c) Detailed explanation of the reason for the requested renewal.

11.6 Regularly scheduled payments of principal and/or interest shall not be deferred for more than three months; such unpaid payments shall not be added to an existing balloon note if such increase will result in a balloon payment amounting to more than seventy-five percent of the original amount of the loan.

#### 12.0 Delinquency and foreclosure.

12.1 Any unpaid principal and/or interest shall be considered delinquent on the tenth day following the due date.

12.2 After the tenth day following the due date, a \$15.00 delinquency fee shall be levied. Interest at the same rate as applied to the loan shall be charged on any unpaid delinquency fee from the date of the assessment until paid. No loan shall be closed out if there are any outstanding unpaid delinquency fees. All moneys collected as delinquency fees shall be deposited into the Market Commission Revolving Fund.

12.3 Routine written notification of delinquency shall be sent to the borrower on the thirtieth day following the due date.

12.4 In the absence of response to the 30-day notification, the Market Commission staff shall send a specific written notification concerning the delinquency on the sixtieth day following the due date, which notification shall be sent by certified mail, return receipt requested.

12.5 In the absence of response to the 60-day notification, the

delinquency shall be reported to the Market Commission at the next regularly scheduled Commission meeting, and the Market Commission shall officially place the borrower on the list of delinquent loans.

12.6 Subsequent to notification to the Market Commission, the staff, unless otherwise directed by the Commission, shall forward a demand letter, again by certified mail with return receipt requested, informing the borrower that the remaining balance is advanced, together with all interest accrued, and the full sum of the obligation is due and payable to the Market Commission.

12.7 In the absence of satisfactory arrangements for repayment of the delinquency thereafter, the Market Commission shall initiate foreclosure proceedings on the ninetieth day following the due date of the unpaid principal and interest.

12.8 The Market Commission shall secure a judgment and foreclose on the collateral securing the loan and, if deemed in the best interest of the Market Commission, the assets of all personal endorsers.

12.9 The Market Commission staff shall select an appraiser from the State Market Commission Listing of Approved Appraisers to do any appraisal necessary for foreclosure.

13.0 Prohibitions.

13.1 The Market Commission shall not approve any loan or loan guaranty for any applicant who fails to submit all required information.

13.2 The Market Commission shall not approve any loan or loan guaranty for any person, firm, corporation, partnership, or association which is not domiciled in Louisiana.

13.3 The Market Commission shall not approve any loan or loan guaranty if the amount so loaned shall result in the property offered as security thereunder having an indebtedness in excess of seventy-five percent of the appraised value of such property.

13.4 The Market Commission shall not approve any loan or loan guaranty for any person, firm, corporation, partnership, or association with any pending or outstanding charge or liability relating to failure or inability to pay promissory notes or other evidence of indebtedness.

13.5 The Market Commission shall not approve any loan or loan guaranty for any person, firm, partnership, corporation, or association, which has presently pending, at the Federal, State, or local level, any proceeding concerning the denial or revocation of a necessary license or permit.

13.6 The Market Commission shall not approve any loan or loan guaranty when the security offered for the loan consists of livestock and/or commodities.

13.7 The Market Commission shall not approve any loan or loan guaranty the proceeds of which are to be, or may be, used for the consolidation of existing, previous financial obligations.

13.8 The Market Commission shall not approve any loan or combination of loans to a single person, firm, partnership, corporation or association which is in excess of ten percent of the Commission's total assets (net of loan guarantees).

13.9 The Market Commission shall not approve any loan or loan guaranty for any facility constructed or to be constructed on leased land except as follows:

(a) The lease is for a term extending five years beyond the period of the loan.

(b) The Market Commission receives an assignment on the lease and the right of re-assignment.

(c) If the loan repayment schedule includes a balloon note, the Market Commission, at its discretion, may require a lease running for twenty years from the date of the approval of the loan.

(d) A waiver of landlord's lien and privilege on movables must be provided.

13.10 The Market Commission shall not make any loan or loan guarantee on equipment unless the property on which it is located is secured by a first mortgage to the Market Commission. The Market Commission shall give a low priority on loans secured by a

mortgage on specialized equipment.

13.11 The terms or conditions imposed and made part of any loan or guaranty agreement authorized by vote of the Market Commission shall not be amended or altered by any member of the Commission or employee of the Department of Agriculture except by subsequent vote of approval by the Market Commission in open session with full explanation for such action.

13.14 The Market Commission shall not subordinate its interests if such subordination will result in any risk to its security position.

Bob Odom  
Commissioner of Agriculture

## **RULE**

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

#### **Rule 4.00.02**

The Board adopted a Comprehensive Training Plan for the Coordination of Federal and State Funds for Training Activities of Education Personnel.

#### **Rule 3.05.01**

(Replaces existing policy). The Board adopted a Migrant Education State Plan for Fiscal Year 1981.

#### **Rule 3.01.81**

(Revision to existing policy). The Board adopted revision to ordering cycles for textbooks by moving Dictionaries from the 1979-80 cycle to 1980-81 cycle to be included with Language and Composition with no additional call for dictionaries in 1980-81; and to move Drug Abuse Education to the 1981-82 cycle along with Science, with the consideration of further call for Drug Abuse materials in 1981-82 because of new research that may have been developed.

#### **Rule 4.02.05**

The Board adopted Summary Guidelines for Tri Party Agreement as required by Act 728 of 1979.

James V. Soileau  
Executive Director

## **RULE**

### **Board of Trustees for State Colleges and Universities**

Part IX, Section 9.3 E, Finances, of the Policies and Procedures Manual of the Board of Trustees for State Colleges and Universities is changed to read as follows:

"E. In order for Revenue Producing Summer Camps to be held on campuses using school employees who are hired on a 12-month basis, the personnel must be on annual leave; the school must be compensated at its regular rate of rental for the use of facilities and equipment; and insurance must be provided by the promoters, with the state and school being held harmless. All monies earned and placed in outside or agency funds must be subject to audit. None of the above will apply if all funds are retained by the institution."

Bill Junkin  
Executive Director

## **RULE**

### **Board of Trustees for State Colleges and Universities**

Part IX, Section 9.6 D 1, Pre-enrollment Applications and Letters of Intent, of the Policies and Procedures Manual of the Board of Trustees for State Colleges and Universities is changed to read as follows:

"1. Pre-enrollment Applications or letters of Intent shall be signed on forms furnished and/or approved by the Coordinator of Athletics. A parent's (or guardian's) signature shall be required on the form if and only if the student-athlete is under eighteen years of age. When both parents are alive and are not divorced or judicially separated, then the father shall sign this application on behalf of the minor. If one or both parents are deceased, then the tutor of the minor is the proper party to sign the application. If the parents are separated or divorced, then the parent bearing legal custody and/or with whom the minor resides shall sign this application."

Bill Junkin  
Executive Director

**RULE**  
**Division of Administration**  
**Central Purchasing**

The Division of Administration, Central Purchasing has adopted the following Rules and Regulations as promulgated by the Louisiana Procurement Code, R.S. 39:1551 - 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 five thousand dollars 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.
- 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 Bid.

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 twenty-one 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 ten 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 seventy-two 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 seventy-two 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 readvertising.

**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 Bid 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 thirty days.

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

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

*2 Register*

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 Conference** — 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 Invitation 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 Invitations 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** — 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 the Governor proclaims a previously unscheduled nonworking day, bids scheduled to be opened on that day should be opened 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, not 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, write-overs, 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 arithmetical 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.

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 lifecycle 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.

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 responsive 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 Contracts.

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 Bids, the right is reserved to increase or decrease the quantities of any item, or items, shown in the bid by ten 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 — Cash discounts offered will be considered in determining awards. Time shall be counted from date of delivery at destination or from date correct invoice is received from contrac-

tor, if latter date is later than date of delivery. A cash discount for less than thirty days will not be considered in making an award.

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 may be assigned, sub-let or transferred without written consent of the Commissioner.

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 twenty thousand dollars, 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 purchase 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 thirty 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.

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.
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.
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 five thousand dollars 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 five thousand dollars 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 deter-

mination 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.
- 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.

g. Or 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.
- 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 Nonresponsibility 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.

(3) Or the supply, service, or major repair item is unacceptable, that is, it fails to meet the specifications or permissible alternates or other acceptability criteria set forth in the Invitations for Bids; see Section I, Subsection M, (Bid Evaluation and Award, Product Acceptability).

F. "All or None" Bids or Proposals — When provided in the solicitation, a business may limit a bid on acceptance of the whole bid. Louisiana shall not thereafter reject part of such bid and award on the remainder. Otherwise, such bids shall be deemed to be nonresponsive.

G. 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.

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.

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.

3. Or 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 five thousand dollars 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.

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.

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 per-

formance 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.

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 a maximum and minimum fee limitation; 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, 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.

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.

##### 1. 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 non-recurring, special need of Louisiana.

2. Supplies are produced or services are performed incidental to Louisiana's own programs, such as industries or 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 is in the best interest of Louisiana.

b. All conditions for renewal and costs of termination are set forth in the lease.

c. 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.

2. That such a contract will serve the best interests of Louisiana by encouraging effective competition or otherwise prompting economies in Louisiana procurement.

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.

d. Or 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 solicitations 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.

3. Or 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.

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 - 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.

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.

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 this 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 procurements 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.

3. Or 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 instances, 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.

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 competitor 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 catalogue 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 catalogue 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 con-

text 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 costs. 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 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 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.

(C) Or 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 this 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.

(B) Or time does not permit the preparation of another form of specification, not including a brand name specification.

(C) Or the nature of the product or the nature of Louisiana's requirements makes use of a brand name or equal specification suitable for the procurement.

(D) Or 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 the 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 Cancellation — 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.

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 of 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.

Hugh M. Carleton, C.P.P.O., C.P.M.  
Director of State Purchasing

**RULE**

**Office of the Governor  
Louisiana Commission on Law Enforcement  
and Administration of Criminal Justice**

**Commission Policies for Fiscal Year 1981**

The following material contains a listing of policies adopted by the Louisiana Commission on Law Enforcement at its May 28, 1980 meeting which will be in effect for Federal Fiscal Year 1981.

The policies are grouped as to type in order to be responsive to certain provisions of the Justice System Improvement Act of 1979 which is the federal law governing the Law Enforcement Assistance Administration program's operation in Louisiana. This Act allows for the existence of local "entitlement" jurisdictions which will have almost complete autonomy in administering the federal program in their areas.

Type A policies have statewide application and affect state agencies, the entitlement jurisdictions and the remainder of the local jurisdictions. Type A policies apply to the administration of Part D funds of the Justice System Improvement Act of 1979 and funds from the Juvenile Justice and Delinquency (JJDP) Act of 1974.

Type B policies apply to the use of Part D funds by state agencies and balance of state jurisdictions. Entitlement jurisdictions have the authority to develop their own policies in these areas.

Type C policies apply to entitlements, state agencies and balance of state jurisdictions and regulate the use of JJDP Act funds only. You will note that certain policies can be both Type B and C.

**Policies**

1. State and local criminal justice agencies, local governmental units and private, non-profit organizations are eligible to apply for both Part D and Juvenile Justice and Delinquency Prevention (JJDP) funding in Louisiana. However, private, non-profit organizations must apply through units of local government and/or state, or local criminal justice agencies, or such organizations must furnish security in the form of a surety bond in the amount of the grant. This bond must be approved by the Commission General Counsel. Applications of private, non-profit organizations must be accompanied by written agreements between the organization and the appropriate criminal justice system referral sources. Ongoing JJDP projects are exempted from this policy until Fiscal Year 1980. (Type A)

2. The Commission, in the course of funding projects, will fund only one retirement and one health and hospitalization insurance program, notwithstanding the fact that another program or retirement system may be funded by some other source, but in no event should the additional funds provided for insurance or retirement be used as match for a project. In any event, "fringe" benefits shall be limited to no more than twenty-five percent of salary costs. An exception to this is when employees are covered by Workmen's Compensation (Types B and C)

3. No training funds shall be spent for activities other than STRUCTURED meetings or conferences for which agendas may be provided. In addition, training funds specifically shall not be used to reimburse personnel for visits to other jurisdictions for non-specific training purposes or on on-site visits. It is the intent of the Commission to utilize its training funds to best advantage as well as to be able to evaluate the programs and monitor the training. (Types B and C)

4. Members or participants attending meetings of boards, councils, commissions, etc., may not be paid per diem, travel, subsistence, or other related expenses from Law Enforcement Assistance Administration (LEAA) federal block funds or funds used as minimum match for a grant. (Types B and C)

5. The Commission may reject or terminate any project if:

(a) The level of federal funding to the state under the Juvenile Justice and Delinquency Prevention (JJDP) Act or Justice System Improvement Act is decreased materially.

(b) The applicant fails to comply with the terms and conditions of the award.

(c) The applicant fails to receive a satisfactory evaluation/monitoring or auditing report. (Type A)

6. Any publications promulgated as a result, in whole or in part, through the use of LEAA funds must bear a prominent statement to the effect: "This publication was made possible through the use of LEAA funds allocated by the Louisiana Commission on Law Enforcement and Administration of Criminal Justice." (Type A)



7. Applications received at the Louisiana Commission on Law Enforcement Office on or before the 15th of the month will be presented at the Commission meeting of the following month. This allows a sufficient period of time for the Commission staff to review the applications and compile the information for packet mailout. (Type A)

8. Appeals Procedure — When an application for funding is rejected by the Commission, or when an approved subgrant is discontinued, the applicant or subgrantee may appeal the decision of the Commission by filing a notice of appeal with the Louisiana Commission on Law Enforcement at the recognized business address (1885 Wooddale Boulevard, Room 615, Baton Rouge, Louisiana 70806). The notice of appeal must be by certified mail and must be filed no later than fifteen business days after receipt of the notice of denial by the applicant or subgrantee.

Upon receipt of the notice of appeal by the Louisiana Commission on Law Enforcement, the Executive Director will notify the appropriate Commission Committee that an appeal hearing will be held on the date of the next regularly scheduled Commission meeting. The appropriate committee will be that committee whose substantive area of criminal justice activity most closely relates to the application or subgrant. The Executive Director shall designate the time and place of the meeting, and a copy of the notice shall be sent to the applicant or subgrantee.

On the date of the next regularly scheduled Commission meeting, the appropriate committee shall meet and hear evidence by the applicant or subgrantee relative to reasons the appeal should be granted. The applicant or subgrantee may present as many witnesses as may be necessary to support his appeal, except that the committee chairman may limit the number or time allotted to the witnesses where necessary. The secretary to the Commission shall take minutes of the appeal hearing and the entire hearing shall be recorded. The committee may also request other evidence relating to the application or project.

At the conclusion of the hearing the committee shall present its findings and make recommendations to the Commission.

A vote shall then be taken on the appeal.

In the event the appeal is denied, the applicant or subgrantee may, within fifteen days of the date of denial, file with the Office of the Governor and the Louisiana Commission on Law Enforcement a notice of appeal to the Governor. The notice of appeal must be by certified mail.

Upon receipt of the notice of appeal to the Governor, the Louisiana Commission on Law Enforcement shall have fifteen days to provide the applicant or subgrantee and the Governor with minutes of the appeal hearing and a copy of the vote of the Commission. The recorded tapes shall also be made available to the Governor at his request.

The results of the appeal to the Governor shall be communicated to the Louisiana Commission on Law Enforcement within twenty days.

Nothing herein shall preclude the resubmission of an application through use of regular Louisiana Commission on Law Enforcement procedures. (Type A)

9. Part D and JJDP action grants shall be limited to no more than four months of pre-award costs. The Louisiana Commission on Law Enforcement requires adherence to its monitoring and evaluation requirements. All subgrantees who request pre-award costs will be held accountable for the period to be covered by the pre-award costs. (Types B and C)

10. Requests for auxiliary police will not be considered for funding. (Types B and C)

11. No LEAA block monies may be utilized for travel outside the continental United States (forty-eight contiguous states). (Types B and C)

12. The following agencies are ineligible to receive grants from LEAA block funds: (a) University Campus Police, (b) Airport Security, (c) Hospital Security, (d) Capitol Police, (e) Wildlife and

Fisheries Enforcement Unit, (f) Harbor, River and Levee Board Police, (g) Justices of the Peace, and (h) Park Rangers. (Types B and C)

13. To be eligible for funding consideration, projects which involve multi-agency agreements and/or operations must include with their applications signed copies of the written agreement between the participating agencies outlined in nature and extent of the cooperative effort. The agreement must also outline what provisions have been made by the participant agencies to assume operating costs of the project upon expiration of federal funding. (Types B and C)

14. No equipment can be purchased with evaluation funds. (Types B and C)

15. Prospective noninstitutional based treatment centers should attempt to secure a facility and/or site prior to the awarding of any LEAA funds due to past adverse public opinion of these projects being located in relative proximity of residential areas. If this is not feasible, then the subgrantee should only hire one person on the grant for the purpose of securing a facility and/or site, and establish a definite operational start-up date before any other personnel are hired or before any other funds can be drawn down. (Types B and C)

16. All Part D and JJDP juvenile applications must be reviewed first by the JJDP Advisory Board prior to review by the full Commission. (Types B and C)

17. No project supported with Part D funds will be eligible to transfer project support to JJDP Act funds. (Types B and C)

18. Eligible agencies (this includes state and local law enforcement, prosecutorial, judicial, correctional and juvenile justice agencies) who fail to report statistical data and/or information necessary for the Louisiana Commission on Law Enforcement to comply with the reporting requirements of the JJDP Act, will be ineligible for JJDP Act or Part D funds as appropriate. Such ineligibility will apply to the fiscal year following such failure to report. (Types B and C)

19. JJDP funds shall not be used to erect new buildings. Funds may be used for construction/renovation of community-based facilities to house less than twenty juveniles. (Construction is defined as renovation when renovation exceeds \$5,000 and must be matched 50-50.) (Type C)

20. Indirect costs will not be allowed on Part D and JJDP action grants. (Types B and C)

21. JJDP funds are limited to construction of innovative community-based facilities for less than twenty people and may not be used to erect new buildings. (Type C)

22. Diminished support for all continuing projects will be determined by the following schedule:

First year awards - These projects will be funded with ninety percent federal funds and a minimum ten percent cash match.

Second year awards - These projects will be eligible for a maximum of sixty percent of their first year's federal fund award. This amount must be matched with a minimum of ten percent cash match.

Third year awards - These projects will only be eligible for a maximum of fifty percent of their first year's federal fund award. This amount must then be matched with a minimum of ten percent cash match.

There are no matching requirements for projects funded under the JJDP Act.

Multi-year projects in general will be eligible for a maximum of three years of federal fund support.

