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This public document was published at a cost of \$2.72 per copy, by Baton Rouge Printing Co., Inc., P. O. Box 97, Baton Rouge, La. as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:951-968. This material was printed in accordance with the standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

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Emergency Rules

EMERGENCY RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953 B, to increase the maximum allowable monthly income limit for long term care eligibility for an individual from \$794.10 to \$852.90, effective July 1, 1982. For a couple occupying the same room in a long term care facility, the double rate of \$1,705.80 would apply.

This increase allows the Medical Assistance Program to be in compliance with federal regulation 42 CFR 435.1005 which sets the maximum income limit before deductions, at 300% of the Supplemental Security Income (SSI) payment amount.

Effective July 1, 1982, the monthly SSI payment was increased to \$284.30. Therefore, it is important that the maximum monthly income limit be increased simultaneously so that some persons receiving or applying for long term care services will not lose or be denied eligibility.

Roger P. Guissinger
Secretary

Rules

RULES

Board of Elementary and Secondary Education

Rule 3.03.02

The Board adopted the "Full-time/Part-time Student Attendance Policy" for vocational-technical schools and the revised "Absentee and Tardiness Student Attendance Policy" established for vocational-technical schools.

Rule 4.03.44

The Board adopted a policy whereby all agencies other than BESE, and the Legislative Branch and Executive Branch of state government, be required to secure permission from the Office of Vocational Education before surveying vocational-technical directors.

Rule 6.03.95., 12

The Board adopted the revised sabbatical leave policy for vocational-technical directors as recommended by the Director's Association.

Rule 3.03.10

The Board adopted the Guidelines for Implementation of Cooperative Education Programs in the Post-Secondary Vocational-Technical Schools.

Rule 4.00.04b

The Board adopted an amendment to Section 450 of Act

754 Regulations, *Duration of Educational Placement Rules* as presented by the Office of Special Education, State Department of Education as follows:

Duration of Educational Placement Rules

A. School systems shall provide education and related services to exceptional students in accordance with an IEP for no less than the normal 180-day school cycle.

B. School systems shall provide special education and related services in excess of the 180 school days to exceptional children when the IEP, developed on the basis of teacher assessment, parental input, experiences of persons who work with the student, educational records, evaluation reports, and other reliable multi-source data, indicates the need for and specifies the goals and objectives of the extended school year program. The determination concerning the need or lack of need for an educational program beyond 180 school days made by the IEP meeting participants shall be reviewed annually to ascertain any changes in the student's needs.

C. The IEP may include special education and related services in excess of 180 school days when the multi-source data specified in B above indicates that the student's handicap is of such severity that without instruction in excess of 180 school days, there will occur a significant loss of educational skills.

COMMENT: Significant loss means a regression caused by an interruption in educational programming, together with a rate of reacquisition of a skill (compared to the student's initial rate of acquisition of a skill) which renders it impossible or unlikely that the child can attain the long range educational goals specified in the IEP without extended programming.

COMMENT: IEP participants in determining the length and type of an extended program shall not be bound or limited by any prescribed program or its length. The type and length of the extended program shall be determined on an individual basis for each child. A program ranging anywhere from 181 up to 240 school days shall be available when appropriate.

Rule 5.00.50.e

The Board adopted the formula recommendation for the Consolidation of Federal Programs for Elementary and Secondary Education Title V, Chapter 2, P.L. 97:35, Fiscal Year 1983-85.

Rule 4.01.90.a

The Board adopted the State-Funded Compensatory/Remedial Regulations as amended May 26, 1982.

Rule 3.02.14 and 4.00.43

The Board adopted as a Rule, the grievance procedures for vocational-technical schools (Rule 4.00.43), Board Special Schools and Special School District No. 1 (Rule 3.02.14) which were submitted to the Board on June 24, 1982 by Bruce MacMurdo and amended by the Board.

Rule 4.00.04.c

The Board adopted as a Rule, Revised Section 459 of Act 754 Regulations as amended to include new language and revision to Section 449(E) as follows:

SECTION 459

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

B. An exceptional child shall neither be expelled nor suspended from school if the behavior for which action is being taken is related to the child's exceptionality.

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

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

3. Any in-school alternative discipline program shall not be considered a suspension for the purpose of this Subpart.

COMMENT: When the behavior of the exceptional child is presenting an immediate danger to self or others or is significantly destructive to property the child may be immediately removed from the school premises, providing that the necessary procedure in this Subpart shall be completed as soon as possible.

** C. The determination as to whether the behavior is related to the child's exceptionality shall be made by at least one appraisal staff member knowledgeable regarding the exceptionality in question and at least one other professional staff member of the school system. In order that the appropriate personnel make the determination, the Special Education Supervisor shall be contacted within three operational days regarding the child's exceptionality and the behavior(s) for which disciplinary action is being taken.

1. If an out-of-school suspension or expulsion is proposed, the exceptional child may be excluded from the school environment while the determination is being made. Such exclusion shall be as short as possible and in no event shall such exclusion be longer than the period of suspension assigned to that behavior(s) by local school system policy, or nine school days, whichever is less.

2. If the determination is made that the child's behavior is not related to the child's exceptionality, the child shall be disciplined in accordance with discipline policies for non-exceptional students. If a long term suspension or expulsion of more than nine school days is determined to be the appropriate disciplinary action, then an alternative education program shall be provided to the student.

3. If the determination is made that the child's behavior is not related to the child's exceptionality, no official suspension or expulsion shall be taken against the child and/or entered in the child's student records. The child shall be allowed to make up all school work missed during the child's period of exclusion.

D. After a pattern of behaviors, resulting in any form of disciplinary action(s) regarding each exceptional child has been established, the child's IEP Committee shall be convened to review the child's program and/or placement. A due process hearing may be requested should the child/parent disagree with any placement proposed by the school.

COMMENT: It is suggested that a pattern of behaviors is determined to range from three of five occurrences.

SECTION 449E

E. An exceptional child is undergoing disciplinary action. Time limits are subject to the provisions of Subpart 459. Rule 4.01.93

The Board adopted the *Guidelines for Compliance and Accreditation Program*.

James V. Soileau
Executive Director

RULE

Teaching Professions Practices Commission

PREAMBLE

The following Procedural Rules of the Louisiana Teaching Professions Practices Commission are adopted pursuant to the

authority of R.S. 17:1338(2), subject to the approval of the Louisiana Board of Elementary and Secondary Education.

JURISDICTION

PART I.

§1 GENERAL JURISDICTION

Consistent with R.S. 17:1338(3), the Commission is authorized to:

1. Make recommendations to the State Superintendent, the State Board, or any local board on improvement of the teaching profession.

2. Provide technical assistance and consultative services to the local boards upon request of said boards on all matters pertaining to educators.

§2 SPECIFIC JURISDICTION

The Commission may:

1. Investigate any reasonable alleged grievance which constitutes ground for which the potential penalty is revocation or suspension of certificate.

2. Investigate:

(a) the alleged violation of any civil law of this state pertaining to educators;

(b) the alleged violation of any policy, rule or minimum accepted standard adopted by the State Board or any local board (R.S. 17:1339(3)).

3. Make recommendations to local boards upon their request as to the termination, suspension, or nonrenewal of contract of employment of any educator in the employ of such local board (R.S. 17:1339(5)(a)).

4. Make recommendations to the State Board upon its request as to the termination, suspension or nonrenewal of contract of employment of any educator in the employ of the State Board (R.S. 17:1339(5)(a)).

5. Make any other recommendation such as remedial programs for educators that may be necessary (R.S. 17:1339(6)).

6. Make recommendations to the State Board in cases involving the suspension or revocation of certificates, endorsement, license, or permit (R.S. 17:1339(7)).

PART II. PROCEDURE

§3 COMPLAINTS OR GRIEVANCES

A complaint or grievance may be lodged with the Commission by a local board, an educator, a parent or concerned citizen with a vested interest in the subject matter of the complaint or grievance as more fully proscribed in R.S. 17:1339(3). The form or content of a complaint or grievance shall be substantially as follows:

BEFORE THE LOUISIANA
TEACHING PROFESSION'S PRACTICES COMMISSION
IN THE MATTER OF)
)
NAME OF COMPLAINANT)
) COMPLAINT
) (GRIEVANCE)
)

Complainant (here state name) hereby files this complaint (grievance) and in support thereof shows to the Commission the following:

(A plain, concise statement of the facts alleged constituting the substance of the complaint or grievance.)

WHEREFORE, the complainant prays that;

1.

The Commission assume jurisdiction;

2.

Investigate the matter as provided by law;

3.

Conduct a hearing as provided by law;

4.

Determine such findings of fact and conclusions of law as may be appropriate;

5.

Report as to its conclusions of law and findings of fact together with its recommendations to the Louisiana State Board of Elementary and Secondary Education (Parish School Board).

(SIGNATURE OF COMPLAINANT)

§4 FILING

Complaints or grievances must be filed as soon as practicable following an alleged violation.

§5 AMENDMENT

A complaint or grievance or any portion thereof may be amended or withdrawn by the complainant at any time prior to the issuance of the Notice of Hearing and thereafter at the discretion of the hearing committee appointed to hear the case.

§6 PRELIMINARY INQUIRY

Upon the receipt of a complaint or grievance the commission director shall conduct or cause to be conducted a preliminary inquiry into the validity of the complaint to determine whether or not sufficient cause exists for the commission to accept the complaint and begin formal investigation. In the exercise of this authority the staff member may at his discretion hold conferences for the settlement or simplification of the issues involved.

§7 CONFIDENTIAL REPORTS

Until the complaint is accepted by the commission, no person except the involved educator shall be notified, and all records and documents relating to the complaint and preliminary inquiry shall be kept confidential.

§8 PRELIMINARY REPORT

The staff member conducting the preliminary inquiry shall at the conclusion of the inquiry submit a report to the executive committee of the commission which report shall contain:

- a) all obtained factual information relevant to the complaint
- b) a recommendation as to whether or not sufficient cause exists to warrant acceptance of jurisdiction and to commence with formal procedures in the matter.

§9 FORMAL COMPLAINT; DISMISSAL

If the executive committee finds no sufficient cause, it shall by formal vote reject jurisdiction, dismiss the case and notify the parties in the matter accordingly.

§10 FORMAL COMPLAINT; ACCEPTANCE PROCEDURE

If the executive committee does find sufficient cause, it shall by formal vote accept jurisdiction and direct the commission director to institute formal proceedings by first notifying in writing the chief administrative officer of the local board or state board and the educator being investigated, and to otherwise proceed in accordance with the applicable provisions of R.S. 17:1339 et seq., including the following:

At least sixty days in advance of the date of a formal hearing, the commission director shall furnish the educator who is the respondent in the matter

- (a) a copy of the written complaint or grievance;
- (b) a list of the names and last known addresses of all witnesses the commission may or will use at the formal hearing;
- (c) a copy of all documents the commission may or will use at the formal hearing;
- (d) the name and address of the person or persons filing the complaint.

§11 ANSWER

Upon receipt of notice of complaint the respondent shall have at least twenty days to file an answer. Any answer may be filed by mailing to the commission director who shall forward a copy to the complainant. There is no prescribed form for the

answer, but it should contain the name and address of the respondent, a reference to the complaint and specific statements regarding any or all of the allegations in the complaint. The answer should bear the signature of the respondent or his counsel. Such answer shall however not limit in any way the respondent's right to present additional information during the course of the proceedings.

§12 WITNESSES: DOCUMENTATION EVIDENCE

At least thirty days in advance of the date of the formal hearing the respondent shall furnish to the commission

- (a) a list of names and addresses of all witnesses the respondent may or will use at the hearing;
- (b) a copy of all documents the respondent may or will introduce during the course of the hearing.