Certain project categories are exempt from the above restrictions as to the length of time they may receive funding support and the amount of yearly support: (a) administration, (b) technical assistance, (c) evaluation, and (d) training. (Types B and C)

23. All JJDP projects must comply in full with the JJDP Act and all applicable guidelines, especially those which mandate compliance provisions which the state must meet in order to be eligible

for JJDP funds. Projects funded at the local level must meet an Advanced Technique of the JJDP Act. (Type C)

24. Delinquency Prevention Programs are limited to the two following areas:

A. Preclusive Prevention programs focus on those youth who have not experienced an initial occurrence of a delinquent or status offense. Eligible program areas for preclusive prevention programs are as follows: family education and school-focused intervention emphasizing such techniques as parent effectiveness training (P.E.T.), youth effective training (Y.E.T.), systematic training for effective parenting (S.T.E.P.), alternative education, values clarification, life skills training, law related education, drug and alcohol abuse education, prevocational education, and communication skills.

B. Secondary and Tertiary Prevention programs focus on identified status offenders and identified delinquent offenders, hopefully preventing future status and delinquent offenses. Eligible program areas for secondary and tertiary prevention funds are as follows: truancy reduction, alternatives to suspension or expulsion, family intervention and school-focused intervention, emphasizing techniques such as family crisis counseling, P.E.T., Y.E.T., and S.T.E.P. (Type C)

25. A law clerk employed under a grant from the Louisiana Commission on Law Enforcement may not engage in the practice of law in the Judicial District where he is a law clerk. (Type A)

Elmer B. Litchfield  
Executive Director

## **RULE**

### **Office of the Governor Tax Commission**

The following are amendments, adoptions, and changes made to the rules and regulations of the Louisiana Tax Commission entitled ASSESSMENT OF REAL AND PERSONAL PROPERTY by the Louisiana Tax Commission pursuant to hearings held in Baton Rouge on February 26, 1980 and April 10, 1980.

The following Real Property Forms (LAT Forms) were amended: LAT 1, 2, 3, 4, and 14. The following Real Property Form (LAT Form) was adopted: LAT 2A. Copies of these forms can be obtained by contacting the office of the chairman, J. Reginal Coco.

The following pages were changed: Pages 1, 5B, 8, 9, and 16. (See below)

The following pages were added: Pages 11A, 11B. (See below)

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## **RULES**

### **Tax Commission**

The purpose of these rules and regulations which are adopted by the Louisiana Tax Commission in accordance with the Administrative Procedure Act is to set uniform guidelines and procedures for the use of reporting forms and appraisal manuals by the assessors. These rules and regulations shall be used by all assessors to implement the criteria for determining fair market value of all property subject to taxation pursuant to Sections 3, 6, and 12 of Act 705 of the Regular Session of 1976.

#### **Real Property Forms**

The assessors shall furnish the appropriate reporting form, in duplicate, for real property to each property owner within his

respective parish or district. Upon completion, the property owner shall return one copy to the assessor within forty-five days after receipt, while retaining a copy for his record. The self-reporting forms are to assist the assessor in determining the fair market value of real property and shall be delivered to each person in whose name the real property is assessed at least every four years.

LAT 1, the Residential or Homeowner's Report form, is to be used by the owner reporting any property that consists of land with improvements, whether urban or rural, and used for residential purposes. Space is also provided on this form to report improvements other than residences such as barns, sheds, storage bins, etc. This form is also to be used by the owner of any improvement that is located on land owned by someone other than the owner of the improvement.

LAT 2, the Land Report form, is to be furnished to the owner of any parcel of vacant land. This form is also to be furnished, in addition to the Residential or Homeowner's Report form, to each landowner with at least three acres of land, or with land that has produced an average gross annual income of at least two thousand dollars in one or more of the designated classifications for the four preceding years. The Land Report form is not the application form for use-value assessment. It is, however to be used to serve notice of the requirements for obtaining a use-value assessment.

LAT 2A, the Agricultural Building Report form, is a supplement to the Land and/or Residential or Homeowners Report and is to be furnished where applicable.

LAT 3, the Apartment Report form, in addition to the Land Report, is to be used by the owner of any apartment or residential complex that is not applicable to LAT 1. If the land upon which the apartment is located is not owned by the apartment owner, the Land Report form is not required to be sent to the apartment owner.

LAT 4, any improvement of a commercial or industrial type is to be reported on Form LAT 4.

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C. Leased personal property, when the lessor is not the manufacturer, shall be reported by and assessed to the lessor in the taxing district where the property is located on January 1 of each year. The lessee shall be required to furnish the owner's name and address. The fair market value of such leased personal property shall be determined in the same manner as any other personal property.

V. Leasehold improvements are expenditures by the lessee to real or personal property to make the property adaptable to his use. The fair market value of such leasehold improvements shall be determined in the same manner as other real or personal property. Leasehold improvements shall be reported by and assessed to the lessee in the taxing district where the property is located as of January 1 of each year.

VI. Inventory shall be valued at cost or the purchase price at the point of origin plus the carrying charges to the point of destination. The assessed value shall be based upon 15% of the average annual inventory cost for the preceding calendar and/or fiscal year. Any inventory that existed less than a full year shall be averaged for the months it had situs at the reported location.

VII. The cost indexes as reflected by the Marshal Valuation Service shall be the basis for updating the composite multiplier tables and cost modifiers contained within these guidelines.

<b>Business Activity/ Type of Equipment</b>	<b>Average Economic Life In Years</b>	<b>Use Table No.</b>
Dairy industry	15	6
Department Stores	12	5
Dispensing machines-cig., pop, etc.	10	4
Distilling machinery & equipment	15	6
Drilling rigs	(See Page 11B)	
Dry cleaning & laundry equipment	15	6
Electrical transmission & distribution	25	8
Fertilizer manufacturing equipment	8	3
Floating equipment motor vessels (other than public service co's)	12	5
barges (other than public service co's.)	20	7
Flour, cereal & grain milling	20	7
Foundry machinery & equipment	20	7
Fruit bins & cargo pallets	10	4
Golf course equipment	10	4
Hatchery equipment	12	5
Hotel furniture & equipment	12	5
Ice & refrigeration machinery	20	7
Iron & steel industry	25	8
Laundry & dry cleaning equipment (coin-op only)	5	2
Laundry & dry cleaning equipment	15	6
Leather products machinery & equipment	15	6
Libraries-professional	25	8
Logging machinery & equipment	10	4
Lumber & wood products industry:		
logging machinery & equipment	10	4
sawmill machinery & equipment (large)	25	8
portable sawmills & equipment	12	5
plywood & veneer plant machinery	20	7
woodworking machinery & equip. (furn. mfg., etc.)	20	7
Machine shop machinery & equipment	20	7
Meat packing machinery & equipment	20	7
Metal products & processing equipment	20	7
Mining & quarry machinery & equipment	20	7

Mortorial service equipment	15	6
Motel furniture & equipment	10	4
Neon signs	10	4
Newspaper, printing machinery & equipment	15	6
Nursing home furnishings	12	5
Nursery & greenhouse equipment	15	6
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Office equipment	10	4
Office furniture	15	6
Outdoor advertising structures: "signs" - poster panels & bulletin boards	15	6
Packing & sorting equipment (food)	20	7
Paint & varnish manufacturing machinery	15	6
Petroleum products:		
refining	20	7
bulk stations	25	8
Photography equipment	10	4
Pipelines (other than public service co's.)	(See Pages 11A and 16)	
Power generation machinery		
gasoline & diesel	12	5
steam	25	8
Professional equipment	10	4
Pulp & paper manufacturing machinery	20	7
Radio & television:		
broadcasting equipment	10	4
service & repair equipment	10	4
tower	15	6
Rental equipment (all types)	8	3
Research equipment	3	1
Restaurants bars & soda fountains	10	4
Retail stores	12	5
Service station equipment	12	5
Shoes & leather products mfg. machinery	15	6
Soft drink manufacturing machinery	15	6
Sugar cane refining machinery	20	7
Telephone operating equipment	15	6
Textile, tent & awning equipment	20	7
Theatre equipment	15	6
Tire recapping equipment	15	6
Unlicensed vehicles	5	2
Warehouse equipment	15	6
Wholesale stores	15	6

Source: State of Washington

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<b>Equipment</b>	<b>F.M.V.</b>	<b>Assessment</b>		
<b>L.A.C.T. Units</b>			<b>Meters/Recorders</b>	
30 lb. discharge	\$ 2,503	\$ 380	All pressure sizes	250 40
60 lb. discharge	3,210	480		
			<b>Gathering, Lease and</b>	
<b>Liqua Meter Units</b>			<b>Miscellaneous Lines-Per Mile</b>	
½ bbl. dump	667	100	2"	4,320 650
1 bbl. dump	699	110	2-½"	5,690 850
2 bbl. dump	914	140	3"	7,020 1,050
			3-½"	8,250 1,240
<b>Meter Prover Tanks</b>			4"	9,490 1,420
5 bbl. (4 x 8)	2,558	380	4-½"	10,760 1,610
10 bbl. (5 x 8)	2,939	440	5"	11,770 1,770
15 bbl. (6 x 9)	3,297	490	6"	14,030 2,100
20 bbl. (6 x 10)	3,393	510	8"	18,770 2,820
25 bbl. (8 x 9)	3,965	600	10"	23,730 3,560
			12"	28,690 4,300
<b>Meter Calibration Vessels</b>			14"	35,280 5,290
5 bbl. (24")	1,889	280	16"	41,810 6,270
7.5 bbl. (30")	2,089	310	18"	48,800 7,320
10 bbl. (36")	2,290	340	20"	55,720 8,360
<b>Meter Runs</b>				
2"	543	80		
3"	642	100		
4"	763	110		
6"	1,172	180		
8"	1,746	260		
10"	2,785	420		

Refer to Page 11-A for economic and/or functional obsolescence allowance to bring such lines within a "Fair Market" commensurate with current operating conditions.

**-11A-**

**Transmission Pipelines**

To comply with requirements for reporting such lines, not assessed by the Louisiana Tax Commission, the following guidelines should be used to establish uniform assessments throughout the State of Louisiana. Such property should be reported on LAT-14 Property Tax Report Form.

**Transmission Pipelines**

<b>Pipe Size</b>	<b>Cost New Per Mile</b>	<b>Age</b>	<b>% Good</b>
6	58,450	1	98
8	78,200	2	95
10	98,890	3	93
12	119,540	4	90
14	147,000	5	87
16	174,190	6	84
18	203,330	7	81
20	232,160	8	78
22	260,140	9	75
24	288,080	10	71
26	324,670	11	68
28	361,150	12	64
30	397,740	13	60
32	434,230	14	56
34	475,150	15	52
36	515,910	16	48
38	557,200	17	44
40	601,760	18	39
42	644,900	19	34
44	696,480	20	30
46	752,240		
48	812,430		

**Economic and/or functional obsolescence**

The following economic and/or functional obsolescence is provided to bring such lines within a "Fair Market" commensurate with current operating conditions. Such allowance, generally considered as an operating function, is expressed as a percent good:

Operating below 80% of designed capacity .....	90% Good
Operating below 70% of designed capacity .....	85% Good
Operating below 60% of designed capacity .....	80% Good
Operating below 50% of designed capacity .....	75% Good
Operating below 40% of designed capacity .....	70% Good
Operating below 30% of designed capacity .....	65% Good
Operating below 20% of designed capacity .....	60% Good
Operating below 10% of designed capacity .....	55% Good
Operating at 0% of designed capacity .....	50% Good
Non-operatable .....	25% Good
Abandoned .....	0% Good

This allowance is expressed in the "Economic Factor" column of LAT-14 Personal Property Tax Report, as a % Good, applied against the full "Fair Market Value" of each line receiving such consideration, and extended in the "Adjusted Fair Market Value" column, prior to making the assessment.

Gathering, Lease and Miscellaneous Lines are reported on LAT-12 Form. See Page 16 of Guidelines.

**Note:** Actual age should be used, unless there is reason to believe that such age is not applicable in a particular case. Actual age can be the effective age, however, all facts should be considered in establishing the age to be used for current assessment year. The age, when determined, is used in the "Effective Age" column and establishes a "% good", prior to the calculation of fair market value and assessment.

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**Drilling Rig and Barges**

**Depth "0" to 3,499 Feet**

Age Bracket	Percent Good	Fair Market Value	Assessment
0 - 6 years	100%	\$140,000	\$21,000
7 - 12 years	70%	\$98,000	\$14,700
13 years or older	40%	\$56,000	\$8,400

**Depth 3,500 to 6,999 Feet**

Age Bracket	Percent Good	Fair Market Value	Assessment
0 - 6 years	100%	\$280,000	\$42,000
7 - 12 years	70%	\$196,000	\$29,400
13 years or older	40%	\$112,000	\$16,800

**Depth 7,000 to 12,999 Feet**

Age Bracket	Percent Good	Fair Market Value	Assessment
0 - 6 years	100%	\$800,000	\$120,000
7 - 12 years	70%	\$560,000	\$84,000
13 years or older	40%	\$320,000	\$48,000

**Depth 13,000 to 19,999 Feet**

Age Bracket	Percent Good	Fair Market Value	Assessment
0 - 6 years	100%	\$1,200,000	\$180,000
7 - 12 years	70%	\$840,000	\$126,000
13 years or older	40%	\$480,000	\$72,000

**Depth 20,000 Feet or Deeper**

Age Bracket	Percent Good	Fair Market Value	Assessment
0 - 6 years	100%	\$1,600,000	\$240,000
7 - 12 years	70%	\$1,120,000	\$168,000
13 years or older	40%	\$640,000	\$96,000

Assess Barges at 25% of Rig Age and Value Bracket

J. Reginal Coco  
Chairman

**RULE**

**Board of Examiners For  
Nursing Home Administrators**

The Board of Examiners for Nursing Home Administrators has adopted the following changes in its rules and regulations.

Rule 2 B 4a. On last line change "or" to "and"

Rule 5A. At the end of third to last line add "majority of the" so it reads "consent of the majority of the Board,"

Rule 6 C. Change to read: "Following the close of every examination the results of the questions submitted and the answers made thereto by each applicant, shall be kept by the Board for a period of six years. These may be destroyed at the end of such period."

Rule 7. Delete A 6

Rule 12. Change first paragraph to read "... duly licensed in the State of Louisiana for twenty (20) hours per week and available for the remainder of the work week." Add paragraph following this to read: "All preceptors shall have completed three years of working experience as a full-time practicing Nursing Home Administrator prior to qualifying as a preceptor. The preceptor shall be responsible for completion of the initial, the intermittent, and final report forms required by the Board for the Administrator-in-Training Program."

Rule 14 A. Delete "... consisting of not more than three separate courses ..."

A3. After Rule 10 add "of which no less than fifty percent shall be applicable to Long Term Care facilities."

A4. Change to read "be submitted for Board approval before the training is undertaken."

Rule 18A7. Delete

A8. Make it number 7 and change to read: "is addicted to or dependent upon the use of alcohol, morphine, opium, cocaine, or other substances recognized as resulting in an abnormal effect;"

A9-17. Renumber changing A9 to A8 and changing others to follow in sequence.

Rule 25. Strike out fee and make last line read: "... and upon payment of a fee as determined by the Board.

Winborn E. Davis, Executive Secretary  
State Board of Examiners for  
Nursing Home Administrators

**RULE**

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

The Department of Health and Human Resources, Office of Family Security, has adopted the following policy regarding Title XIX (Medicaid) payment for abortions:

Effective February 19, 1980, the Louisiana Medical Assistance Program will make payment for medically necessary abortions for eligible recipients. Abortions will be covered which are necessary

in the professional judgement of the pregnant woman's attending physician, that judgement exercised in the light of all factors (physical, emotional, psychological, familial, and the woman's age) relevant to the health-related well-being of the pregnant woman. Claims for abortions must be accompanied by a written statement signed by the attending physician certifying that in his judgement the abortion was medically necessary because of those factors (as defined above) which would have adverse effect on the health-related well-being of the patient.

George A. Fischer, Secretary  
Department of Health and Human Resources

**RULE**

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

The Department of Health and Human Resources, Office of Family Security, has adopted the following policy regarding Patient Transfer Procedure for Title XIX recipients in Long Term Care facilities effective March 18, 1980.

**Patient Transfer Procedure**

A. Individual Recipient Transfers - Involuntary transfer or discharge of a nursing home Medical Assistance recipient may occur only for medical reasons, for the recipient's welfare or that of other residents, or for nonpayment of the facility fee. Except in an emergency, a recipient must be given reasonable advance notice to ensure orderly transfer and continuity of care. Orderly transfer takes into account the availability of suitable alternative facilities, sufficient time to afford the recipient a choice, if possible, in whether to move and where, a review by facility and agency staff of his medical/psychological condition, the availability of adequate appropriate transportation, sufficient appraisal of the receiving facility as to the recipient's condition.

1. Facility responsibility in assuring orderly transfer shall include:

a. Final update, with the transfer in mind, of the individual plan of care, including discharge plan, which has been reviewed and revised periodically since admission. Individual plan of care includes nursing and medical plans, a plan for any therapies required, a social care plan, an activity plan, and a dietary plan.

In addition, the facility shall propose specific plans for transfer including transportation arrangements and, when feasible, visits by the recipient to the proposed receiving facility.

b. Following a medical assessment of the resident as near as practicable to the date of transfer, and execution by the physician of a written statement that, based on the resident's current physical condition, there are no medical contraindications to transfer, preparation of a discharge/transfer plan containing all information pertinent to the recipient's present condition and need for continued care and submittal of same to Long Term Care Regional Office. Included in the discharge/transfer plan shall be nursing procedures required by the patient, rehabilitative needs, appropriate level of medical care, and any special medical arrangements necessary to alleviate adverse impacts on

the patient.

Information regarding the following may be pertinent: patient's intellectual capacity, memory and orientation as to time, place, and person, the patient's social disturbance or maladjustment, length of the patient's residence in the facility and dependence on familiar surroundings and staff.

The facility shall have completed final update of individual plan of care and the discharge/transfer plan as required by sections A1 a and b, before notice of transfer is sent to a recipient and/or responsible person.

c. Written notification to recipient, responsible person (attending physician), and Long Term Care Regional Office of proposed transfer and reason(s) as soon as possible and as far in advance as is necessary, but at least forty-eight hours prior to the discharge conference.

Written notification shall contain the following:

- i. Proposed date of transfer or discharge and reason(s) for same.
- ii. Discharge conference date, time and place.
- iii. Availability of nursing home personnel to assist in locating new nursing home facilities.
- iv. Right of the resident to be represented by a third party at all stages of the discharge or transfer process.
- v. Right of the resident within three days from date of discharge conference to register a complaint concerning the transfer with the Regional Long Term Care Unit.
- d. As soon in advance of the transfer as possible to insure an orderly transfer, but at least ten days in advance of the proposed date of transfer, the nursing home administrator and/or director of nursing and/or social worker shall meet with the resident and responsible party to discuss the transfer. The requirement that the resident be present is waivable upon a written statement from his physician detailing the medical contraindications to the resident's participation in such a meeting. The resident and the responsible party shall be notified at least forty-eight hours prior to the conference and invited to attend and participate, although it is not mandatory that the responsible party attend. Among those items discussed at this conference shall be those items enumerated in A1, b and c.
- e. Provision of all pretransfer services required in the final up-date of the individual plan of care and transfer/discharge plan.

f. Maintaining the recipient in the facility for as long as necessary, even beyond the proposed date of transfer when medical conditions warrant, in order to ensure orderly transfer as defined above.

g. Arranging for the transportation required in the recipient's transfer plan.

h. Referral, as appropriate, to parish office social service staff to locate another facility most suitable to the recipient's needs.

2. Regional Long Term Care Unit responsibility shall include:

a. Review of available medical/social data and discharge summary prior to transfer to assure medical certification for admission to receiving facility and to ensure that recipient is being transferred in accordance with the patient's bill of rights.

b. Evaluation and referral to State Office Medical Assistance Program of any violation of patient rights.

3. Parish Social Service Staff responsibility shall include:

a. Acceptance of request by recipient and/or responsible person for services in locating and arranging transfer to an appropriate facility or return to noninstitutional living arrangements.

b. Acceptance of referral by Long Term Care Regional Office for services in locating and arranging transfer to an appropriate facility or return to noninstitutional living arrangement.

c. Resolution of complaints filed by nursing home resident and/or responsible party.

4. State Office of Medical Assistance Program responsibility shall include:

a. Notification to facility of any instance in which transfer of a recipient is contrary to patient rights.

b. Appropriate sanctions with respect to provider agreement.

c. Maintenance of statistical data regarding frequency of involuntary transfers statewide and by individual facility.

d. Receipt of complaint from the resident or responsible party and arranging for visit with the resident or responsible party prior to transfer to investigate said complaint and take appropriate action as required.

5. Licensing and Certification Division responsibility shall include:

a. Assurance that each participating facility has adequate written transfer policies and procedures.

b. Establishment of written criteria for monitoring transfers based on the Agency's patient transfer procedure.

c. Conducting reviews based on written criteria of the adequacy of facilities' transfer procedures and pre- and post-transfer care of recipients.

6. DHHR Appeals Section has responsibility for processing recipient requests for fair hearings in accordance with 42 CFR 431.200.

B. Mass Transfer of Recipients - The following provisions shall apply to any mass transfer, which is defined as the intended relocation of more than fifteen residents within a thirty day period.

When the Licensing and Certification Division determines that a facility no longer meets State and Federal Title XIX certification requirements, decertification action is taken, usually with an advance effective date unless patients are in immediate danger.

On the date the facility is notified of decertification, DHHR shall immediately begin notifying residents and responsible parties of the decertification and the availability of the services listed below.

In situations in which a facility discontinues operations or participation in the Medical Assistance Program, recipients and/or their responsible persons shall be notified as far in advance of the effective date as possible to assure orderly transfer and continuity of care. If the facility is closing, plans must be made for transfer. If the facility is withdrawing from the program, the recipient has the option of remaining in the facility on a private-pay basis.

Payments may continue for Title XIX eligible patients not to exceed thirty days following the effective date of decertification. This applies to Title XIX applicants or recipients admitted prior to the notice of decertification and is permitted only if the facility cooperates completely in the orderly movement of patients to other Title XIX facilities or other placement arrangements of their choice. The facility shall **not** admit new medical assistance recipients after receipt of the decertification notice. There will be no payment approved for such an admittance.

The process of certification requires concentrated and prompt coordination between the Long Term Care Regional Office, Parish Office Assistance Payments and Social Services, and the facility in order to safeguard the protection of Medical Assistance recipients, to assist in the most appropriate placement for each recipient when such assistance is needed or requested by the patient and/or the responsible relative, and to close vendor payment timely upon the patient's discharge. The facility retains its usual responsibility to notify the parish office promptly of all changes in patient's status.

The Office of Human Development (OHD) and the Office of Family Security (OFS) shall designate at least two individuals to function as a transfer team, and to be responsible for supervising transfer activities in the event of proposed facility decertification, or when the home voluntarily elects to terminate its participation in the Title XIX program. The following steps and procedures must be taken by, or under the supervision of, this team.

1. When a provider agreement is extended in accordance with 42 CFR 442.16, the transfer team shall immediately begin to identify appropriate receiving facilities for affected recipients. The team shall begin to plan for transfer of those recipients and will coordinate efforts with Long Term Care Regional Office who will evaluate the condition of affected recipients and make determina-

tions of level of care appropriate for those recipients.

2. When payments are continued for up to thirty days under Title XIX pursuant to 42 CFR 441.11 following decertification, the following steps shall be taken:

a. Notification and Offer of Services — Immediately upon receipt of the written notification from the Medical Assistance Program, the parish office Assistance Payments staff assigned responsibility for the facility shall send a letter to each medical assistance recipient and/or responsible person, containing the following information:

i. Decertification of the facility to participate in the Medical Assistance Program because of deficiencies in certain standards which have not been corrected or because of voluntary withdrawal.

ii. The last date for which vendor payment for care of the recipient can be made.

iii. The offer of services to assist in making the most appropriate arrangements for the patient, providing the name of the state member assigned to contact immediately if such help is needed.

b. Provision of Services and Effecting Transfer — OHD parish office has responsibility to provide social services called for in the transfer/discharge plan or otherwise necessary to ensure orderly transfer in accordance with Title XX State Plan and to obtain services available under Title XIX. Communication between OHD, OFS parish office, and the Long Term Care Regional Office is essential to explore and define needs, appropriate resources and take appropriate action. The transfer planning team shall be responsible for maintaining this communication.

OFS parish office shall maintain a listing of individual patient status as authorization forms are submitted for closures and transfers. At the conclusion of the thirty day period, the transfer planning team shall submit a report of arrangements made for all recipients to State Office, Medical Assistance Program, with a copy of the Assistance Payments Program.

Within five days following the termination of a provider agreement, transfer planning team members shall meet with appropriate administrative and other personnel of the Home in order to discuss the transfer planning process. These transfer planning team members shall continue to meet periodically with nursing home personnel, as needed throughout the transfer planning process. In addition, the designated Agency representatives, in order to assure an orderly transfer planning process, shall identify any potential problems, monitor the home's compliance with transfer procedures, and resolve any dispute in the best interest of the patients. The transfer team shall encourage the home to take as active a role as possible in transfer planning. Failure of the nursing home to comply with instructions of the transfer planning team members regarding patient transfers may subject the home to denial of reimbursement for the thirty-day extension period.

C. Emergency Situations - A resident may be immediately transferred or discharged when a bona fide emergency exists, such as fire or contagious disease, or a severe threat to the safety and well-being of residents.

Such emergency transfers shall be closely monitored and reviewed by the State Office Medical Assistance Program. Appropriate sanctions shall be imposed on facilities that use emergency transfer provisions when no bona fide emergency situation exists.

D. Reservation of Patient Rights - Nothing in this plan shall be construed in derogation of the presently existing rights of patients.

E. Intelligent Waiver of Rights by Patient - A patient may knowingly and intelligently waive any of the provisions of these regulations, provided such waiver shall be in writing. The State Office Medical Assistance Program shall review all such waivers to ensure that they were made freely and intelligently, after the recipient and/or responsible party was fully informed of his or her rights under these transfer procedures. Appropriate sanctions shall be imposed on

Facilities that obtain waivers by coercion, or without providing full information about residents rights.

George A. Fischer, Secretary  
Department of Health and Human Resources

#### **RULE**

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

The Department of Health and Human Resources, Office of Family Security, has adopted the following policy regarding Home Leave Days covered by the Medical Assistance (Title XIX) Program:

Payment is made to reserve the bed of a resident of an Intermediate Care Facility for the Mentally Retarded (ICF/MR) for twenty-five days per calendar year for leave(s) of absence. For the year 1980, the Medical Assistance Program will consider extensions on an individual basis for any case in which a recipient has exhausted his twenty-five days covered leave, and denial of additional leave time is contrary to the goals of the active treatment plan for mental retardation.

George A. Fischer, Secretary  
Department of Health and Human Resources

#### **RULE**

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

The Department of Health and Human Resources, Office of Family Security, has adopted the following regulations relative to the Standards for Payment to Long Term Care facilities effective June 4, 1980:

1. If a recipient leaves a long term care facility for hospitalization and is readmitted to the same or another long term care facility within two weeks after discharge from the hospital, regardless of whether he has been discharged from the long term care facility, this is not considered a new admission for purposes of applying recipient income (minus personal care needs) to the facility fee. In other words, a stay in a hospital constitutes ongoing institutional care and income shall continue to be applied upon transfer back to a long term care facility (or readmission within a two week period). If more than two weeks lapses between discharge from the hospital and readmission to a long term care facility, this is considered a new admission and the recipient's income is not applied to the facility fee for the month of entry.

2. All skilled nursing facility services and intermediate care facility services for which payment is claimed are subject to utilization review to evaluate necessity for the timeliness of the services provided to eligible individuals receiving medical assistance and to promote the most effective and appropriate use of available services and facilities.

3. As timely notice is required in instances in which the Long Term Care Regional Office shall determine that nursing home care is no longer warranted. The Long Term Care Regional Office shall complete a form for Advance Notice of Eligibility Decision and forward to recipient with a form for Notice of Medical Certification making the date of change in level of care ten days following the date of timely notice to the recipient of final determination that nursing home care is no longer warranted. The Long Term Care Regional Office shall forward copies of these forms to parish office for appropriate action at the end of the ten day waiting period.

4. If a person is interdicted, and this is known to the facility, a statement to this effect shall be noted on the inside of the front cover of the patient's medical chart.



5. Ownership Disclosure.

a. Provider must, upon request, provide information about the ownership of any subcontractor with whom the facility has had more than \$25,000.00 in business transactions during the previous twelve months or any information as to any significant business transaction occurring during the previous five years between the facility and a subcontractor or wholly-owned supplier.

b. Provider must promptly notify the Office of Family Security of its employment of an individual who during the preceding year worked for that provider's fiscal intermediary or carrier in a managerial, accounting, auditing, or similar capacity.

c. When a change of ownership occurs, a minimum of ten percent of the final vendor payment to the old legal entity is withheld pending completion of, and compliance with recommendations of, a Limited Scope Audit of the facility by the DHHR Audit Section. The new owner (legal entity) may provide the Medical Assistance Program with a notarized document to the effect that the new owners will be responsible for compliance with the recommendations of the Audit Section. No part of the final vendor payment to the old legal entity will be withheld upon receipt of said document by the Medical Assistance Program.

d. Before a facility may be eligible to participate after a change of ownership, the facility must:

- i. Meet state licensing requirements.
- ii. Meet all Title XIX certification requirements.
- iii. Have a signed contract with DHHR.
- iv. Be in compliance with Title VI of the Civil Rights Act.
- v. Enroll in the Medicaid Management Information System as a provider of services.

These regulations are being promulgated as an addendum to the present Minimum Standards for Payment to Long Term Care facilities.

George A. Fischer, Secretary  
Department of Health and Human Resources

**RULE**

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

It is the policy of the Department of Health and Human Resources that Superintendents of all DHHR hospitals and residential facilities adhere to Louisiana Revised Statutes 9:1551, 17:2274, 2275 regarding the disposition of a body unclaimed by relative or friends.

Under the language of R.S. 17:2274-A, the DHHR institution in which the deceased lived prior to death would temporarily retain the custody of the unclaimed body. If the decedent had no known assets or property of sufficient value to defray the expenses of burial and burial must be at public expense, the Superintendents of such facilities shall first notify the Department's Office of Hospitals, Bureau of Anatomical Services that they have custody of an unclaimed body and that there are no legal impediments to releasing the body. This notice shall be given to the Bureau of Anatomical Services, (hereafter referred to as BAS), no later than thirty-six hours after the death of the patient.

For purposes of convenience and economy of transportation, the state has been subdivided into two regions by a line drawn diagonally across the state just southeast of Monroe, Alexandria and Lake Charles. Institutions in the Southeast Region (including New Orleans - Jefferson, Baton Rouge, Lafayette, etc.) may contact the Bureau of Anatomical Services at the main Office in New Orleans (AC: 504, 568-4012, or LINC 621-4012) (24 hour service). Those institutions in the Northwest region (including Shreveport - Bossier City, Monroe, Ruston, Alexandria, Lake

Charles, etc.) may contact the BAS for the purpose of reporting a body by calling the LSU Shreveport Medical School Security Office (AC: 318, 226-3369) (24 hour service).

When contacting the BAS, the following information should be made available: Name, Age, Sex, Race, Cause of Death, Signed copy of Death Certificate, and Burial Transit Permit.

Upon receipt of this notice, the BAS may accept the unclaimed body solely for the purposes of promoting anatomical knowledge and research and organ transplant. BAS may authorize immediate eye enucleation from any body made available to it. Expenses incurred in connection with the notice or delivery and transportation of bodies are paid by the BAS. The Bureau distributes bodies to Louisiana Medical and Dental Schools and the Schools must hold any body received from BAS for at least ninety (90) days during which time any friend or relative of the decedent may claim the body for burial.

In the event the BAS declines to accept the body, and the body remains unclaimed the institution would then notify the coroner and the coroner would arrange for burial. Coroners may also authorize eye enucleation from unclaimed bodies (R.S. 17:2352, 2354.1 and 33.1561).

The BAS must be notified of unclaimed stillbirths (DHHR's Office of General Counsel Opinion No. 79-20). A stillbirth is defined as a birth "... after at least 20 weeks of gestation, or a weight of 350 grams or more, in which the child shows no evidence of life after complete birth" (R.S. 40:32(5)).

It should be noted, however, that the BAS has little need for stillborns and normally cannot bear the transportation costs involved, especially from distant parts of the state. Therefore, the Bureau will most likely decline to accept the unclaimed stillbirth. If the Bureau declines to accept the unclaimed stillbirth, the Coroner is notified and is responsible for burial in a manner which complies with R.S. 8:651-662, 9:1551, and 33:1561.1.

As there is no requirement that death certificates be issued for fetal deaths where the fetus is less than 20 weeks in gestation or weighs less than 350 grams, burial is not required and a DHHR hospital may dispose of such fetuses as it deems appropriate in the best interest of Public Health (DHHR's Office of General Counsel Opinion 79-20).

Each DHHR hospital and residential facility shall accept this as their policy and procedure on the disposition of bodies unclaimed by relatives or friends, and if the decedent had no known assets or property of sufficient value to defray the expenses of burial, and burial must be at public expense. This material shall be made available to all appropriate staff.

George A. Fischer, Secretary  
Department of Health and Human Resources

**RULE**

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

The Department of Health and Human Resources (DHHR), has adopted the Title XX Comprehensive Annual Services Program Plan (CASP) for the program year July 1, 1980 through June 30, 1981.

The CASP provides individuals and families with social services which are directed toward the goals of achieving or maintaining self-support and self-sufficiency, preventing or remedying neglect, abuse, or exploitation, providing community or home based care, and securing referral or admission for institutional care. The services included in the Plan (with a brief description) are: Adoption (pre-placement services to termination of parental rights); Counseling (assessment, evaluation and appropriate therapy services); Day Care for Adults and Children (direct care for a portion of the twenty-four hour day), Education, Training and Treatment

(evaluation, counseling, arrangements, Day Development Training referrals), Employment Services (assessment, placement, job development), Family Aide (temporary respite care for handicapped persons at home), Family Education and Training (handicapped persons and their families), Family Planning (counseling, educational, medical services), Foster Care (evaluation, placement counseling), Health Related (arrangements for receiving and utilizing necessary health services), Home Delivered and Congregate Meals (food preparation, delivery of meals), Home Management (instruction, training, counseling), Homemaker (direct personal and home care), Housing Improvement (counseling, advocacy minor home repairs), Information and Referral (assessment, information, referrals, follow-up), Protective Services for Adults and Children (assessment, evaluation, direct service program, arrangement and referral), Recreational (outreach, referral, arrangements, and follow-up), Residential (direct care treatment, and on a twenty-four hour basis), Respite Care Out of Home (temporary care for the handicapped) and Transportation (travel to and from pertinent community resources).

The following persons are eligible for services:

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 benefits or state supplemental payments.

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 \$900 is eligible for services. In addition, persons whose income does not exceed 115 percent of the state's median income adjusted for a family size are eligible for Family Aide, Family Education and Training, and Respite Care Out of Home Services. However, a fee is charged for those specific services when the family's gross monthly income exceeds 57.8 percent of the state's median income adjusted for family size.

4. All persons are eligible for protective services and information and referral services regardless of their income.

5. Persons are eligible on a group basis for any service (except child day care services) provided that seventy-five percent of the group are members of families with monthly income of not more than ninety percent of the state's median income, adjusted for family size.

#### Difference Between the Proposed and the Final Plan

1. The eligibility criteria for Day Care for children has been revised to reinstate enrichment as a reason for day care for children receiving services from Title XX contract day care centers in order to further assess the potential impact of changing the criteria.

2. The DHHR Office of Health Services and Environmental Quality has been included as a group eligible provider for Health Related services as that agency has been approved as a group eligible provider.

3. Additional census tracts in New Orleans have been included for group eligibility for Health Related and Counseling services provided by the New Orleans Health Corporation and for Health-Related, Transportation, Homemaker and Home Management Services provided by the Housing Authority of New Orleans as the result of sufficient documentation to prove group eligibility in those census tracts.

4. The activity of complaint investigation has been included under Home Management services in order to clarify the service description.

The Title XX State Plan (CASP) for the program year July 1, 1980 - June 30, 1981, has been published and is available without charge upon written or telephone request to: Public Assistance Line, Division of Administration, Box 44095, Baton Rouge, Louisiana 70804, 1-800-272-9868 (8 a.m.-noon, 1 p.m.-5 p.m.).

The Final Plan is available for public review at each parish office of the Office of Human Development, Monday through Friday from 8:30 a.m. to 4:00 p.m. Applications for services will be accepted at the above offices during the same hours. Public comments are available for public review at the Office of Human Development, 1755 Florida Street, Baton Rouge, Louisiana 70802.

George A. Fischer, Secretary  
Department of Health and Human Resources

## RULE

### Department of Insurance Division of Property and Casualty Insurance

Pursuant to a public hearing held in accordance with the Louisiana Administrative Procedures Act, the following Rule is now adopted by the Department of Insurance, Division of Property and Casualty Insurance.

Its purpose is to achieve informity of application in respect to Act 462 of the 1979 Session of the Louisiana Legislature insofar as interlocal risk management agencies are concerned.

#### Section 1 - Authority

This rule is adopted by the Commissioner of Insurance pursuant to the authority vested in him by Title 22, Section 2, Louisiana Revised Statutes of 1950 and Act 462 of the 1979 Session of the Louisiana Legislature.