§13 NOTICE OF HEARING: SUBPOENAS

When a hearing is ordered, the commission director shall set a date, time and place for the hearing to be held at the domicile of the local board employing the respondent. The commission director shall issue formal hearing notice at least fifteen days prior to the date of the proceeding. A form shall be adopted for notification, and notification shall be by certified mail. The commission director shall issue such subpoenas as may be requested by either party in accordance with the provisions of R.S. 17:1339 A(2).

§14 HEARING COMMITTEE: EXAMINER: APPOINTMENT

1. The president of the commission shall appoint three commissioners to hearing committee, one of whom shall be named as chairperson of the committee to preside over the hearing. The president of the commission shall also appoint a hearing examiner who shall assist and counsel with the tribunal on all matters of law. The hearing examiner shall be competent by reason of training and experience. The president shall appoint, upon request, legal counsel to assist and represent the commission director in presenting the case under consideration to the tribunal.

§15 RECORD OF HEARING

The commission shall by stenographic or mechanical device record and preserve all pleadings, testimony, exhibits and all other documents which are part of the commission proceedings, and they shall constitute the exclusive record for the commission recommendations.

§16 AUTHORITY OF THE HEARING COMMITTEE, EXAMINER

The hearing committee or the hearing examiner shall have authority subject to law to:

1. administer oaths and affirmations;
2. rule upon offers of proof and receive evidence;
3. take depositions or cause them to be taken;
4. regulate the course of the hearing;
5. hold conferences for the settlement or simplification of the issues by consent of those involved as principals;
6. dispose of procedural requests or similar matters;
7. enter into the record any recommendations for an order to the commission, the state board or any local board, as the case may be, which recommendations shall include findings of fact, and, if applicable conclusions of law.

§17 DUE PROCESS

The hearing committee shall afford all parties authorized by law to participate in the commission proceeding the right to:

1. present his case of defense by testimony and documentary evidence;
2. submit rebuttal evidence and conduct such cross-examination as may be required for a full and true disclosure of the facts;
3. subpoena witnesses and documents;
4. make offers of settlement or proposals of adjustments;
5. be accompanied, represented and advised by counsel or to represent himself.

§18 EVIDENCE

All hearings before the commission shall be conducted in

accordance with the rules of evidence applicable to civil proceedings in the district courts of this state.

§19 SEPARATION OF FUNCTIONS

No commissioner shall sit as a member of the hearing committee where he participated in the preliminary investigation or where he was an informed party to the investigation preliminary to the commission proceedings.

§20 REPORTS AND PUBLICATIONS OF ADJUDICATION

At the conclusion of the hearing, the hearing committee shall in executive session deliberate upon the findings and the proposed recommendations. In this endeavor, the committee shall be assisted and advised by the hearing examiner on all matters of law. The hearing committee shall by formal vote, reach a decision in the matter and direct the hearing examiner to draft proposed findings of fact, conclusions of law, if applicable, and recommendations for the tribunal's approval. Upon approval, the commission director shall submit to the full commission for consideration and action the drafted documents along with the hearing transcript. The final adjudication by the commission shall be reduced to written form and mailed to the parties and such persons or official boards as the commission shall direct.

PART III.

§21 DEFINITIONS

Except as otherwise clearly indicated by their contexts, the terms in these Rules of Procedure shall have the meanings as ascribed to them in R.S. 17:1333.

§22 RULES GOVERNING

These Rules shall be subject to the statutory provisions of the Louisiana Teaching Profession's Practices Act (R.S. 17:1331 et seq.) To the extent that the Teaching Profession's Practices Act or these Procedural Rules are silent, procedures for hearings and discovery shall be governed by the Louisiana Code of Civil Procedure and the laws of the State of Louisiana.

James H. Perry
Executive Director

RULE

Office of the Governor Division of Administration

The Office of the Governor, Division of Administration, in accordance with Notice of Intent published June 20, 1982, adopted the following Rules for Conduct of Hearing for Protests.

CONDUCT OF HEARING

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

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

APPLICATION

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

OPENING THE HEARING

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

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

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

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

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

CONDUCT OF HEARING

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

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

OATH

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

Testimony of Parties

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

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

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

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

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

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

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

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

Adjournment and Continuances

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

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

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

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

Conclusion of Hearing

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

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

Record of Testimony

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

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

EVIDENCE

Admission of Evidence

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

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

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

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

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

Weight of Evidence

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

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

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

Exhibits

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

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

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

APPEALS

Decision

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

Form of Decision

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

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

Disposition of Decision and File

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

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

E. L. Henry
Commissioner

RULE

Office of the Governor Division of Administration

The Office of the Governor, Division of Administration, in accordance with Notice of Intent published June 20, 1982, adopted the following Purchasing Rules and Regulations.

PURCHASING RULES AND REGULATIONS

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

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

A. Content of the Invitation for Bids

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

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

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

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

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

3. **Incorporation by Reference.** The invitation for bids may incorporate documents by reference provided that the invitation for bids specifies where such documents can be obtained.

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

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

- a. Open Market Purchases initiated by a requisition and consummated with the issuance of a purchase order, after bidding.
- b. Contract Purchases - after bidding, purchase contracts are awarded to cover state requirements over a period of time at a

specified and agreed upon price. Purchases are made by issuance of a release order against the contract.

B. Bidding Time

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

C. Addenda Modifying Plans and Specifications

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

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

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

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

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

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

E. Bidder Lists

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

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

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

F. Pre-Bid Conferences

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

G. Amendments to Invitation for Bids

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

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

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

H. Pre-Opening Modification or Withdrawal of Bids

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

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

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

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

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

I. Late Bids

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

J. Receipt, Opening and Recording of Bids

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

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

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

K. Mistakes in Bids

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

2. Mistakes Discovered After Opening.

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

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

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

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

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

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

L. Bid Guaranty and Bond

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

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

M. General Guaranty

Contractor agrees to:

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

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

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

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

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

N. Bid Evaluation and Award

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

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

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

- a. Inspection or testing of a product prior to award for such characteristics as quality or workmanship;
- b. Examination of such elements as appearance, finish, taste, or feel; or
- c. Other examinations to determine whether the product conforms with any other purchase description requirements.