#### Section 2 - Purpose

The purpose of this rule is to adopt provisions and uniform guidelines for their interpretation as authorized specifically by Act 462 of the 1979 Session of the Legislature. This rule is designed to facilitate and implement the provisions of that Act. It is intended to supplement, not alter in any manner, the provisions of the Act.

#### Section 3 - Applicability

These provisions shall be applicable to any and all entities which may be defined an "interlocal risk management agency" by Act 462 of the 1979 Session of the Louisiana Legislature.

#### Section 4 - Definitions

When used in this rule, the following words or terms have the meaning described in this section.

1. "Department" means the Insurance Department of the State of Louisiana.

2. "Loss Fund" means the retention of risk sharing for an interlocal risk management agency under the terms of an aggregate excess contract or contracts.

3. "Trustees" means the executive boards of the Louisiana Municipal Association or of the Police Jury Association of Louisiana, as the case may be, where those bodies have been designated in an inter governmental agreement to administer an interlocal risk management agency or such members of such executive boards as do not decline to serve as trustees. In all other cases, "trustee" means a group of members elected by the interlocal risk management agency for stated terms of office, to administer a group self-insurance fund, and whose duties shall include responsibilities for approving applications for new members of such fund. A trustee shall not be an owner, officer or employee of the service agent.

4. "Service Agent" means a business which contracts with an interlocal risk management agency for the purpose of providing all services necessary to place and maintain a group self-insurance program.

5. "Trustee Fund" means any monies and investments under the control of the board of trustees of a self-insurance fund which are not part of the loss fund or which are not required to pay claims.

6. "Gross Premium" means the premium determined by multiplying the payroll or other unit of exposure (segregated into the proper workmen's compensation job classification or general

liability classification) times the appropriate manual rates.

7. "Standard Premium" means gross premium plus or minus applicable experience modification.

8. "Normal Premium" means the standard premium less any discount allowed.

9. "Manual Rate" means for workmen's compensation purposes that rate filed by and approved for use in the state by the National Council on Compensation Insurance. For public liability exposure, the term means that rate filed by, and approved for use by the Insurance Services Office.

10. "Experience Modification" means the applicable experience debit or credit promulgated in accordance with those experience rating plans filed by and approved for the National Council on Compensation Insurance or the Insurance Services Office.

11. "Fund" means the interlocal risk management agency self-insurers fund.

12. "Certified Audit" means an audit upon which the auditor expresses his professional opinion that the accompanying statements present fairly the financial position of the self-insurance fund in conformity with generally accepted accounting principles consistently applied, and accordingly include such tests of the accounting records and such other auditing procedures as considered necessary by such auditor.

13. "Net Safety Factor" means any amount needed in a given fund year, in addition to current loss reserves to fund future loss development.

14. "Contingent Liability" means the amount that the interlocal risk management agency may be obligated to pay in excess of a given year's normal premium collected or on hand.

15. "Surplus" means all other assets a fund may have on hand in excess of all loss reserves, actual and contingent liabilities and net safety factors in all fund years.

16. "Statutory Workmens Compensation Benefits" means those prescribed by Title 23, Louisiana Revised Statutes of 1950, as amended.

#### Section 5 - Requirements Necessary to Obtain a Certificate of Authority as an Interlocal Risk Management Agency

1. Evidence must be submitted to the Insurance Department that two or more local government subdivisions have made and executed agreements among themselves to form and become members of an interlocal risk management agency.

2. Copies of the by-laws and other agreements must be submitted to the Insurance Department.

3. A copy of the ordinance or other enabling act that is adopted by the political subdivisions authorizing execution of an agreement to form an interlocal risk management agency must be submitted to the Department of Insurance.

4. Each interlocal risk management agency must identify its agent for service of process to the Department of Insurance.

5. Each fund must have an annual gross premium calculated in accordance with the applicable manual premium rate or rates, plus or minus applicable experience credits or debits, of not less than two hundred thousand dollars.

6. An interlocal risk management agency must at all times maintain a contract or contracts of aggregate excess insurance of at least five million dollars as respects public liability claims if a fund is formed to self insure public liability claims.

7. An interlocal risk management agency must at all times maintain a contract or contracts of specific excess insurance as respects workmen's compensation claims. Those contracts must provide for statutory workmen's compensation benefits which shall include provisions for unlimited medical and rehabilitation expenses, except that interlocal risk management agencies that are in existence prior to September 1, 1980 shall be deemed to be in compliance with this rule provided a contract or contracts of specific excess insurance has been submitted with a limit of liability in the amount of at least one million dollars. On the first renewal date following September 1, 1980, the exception shall not be applicable.

8. Each interlocal risk management agency must provide statutory workmen compensation benefits. A contract or contracts of excess insurance as provided in number 7 above shall be provided to secure payment of statutory workmen's compensation benefits.

9. A copy of each contract of excess and aggregate insurance must be filed with the Department of Insurance.

10. Each risk contract must contain a provision that the Department of Insurance will be notified not less than thirty days in advance in the event of cancellation of the contract by action of either the interlocal risk management agency or the insurance company that issued the contract.

#### Section 6 - Filing of Reports

1. A certified audited financial statement must be submitted annually. That statement must contain a review of the interlocal risk management agency operations and general conditions by a certified independent casualty actuary. During the first two years of the existence of the interlocal risk management agency, the Commissioner of Insurance or his Chief Examiner may require periodic interim financial reports. Those reports may be required on a basis no more frequent than quarterly.

2. That statement of financial condition must include a report of the outstanding workmen's compensation liabilities of the interlocal risk management agency, and include details of the amount and source of all monies recoverable from any third party.

3. Summary loss data shall be filed with the Department of Insurance on each fund member within sixty days after the evaluation date of the losses being reported in a manner acceptable to the Department of Insurance.

4. Classified, audited, and properly limited payrolls and premium development on each fund member shall be submitted to the Insurance Department on acceptable forms within sixty days after the evaluation date of the summary loss information required in number 3 above.

5. All of the information required in number 4 above shall be submitted using classification, payroll limitations, experience modification and rate procedure of the National Council on Compensation Insurance or in the case of public liability those of Insurance Services Office, as filed and approved for use in this state.

6. Failure or refusal of the interlocal risk management agency to file these reports in accordance with this Rule, shall be considered good cause to suspend or refuse renewal of the Certificate of Authority issued by the Commissioner of Insurance.

#### Section 7 - Solvency of Risk Management Agencies; Trustee Responsibilities

1. In order to insure the financial stability of the operations of each interlocal risk management agency, the board of trustees of each fund shall be responsible for all operations of the fund. The board of trustees of each agency shall take all necessary precautions to safeguard the assets of the fund or funds of such agency including:

a. The designation of a fiscal agent or administrator, if not otherwise provided for by Act 462 of the 1979 Regular Session of the Louisiana Legislature to administer the financial affairs of the fund, which as obligee, shall furnish a fidelity bond, or acceptable substitute, to protect the fund against misappropriations or misuse of any monies or securities. The amount of the bond, or substitution therefore, shall be determined by the interlocal risk management agency subject to approval by the Insurance Department. Such fiscal agent or administrator shall not be an owner, officer or employee of the service agent.

b. Retain control of all monies collected or disbursed from the fund or funds and shall segregate all monies into a claims fund and trustee fund. The amount allocated to the claims fund will be sufficient to cover payment of the entire aggregate loss fund as defined in the aggregate excess insurance policy. Only disbursements that are credited toward the loss fund (as defined in the aggregate excess policy) will be made from the claims fund. All administration costs and other disbursements will be made from

the trustee fund. The Administrator of the fund, shall establish a revolving fund for use by the authorized service agent, which will be replenished from time to time from the claims fund. The service agent and its employees shall be covered by a fidelity bond, with the interlocal risk management agency named as obligee in an amount sufficient to protect all monies placed in the revolving fund. Such bond and its amount shall be subject to approval by the Insurance Department.

c. Audit of the accounts and records as provided for in Act 462 of the 1979 Regular Session of the Louisiana Legislature.

d. The board of trustees or its fiscal agent or administrator shall not utilize any of the monies collected as premiums for any purpose unrelated to workmen's compensation or public liability purposes. Further, it shall not borrow any monies from the fund or in the name of the fund without advising the Department of Insurance of the nature and purpose of the loan and obtaining approval. The board of trustees may, at its discretion, invest any surplus monies not needed for current obligations, but such investments shall be limited to bonds of the state of Louisiana or its political subdivisions, United States government bonds or securities, United States treasury notes, investment share accounts in any savings and loan association whose deposits are insured by a federal agency, and certificates of deposit issued by a duly chartered commercial bank, prime commercial paper and repurchase agreements. Deposits in savings and loan associations and commercial banks shall be limited to institutions in this state and shall not exceed the federally insured amount in any one account, except that the federally insured amount on any one account may be exceeded if the amount involved in such an account does not exceed either of the two following factors:

(i) Five percent of the combination of surplus and undivided profits and reserves as currently reported for each bank in this state in the banking division annual report of the Financial Institution Office of the Department of Commerce (banking control).

(ii) Five hundred thousand dollars per institution.

2. The board of trustees may delegate authority for specific functions to the administrator of the self-insurers' fund. The functions which may be delegated include, but are not limited to, such matters as contracting with a service agent, determining the premium charged to and refunds payable to members, investing surplus monies subject to the restrictions set forth in subdivision (d) of subrule 1, and approving applications for membership. All delegated authority shall be specifically defined in the written minutes of the trustees' meetings and shall be subject to final approval.

Section 8 - Interlocal Risk Management Self-Insurance Funds; Advance Premium Discounts; Surplus Distribution; Deficit

1. The trustees of any interlocal risk management agency shall not allow advance premium discounts to any member in excess of that allowed by the excess insurance underwriter, subject however, to a maximum of fifteen percent (15%) of their standard premium.

2. Any surplus monies for a fund year in excess of the amount necessary to fulfill all obligations under the workmen's compensation act for that fund year, including a provision for claims incurred, but not reported and related expenses, may be declared to be refundable by the trustees at any time, and the amount of such declaration shall be a fixed liability of the fund at the time of the declaration. The date of payment shall be as agreed by the trustees except that surplus monies not needed to satisfy the loss fund requirements (i.e., trustees' funds) as established by the aggregate excess contract, may be refunded immediately after the end of the fund year with the approval of the Commissioner of Insurance. The intent of this rule is to ensure that sufficient monies are retained in the funds to assure that total assets are two hundred thousand dollars greater than total liabilities for each fund year.

3. In the event of a deficit in any fund year, the deficit shall be made up immediately from any of the following:

(a). Unencumbered surplus from a fund year other than the current fund year.

(b). Trustees' funds.

(c). By assessment of the membership of the deficit fund year if ordered.

(d). By such alternative method as the Commissioner of Insurance may approve.

(e). By reduction or elimination of the advance premium discount provided to members.

The Commissioner of Insurance shall be notified before any transfer of unencumbered surplus funds and of any method utilized to eliminate a deficit.

Section 9 - Aggregate Excess Insurance; Interlocal Risk Management Agency; Self-Insurance

1. No contract or policy of aggregate excess insurance shall be recognized in considering the ability of an applicant to indemnify the financial obligations of its members under the workmen's compensation act, unless such contract or policy complies with all of the following:

(a). Is issued by a casualty insurance company authorized to transact such business in this state, or a licensed resident surplus lines broker.

(b). Is not cancellable or nonrenewable unless written notice by registered or certified mail is given to the other party to the policy and to the Commissioner of Insurance not less than thirty days before termination by the party desiring to cancel or not renew the policy.

(c). Any contract or policy containing any type of commutation clause shall provide that any commutation effected thereunder shall not relieve the underwriter or underwriters of further liability in respect to claims and expenses unknown at the time of such commutation and which are subsequently reopened by or through a competent authority. If the underwriter proposes to settle their liability for future payments payable as compensation for accidents occurring during the term of the policy by the payment of a lump sum to the interlocal risk management agency, to be fixed as provided in the commutation clause of the policy, then not less than thirty days prior notice of such commutation shall be given to the Insurance Department by the underwriter(s) or its (their) agent by registered or certified mail. If any commutation is effected, then the Commissioner of Insurance shall have the right to direct that such sum be placed in trust for the benefit of the loss fund.

(d). All of the following shall be applied toward the reaching of the retention level in the aggregate excess contract:

(i). Payments made by the employer.

(ii). Payments due and owing to claimants of the employers.

(iii). Payments made on behalf of the employers by any surety bond under a bond required by the Commissioner of Insurance.

(iv). Payments made by the Interlocal Risk Management Agency security fund.

(e). Copies of the complete policy of aggregate excess insurance shall be filed with the Commissioner of Insurance, together with a certification that such policy fully complies with this rule and applicable statutes.

Section 10 - Servicing Interlocal Risk Management Agencies; Application; Requirements; Noncompliance

1. Any individual, copartnership, or corporation desiring to engage in the business of providing one or more services for an approved workmen's compensation program for an interlocal risk management agency shall apply to, and shall satisfy the Commissioner of Insurance that it has adequate facilities and competent staff within the state of Louisiana to service the self-insurance program in such a manner as to fulfill the employers' obligations under the workmen's compensation act and any rules and regulations applicable thereto. Service may include, but is not limited to, claims adjusting, industrial safety engineering, underwriting, and the capacity to provide required reporting.

2. Application for approval to act as a servicing agent for an interlocal risk management agency shall be made on the required form. The application shall contain answers to all questions propounded and shall be sworn to and approved before the service agent enters into a contract with an interlocal risk management agency. Applications for approval to act as a service agent shall be granted for a period of one year and shall be subject to renewal annually.

3. If the service agent seeks approval to service claims, then proof shall be required that it has within its organization, or has contracted on a full-time basis with, at least one person who has the knowledge and experience necessary to handle claims involving the workmen's compensation act and public liability. A resume covering that person's or persons' background shall be attached to the application of the service agent.

4. If the service agent seeks approval to provide underwriting services, then proof shall be required that it has within its organization, or has contracted on a full-time basis with, at least one person who has the knowledge and experience necessary to provide underwriting services for workmen's compensation excess insurance and public liability coverage. A resume covering that person or persons' background shall be attached to the application of the service agent.

5. If the service agent seeks approval to furnish safety engineering services, then proof shall be required that it has within its organization, or has contracted on a full-time basis with at least one person who has the knowledge and background necessary to adequately provide industrial safety and health engineering services.

6. The service agent shall maintain adequate staff and the staff shall be authorized to act for the service agent on all matters covered by the workmen's compensation act and rules and regulations applicable thereto.

7. The service agent shall file copies of all contracts entered into with interlocal risk management agencies as they relate to the services to be performed. Such reports shall be kept confidential. The service agent will handle all claims with dates of injury or disease within the contract period until their conclusion unless the service agent is relieved of that responsibility by a successor service agent.

8. Failure to comply with the provisions of the workmen's compensation act shall be considered good cause for withdrawal of the approval to act as a service agent. Thirty days notice of withdrawal shall be given and notice shall be served by certified or registered mail upon all interested parties.

#### Section 11 - Penalty for Noncompliance

Noncompliance with the provisions of this Rule may result in suspension, revocation or nonrenewal of the Certificate of Authority issued by the Commissioner of Insurance pursuant to the provisions of Act 462 of the 1979 Session of the Louisiana Legislature.

#### Section 12 - Severability

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

Glenn T. Guillory, Ph.D, Assistant Director  
Structural Pest Con

Sherman A. Bernard  
Commissioner of Insurance

### **RULE**

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

Pursuant to the Notice of Intent published on February 20, 1980, the Department of Insurance, Division of Property and

Casualty Insurance hereby adopts the following rule.

The rule is intended to prevent use of confidential information in the possession of any person for the purposes of solicitation, negotiation and service of insurance contracts unless disclosure is authorized by the insured.

#### Unfair Trade Practices

##### Section 1 - Authority

This rule and guideline is adopted by the Commissioner of Insurance pursuant to the authority vested in him by Title 22, Section 2, Louisiana Revised Statutes of 1950, as amended.

##### Section 2 - Purpose

The purpose of this rule is to accomplish a uniform application of Louisiana R.S. 22:1214(4), (8) and (9). It is intended to clarify those provisions of the Unfair Trade Practices Part of the Louisiana Insurance Code. (Title 22, Louisiana Revised Statute of 1950 as amended).

##### Section 3 - Applicability

These provisions shall be applicable to any persons directly or indirectly involved in the solicitation, negotiation and service of insurance contracts.

##### Section 4 - Definitions

When used in this rule, the following words or terms have the meaning described in the section.

1. "Person" means any individual, company, insurer, association, organization, reciprocal or interinsurance exchange, partnership, business, trust or cooperation.

2. "Confidential information" means information obtained by means of a confidential or fiduciary relationship and the existence of such relationship precludes the party in whom trust and confidence is placed from participating in profit or advantages resulting from the dealing of the parties to the relation: Specifically, information given a mortgagee pertaining to expiration date of insurance contracts and rating and coverages information is "confidential information."

3. "Unfair competition" means the improper use of confidential information for competitive advantages.

##### Section 5 - Rule

It shall be an unfair trade practice for any person to engage in unfair competition by directly or indirectly using confidential information in the solicitation, negotiation, and service of insurance contracts, unless the disclosure of such information is authorized by the insured.

Sherman A. Bernard  
Commissioner of Insurance

### **RULE**

#### **Department of Public Safety Office of Motor Vehicles**

The Louisiana Department of Public Safety does hereby adopt the following rules relative to the issuance of special license plates for vehicles of Shriners, of members of the Public Service Commission, of members of the United States Senate & House of Representatives and of active members of the Louisiana National Guard.

##### Shriner Plates

1. Eligibility — Applicants for special Shriner license plates shall include any member in good standing of a Shrine organization. Such plates shall be issued for the following types of motor vehicles, provided they are painted in the Shrine colors and used by the member or the organization in Shrine parades or for other escort services:

- A. Private passenger automobiles.
- B. Private passenger pick-up trucks up to six thousand pounds.
- C. Private use vans which qualify for automobiles or minimum use pick-up truck plates.
- D. Private buses and recreational vehicles.
- E. Commercial vehicles operated for private use only.

F. Motorcycles and motorized bicycles.

G. Trailers.

2. Place of Application — Applications for issuance of Shriner license plates shall be made at the Vehicle Registration Bureau, 109 South Foster Drive, Baton Rouge, Louisiana, or through the mail by writing to the Department of Public Safety, Vehicle Registration Bureau, Special Services, Box 66196, Baton Rouge, Louisiana 70896.

3. Application — All applications for issuance or transfer of Shriner license plates shall be made on prescribed Department of Public Safety Vehicle Registration (DPSVR) forms. Applications must be accompanied by proof of the applicant's status as a Shrine member in good standing and proof that his vehicle qualifies. Such proof shall be made by means of an affidavit signed by the recorder of the temple to which the applicant belongs. If the vehicle is not registered in the applicant's name, he must submit proper title documentation and fees along with the request for special plate.

4. Fees — The fee for issuance of a Shriner license plate shall be fifteen dollars. The plate shall be issued for the life of the vehicle. The fee for transferring such plate to a subsequent owner of a vehicle shall be five dollars. Each subsequent owner will also be required to submit proof of his status as a member in good standing of a Shrine organization.

5. Cancellation — Shriner license plates displayed on vehicles other than those to which the plates are issued are subject to immediate cancellation, and all such vehicles are subject to the full registration fees prescribed by law. If the Shriner no longer wishes to display the plate on his vehicle or becomes unqualified for the license plate, that plate must be returned for cancellation to the Department of Public Safety Vehicle Registration Bureau at the address stated in Rule 2 above, and a numerical plate must be purchased for the vehicle.

6. Replacement — If the Shriner license plate is lost or stolen, application for a replacement license plate may be made by executing the prescribed DPSVR form and submitting it with a photocopy of the registration certificate and a two dollar fee.

#### Public Service Commissioner Plates

1. Eligibility — All incumbant members of the Public Service Commission are eligible to apply for Public Service Commission (PSC) license plates. Such plates may be issued for any private passenger automobile or private use van which would qualify for a regular-issue automobile license plate.

2. Place of application — Applications for issuance of PSC license plates shall be made at the Vehicle Registration Bureau, 109 South Foster Drive, Baton Rouge, Louisiana, or through the mail by writing to the Department of Public Safety, Vehicle Registration Bureau, Special Services, Box 66196, Baton Rouge, Louisiana 70896.

3. Application — All applications for issuance or transfer of PSC license plates shall be made on prescribed Department of Public Safety Vehicle Registration (DPSVR) forms. Applications must be accompanied by a form DPSVR 1631 executed before a notary public and approved by the Division of Administration. If the vehicle is not registered in the applicant's name, he must submit proper title documentation and fees along with the request for special license plate.

4. Fees — There shall be no charge for the initial issuance of a PSC license plate. The plate can be transferred from one vehicle to another upon payment of a three dollar transfer fee. The plates are subject to regular renewal requirement and each renewal application must be accompanied by a form DPSVR 1631 executed before a notary public and approved by the Division of Administration.

5. Cancellation — Public Service Commission license plates are subject to immediate cancellation for any of the following reasons:

A. The plate is displayed on a vehicle other than the one for which it was issued.

B. The commissioner no longer wishes to display the plate on his vehicle.

C. The successor commissioner does not want to display the plate on the vehicle.

6. Replacement — If the PSC license plate is lost or stolen, the commissioner may apply for a replacement plate by executing the prescribed DPSVR form and submitting that form along with a photocopy of the registration certificate and a fee of two dollars to the Vehicle Registration Bureau in the manner in which applications are made.

#### Plates for Members of Congress

1. Description — Special plates for members of the United States Senate shall be stamped to indicate such status and to indicate seniority. Special plates for members of the United States House of Representatives shall be stamped to indicate such status and shall be stamped with the number of the district the member represents.

2. Eligibility — Incumbant members of Congress in the Louisiana Delegation may apply for these special license plates. The plates may be issued for any private passenger automobile or private use van which would qualify for a regular-issue automobile license plate. Each member shall be allowed two such plates.

3. Place of application — Applications for issuance of these special plates shall be made at the Vehicle Registration Bureau, 109 South Foster Drive, Baton Rouge, Louisiana, or through the mail by writing to the Department of Public Safety, Vehicle Registration Bureau, Special Services, Box 66196, Baton Rouge, Louisiana 70896.

4. Application — Applications for issuance or transfer of such special plates shall be made on the prescribed Department of Public Safety Vehicle Registration (DPSVR) forms. If the vehicle is not registered in the applicant's name, he must submit proper title documentation and fees along with the request for special plate.

5. Fees — The fee for issuance of such a special license plate shall be six dollars every two years. The plate can be transferred from one vehicle to another upon payment of a three dollar transfer fee. The plates are subject to regular renewal requirements.

6. Cancellation — These special license plates shall be subject to immediate cancellation for any of the following reasons:

A. The plate is displayed on a vehicle other than the one for which it was issued.

B. The member of Congress no longer wishes to display the plate on the vehicle.

C. The successor member does not want to display the plate on the vehicle.

7. Replacement — If the special plate is lost or stolen, the Member of Congress may apply for a replacement by executing the prescribed DPSVR form and submitting that form along with a photocopy of the registration certificate and a two dollar fee to the Vehicle Registration Bureau in the manner of making application for such plates.

#### National Guard Plates

1. Eligibility — An active member of the Louisiana National Guard may apply for a National Guard license plate. Such plates shall be issued for any private passenger automobile or private use van which would qualify for a regular issue automobile license plate.

2. Place of application — Applications for issuance of National Guard license plates shall be made at the Vehicle Registration Bureau, 109 South Foster Drive, Baton Rouge, Louisiana, or through the mail by writing to the Department of Public Safety, Vehicle Registration Bureau, Special Services, Box 66196, Baton Rouge, Louisiana 70896.

3. Application — All applications for issuance or transferring of a National Guard license plate shall be made on prescribed Department of Public Safety Vehicle Registration (DPSVR) forms. Applications must be accompanied by proof of the applicant's status

as a member in good standing of the Louisiana National Guard. If the vehicle is not registered in the applicant's name, he must submit proper title documentation and fees along with the request for the special license plate.

4. Fees — The fee for issuance of a Louisiana National Guard license plate shall be six dollars every two years. The plate can be transferred from one vehicle to another upon payment of a three dollar transfer fee. The plates are subject to regular renewal requirements and proof of the owner's status as a current member of the Louisiana National Guard.

5. Cancellation — Special plates displayed on vehicles other than those for which they are issued are subject to immediate cancellation. If the owner of a vehicle no longer wishes to display the plate on his vehicle or to transfer the plate to another vehicle registered in his name, the plate shall be returned for cancellation to the Vehicle Registration Bureau at its address designated in Rule 2 above. The plate shall be surrendered upon termination of the owner's status as a member of the Louisiana National Guard.

6. Replacement — If the National Guard license plate is lost or stolen, the owner may apply for a replacement license plate by executing the prescribed DPSVR form and submitting it along with a photocopy of the registration certificate and a two dollar fee.

Donald Bollinger, Secretary  
Department of Public Safety

## **RULE**

### **Department of Revenue & Taxation**

#### **Regulations for the Administration of Tax Credits and Tax Warrants to Operators of Electric Generating Plants and Natural Gas Distribution**

##### **Services R.S. 47:11 - Effective July 1, 1980.**

The following regulation concerning Section 11 of Title 47 of the Louisiana Revised Statutes is hereby promulgated:

Persons and municipalities applying pursuant to the provisions of Section 11 of Title 47 of the Louisiana Revised Statutes for tax credits authorized therein must submit an application therefor on forms provided by the Secretary of the Department of Revenue and Taxation (hereinafter referred to as "the Secretary") on or before August 10, 1980, and each August 10th subsequently occurring. Application shall apply to gas distributed or consumed during the twelve month period subsequent to 7:00 a.m. on July 1, 1979, and each succeeding twelve month period thereafter.

##### **I. Definitions.**

1. "Electric generating plant" shall include persons engaged in generating electricity for sale and which is municipally owned or regulated, or regulated by the Louisiana Public Service Commission.

2. "Natural gas distribution" service shall include those gas distribution services municipally owned or regulated, or regulated by the Louisiana Public Service Commission.

3. "Direct purchaser" shall include every person who is the first purchaser of gas originating in the federal domain of the outer continental shelf.

4. "Person" means any juridical person, whether individual, partnership, association, trust, corporation or other juridical person or municipality engaged in the generation of electricity for sale or in the business of distributing natural gas or the first direct purchaser of gas for consumption by such purchaser, and shall include successor corporations or merged corporations for purposes of computing the amount of tax credit due hereunder during the twelve month period, provided, however, that such persons, other than direct purchasers described in number 3 above, are municipally owned or regulated, or regulated by the Louisiana Public Service Commission.

5. "Transportation and marketing costs" referred to herein shall be limited to those additional costs applicable to the gas consumed or distributed as a direct result of legislative action applicable to the period subsequent to 7:00 a.m., April 1, 1979.

6. Tax credits shall not be granted for the following:

(a) Gas used or consumed in the drilling for or production of oil, natural gas, or sulphur.

(b) Gas used or consumed in the processing of natural gas for liquids extraction, including gas shrinkage volumes attributable to the extraction of liquefiable petroleum gases.

(c) Gas used or consumed in the manufacture of fertilizer and nahydrous ammonia within the state.

(d) Gas purchased and resold for use and consumption by another.

(e) Increased costs totaling less than \$250.00 annually, except that increased costs totaling less than the minimum credit established herein may be carried forward and accumulated for three years from the year in which increased costs occur in order that the applicant may utilize the tax credit authorized prior to the end of the prescriptive period.

7. MCF of gas: one thousand cubic feet of gas measured at a base pressure of 15.025 pounds per square inch absolute and at the temperature base of 60° F. In computing the standard cubic feet of gas, the barometric pressure should be assumed to be 14.7 pounds per square inch absolute at the place of measurement.

II. Tax Credit Applications — Tax credit applications must be filed on or before the date specified above. In the event that an applicant does not submit the application before August 10th, the amount of credit which would otherwise be due shall not be granted until the next succeeding year in which tax credits are issued. The data requested on the application form must be provided in full in its proper space on the form. In addition to the application form, the following data concerning the tax credit period must be furnished the Secretary before any tax credit warrants or certificates are issued:

1. A copy of each Monthly Gas Purchase Voucher or Invoice showing contract pressure base and volume at 60° F temperature.

2. A statement (or invoice) from the Gas Supplier showing contract pressure base and volume and total volume converted to a pressure base of 15.025 per square inch absolute at 60° F.

3. A statement, or invoice from the Gas Supplier showing the price per MCF paid to the Seller including increased transportation and/or marketing costs incurred by the Seller as a result of legislative action which became effective at 7:00 a.m. on April 1, 1979, and which increased costs as passed to the First Purchaser.

III. Applications — Tax credits and warrants issued annually hereunder shall not exceed two million dollars in the aggregate. Tax credits and warrants shall be limited to the total credit available divided by the total credits applied for times the credit applied for by the individual applicant. In the event that applications do not exceed two million dollars in a given time period, credits or warrants will be issued for the face value of each application. Tax credits or warrants issued shall be dated no later than September 15 of the year of issuance and the credits of warrants must be utilized by the receipt by September 15 of the year next following. No accumulation of unused credit balances from year to year is allowed.

1. Not later than the date prescribed above, the Secretary will then issue a certificate of eligibility in the name of the applicant showing the total tax credit to which he is entitled. The certificate of eligibility and the tax credit warrants issued thereunder are personal in nature and may be used only for credit against taxes owed by the person named therein. They may not be bought, sold or transferred in any way for use by a person other than that designated. The applicant at the time of the original application or thereafter during the effective period of the certificate of eligibility may request that warrants be issued for the payment of particular taxes in such amounts as the applicant may specify.

When warrants are issued for only a portion of the total credit to which the applicant is entitled, a subsequent request for additional warrants under the certificate of eligibility may be made to the Secretary by endorsing the certificate of eligibility and showing thereon the additional warrants requested in the appropriate space provided. If a balance remains, a new certificate will be issued showing the balance to which the applicant is entitled. The statute provides that tax credit warrants may be used to allow a direct credit against any tax or combination of taxes, except severance taxes, owed by such person to the State of Louisiana, or any parish, municipality, political subdivision or any other taxing authority of the state. Tax credit warrants will not be issued for credits against municipal or parish taxes until the taxpayer has exhausted all efforts to apply credits against state taxes.

Request for warrants under a certificate of eligibility must specify the type tax to be paid, the agency to whom payable, the taxable period, and the amount for which a credit is claimed. The applicant may then use the warrant for the payment of the tax shown on the face thereof up to the face amount of the warrant but not in excess of the amount of the particular tax against which the tax credit warrant is to be applied. No cash refunds will be made for an overpayment of a tax by means of a tax credit warrant.

IV. Effective Date — These rules and regulations are effective July 1, 1980.

V. Citation — This regulation may be cited as 11:80-7.

Shirley McNamara, Secretary  
Department of Revenue & Taxation

## RULE

### Department of Transportation and Development

A truck equipped with a variable load suspension axle will be allowed the existing statutory weight limits provided the following conditions are adhered to:

1. The regulator for controlling the pressure on the variable load suspension axle must be located outside of the cab. This will prohibit the driver from being able to vary the pressure on the axle while the vehicle is in motion or in the process of being weighed.

2. A toggle switch may be placed in the cab if it can only completely raise the variable load suspension axle clearly off the ground or place it in contact with the ground.

Paul J. Hardy, Secretary  
Department of Transportation  
and Development

# Notices of Intent

## NOTICE OF INTENT

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

The Department of Agriculture intends to hold a series of five public meetings for the following purposes:

1. To secure public input prior to the drafting of rules and regulations as authorized by R.S.3:1602 and R.S. 3:1623. The Department intends to promulgate rules and regulations relative to pesticide wastes and waste pesticide container disposal.

2. Commercial pesticide applicators will be informed as to their responsibilities as possible hazardous waste generators under the Federal Government's Resource Conservation and Recovery Act (RCRA) regulations as published in the *Federal*

*Register* Monday, May 19, 1980, Parts 2 thru 10, pages 33066-33588, and the Louisiana Hazardous Waste Management Plan as mandated by Act 334 of 1978, which became effective August 1, 1979.

Meetings will begin at 7:00 p.m. and will be held at the following locations:

1. July 22, 1980: Ouachita Agriculture Center, Agricultural Auditorium, 704 Cypress St., West Monroe, LA 71291

2. July 24, 1980: Louisiana State Exhibit Museum, 3015 Greenwood Road, Shreveport, Louisiana

3. July 28, 1980: Sheraton Inn, Pineville Room, 2716 W. McArthur Drive, Alexandria, Louisiana 71301

4. July 30, 1980: Jeff Davis Parish Fairgrounds, Multi-Purpose Building, South Highway 26, Jennings, Louisiana 70546

5. July 31, 1980: Mineral Board Hearing Room, Main Floor, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana 70802

Interested persons may obtain a copy of the *Federal Register* involved and the Hazardous Waste Management Plan from Roy L. Johnson, Louisiana Department of Agriculture, Division of Agricultural and Environmental Sciences, Box 44153, Baton Rouge, Louisiana 70804.

Dr. John W. Impson, Assistant Commissioner  
Louisiana Department of Agriculture

## NOTICE OF INTENT

### Department of Agriculture Louisiana Structural Pest Control Commission

In accordance with the authority vested in the Louisiana Structural Pest Control Commission by Section 1263 of Title 40 of the Revised Statutes of 1950 and in accordance with the provisions of the Administrative Procedures Act, R.S. 49:951-968, as amended, notice is hereby given of intent to totally revise the Rules and Regulations of the Louisiana Structural Pest Control Commission. A copy of the proposed revision of the Rules and Regulations is at the office of the Structural Pest Control Commission, Room 200, 9181 Interline Avenue, Baton Rouge, Louisiana. A public hearing will also be held in the Conference Room, Twenty-First Floor, State Capitol Building, Baton Rouge, Louisiana beginning at 9:30 a.m. on July 11, 1980. At that hearing, the Commission will consider revisions to the Rules and Regulations.

All interested persons are invited to submit written comments until July 9, 1980, to Louisiana Structural Pest Control Commission, Box 44153, Baton Rouge, Louisiana 70804. Dr. Glenn T. Guillory is the person responsible for responding to inquiries concerning the proposed revision of the Rules and Regulations.

Glenn T. Guillory, Ph.D., Assistant Director  
Structural Pest Control Commission

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

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

1. Procedures for administering vocational-technical programs in the correctional facilities.

2. Adoption of Attorney General Opinion relative to allowing employees to live on campus of vocational-technical schools.

3. Professional Plan of Development for awarding assessment teachers certificates to be effective until September 1, 1982.

4. Policy providing that the Board shall receive new certification requirements only through the Bureau of Teacher Certification, State Department of Education.

5. Adoption of Certificate of Achievement.

6. Special Education Transportation Guidelines.



7. Policy allowing university lab schools to change schedule of attendance to coincide with university schedule.

8. Amendments to Bulletin 1196, Revised, *Louisiana Food and Nutrition Programs Policies of Operation* to be effective with the beginning of the new 1980-81 school year.

9. Bulletin 1475, *Louisiana School Bus Driver Operational and Vehicle Maintenance Procedures*.

Interested persons may comment on the proposed policy changes and/or additions, in writing, until 4:30 p.m., July 9, 1980, at the following address: State Board of Elementary and Secondary Education, Box 44064, Baton Rouge, Louisiana 70804.

James V. Soileau  
Executive Director

## NOTICE OF INTENT

### Board of Regents

In accordance with the applicable provisions of the Administrative Procedures Act, R.S. 49:951, et seq., notice is hereby given that the Louisiana Board of Regents intends to amend Academic Affairs Policy 2.2 (Rev.) - Letters of Intent, at its regular September, 1980, meeting. The proposed amendment will limit the time Letters of Intent will remain on file in the office of the Board of Regents.

The proposed amendment will be available for public inspection between the hours of 8:00 a.m. and 4:30 p.m., on any working day after June 20, 1980, at the offices of the Louisiana Board of Regents, Suite 1530, One American Place, Baton Rouge, Louisiana.

Interested persons may submit their views and opinions up to fifteen days following publication of this Notice of Intent to Dr. Kerry Davidson, Associate Commissioner for Academic Affairs, Louisiana Board of Regents, Suite 1530, One American Place, Baton Rouge, Louisiana 70825.

William Arceneaux  
Commissioner of Higher Education

## NOTICE OF INTENT

### Southern University Board of Supervisors

The Southern University Board of Supervisors hereby gives notice in accordance with the law that it intends to consider for adoption an increase in charges for tuition, room, board, student insurance and laboratory school fees.

A copy of the proposed increases may be reviewed at the Office of the Board of Supervisors, Administration Building, Southern University at Baton Rouge. The office of the Board will be open from 8:00 a.m. to 4:30 p.m. All interested persons may submit written comments through July 7, 1980, to the following address: Mrs. Henrietta Vessel, Administrative Secretary, Southern University Board of Supervisors, Box 10870, Baton Rouge, Louisiana 70813. The Board of Supervisors intends to adopt the new fees at a meeting to be held July 26, 1980 at 10:00 a.m. in the Martin L. Harvey Auditorium, Southern University at Baton Rouge.

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

## NOTICE OF INTENT

### Office of the Governor Office of Elderly Affairs

The following is a proposed amendment to a rule adopted by the Office of the Governor, Office of Elderly Affairs, pursuant to

federal regulations which were published on December 20, 1979. The following sections of those rules are amended to read as follows:

State Allotment.