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

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

- a. Be reasonable estimates based upon information Louisiana has available concerning future use; and
- b. Treat all bids equitably.

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

O. Tie Bids.

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

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

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

P. Awarding of Bids

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

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

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

4. Cash Discounts.

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

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

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

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

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

"Overall low bid shall be that bid whose total bid, including all items bid, is the lowest dollar amount; be it an individual's bid or

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

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

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

Q. Documentation of Award

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

R. Publicizing Awards

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

S. Deliveries

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

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

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

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

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

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

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

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

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

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

SECTION II
SMALL PURCHASES
R.S. 39:1596

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

See appropriate Executive Order entitled "Small Purchases."

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

A. Application

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

B. Statutory Provision

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

C. Conditions for Use of Sole Source Procurement

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

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

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

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

D. Purchase of Antiques, Used or Demonstrator Equipment

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

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

E. Record of Sole Source Procurements

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

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

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

SECTION IV EMERGENCY PROCUREMENTS R.S. 39:1598

A. Application

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

B. Definition of Emergency Conditions

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

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

C. Scope of Emergency Procurements

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

D. Authority to Make Emergency Procurements

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

E. Source Selection Methods

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

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

F. Determination and Record of Emergency Procurement

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

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

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

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

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

A. Scope

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

B. Policy

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

C. Cancellation of Solicitations - Notice

Each solicitation issued by Louisiana shall state that the

solicitation may be cancelled as provided in these regulations.

D. **Reasons for Cancellation**

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

- a. Louisiana no longer requires the supplies, services, or major repairs;
 - b. Proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable;
 - c. Ambiguous or otherwise inadequate specifications were part of the solicitation;
 - d. The solicitation did not provide for consideration of all factors of significant cost to Louisiana;
 - e. Prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
 - f. All otherwise acceptable bids received are at unreasonable prices; or
 - g. There is reason to believe that the bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.
2. When a solicitation is cancelled, prior to opening, notice of cancellation shall be sent to all businesses solicited.
3. The notice of cancellation shall:
- a. Identify the solicitation;
 - b. Briefly explain the reason for cancellation; and
 - c. Where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurements of similar supplies, services, or major repairs.

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

E. **Rejection of Individual Bids or Proposals**

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

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

3. **Reasons for Rejection.**

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

- (1) The business that submitted the bid is nonresponsible as determined under Section VI (Written Determination on Non-responsibility Required) of these regulations;
- (2) The bid is not responsive, that is, it does not conform in all material respects to the invitation for bids; see Section I (Responsiveness of Bids) of these regulations; or
- (3) The supply, service, or major repair items is unacceptable, that is, it fails to meet the specifications or permissible alternatives or other acceptability criteria set forth in the invitation for bids; see Section I, Subsection N, (Bid Evaluation and Award, Product Acceptability).

F. **Disposition of Bids**

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

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

A. **Definitions**

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

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

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

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

B. **Application**

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

C. **Standards of Responsibility**

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

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

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

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

D. **Ability to Meet Standards**

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

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

E. **Duty Concerning Responsibility**

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

F. **Written Determination of Nonresponsibility Required**

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

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

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

G. **Prequalification**

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

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

A. **Centralization of Contracting Authority**

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

B. **Policy Regarding Selection of Contract Types**

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

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

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

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

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

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

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

D. **Fixed-Price Contracts**

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

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

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

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

E. **Cost-Reimbursement Type Contracts**

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

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

a. Such a contract is likely to be less costly to Louisiana than any other type or that it is impracticable to obtain otherwise the supplies, services, or major repairs;

b. The proposed contractor's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated; and

c. The proposed contractor's accounting system is adequate to allocate costs in accordance with generally accepted accounting principles.

3. **Cost Contract.** A cost contract provides that the contractor will be reimbursed for allowable costs incurred in performing the contract.

4. **Cost-Plus-Fixed Fee Contract.** This is a cost-reimbursement type contract which provides for payment to the contractor of an agreed fixed fee in addition to reimbursement of allowable, incurred costs. The fee is established at the time of contract award and does not vary whether or not the actual cost of contract performance is greater or less than the initial estimated cost established for such work. Thus, the fee is fixed but not the contract amount because the final contract amount will depend on the allowable costs reimbursed. The fee is subject to adjustment only if the contract is modified to provide for an increase or decrease in the work specified in the contract.

F. Cost Incentive Contracts

1. **General.** Cost incentive contracts provide for the sharing of cost risks between Louisiana and the contractor. This type of contract provides for the reimbursement to the contractor of allowable costs incurred up to ceiling amount and establishes a formula whereby the contractor is rewarded for performing at less than target cost (that is, the parties' agreed best estimate of the cost of performing the contract) or is penalized if it exceeds target cost. Profit or fee is dependent on how effectively the contractor controls cost in the performance of the contract.

2. Fixed-Price Cost Incentive Contract.

a. **Description.** In a fixed-price cost incentive contract, the parties establish at the outset a target cost, a target profit (that is, the profit which will be paid if the actual cost of performance equals the target cost), a cost-sharing formula which provides a percentage increase or decrease of the target profit depending on whether the cost of performance is less than or exceeds the target cost, and a ceiling price. After performance of the contract, the actual cost of performance is arrived at based on the total incurred allowable cost as determined in accordance with Part 7 (Cost Principles) of these regulations and as provided in the contract. The final contract price is then established in accordance with the cost-sharing formula using the actual cost of performance. The final contract price may not exceed the ceiling price. The contractor is obligated to complete performance of the contract, and, if actual cost exceeds the ceiling price, the contractor suffers a loss.

b. **Objective.** The fixed-price cost incentive contract serves three objectives. It permits the establishment of a firm ceiling price for performance of the contract which takes into account uncertainties and contingencies in the cost of performance. It motivates the contractor to perform the contract economically since cost is in inverse relation to profit; the lower the cost, the higher the profit. It provides a flexible pricing mechanism for establishing a cost sharing responsibility between Louisiana and contractor depending on the nature of the supplies, services, or major repairs being procured, the length of the contract performance, and the performance risks involved.