5. An opportunity for a hearing shall be provided to any unit of general purpose local government region metropolitan area, or Indian reservation(s) which requests to be designated as a planning and service area. The application on behalf of an Indian reservation(s) shall be made by the governing tribal organization(s).

In designating planning and service areas, the Office of Elderly Affairs shall consider:

1. The distribution in the State of persons age 60 or older including those with the greatest economic need.

2. The views of public officials of the units of general purpose local governments.

3. The incidence of need for services provided under the Older Americans Act, as amended and the resources available to meet these needs.

4. The boundaries of units of general purpose local government, regional planning areas, Indian reservations, existing economic development districts and areas within the State established for planning and administering human services, including the areawide comprehensive planning and development districts or regions established pursuant to Office of Management and Budget Circular A-95.

15. Contributions derived from services under Title III shall be used in any of the following ways in order to increase the number of meals served to the elderly:

1. Contributions shall be used to match either Title III C-1 or C-2 and Title XX home-delivered meals.

2. Contributions shall be used to defray inflationary cost of meal programs whereby, if other funds were not available, the number of meals served would be reduced.

3. Contributions from Title III C-1 shall be used in Title III C-2 meal programs to increase the number of meals served. All contributions which are received during a project period must be used within that project period and must be expended before Federal or State monies are spent. Contributions shall be allowed to accumulate and be carried over into another project year.

The Office of Elderly Affairs shall require all agencies which have inventories of nonexpendable personal property paid in whole or in part with Federal and/or State funds to have updated property records which shall be accurately maintained. A copy of all property records shall be sent to this office no later than March 31 of each year.

The Office of Elderly Affairs shall develop a mechanism for receiving comments on the development of a comprehensive policy manual for Title III-B and Title III-C. The Aging Services Network shall submit comments on areas of policy which should be included in the manual.

Interested persons may submit written comments on the proposed changes to Ms. Rita Coutee, Box 44282, Baton Rouge, Louisiana 70804.

Priscilla R. Engolia, B.C.S.W., A.C.S.W.  
Executive Director

## NOTICE OF INTENT

### Office of the Governor Facility Planning and Control

The Facility Planning and Control Department is presently revising the 1978 Edition of the Louisiana Capital Improvement Projects Procedure Manual for Design and Construction in order to publish a 1980 Edition of the Manual. Interested persons may

contact Mr. Joseph P. Gossen, Assistant Director, Facility Planning and Control, Fourth Floor, Capitol Annex, Box 44095, Baton Rouge, Louisiana 70804, 504-342-7016, for the purpose of discussing the proposed revised Edition of the Manual. Written responses will also be accepted. Comments will be accepted until 2:00 P.M., July 7, 1980.

J. Ben Meyer, Jr., Director  
Facility Planning and Control Department

### NOTICE OF INTENT

#### State Board of Examiners of Psychologists

The State Board of Examiners of Psychologists intends to adopt the following proposed rules as policy.

1. Rule on Use of Specialty Titles.
2. Rule on Renewal of Lapsed Licenses.

Interested persons may submit written comments on the proposed policy additions until July 9, 1980, at the following address: State Board of Examiners of Psychologists, Box 14782, Baton Rouge, Louisiana 70898. Interested persons may also contact Dr. Wayne A. Greenleaf, Chairman, at 342-3638.

Wayne A. Greenleaf, Ph.D.  
Chairman

### 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 revise and expand policy regarding sanctioning of providers of services in the Medical Assistance Program. The rule to be revised was previously published in the October 20, 1978 issue of the *Louisiana Register*. The particular sections are being revised as outlined below:

#### II. Levels of administrative sanctions.

##### E. Suspend or withhold payments.

1. The Agency may suspend or withhold payment to any provider who fails to meet the requirements for participation in the Medical Assistance Program.

2. The Agency may withhold payments to any provider for the duration of any administrative proceeding and/or hearing under these provisions except that if a final administrative decision has not been issued within one hundred eighty days of the initiation of such proceedings, unless delay has been caused by the provider, payments can no longer be withheld, provided, however, that the one hundred eighty-day limit may be extended if said extension is mutually agreed to by the agency and the provider. Payments may be denied for bills submitted with service dates occurring during the duration of a proceeding where the final administrative decision is to terminate eligibility to participate in the Medical Assistance Program.

##### J. Suspend participation in the Medicaid Program.

The Assistant Secretary, Office of Family Security, Louisiana Department of Health and Human Resources, shall specify in his suspension order, the time of the suspension during which the provider shall not be eligible to participate in the program or receive reimbursement for services rendered during this period of suspension, except that the period of suspension must be at least as long as the Medicare suspension if such suspension was ordered by the Secretary, United States Department of Health, Education, and Welfare pursuant to Public Law 94-142, Section 7. The Assistant Secretary may require the provider to correct any deficiencies which served as the basis for the suspension as a condition of reinstatement.

##### K. Refuse to allow participation in the Medicaid Program.

The Assistant Secretary, Office of Family Security, Louisiana Department of Health and Human Resources, may refuse to allow initial participation in the Medical Assistance Program.

#### IV. Grounds for sanctioning providers.

F. Such provider has been excluded from participation in Medicare because of fraudulent or abusive practices pursuant to Public Law 95-142, or such provider has been convicted of Medicaid fraud (La. R.S. 14:70.1).

R. The provider, a person with management responsibility for a provider, an officer or person owning, either directly or indirectly, five percent or more of the shares of stock or other evidences of ownership in a corporate provider, an owner of a sole proprietorship which is a provider, or a partner in a partnership which is a provider, either:

1. Has been convicted of Medicaid fraud under Federal or State law, or regulation; or
2. Was a person with management responsibility for a provider at the time such provider was convicted of Medicaid fraud under Federal or State law or regulation; or
3. Was an officer, or person owning, either directly or indirectly five percent or more of the shares of stock or other evidences of ownership in a provider at the time such provider was convicted of Medicaid fraud under Federal or State law, or regulation; or
4. Was an owner of a sole proprietorship or partner of a partnership which was a provider at the time such provider was convicted of Medicaid fraud under Federal or State law, or regulation.

Interested persons may submit written comments on this proposed policy change through July 4, 1980, at the following address: Mr. Alvis D. Roberts, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, Louisiana 70804. Mr. Roberts is the person responsible for responding to inquiries about this proposed rule.

George A. Fischer, Secretary  
Department of Health and Human Resources

### NOTICE OF INTENT

#### Department of Health & Human Resources Office of Health Services & Environmental Quality

In accordance with the provisions of the Administrative Procedures Act (R.S. 49:953), notice is hereby given that the Division of Vital Records of the Office of Health Services and Environmental Quality, Department of Health and Human Resources, will hold a public hearing on Wednesday, July 9, 1980 at 2:00 p.m., in Senate Committee Room "C" in the basement of the State Capitol Building in Baton Rouge, Louisiana.

The purpose of this public hearing is to provide a forum for comments and suggestions, written or oral, relative to the proposed rules (previously published in the March 20, 1980 issue of the *Louisiana Register*, pp. 138-139) pertaining to a legitimation in accordance with Articles 198 of the Louisiana Civil Code, and to an act of legitimation in accordance with Article 200 of the Louisiana Civil Code, and to an act of legitimation as contemplated by R.S. 9:391, all as amended and reenacted by Act No. 607 of 1979.

The proposed rules and regulations are being prepared in accordance with R.S. 40:33C and R.S. 40:46E in particular.

Interested persons may submit written comments until July 5, 1980, to Mr. Stanley Brown, State Registrar of Vital Records, 325 Loyola Avenue, New Orleans, Louisiana.

Harold A. Heitkamp, M.D., Assistant Secretary  
Office of Health Services and Environmental Quality

## NOTICE OF INTENT

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

Effective upon publication of final notice the Department of Health and Human Resources, Office of Mental Retardation, proposes to adopt a revision to the policy on Treatment of Resident Income in State Intermediate Care Facilities for the Mentally Retarded. The proposed revision provides for special treatment of interest earned from resident funds on deposit with the institution.

Interested persons may submit written comments on the proposed policy change through July 5th at the following address: Mr. Otto P. Estes, Assistant Secretary, Office of Mental Retardation, 721 Government Street - Room 308, Baton Rouge, Louisiana 70802. Mr. Estes is the person responsible for responding to inquiries about the proposed rule.

George A. Fischer, Secretary  
Department of Health and Human Resources

## NOTICE OF INTENT

### Department of Natural Resources Office of Conservation

In accordance with the laws of the State of Louisiana, and particularly Title 30 of Louisiana Revised Statutes of 1950 as amended by 30:1(D), 3(1)(c) and (15) and 4(C)(16), adopted by the Legislature as Act 122 of 1976, 30:6 and Act 461 of 1979, a public hearing will be held by the Commissioner of Conservation at the Pointe Coupee Parish Courthouse, New Roads, Louisiana, at 7:00 p.m., July 30, 1980.

At such hearing, the Commissioner of Conservation will hear testimony from Conservation Specialists, Incorporated, relative to the disposal of waste products into the subsurface by means of disposal wells which are identified as Conservation Specialists, Incorporated Waste Disposal Number 1 Well and Waste Disposal Number 2 Well with the injection interval at a depth of 4400-4600 feet. The proposed wells are located in the Southeast one-fourth of Section 17, Township 6 South, Range 10 East, Pointe Coupee Parish, Louisiana, being approximately four miles West-Northwest of Erwinville, Louisiana and approximately one and one-half miles East of Torbert, Louisiana. Types of waste to be disposed of are aqueous solutions of salts and organic liquids.

Prior to authorizing the drilling and use of these wells for disposal of waste products, the Commissioner of Conservation must find that the applicant has met all of the requirements of Statewide Order No. 29-N which became effective August 20, 1977.

Oral and written comments will be received from any interested party at the public hearing.

Written comments which will not be presented at the hearing will need to be received not later than 5:00 p.m., July 29, 1980, at the Baton Rouge Office (See Below). A summary of the proposed plan is available for inspection in the Office of Conservation, 625 North Fourth Street, Baton Rouge, Louisiana, and in the Lafayette District Office of Conservation, 315 Audubon Street, Lafayette, Louisiana. Comments should be directed to: Assistant Commissioner, Office of Conservation, Box 44275, Baton Rouge, Louisiana 70804, Re: Pointe Coupee Parish Waste Disposal Wells.

All parties having interest in the aforesaid shall take notice hereof. All concerned will undoubtedly take notice of this public hearing in the State Times, Baton Rouge, Louisiana and the Pointe Coupee Banner, New Roads, Louisiana.

R. T. Sutton,  
Commissioner of Conservation

## NOTICE OF INTENT

### Department of Natural Resources Office of Environmental Affairs

The Department of Natural Resources, Office of Environmental Affairs, as lead agency under the authority of Act 449 of 1979 (Louisiana Environmental Affairs Act) and the Resource Conservation and Recovery Act of 1976 (Public Law 94-500), intends to apply to the Environmental Protection Agency for Phase I Interim Authorization of the Hazardous Waste Management Program.

The Resource Conservation and Recovery Act, Section 3006, provides that a state may apply for authorization under federal law. EPA has released the regulations setting forth requirements for the state's application in the Monday, May 19, 1980 *Federal Register*.

A draft of Louisiana's Phase I Interim Authorization Application will be made available for public inspection on Thursday, July 3, 1980, State Lands and Natural Resources Building, 625 North Fourth Street (6th Floor), Baton Rouge, Louisiana, and the official state repositories.

A public hearing to discuss and receive comments on the draft of Phase I Interim Authorization Application will be held on Tuesday, August 5, 1980, at 7:00 p.m., in the Mineral Board Hearing Room, State Lands and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana.

Written comments on the draft Phase I Interim Authorization Application will be accepted until the close of the business day on Wednesday, August 20, 1980, and should be addressed to: Mr. B. Jim Porter, Assistant Secretary, Office of Environmental Affairs, Department of Natural Resources, Box 44066, Baton Rouge, Louisiana 70804.

Frank A. Ashby, Secretary  
Department of Natural Resources

## NOTICE OF INTENT

### Department of Natural Resources Office of Environmental Affairs

The Department of Natural Resources, Office of Environmental Affairs, and the Environmental Protection Agency's Region VI Office will be conducting a series of three public meetings in the State of Louisiana during the month of July to present EPA's new hazardous waste regulations. These regulations appeared in the Monday, May 19, 1980, *Federal Register* and are concerned with Parts II through IX.

Those requesting copies of the *Federal Register* may obtain them from: Ms. Mary MacDonald, Office of Environmental Affairs, Box 44066, Baton Rouge, Louisiana 70804, (504) 342-1265, or Mr. Tom Clark, U.S. EPA, Office of Solid Waste, 1201 Elm Street, First International Bank Building, Dallas, Texas 75270, (214) 767-2645.

The meetings, to begin at 9:00 a.m., have been scheduled in the following areas for the State of Louisiana: July 15, 1980 — 9:00 a.m. - 5:00 p.m., Calcasieu Police Jury Meeting Room, Calcasieu Parish Courthouse, 1015 Pithon, Lake Charles, Louisiana 70601; July 16, 1980 — Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana 70804; July 17, 1980 — Main Floor Meeting Room, Thomas F. Donelon Office Building, 3330 North Causeway Boulevard, Metairie, Louisiana 70002

B. Jim Porter, Assistant Secretary  
Office of Environmental Affairs

## NOTICE OF INTENT

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

The Environmental Control Commission proposes revisions to the Air Quality State Implementation Plan to allow Shell Oil Company, until the dates shown in the applicable Compliance Schedules, to come into compliance with the requirements of Regulation 22 of the Plan; to allow Cargill, Inc., to change the method by which it will control the particulate matter emissions at Cargill's Port Allen, Louisiana, grain elevator; and to provide for public participation in matters of Louisiana air quality and for informing the public about violations of the ambient air quality standards and the possible and likely hazards associated with these violations.

These rule changes are being proposed for enactment under the authority granted to the Commission by Louisiana R.S. 30:1066 (1).

The Commission will hold a public hearing, beginning at 10:00 a.m., July 22, 1980, in the State Lands and Natural Resources Building, Mineral Board Hearing Room, Baton Rouge, Louisiana, to discuss and consider the adoption of the proposed revisions.

The person within the agency responsible for responding to inquiries about the proposed Plan revisions is Mr. Gus A. VonBodungen, Director, Air Quality Division, Box 44066, Baton Rouge, Louisiana 70804, (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 Mr. 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 8:00 a.m. until 4:30 p.m.: Room 409, State Office Building, 325 Loyola Avenue, New Orleans, Louisiana; Reception Area, Sixth Floor, State Lands and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana; Office of Health Services Building, 1505 North Nineteenth Street, Monroe, Louisiana; State Office Building, 1525 Fairfield Avenue, Shreveport, Louisiana; Calcasieu Parish Health Unit, 721 Prien Lake Road, Lake Charles, Louisiana

B. Jim Porter, Assistant Secretary  
Office of Environmental Affairs

## NOTICE OF INTENT

### Louisiana Department of Natural Resources

The Louisiana Department of Natural Resources intends to adopt comprehensive rules with respect to claims against The Fishermen's Gear Compensation Fund, R.S. 56:700.1-700.5, Act 673 of 1979.

It will hold a public hearing on July 10, 1980, at 10:00 a.m. in the Office of Conservation Hearing Room, Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana, at which time interested parties will be given an opportunity to be heard.

Copies of the proposed rules are available from the Secretary of the Department of Natural Resources, Box 44396, Baton Rouge, Louisiana 70804, and comments respecting those rules may be submitted to him in writing at said address prior to the hearing.

Frank A. Ashby, Jr., Secretary  
Department of Natural Resources

## NOTICE OF INTENT

### Department of Transportation and Development

Notice is hereby given that the Louisiana Department of Transportation and Development intends to adopt the following rule as an amendment to its existing rules, regulations and policies governing the "Size, Weight and Load" of vehicles operated on the State Highway System. The Secretary will accept written comments and requests for a draft of the proposed rule until 4:15 p.m., July 9, 1980, at the following address: Mr. Francis A. Becnel, Enforcement and Truck Permits Administrator, Louisiana Department of Transportation and Development, Box 44245, Baton Rouge, Louisiana 70804. The proposed rule is as follows:

It will be permissible to issue an oversize/overweight permit dozers, which will allow the operator to remove the blade of that particular dozer and haul it on the same vehicle, in an effort to reduce width and improve safety. In case of overweight permits, this applies only to a single blade which has been removed from the equipment being transported.

This amendment to the Department's existing rules, regulations and policies governing the "Size, Weight and Load" of vehicles is to be effective July 20, 1980.

Paul J. Hardy, Secretary  
Department of Transportation  
and Development

## NOTICE OF INTENT

### Department of the Treasury State Bond Commission

The Louisiana State Bond Commission at its April 29, 1980 and June 10, 1980 meetings proposed changes to its Rules and Regulations relative to guidelines applicable to Mortgage Finance Authorities as was originally adopted by the Commission May 22, 1979.

A copy of the proposed changes will be made available to any interested party who may then submit written comments or appear at a hearing to be conducted on the changes. Said hearing will be at 9:30 a.m., Tuesday, July 22, 1980, in Senate Committee Room E, State Capital Building, Baton Rouge, Louisiana. Written comments may be submitted to, and information concerning the proposed changes obtained from: Louisiana State Bond Commission, Box 44154, Baton Rouge, Louisiana 70804, (504) 342-7225.

Barry W. Karns, Secretary  
Louisiana State Bond Commission

## NOTICE OF INTENT

### Board of Trustees State Employees Group Benefits Program

The Board of Trustees of the State Employees Group Benefits Program proposes to adopt a rule increasing the health insurance premium rate by 17.7 percent and amending the plan to increase certain benefits. This rule will be considered at the July 16, 1980 meeting of the Board of Trustees. Comments and questions regarding this proposed rule should be sent to Dr. James D. McElveen, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, Louisiana 70804.

James D. McElveen  
Executive Director

## NOTICE OF INTENT

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

The Louisiana Wildlife and Fisheries Commission will hold a public meeting on Tuesday, August 26, 1980, or at a special meeting if it is necessary to comply with Federal regulations, to set the 1980-81 waterfowl season dates and bag limits. The meeting will be at 10:00 a.m., at the Wildlife and Fisheries Building, 400 Royal Street, New Orleans, Louisiana.

Persons wishing to submit written comments may do so by writing to Mr. Joe L. Herring, Assistant Secretary, Department of Wildlife and Fisheries, Box 44095, Baton Rouge, Louisiana 70804. Those wishing to testify orally will be given ample opportunity at the meeting.

Joseph V. Colson, Secretary  
Department of Wildlife and Fisheries

# Potpourri

## Louisiana Democratic Party Constitution and By-Laws

The following is being published in compliance with R.S. 18:443(E).