3. **Cost-Plus Contract with Cost Incentive Fee.** In a cost-plus contract with cost incentive fee, the parties establish at the outset a target cost; a target fee; a cost-sharing formula for

increase or decrease of fee depending on whether actual cost of performance is less than or exceeds the target cost, with maximum and minimum fee limitations; and a cost ceiling which represents the maximum amount which Louisiana is obligated to reimburse the contractor. The contractor continues performance until the work is complete or costs reach the ceiling specified in the contract, whichever first occurs. After performance is complete or costs reach the ceiling, the total incurred, allowable costs reimbursed in accordance with (Cost Principles) of these regulations and as provided in the contract are applied in the cost-sharing formula to establish the incentive fee payable to the contractor. This type contract gives the contractor a stronger incentive to efficiently manage the contract than a cost-plus-fixed-fee contract provides.

4. **Determinations Required.** Prior to entering into any cost incentive contract, the commissioner of administration shall make the written determination required by Subsection D (Cost-Reimbursement Type Contracts, Determination Prior to Use) of these Regulations. In addition, prior to entering any cost-plus contract with cost incentive fee, the procurement officer shall include in such written determination the determination required by Subsection E of these Regulations.

G. Performance Incentive Contracts

In a performance incentive contract, the parties establish at the outset a pricing basis for the contract, performance goals, and a formula for increasing or decreasing the compensation if the specified performance goals are exceeded or not met. For example, early completion may entitle the contractor to a bonus while late completion may entitle Louisiana to a price decrease.

H. Time and Materials Contracts; Labor Hour Contracts

1. **Time and Materials Contracts.** Time and materials contracts provide for payment for materials at cost and labor performed at an hourly rate which includes overhead and profit. These contracts provide no incentives to minimize costs or effectively manage the contract work. Consequently, all such contracts shall contain a stated cost ceiling and shall be entered into only after the commissioner of administration determines in writing that:

a. Louisiana personnel have been assigned to closely monitor the performance of the work; and

b. No other type of contract will suitably serve Louisiana's purpose.

2. **Labor Hour Contracts.** A labor hour contract is the same as a time and materials contract except the contractor supplies no material. It is subject to the same considerations, and the commissioner of administration shall make the same determinations before it is used.

I. Definite Quantity and Indefinite Quantity Contracts

1. **Definite Quantity.** A definite quantity contract is a fixed-price contract that provides for delivery of a specified quantity of supplies or services either at specified times or when ordered.

2. **Indefinite Quantity.** An indefinite quantity contract is a contract for an indefinite amount of supplies or services to be furnished as ordered that establishes unit prices of a fixed-price type. Generally an approximate quantity or the best information available is stated in the solicitation. The contract may provide a minimum quantity Louisiana is obligated to order and may also provide for a maximum quantity provision that limits Louisiana's obligation to order.

3. **Requirements Contracts.** A requirements contract is an indefinite quantity contract for supplies or services that obligates Louisiana to order all the actual, normal requirements of designated using agencies during a specified period of time. For the protection of Louisiana and the contractor, requirements contracts shall include the following:

a. A provision which requires Louisiana to order its normal requirements of the supplies or services covered. However,

Louisiana may reserve in the solicitation and in the resulting contract the right to take bids separately if a particular quantity requirement arises which exceeds an amount specified in the contract;

b. Two exemptions from ordering under the contract when:

(1) The chief procurement officer approves a finding that the supply or service available under the contract will not meet a nonrecurring, special need of Louisiana;

(2) Supplies are produced or services are performed incidental to Louisiana's own programs, such as industries of correctional institutions and other similar industries that can satisfy the need.

J. **Progressive and Multiple Awards**

1. **Progressive Award.** A progressive award is an award of portions of a definite quantity requirement to more than one contractor. Each portion is for a definite quantity and the sum of the portions is the total definite quantity required. A progressive award may be in Louisiana's best interest when awards to more than one bidder or offeror for different amounts of the same item are needed to obtain the total quantity or the time or times of delivery required.

2. **Multiple Award.** A multiple award is an award of an indefinite quantity contract for one or more similar supplies or services to more than one bidder or offeror, and Louisiana is obligated to order all of its actual, normal requirements for the specified supplies or services from those contractors. A multiple award may be in Louisiana's best interest when award to two or more bidders or offerors for similar products is needed for adequate delivery, service, or availability, or for product compatibility. In making a multiple award, care shall be exercised to protect and promote the principles of competitive solicitation. Multiple awards shall not be made when a single award will meet Louisiana's needs without sacrifice of economy or service. Awards shall not be made for the purpose of dividing the business or avoiding the resolution of tie bids. Any such awards shall be limited to the least number of suppliers necessary to meet the valid requirements of using agencies. All eligible users of the contract shall be named in the solicitation, and it shall be mandatory that the requirements of such users that can be met under the contract be obtained in accordance with the contract, provided, that:

a. Louisiana shall reserve the right to take bids separately if a particular quantity requirement arises which exceeds an amount specified in the contract;

b. Louisiana shall reserve the right to take bids separately if the chief procurement officer approves a finding that the supply or service available under the contract will not meet a non-recurring or special need of Louisiana;

c. The contract shall allow Louisiana to procure supplies produced, or services performed, incidental to Louisiana's own programs, such as industries of correctional institutions and other similar industries, when such supplies or services satisfy the need.

3. **Intent to Use.** If a progressive or multiple award is anticipated prior to issuing a solicitation, the method of award should be stated in the solicitation.

4. **Determination Required.** The chief procurement officer shall make a written determination setting forth the reasons for a progressive or multiple award, which shall be made a part of the procurement file.

K. **Leases**

1. **Description.** A lease is a contract for the use of equipment under which title does not pass to Louisiana.

2. **Use.** A lease may be entered into provided:

a. It has been competitively bid in accordance with these Rules and Regulations and/or the applicable executive director.

b. It is in the best interest of Louisiana;

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

d. The lease is not used to avoid a competitive procurement.

L. **Multi-Year Contracts - General**

1. **Description.** The multi-year method of contracting is to be used when special production of definite quantities of supplies for more than one fiscal period is necessary to best meet Louisiana needs but funds are available only for the initial fiscal period. Special production refers to production for contract performance which requires alteration in the contractor's facilities or operations involving high start-up costs. The contractual obligation of both parties in each fiscal period succeeding the first is subject to the appropriation and availability of funds therefor. When funds are not appropriated to support continuation of performance in a subsequent year of a multi-year contract, the contract for such subsequent year shall be terminated. When a contract is terminated under these conditions, no additional funds shall be paid to the contractor as a result of such action. A multi-year contract is also appropriate when it is in the best interest of Louisiana to obtain uninterrupted services extending over more than one fiscal period, where the performance of such services involves high start-up costs, or where a changeover of service contractors involves high phase-in/phase-out costs during a transition period.

2. **Objective.** The objective of the multi-year contract is to promote economy and efficiency in procurement by obtaining the benefits of sustained volume production and consequent low prices, and by increasing competitive participation in procurements which involve special production with consequent high start-up costs and in the procurement of services which involve high start-up costs or high phase-in/phase-out costs during changeover of service contractors.

3. **Multi-Year Contract Regulations Inapplicable.** Subsection L (Conditions for Use of Multi-Year Contracts) and Subsection M (Multi-Year Contract Procedure) apply only to contracts for supplies or services described in this Section and do not apply to any other contract including, but not limited to, contracts for construction and leases (including leases of real property.)

M. **Conditions for Use of Multi-Year Contracts**

A multi-year contract may be used when it is determined in writing by the chief procurement officer that:

1. Special production of definite quantities is required to meet Louisiana needs; and

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

3. A multi-year contract will serve the best interests of Louisiana by encouraging effective competition or otherwise promoting economies in Louisiana procurement. The following factors are among those relevant to such a determination:

a. Firms which are not willing or able to compete because of high start-up costs or capital investment in facility expansion will be encouraged to participate in the competition when they are assured of recouping such costs during the period of contract performance;

b. Lower production costs because of larger quantity or service requirements, and substantial continuity of production or performance over a longer period of time can be expected to result in lower unit prices;

c. Stabilization of the contractor's work force over a longer period of time may promote economy and consistent quality; or

d. The cost and burden of contract solicitation, award, and administration of the procurement may be reduced.

4. Unless otherwise provided by law, a contract for supplies or services may be entered into for periods of not more than three years, if funds for the first fiscal year of the contemplated

contract are available at the time of contracting. Payment and performance obligations for succeeding fiscal years shall be subject to the availability and appropriation of funds therefor. No contract shall be entered into for more than one year unless the length of the contract was clearly stated in the specifications. Any lease or similar agreement affecting the allocation of space in the state Capitol shall have the prior approval of the Legislative Budgetary Control Council if it extends for more than one year.

N. Multi-Year Contract Procedure

1. **Solicitation.** The solicitation shall state:
 - a. The amount of supplies or services required for the proposed contract period;
 - b. Whether a unit price discounted off of established catalog price shall be given for each supply or service, and that such unit prices or discount shall be the same throughout the contract; (except to the extent price adjustments may be provided in the solicitation and resulting contract);
 - c. That the multi-year contract will be cancelled only if funds are not appropriated or otherwise made available to support continuation of performance in any fiscal period succeeding the first; however, this does not affect either Louisiana's rights or the contractor's rights under any other termination clause in the contract;
 - d. That the chief procurement officer must notify the contractor that the funds are, or are not, available for the continuation of the contract for each succeeding fiscal period;
 - e. Whether bidders or offerors may submit prices for:
 - (1) The first fiscal period only;
 - (2) The entire time of performance only or
 - (3) Both the first fiscal period and the entire time of performance;
 - f. That a multi-year contract may be awarded and how award will be determined including, if such prices are submitted, how prices for the first fiscal period and entire time of performance will be compared (including the dollar amount of deductions of savings of administrative costs resulting from use of a multi-year contract, provided such savings can be reasonably estimated).

2. **Award.** Award shall be made as stated in the solicitation and permitted under the source selection method utilized. Care should be taken when evaluating multi-year prices against prices for the first fiscal period that award on the basis of prices for the first period does not afford the successful bidder or offeror an undue competitive advantage in subsequent procurements.

3. Cancellation.

a. "Cancellation," as used in multi-year contracting, means the cancellation of the total requirements for the remaining portion of the contract because funds were not appropriated or otherwise made available.

b. Cancellation results when the procurement officer notifies the contractor of nonavailability of funds for contract performance for any subsequent fiscal period.

c. These provisions on cancellation of multi-year contracts do not limit the rights of Louisiana or the contractor under any termination clause of the contract if the contract is terminated pursuant to that clause rather than cancelled as provided in this Subsection.

O. Option Provisions

1. **Contract Provision.** When a contract is to contain an option for renewal, extension, or purchase, notice of such provision shall be included in the solicitation. When such a contract is awarded by competitive sealed bidding, exercise of the option shall be at Louisiana's discretion only, and shall be at the mutual agreement of Louisiana and the contractor.

2. **Exercise of Option.** Before exercising any option for renewal, extension, or purchase, the chief procurement officer should attempt to ascertain whether a competitive procurement is

practical, in terms of pertinent competitive and cost factors, and would be more advantageous to Louisiana than renewal or extension of the existing contract.

3. **Lease with Purchase Option.** Unless a requirement can be met only by the leased supply as determined in writing by an officer above the level of the procurement officer, a purchase option in a lease may be exercised only if the lease containing the purchase option was awarded under competitive sealed bidding. Before exercising such an option the chief procurement officer shall:

- a. Investigate alternative means of procuring comparable supplies and
- b. Compare estimated costs and benefits associated with the alternative means and the exercise of such option, for example, the benefit of buying new state-of-the-art equipment compared to the estimated, initial savings associated with exercise of a purchase option.