### Preamble

We, the members of the Louisiana Democratic Party, in order to organize and perpetrate a representative, effective and responsible party organization in the State of Louisiana, affiliate with, and advance the interests of the Democratic Party in Louisiana, and to uphold human and civil rights, and constitutional government do establish this constitution. This constitution may be amended by two-thirds vote of the membership, after sixty days prior notice to proposed amendments. The by-laws are intended to further define and regulate the operating procedures of the party and its constituent bodies. The by-laws may be added to or amended by majority vote of the membership after thirty days notice of the proposed amendments. Changes in the constitution and by-laws may be made when necessary to improve the party or to enable the party to conform to state or federal law or the rules of the Democratic National Convention or the Democratic National Committee.

### Subordination

This constitution, and the by-laws adopted pursuant to this constitution, are subordinate to the Louisiana and United States Election Laws, and the Democratic National Charter and the Rules of the Democratic National Committee on selection of delegates to the various conventions of the Party.

### Name

The name of this organization shall be the Louisiana Democratic Party.

### Object

The object and purpose of this organization shall be to promote the ideals and principles of the Democratic Party of the State of Louisiana.

### Party Membership

Any citizen of Louisiana eighteen years of age or older shall be entitled to membership in the Louisiana Democratic Party. Unless specifically denied such right by law, all members of the Louisiana

Democratic Party shall be eligible to participate in all activities of the party, shall be eligible to serve as delegates to conventions, shall be eligible to hold office in the Louisiana Democratic Party, and shall be eligible to vote on any motion, resolution, nomination, or election affecting the Louisiana Democratic Party at any meeting, caucus, conference, or convention in the state, parish, or precinct, provided, however, that at the time of casting such vote, such person shall be a resident within the geographical boundaries of the political subdivision he or she represents.

### Management

The official body for administration of the state affairs of the Louisiana Democratic Party is the Democratic State Central Committee; the official body to the administration of local party affairs shall be the parish Democratic Executive Committee. All other official party organizations shall be those recognized by the Democratic State Central Committee.

### Officers

The officers of the Louisiana Democratic Party shall be the Chairperson, three Vice Chairpersons, the Secretary, the Treasurer, the Assistant Secretary, the Legal Counsel, the Clerk, six executive committee members elected by the Democratic State Central Committee, and all members of the Democratic National Committee elected by the Democratic State Central Committee.

All officers, except the Legal Counsel and the Clerk, shall be members of the Executive Committee of the Louisiana Democratic Party.

The Executive Committee shall be the governing body of the Louisiana Democratic Party between meetings of the Democratic State Central Committee.

The Chairperson shall appoint such other committees as may be deemed necessary for the executive management of the party.

### Election

Any member of the Louisiana Democratic Party, registered as a Democrat, and residing in the district in which he seeks election shall be eligible for election to membership on the Democratic State Central Committee or a parish Democratic Executive Committee. Members of the State Central Committee and the parish Democratic Executive Committee shall be elected for four years terms in compliance with state law.

### Organization of Committee

The newly elected members of the Democratic State Central Committee shall meet at the State Capitol and organize the committee within fifteen days after each gubernatorial general election. At the first meeting of the newly elected members of the State Central Committee, they shall elect the officers provided by the constitution and by-laws of the committee.

### Voting by Proxy

A member of the Democratic State Central Committee may vote by proxy, subject to the following conditions:

1. A member shall not vote by proxy at more than two consecutive meetings.
2. No member shall exercise the proxy votes of more than three other members at any meeting.
3. No member shall exercise the proxy vote of a member who does not reside in the same congressional district as the member who exercises the proxy vote.

### Composition and Apportionment

The Democratic State Central Committee shall be composed of one member for each eighteen thousand, two hundred fifty persons or a major fraction thereof in each parish, computed according to the 1970 federal census, provided that each parish shall be allotted at least one member. In accordance with state law the

membership of the Louisiana Democratic State Central Committee shall be apportioned as follows:

1. Three members shall be elected from District No. 1 composed of Acadia Parish.
2. One member shall be elected from District No. 2 composed of Allen Parish.
3. Two members shall be elected from District No. 3 composed of Ascension Parish.
4. One member shall be elected from District No. 4 composed of Assumption Parish.
5. Two members shall be elected from District No. 5 composed of Avoyelles Parish.
6. One member shall be elected from District No. 6 composed of Beauregard Parish.
7. One member shall be elected from District No. 7 composed of Bienville Parish.
8. Three members shall be elected from District No. 8 composed of Bossier Parish.
9. Two members shall be elected from District No. 9 composed of Wards 1, 2, 3, 5, 6, and 9 of Caddo Parish.
10. Two members shall be elected from District No. 10 composed of Precincts 1, 5, 31, 39, 40, 57, 65, 67, and 71 of Ward 4 of Caddo Parish.
11. Two members shall be elected from District No. 11 composed of Precincts, 2, 25, 30, 32, 33, 34, 37, 41, 42, 43, 44, 45, 46, 54, 55, and 58 of Ward 4 of Caddo Parish.
12. Three members shall be elected from District No. 12 composed of Precincts 3, 4, 35, 36, 38, 52, 53, 59, 60, 61, 69, and 70 of Ward 4 and Ward 7 of Caddo Parish.
13. Two members shall be elected from District No. 13 composed of Ward 8 and Precincts 12, 13, 16, 20, 21, 22, 23, 24, 26, 27, 49, 50, 51, 56, 62, 63, and 68 of Ward 4 of Caddo Parish.
14. Two members shall be elected from District No. 14 composed of Precincts 6, 7, 8, 9, 10, 11, 14, 15, 17, 18, 19, 28, 29, 47, 48, 64, and 66 of Ward 4 of Caddo Parish.
15. Two members shall be elected from District No. 15 composed of Wards 5, 6, and 7, and that portion of Ward 4 which is outside the town of Westlake of Calcasieu Parish.
16. Two members shall be elected from District No. 16 composed of Ward 1, and Precincts 16, 17, 18, 19, 26, 27, 28, 29, 33, 34, 39, 41, and 42 of Ward 3 of Calcasieu Parish.
17. Two members shall be elected from District No. 17 composed of that portion of Ward 4 of Calcasieu Parish in the town of Westlake and Precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 20, 21, 22, 23, 24, and 40 of Ward 3 of Calcasieu Parish.
18. Two members shall be elected from District No. 18 composed of Wards 2 and 8, and Precincts 25, 30, 31, 32, 35, 36, 37, and 38 of Ward 3 of Calcasieu Parish.
19. One member shall be elected from District No. 19 composed of Caldwell Parish.
20. One member shall be elected from District No. 20 composed of Cameron Parish.
21. One member shall be elected from District No. 21 composed of Catahoula Parish.
23. One member shall be elected from District No. 23 composed of Concordia Parish.
24. One member shall be elected from District No. 24 composed of DeSoto Parish.
25. Two members shall be elected from District No. 25 composed of Precincts 14, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 50, 58, 61, and 62 of Ward 1 of East Baton Rouge Parish.
26. Two members shall be elected from District No. 26 composed of Precincts 1, 2, 3, 4, 5, 6, 9, 11, 12, 13, 15, 16, 17, 32, 45, 51, 67, and 68 of Ward 1 of East Baton Rouge Parish.
27. Three members shall be elected from District No. 27 composed of Precincts 33, 34, 35, 36, 39, 49, 52, 53, 54, 55, 57, 60, 63, 65, 71, 72, 73, 74, 77, 78, 79, and 80 of Ward 1 of East Baton Rouge Parish.

28. Three members shall be elected from District No. 28 composed of Precincts 7, 8, 37, 38, 40, 41, 42, 43, 44, 46, 47, 48, 56, 59, 64, 66, 69, 70, 75, and 76 of Ward 1 of East Baton Rouge Parish.
29. Two members shall be elected from District No. 29 composed of Precincts 3, 5, 6, 7, 8, 10, 13, 14, 18, 19, 20, 21, and 22 of Ward 2 of East Baton Rouge Parish.
30. Two members shall be elected from District No. 30 composed of Precincts 1, 2, 4, 9, 11, 12, 15, 16, 17, and 23 of Ward 2 of East Baton Rouge Parish.
31. Two members shall be elected from District No. 31 composed of Ward 3 of East Baton Rouge Parish.
32. One member shall be elected from District No. 32 composed of East Carroll Parish.
33. One member shall be elected from District No. 33 composed of East Feliciana Parish.
34. Two members shall be elected from District No. 34 composed of Evangeline Parish.
35. One member shall be elected from District No. 35 composed of Franklin Parish.
36. One member shall be elected from District No. 36 composed of Grant Parish.
37. Three members shall be elected from District No. 37 composed of Iberia Parish.
38. Two members shall be elected from District No. 38 composed of Iberville Parish.
39. One member shall be elected from District No. 39 composed of Jackson Parish.
40. Two members shall be elected from District No. 40 composed of Precincts 4, 5, 6, 7, 8, 9A, 9B, 9C, 9D, Ward 9 of Jefferson Parish.
41. Two members shall be elected from District No. 41 composed of Precincts 1, 2, 3A, 3B, 3C, 3D, 3E, 10D, 11, 12, and 13 of Ward 9 of Jefferson Parish.
42. Two members shall be elected from District No. 42 composed of Precincts 10A and 10B of Ward 9, Precincts 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, and 28 of Ward 10 and Precincts 37 and 37B of Ward 8 of Jefferson Parish.
43. Two members shall be elected from District No. 43 composed of Precincts 17A, 19A, 19B, 20A, 21, 21A, 23, 25A, 28, 30, and 31 of Ward 8 and Precincts 5, 6, 10, 11, 15, 16, and 17 of Ward 10 of Jefferson Parish.
44. Two members shall be elected from District No. 44 composed of Precincts 1, 2, 3, 4, 6, 7, 8, 11, 12, 13, 14, 15, 16, 18, and 22 of Ward 8 and Precincts 1, 2, 3, 4, 7, 8, 9, 12, 13, and 14 of Ward 10 of Jefferson Parish.
45. Two members shall be elected from District No. 45 composed of Ward 7 and Precincts 24, 25, 27, 27A, 29A, 34, 35, 36, 37A, 38, and 39 of Ward 8 of Jefferson Parish.
46. Three members shall be elected from District No. 46 composed of Wards 5, 6, and 11, and Precincts 10, 11, 12, 13, 14, 15, 16, 17, and 18 of Ward 4 of Jefferson Parish.
47. Two members shall be elected from District No. 47 composed of Precincts 1, 2, 3, 4, 5, 6, 7, 7A, 8, 9, and 9A of Ward 4 and Precinct 7 of Ward 3 of Jefferson Parish.
48. Two members shall be elected from District No. 48 composed of Wards 1 and 2 and Precincts 1, 2, 3, 4, 5, and 6 of Ward 3 of Jefferson Parish.
49. Two members shall be elected from District No. 49 composed of Jefferson Davis Parish.
50. Two members shall be elected from District No. 50 composed of Wards 1, 2, 4, 6, 8, 9, and 10 of Lafayette Parish.
51. Two members shall be elected from District No. 51 composed of Wards 5 and 7 and Precincts 1, 2, 3, 4, 5, 14, 15, 16, 17, 18, 19, and 26 of Ward 3 of Lafayette Parish.
52. Two members shall be elected from District No. 52 composed of Precincts 6, 7, 8, 9, 10, 11, 12, 13, 20, 21, 22, 23, 24, and 25 of Lafayette Parish.
53. One member shall be elected from District No. 53 com-

posed of Wards 1 and 2 of Lafourche Parish.

54. Three members shall be elected from District No. 54 composed of Wards 3, 4, 5, 6, 7, 8, 9, 10, and 11 of Lafourche Parish.

55. One member shall be elected from District No. 55 composed of LaSalle Parish.

56. Two members shall be elected from District No. 56 composed of Lincoln Parish.

57. Two members shall be elected from District No. 57 composed of Livingston Parish.

58. One member shall be elected from District No. 58 composed of Madison Parish.

59. Two members shall be elected from District No. 59 composed of Morehouse Parish.

60. Two members shall be elected from District No. 60 composed of Natchitoches Parish.

61. Three members shall be elected from District No. 61 composed of Ward 15 of Orleans Parish.

62. Two members shall be elected from District No. 62 composed of Precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 13A, 14, 15, 16, and 17 of Ward 17 and Precincts 7, 8, 9 of Ward 16 of Orleans Parish.

63. Two members shall be elected from District No. 63 composed of Precincts 1, 1A, 2, 3, 4, 5, and 6 of Ward 16 and Precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 18A, 19, and 21 of Ward 14 of Orleans Parish.

64. Two members shall be elected from District No. 64 composed of Ward 13, Precinct 19 of Ward 11, Precincts 17, 18, 19, and 20 of Ward 12, and Precincts 20, 22, 23, 24, 24A, 25, 26, and 26A of Ward 14 of Orleans Parish.

65. Two members shall be elected from District No. 65 composed of Precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 of Ward 12 and Precincts 14, 15, 16, 17, and 18 of Ward 11 of Orleans Parish.

66. Two members shall be elected from District No. 66 composed of Precincts 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 of Ward 10 and Precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 of Ward 11 of Orleans Parish.

67. Two members shall be elected from District 67 composed of Wards 1 and 2, Precincts 1, 4, and 6 of Ward 3, Precinct 2 of Ward 4 and Precincts 13 and 14 of Ward 10 of Orleans Parish.

68. Two members shall be elected from District No. 68 composed of Precincts 18, 18A, 19, 19A, 20, and 21 of Ward 17, Precincts 9, 10, 10A, 11, 12, 13, 13A, 14, 14A, 15, 16, 16A, 17, 17A, 18, 18A, 19, 20, 20A, 21, 21A, 22, and 23 of Ward 4, Precincts 12, 13, 14, 15, 16, 17, 18, and 19 of Ward 5 and Precincts 8 and 9 of Ward 6 of Orleans Parish.

69. Two members shall be elected from District No. 69 composed of Precincts 3, 3A, 5, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, and 20 of Ward 3, Precincts 3, 4, 5, 6, 7, and 8 of Ward 4 and Precincts 6, 7, 8, 9, 10, and 11 of Ward 5 of Orleans Parish.

70. Two members shall be elected from District No. 70 composed of Precincts 1, 2, 3, 4, and 5 of Ward 5, Precincts 1, 2, 4, 5, 6, and 7 of Ward 6, Precincts 1, 2, 4, 4A, 5, 6, and 7 of Ward 7, Precincts 1, 2, 4, 5, and 6 of Ward 8, and Precincts 12, 13, 14, 15, 19, and 20 of Ward 9 of Orleans Parish.

71. Two members shall be elected from District No. 71 composed of Precincts 8, 9, 9A, 10, 11, 12, 13, 14, 15, 16, 17, 17A, 18, 19, 20, 20A, 21, 27, 27A, 27B, and 28 of Ward 7 of Orleans Parish.

72. Two members shall be elected from District No. 72 composed of Precincts 22, 23, 24, 25, 26, 26A, 28A, 29, 30, 31, 32, 33, 33A, 34, 35, 39, and 40 of Ward 7, and Precincts 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, and 25A of Ward 8 of Orleans Parish.

73. Two members shall be elected from District No. 73 composed of Precincts 36, 36A, 37, 38, 38A, 41, and 42 of Ward 7, Precincts 26, 26A, 27, 27A, 28, 29, and 30 of Ward 8, and Precincts 29A, 30, 30A, 31, 31A, 31B, 31C, 31D, 31E, 33, 33A,

42, 42A, and 43 of Ward 9 of Orleans Parish.

74. Two members shall be elected from District No. 74 composed of Precincts 32, 34, 35, 36, 36A, 36B, 37, 37A, 38, 38A, 39, 39A, 39B, 40, 40A, 40B, 41, 43A, 44, 44A, and 45 of Ward 9 of Orleans Parish.

75. Two members shall be elected from District No. 75 composed of Precincts 7, 8, 9, 10, 11, 12, and 14 of Ward 8 and Precincts 9, 11, 16, 17, 18, 21, 23, 24, 25, 25A, 27, 28, 28A, 28B, 28C, and 29 of Ward 9 of Orleans Parish.

76. Two members shall be elected from District No. 76 composed of Precincts 1, 1A, 2, 3, 3A, 3B, 4, 5, 5A, 6, 6A, 6B, 6C, 6D, 7, 8, 8A, 10, 22, and 26 of Ward 9 of Orleans Parish.

77. Three members shall be elected from District 77 composed of Wards 3 and 10 of Ouachita Parish.

78. Three members shall be elected from District No. 78 composed of Ward 1, 2, 4, 5, 6, 7, 8, and 9 of Ouachita Parish.

79. One member shall be elected from District No. 79 composed of Plaquemines Parish.

80. One member shall be elected from District No. 80 composed of Pointe Coupee Parish.

81. Three members shall be elected from District No. 81 composed of Ward 1 of Rapides Parish.

82. Three members shall be elected from District No. 82 composed of Wards 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 of Rapides Parish.

83. One member shall be elected from District No. 83 composed of Red River Parish.

84. One member shall be elected from District No. 84 composed of Richland Parish.

85. One member shall be elected from District No. 85 composed of Sabine Parish.

86. Three members shall be elected from District No. 86 composed of St. Bernard Parish.

87. Two members shall be elected from District No. 87 composed of St. Charles Parish.

88. One member shall be elected from District No. 88 composed of St. Helena Parish.

89. One member shall be elected from District No. 89 composed of St. James Parish.

90. One member shall be elected from District No. 90 composed of St. John the Baptist Parish.

91. One member shall be elected from District No. 91 composed of Wards 4, 5, and 7 of St. Landry Parish.

92. Three members shall be elected from District No. 92 composed of Wards 1, 2, 3, and 6 of St. Landry Parish.

93. Two members shall be elected from District No. 93 composed of St. Martin Parish.

94. Three members shall be elected from District No. 94 composed of St. Mary Parish.

95. Three members shall be elected from District No. 95 composed of St. Tammany Parish.

96. Two members shall be elected from District No. 96 composed of Wards 7 and 8 of Tangipahoa Parish.

97. Two members shall be elected from District No. 97 composed of Wards 1, 2, 3, 4, 5, and 6 of Tangipahoa Parish.

98. One member shall be elected from District No. 98 composed of Tensas Parish.

99. Three members shall be elected from District No. 99 composed of Wards 1, 2, 3, and 5 of Terrebonne Parish.

100. One member shall be elected from District No. 100 composed of Wards 4, 6, 7, 8, 9, and 10 of Terrebonne Parish.

101. One member shall be elected from District No. 101 composed of Union Parish.

102. Two members shall be elected from District No. 102 composed of Vermilion Parish.

103. Three members shall be elected from District No. 103 composed of Vernon Parish.

104. Two members shall be elected from District No. 104 composed of Washington Parish.

105. Two members shall be elected from District No. 105 composed of Webster Parish.

106. One member shall be elected from District No. 106 composed of West Baton Rouge Parish.

107. One member shall be elected from District No. 107 composed of West Carroll Parish.

108. One member shall be elected from District No. 108 composed of West Feliciana Parish.

109. One member shall be elected from District No. 109 composed of Winn Parish.

The wards and municipal boundaries referred to in this Subsection are those existing on April 1, 1970, except in Jefferson and Caddo Parishes, where the wards referred to are those existing on August 20, 1971, and except in East Baton Rouge Parish, where the wards referred to are those existing on February 4, 1974. The precincts referred to in this Subsection are those existing on August 20, 1971, except in East Baton Rouge Parish, where the precincts referred to are those existing on February 4, 1974.