P. Penal or Charitable Institution Manufactured Products

Louisiana Statutes provide that any class of materials, supplies and services which any charitable, reformatory or penal institution of the state is prepared to supply in whole or in part through the labor of inmates, shall be given preference to the extent that such products are of equal quality to, and can be supplied at prices not higher than, those of the lowest acceptable bid received in response to advertisements. The Statutes further provide a penalty for evasion: "Any intentional violation of this Section by any such department, institution, agency, or political subdivision which continues after notice from the governor to desist, shall constitute a malfeasance in office and shall subject the officers responsible for this violation to suspension and removal from office, as may be provided by law and other cases of malfeasance."

SECTION VIII PLANT OR SITE INSPECTION; INSPECTION OF SUPPLIES OR SERVICES R.S. 39:1621 and 1622

A. Statutory Provision

R.S. 39:1621 (Right to Inspect Plant) of the Louisiana Procurement Code states:

"The state may, at reasonable times, inspect the part of the plant or place of business of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded by the state."

B. Inspection of Plant or Site

Circumstances under which the state may perform inspections include, but are not limited to, inspections of the contractor's plant or site in order to determine:

1. Whether the standards set forth in Section 39:1601 (Standards of Responsibility - Rules and Regulations) have been met or are capable of being met; and
2. If the contract is being performed in accordance with its terms.

C. Access to Plant or Place of Business

The state may enter a contractor's or subcontractor's plant or place of business to:

1. Inspect supplies or services for acceptance by the state pursuant to the terms of a contract;
2. Audit cost or pricing data or audit the books and records of any contractor or subcontractor pursuant to R.S. 39:1622 (Right to Audit Records) of the Louisiana Procurement Code; and
3. Investigate in connection with an action to debar or suspend a person from consideration for award of contracts pursuant to R.S. 39:1672 (Authority to Debar or Suspend) of the Louisiana Procurement Code.

D. Inspection of Supplies and Services

Louisiana contracts may provide that the state may inspect

supplies and services at the contractor or subcontractor's facility and perform tests to determine whether they conform to solicitation requirements, or, after award, to contract requirements, and are therefore acceptable. Such inspections and tests shall be conducted in accordance with the terms of the solicitation and contract.

E. Conduct of Inspections

1. **Inspectors.** Inspections or tests shall be performed so as not to unduly delay the work of the contractor or subcontractor. No inspector other than the procurement officer may change any provision of the specifications or the contract without written authorization of the procurement officer. The presence or absence of an inspector shall not relieve the contractor or subcontractor from any requirements of the contract.

2. **Location.** When an inspection is made in the plant or place of business of a contractor or subcontractor, such contractor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.

3. **Time.** Inspection or testing of supplies and services performed at the plant or place of business of any contractor or subcontractor shall be performed at reasonable times.

F. Inspection of Major Repair Projects

On-site inspection of major repairs shall be performed in accordance with the terms of the contract.

SECTION IX REPORTING OF SUSPECTED COLLUSIVE BIDDING OR NEGOTIATIONS R.S. 39:1626

A. Statutory Provision

R.S. 39:1626 (Reporting of Anticompetitive Practices) of the Louisiana Procurement Code provides:

1. **Notification to the Attorney General.** When for any reason collusion is suspected among any bidders or offerors, a written notice of the relevant facts shall be transmitted to the attorney general.

2. **Retention of all Documents.** All documents involved in any procurement in which collusion is suspected shall be retained for a minimum of six years or until the attorney general gives written notice that they may be destroyed, whichever period is longer. All retained documents shall be made available to the attorney general or a designee upon request and proper receipt therefor.

B. Anticompetitive Practices

For the purposes of the Section, an anticompetitive practice is a practice among bidders or offerors which reduces or eliminates competition or restrains trade. An anticompetitive practice can result from an agreement or understanding among competitors to restrain trade such as submitting collusive bids or proposals, or result from business actions which have the effect of restraining trade, such as controlling the resale price of products. Indications of suspected anticompetitive practices include identical bids or proposals, rotated low bids or proposals, sharing of the business, "tie-in" sales, resale price maintenance, and group boycotts. See Identical Bidding (Section F) (Possible Anticompetitive Practices).

C. Independent Price Determination

Every solicitation shall provide that by submitting a bid or offer, the bidder or offeror certifies that the price submitted was independently arrived at without collusion.

D. Reporting Suspected Anticompetitive Practices

The chief procurement officer, in consultation with the attorney general, shall develop procedures, including forms, for reporting suspected anticompetitive practices. A procurement

officer who suspects that an anticompetitive practice has occurred or may be occurring shall follow these procedures.

E. Detection of Anticompetitive Practices

In order to ascertain whether or not an anticompetitive practice may have occurred or may be occurring, the procurement officer will often find it necessary to study past procurement including, as appropriate, the following:

1. A study of the bidding history of a supply, service, or major repair items over an amount of time sufficient to determine any significant bidding patterns or changes;

2. A review of similar Louisiana contract awards over a period of time; or

3. Consultation with outside sources of information, such as bidders or offerors who have competed for similar Louisiana business in the past but who are no longer competing for such business.

F. Identical Bidding

The term "identical bidding" means the submission by bidders or offerors of the same total price or the same price on a particular line item. The submission of identical bids may not signify the existence of collusion. In some instance, price controls imposed by state or federal governments result in the submission of identical bids. Bids may also be identical as a result of chance. Identical bids for supplies are more likely to occur due to chance if:

1. The supply is a commodity with a well-established market price or a brand name with a "suggested retail price";

2. The quantity being purchased is small in relation to the supplier's total sales;

3. Early delivery is required; or

4. Transportation expenses are low relative to total costs.

In seeking to determine whether collusion has taken place, the procurement officer should view the identical bids against present and past pricing policies of the bidders or offerors, the structure of the industry involved including comparisons of prices f.o.b. shipping point and f.o.b. destination, and the nature of the supply, service, or major repairs involved, such as whether it is a basic chemical or material. Identical bids may also result from resale price maintenance agreements which are described in Section G3. (Possible Anticompetitive Practices, Resale Price Maintenance).