## **By-Laws of the Louisiana Democratic Party**

### **Article One — Democratic State Central Committee**

#### **Section 1. Duties and Party.**

The Democratic State Central Committee shall be the governing body for the Democratic Party of Louisiana. It shall have general responsibility for the affairs of the party. This responsibility shall include; but not be limited to:

- (a) Assisting Democratic candidates in state and local elections.
- (b) Conducting orderly delegate selection processes to fill the Louisiana delegation to the Democratic National Conventions and Party conferences, according to guidelines established by the Democratic National Committee.
- (c) Formulating and disseminating statements of Party policy.
- (d) Establishing and maintaining state headquarters for Party activities and maintaining a staff to promote and build the Party.
- (e) Maintaining relations with local Democratic committees and affiliated bodies organized to promote Democratic Party activities.
- (f) Maintaining relations with the Democratic National Committee following the guidelines established by that body.
- (g) Promoting and encouraging Party activities at every level, including but not limited to the following:
  - (i) Promoting and encouraging Party participation;
  - (ii) Raising funds for the operation of Party activities;
  - (iii) Establishment and support of an adequate system of political research;
  - (iv) The preparation, distribution and communication of Party information to its members and the general public;
  - (v) The development and maintenance of programs of public relations;
  - (vi) Development of programs for the coordination of Party committees, organizations, groups, public officials and members;
  - (vii) Devising ways and means of financing activities of the Party;
  - (viii) Taking such action as may be necessary and proper to carry out the provisions of the Constitution, these By-Laws, the resolutions and other official actions to achieve the objectives of the Party;
  - (iviv) Approval of the budget of the Democratic State Central Committee;

#### **Section 2. Membership.**

(a) The Democratic State Central Committee shall be comprised of 203 members as provided for in the Constitution and in State Law.

(b) As provided in state law, members of the Democratic State Central Committee shall be elected every four years at the same time as the governor and shall serve until their successors are elected.

(c) After each election, the newly-elected members of the Democratic State Central Committee shall meet at the state capitol and organize the committee within fifteen days after each gubernatorial general election.

(d) Any registered Democrat may seek membership on the Democratic State Central Committee. Candidates shall file with the Clerk of Court in the Parish in which they are seeking election, and shall pay a filing fee of \$75.00 which fee shall be paid by the Clerk of Court to the State Central Committee.

#### **Section 3. Resignation of Members.**

(a) Any member of the Democratic State Central Committee wishing to resign his or her position shall notify, in writing, the Chairman of the Democratic State Central Committee of his or her desire to resign, giving reasons for doing so. The Chairman of the Democratic State Central Committee shall notify the Secretary of State and the Chairman of the Parish Democratic Committee that a vacancy exists.

#### **Section 4. Vacancies.**

(a) Upon notification of a vacancy on the Democratic State Central Committee, the Parish Democratic Executive Committee of the parish in which the vacancy occurs shall elect a person to fill the unexpired term of the vacant position. The person must be selected in accordance with the guidelines provided in the Constitution for membership on the Committee.

(b) The Chairperson of the Parish Democratic Executive Committee shall notify the Secretary of State and the Chairperson of the Democratic State Central Committee giving the name and address of the person filling the vacancy.

#### **Section 5. Contests or Challenges.**

(a) Any challenges to the credentials of a member of the Democratic State Central Committee may be made by any Democrat from the Democratic State Central Committee District of the member challenged or by any member of the Democratic State Central Committee and shall be filed by registered mail (return receipt requested) with the Chairperson.

(b) In case of a contest or challenge to credentials, the chairperson of the Democratic State Central Committee shall appoint an Ad Hoc Credentials Committee of nine members, to consider and report to the full Democratic State Central Committee their recommendations.

(c) The findings and recommendations of the ad-hoc committee may be considered and acted upon by a majority vote of the Democratic State Central Committee.

#### **Section 6. Meetings.**

(a) The Democratic State Central Committee shall meet upon the call of the Chairperson or upon petition of at least one-third of the elected membership of the Democratic State Central Committee. At least one meeting per year shall be called. Meetings shall be held at the state capitol. All meetings will be conducted according to the official rules of order of the Democratic State Central Committee.

(b) Members of the Democratic State Central Committee shall be notified of all meetings no less than ten (10) days prior to the meeting.

#### **Section 7. Quorum and Voting by Proxy.**

(a) In order for any business to be transacted, a quorum of the members must be present. A quorum will consist of a majority of the members of the committee.

(b) A member may cast a vote by proxy for an absent member. Each proxy shall be filed with the Chairperson prior to or at the time, of a meeting.

(1) A member shall not vote by proxy at more than two consecutive meetings.

(2) No member shall exercise the proxy votes of more than three other members at any meeting.

(3) No member shall exercise the proxy vote of a member who does not reside in the same congressional district as the member who exercises the proxy vote.



#### Section 8. Attendance.

(a) All members of the Democratic State Central Committee should attend or may designate a proxy to represent them at all meetings of the Democratic State Central Committee.

(b) Any member failing to attend in person at least three consecutive meetings of the Democratic State Central Committee shall be deemed to have vacated his or her office, unless he or she submits a doctors certificate certifying that he or she was unable to attend. The Chairperson of the Democratic State Central Committee shall notify the former member, the Secretary of State and the Chairperson of the Parish Democratic Executive Committee of the vacancy.

#### Section 9. Officers.

(a) At the first meeting following the elections of new members of the Democratic State Central Committee, the newly elected members will elect officers for the Party in accordance with State Law and the Constitution.

#### Section 10. Executive Committee.

(a) The State Executive Committee shall be the Governing Body of the Democratic State Central Committee at times the Committee is not in session.

(b) The Executive Committee will be assembled according to guidelines established in the Constitution.

(c) The Executive Committee shall be charged with the responsibility of transacting the business of the Committee and Party affairs at times when the Committee is not in session. All actions of the Executive Committee shall be submitted and acted upon by the Democratic State Central Committee.

#### Section 11. Expenses.

(a) Staff members and members of the Democratic State Central Committee who represent the Party on official business shall be reimbursed for actual traveling expenses, provided funds are available for such purposes. Said travel expenses are to be paid in accordance with the guidelines adopted by the Executive Committee, and only after prior approval by the Executive Committee.

#### Section 12. Duties of the Chairperson.

(a) The Chairperson shall be the chief executive officer of the Democratic State Central Committee and the chief party official of the Louisiana Democratic Party. The Chairperson shall exercise authority delegated by the Democratic State Central Committee and the Executive Committee in carrying out the day-to-day activities of the Democratic State Central Committee and the Louisiana Democratic Party.

#### Section 13. Committees.

(a) The Democratic State Central Committee may establish committees deemed necessary for the operation of the Party.

(b) The Chairperson shall appoint the members of all committees, except the Executive Committee.

#### Section 14. Participation in National Party Affairs.

(a) The Democratic State Central Committee shall work to implement and carry-out the objectives of the Democratic National Committee, when such objectives are not in conflict with the objectives of the Louisiana Democratic Party.

(b) The Democratic State Central Committee shall work in cooperation with the Democratic National Committee to promote the well being of national, state and local Party affairs.

(c) The Democratic State Central Committee shall support and actively work towards the election of the Democratic candidate for President of the United States.

#### Section 15. Endorsement and Support of Candidates for Public Office.

(a) The Democratic State Central Committee may endorse candidates for federal, state or local offices by a majority vote of the committee.

(b) Except on a two-thirds vote of those present and voting, the Democratic State Central Committee shall not endorse a candidate in a race in which there is more than one Democrat seeking the same office.

(c) No member of the Democratic State Central Committee shall use the name of the Committee in opposing a candidate who has been endorsed by the Democratic State Central Committee.

#### Section 16. Affiliation of State Democratic Organizations.

(a) Statewide organizations which are organized to promote the Louisiana Democratic Party may apply for and obtain affiliation with the Democratic State Central Committee.

(b) Organizations wishing to affiliate with the Democratic State Central Committee shall submit to the Chairperson; 1) a resolution or motion passed by their organization requesting affiliation, 2) and information concerning membership and objectives of the organization and 3) a constitution and by-laws, if adopted.

(c) Such organizations may be accepted for affiliation by the Executive Committee and approved by the Democratic State Central Committee by majority vote.

(d) All statewide Democratic organizations affiliated with the Democratic State Central Committee may be officially represented by three persons who will be recognized as non-voting representatives of the organization at meetings of the Democratic State Central Committee.

(e) Local Democratic organizations may also seek affiliation with the Democratic State Central Committee through the same procedures as statewide organization. Only statewide organizations may have non-voting representatives at meetings of the Democratic State Central Committee.

#### Section 17. Congressional District Caucuses.

(a) Congressional District Caucuses will be comprised of members of the Democratic State Central Committee in each Congressional District.

(b) A Chairperson for each Congressional District shall be appointed by the Chairperson of the Democratic State Central Committee.

(c) The Chairperson may call meetings and caucus the members in the Congressional District when deemed necessary to discuss items of importance to the Democratic Party in that district.

### Article Two — Parish Executive Committees

#### Section 1. Duties and Powers.

The Democratic Parish Executive Committee shall have general responsibility for the affairs of the Democratic Party on the local level.

This responsibility shall include, but not be limited to:

(a) Filling vacancies on the Democratic State Central Committee.

(b) Assisting in the election of local and statewide Democratic candidates.

(c) Promoting and encouraging Party activities, including but not limited to the following:

(i) Encouraging and promoting voter registration;

(ii) Establishing and maintaining a strong viable Democratic organization on the parish level;

(iii) Assisting local Democratic organizations;

(iv) Raising funds for both state and parish Democratic activities and for the Louisiana Democratic Party.

(v) Educating local voters as to Democratic Party issues and activities.

#### Section 2. Membership.

(a) The Parish Executive Committee shall be composed of membership as provided by state law.

(b) Any registered Democrat may seek election to the Democratic Executive Committee of the parish in which he is registered.

(c) Except in Orleans Parish, members of the Parish Executive Committee of a recognized political party shall be elected every four years at the same time as the governor. Members of the Parish Executive Committee shall serve until their successors are elected.

#### Section 3. Meetings.

(a) Every four years upon election to the Parish Executive

Committee, the newly elected members shall meet at the parish courthouse and organize the committee within fifteen days after the gubernatorial general election.

(b) A majority of the members of the Parish Executive Committee shall constitute a quorum. The members of the Parish Executive Committee shall vote in person or by proxy.

(c) The Parish Executive Committee shall meet at least four times a year at a time and date to be determined by the Chairperson.

#### Section 4. Vacancies.

(a) A vacancy occurs when a member resigns, no longer meets the qualifications for membership, or dies.

(b) All vacancies will be filled by a member appointed by the Parish Executive Committee.

#### Section 5. Affiliation With Democratic State Central Committee.

(a) The Parish Executive Committee is an integral part of the Democratic Party, and under the jurisdiction of the Democratic State Central Committee in accordance with State Law and the rules of the Democratic National Committee.

(b) The Parish Executive Committee shall provide the Democratic State Central Committee with changes in its membership and copies of minutes of its official meetings.

#### Section 6. Fund Raising and Maintenance of Financial Records.

(a) Parish Executive Committees may raise funds through assessment of fees and other methods for Party operations, under the following conditions:

(i) If the Parish Executive Committee raises or spends funds in excess of one thousand dollars (\$1,000), annually, the Committee shall file a statement of income and expenditures with the Democratic State Central Committee before March 1 of the following year.

(ii) The Parish Executive Committee shall make no expenditures other than in direct support of Democratic candidates, Democratic Party activities, or to maintain operations of the Committee.

#### Section 7. Formation of Parish Executive Committees.

Parish Executive Committees which are formed where no executive committee has been elected, shall do so in compliance with the State election code.

#### Section 8. Affiliation of Local Organizations.

(a) Local organizations which wish to be affiliated with the Parish Executive Committee shall file with the committee a copy of their constitution and an updated membership and a statement of their objectives.

(b) A local organization may receive affiliation by a majority vote of the members present at a meeting of the Parish Executive Committee.

Jesse H. Bankston, Chairman  
Democratic State Central Committee of Louisiana

## Errata

### Department of Natural Resources Office of Conservation

The following are corrections to amendments to the Louisiana Surface Mining Regulations which were printed in the Louisiana Register, May 20, 1980, at pages 177-198. The sections affected and the corrections thereto are as follows:

Section 100.11 - page 179

Paragraph (c) (1) should be deleted as it appeared in the 20 May 1980 Register.

Section 171.13 (b) - page 180

Reference therein to "Section 171.11" should read "30 CFR 771.11".

Section 195.14 (e) (1) - page 184

The word "by" should be inserted between the words "affected" and "the".

Section 205.13 - page 185

"Section 205.13 - Deleted" should read "Section 205.13 (d) - Deleted".

Section 206.11 (b)(4)(iv) - page 186

In the fifth line the word "offer" should read "offered".

Section 207.11 (e)(5) - page 187

The word "informed" appearing in the third sentence should be "informal". The word "are" appearing in the fourth sentence should be "area".

Section 210.2 - page 187

"Section 210.2" should read "Section 210.3".

Section 215.15 - page 187

Reference therein to "Section 216.70" should read "Section 216.170".

Section 216.25 - page 187

Paragraph (a)(7) appearing thereunder is not part of Section 216.25 and should read "Section 216.42 (a)(7)".

Section 216.53 - page 188

"Section 216.53" should read "Section 216.153".

Section 228.11 (a) - page 188

The word "Section" appearing as the last word of paragraph (a) should be deleted and replaced with the word "Chapter".

Section 243.12 and 243.13 - page 189

Revisions to these Sections were omitted and should read: Section 243.12 (a) An authorized representative of the Commissioner shall issue a notice of violation if, on the basis of an inspection he finds a violation of the Act, these regulations or any condition of a permit or an exploration or development operation approval imposed under such program, the Act, or these regulations which does not create an imminent danger or harm for which a cessation order must be issued under Section 243.11.

Section 243.12 (b) (3) A reasonable description of the portion of the coal exploration, development operation or surface coal mining and reclamation operation to which it applies; and

Section 243.12 (b) (4) A reasonable time for abatement, which may include time for accomplishment of interim steps.

Section 243.13 (d) If the permittee files an answer to the show cause order and requests a hearing, a public hearing shall be provided. The Office shall give thirty days notice of the date, time, and place of the hearing to the Commissioner, the permittee, and any intervenor. Upon receipt of the notice, the Commissioner shall publish it, if practicable, in a newspaper of general circulation in the area of the surface coal mining and reclamation operations, and shall post it at the Conservation Office closest to those operations.

Section 244.1 (a)(3) - page 189

In the first line thereof the words "the Office as represented by the Commissioner" should be inserted after the comma and before the word "and".

Section 244.10 (a) - page 190

Reference therein to "Section 244.53" should read "Section 244.54".

Section 244.11 - page 190

The word "Waiver" appearing in the first sentence should read "waive".

Section 244.12 - page 190

The word "Statutes" appearing in the title thereof should read "Status".

Section 244.40 (b)(1) - page 194

The reference therein to "Section 244.12 and 244.13" should read "Sections 245.13 and 245.14".

Section 244.41 - page 194

The reference therein to "Section 244.51" should read "Section 244.67".

Section 244.42 (b) - page 194

The reference therein to "Section 244.53" should read "Section 244.54".

Section 244.68 (b) - page 197

The reference therein to "Section 244.53" should read "Section 244.54". The reference therein to "Section 244.59" should read "Section 244.60".

R. T. Sutton  
Commissioner of  
Conservation

#### **Department of Transportation and Development**

An incorrect word was used in line two of the gasoline section of the rules published by the Department of Transportation and Development in the *Louisiana Register*, Volume 6, Number 5, May 20, 1980, on page 198. The last word in column one, line two of said section, should read "retail" rather than "retain." Also, on page 198, column two, line eleven should read "Unleaded Gasoline, % . . . . . 87-90.8," and line forty-two should read "tank truck compartment 90% of the compartment's volume with. . . ."

#### **Department of Transportation and Development Office of Aviation and Public Transportation**

The following table was inadvertently left out of the emergency rule and notice of intent published by the Department of Transportation and Development, Office of Aviation and Public Transportation, in the *Louisiana Register*, Volume 6, Number 5, May 20, 1980, after page 172 and page 242.

TABLE VI-2  
 FAA GENERAL AVIATION AIRPORT STANDARDS  
 LOUISIANA ACCEPTABLE RANGE

ITEM	Landing Strip (LS)	Basic Utility (BU)	General Utility (GU)	Basic Transport (BT)	General Transport (GT)	ILS
<b>Widths:</b>						
Runway (R/W)* (ft.)	50-75	60-75	75-100	75-100	100	150
Taxiway (T/W)* (ft.)	20-40	30-40	40	40	40-60	40-60
Safety Area (ft.)	100-150	120-150	150-300	150-300	300	500
*Note: When constructing a new airport consider use of minimums of next higher classification when practicable.						
<b>Runway:</b>						
Strength (gross wt.-lbs.)	112,500	(12,500)	(12,500)	(60,000)	(175,000)	
Min. Length (ft.) $\perp$ /	2000-(2500)	(3,000)	(3,700)	(4,700)	Critical Aircraft	
$C_L$ to T/W $C_L$	150-200	150-200	150-200	200	300	400
$C_L$ to Obstacle	200-250	200-250	200-250	250-275	400	600
$C_L$ to Apron	225-275	225-275	225-275	275-300	475	650
$C_L$ to Bldg. Line	250-350	250-350	300-350	250-300	350	750-1250
$C_L$ to Property Line	200-350**	200-350**	200-350**	250-1250	350-1250	750-1250
$C_L$ to R/W $C_L$	300	500	500	500	700	4,300
Grade Change	0%-0.33% per 100 ft. of vertical curve and no vertical curve required if grade change is less than 0.4%					
Site Distance	Without 24 hour tower - any 2 points 5 ft. above R/W $C_L$ must be mutually visible for entire R/W length					
Edge to Holding Line	50 ft.					
Alignment	To provide at least 95% wind coverage					

\*\* Note: (250 ft. minimum on T/W side of R/W)

**CUMULATIVE INDEX**  
**(Volume 6, Numbers 1-6)**

- Accountants (see Commerce Department, Certified Public Accountants)
- Administration, Division of (see Governor's Office)
- Agriculture Department:
- Dairy Stabilization Board, 44N, 51P, 106R
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