G. Possible Anticompetitive Practices

1. **General.** The practices which are described in Subsection 2 through Subsection 6 of this Section and which the procurement officer suspects might be anticompetitive shall be reported in accordance with Section D (Reporting Suspected Anticompetitive Practices).

2. **Rotated Low Bids or Proposals.** Rotated low bids or proposals result where all bidders or offerors participating in the collusive scheme submit bids but by agreement alternate being the lowest bidder or offeror. In order to determine whether rotation may be occurring, the procurement officer must review past similar procurements in which the same bidders or offerors have participated.

3. **Resale Price Maintenance.** The practice of resale price maintenance consists of an agreement between a manufacturer and a distributor or a dealer to fix the resale price of a supply. A procurement officer should consider the possibility that such an agreement exists where prices offered adhere to an established pattern, such as a published price schedule, and identical bidding occurs.

4. **Sharing of the Business.** Sharing of the business occurs where potential bidders or offerors allocate business among themselves based on the customers or the territory involved. Thus a procurement officer might discover that a potential bidder or offeror is not participating in a state procurement because a particular Louisiana agency, or a particular territory has not been

allocated to such bidder or offeror by the producer or manufacturer.

5. **“Tie-in” Sales.** “Tie-in” sales are those in which a bidder or offeror attempts to sell one supply or service only upon the condition that the procurement officer purchase another particular supply or service.

6. **Group Boycott.** A group boycott results from an agreement between competitors not to deal with another competitor or not to participate in, for instance, a state procurement until the boycotting competitors’ conditions are met by the boycotted competitors or the state. The boycott of a competitor by other competitors may have an effect on the market structure or price of a supply, service, or major repair items needed by the state.

SECTION X
SPECIFICATIONS
R.S. 39:1651-1657

A. Definitions

The following definitions are not in any order of preference.

1. **Brand Name Specification** means a specification calling for one or more products by manufacturers’ names or catalog numbers.

2. **Brand Name or Equal Specification** means a specification which uses a brand name specification to describe the standard of quality, performance, and other characteristics needed to meet state requirements, and which also provides for the submission of equivalent products.

3. **Qualified Products List** means a list of supplies, services, or major repair items described by model or catalog numbers, which, prior to solicitation, Louisiana has determined will meet the applicable specification requirements.

4. **Specification** means any description of the physical, functional, or performance characteristics, or of the nature of a supply, service, or construction item. The specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply, service, or construction item for delivery. Unless the context requires otherwise, the terms “specification” and “purchase description” are used interchangeably throughout these regulations.

5. **Specification for a Common or General Use Item** means a specification which has been developed and approved for repeated use in procurements in accordance with the provisions of R.S. 39:1651 (A) and (B).

B. General Purpose and Policies

1. **Purpose.** The purpose of a specification is to serve as a basis for obtaining a supply, service, or major repair item adequate and suitable for the state’s needs in a cost effective manner, taking into account, to the extent practicable, the costs of ownership and operation as well as initial acquisition cost. It is the policy of the state that specifications permit maximum practicable competition consistent with this purpose. Specifications shall be drafted with the objective of clearly describing the state’s requirements.

2. **Nonrestrictiveness.** All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply, service, or major repair item, or procurement from a sole source, unless no other manner of description will suffice. In that event, a written determination shall be made that is not practicable to use a less restrictive specification.

3. **Use of Functional or Performance Descriptions.** Specifications shall, to the extent practicable, emphasize functional or performance criteria while limiting design or other detailed physical descriptions to those necessary to meet the needs of the state. To facilitate the use of such criteria, using agencies shall endeavor to include as a part of their purchase requisitions the

principal functional or performance needs to be met. It is recognized, however, that the preference for use of functional or performance specifications is primarily applicable to the procurement of supplies and services. Such preference is often not practicable in major repairs apart from the procurement of supply type items for a major repair project.

4. **Preference for Commercially Available Products.** It is the general policy of this state to procure standard commercial products whenever practicable. In developing specifications, accepted commercial standards shall be used and unique requirements shall be avoided, to the extent practicable.

5. **Escalation and De-escalation Clauses.** Bid specifications may contemplate a fixed escalation or de-escalation in accordance with the United States Bureau of Labor Statistics, Consumer Price Index and Wholesale Price Index. Bids based on specifications which are subject to a recognized escalation index shall be legal and valid.

C. Availability of Documents.

Except as provided in Section A (3) (Qualified Products List) regarding testing and confidential data, specifications and any written determination or other document generated or used in the development of a specification shall be available for public inspection pursuant to R.S. 44.1.

D. Authority to Prepare Specifications

1. **Statutory Authority of the Chief Procurement Officer and State Agencies.** The chief procurement officer is authorized to prepare specifications in Section 39:1652 Duties of the Chief Procurement Officer subject to the authority granted purchasing agencies in Section 39:1653 (Exempted Items) of the Louisiana Procurement Code.

2. **Delegation of Authority to State Agencies.** The chief procurement officer may delegate in writing the authority to prepare and utilize specifications to purchasing agencies and using agencies for any type of supplies, services, or major repairs provided such delegations may be revoked by the chief procurement officer.

3. **Authority to Contract for Preparation of Specifications.**

a. A contract to prepare specifications for state use in procurement of supplies or services may be entered into when a written determination is made by the chief procurement officer or the head of a purchasing agency authorized to prepare such specifications that there will be no substantial conflict of interest involved and it is otherwise in the best interests of the state.

b. Whenever specifications are prepared by other than Louisiana personnel, the contract for the preparation of specifications shall require the specification writer to adhere to the requirements of this regulation.

4. **Small Purchase and Emergency Authority.** If a specification for general or common use or a qualified products list exists for an item to be procured under R.S. 39:1596 (Small Purchases), it shall be used except as otherwise provided by the chief procurement officer or the head of a purchasing agency. If no such specification exists, purchasing and using agencies are hereby granted the authority to prepare specifications for use in such purchases. In an emergency under R.S. 39:1598 (Emergency Procurements), any necessary specifications may be utilized by the purchasing or using agency without regard to the provisions of this Subsection A (4) (Specifications).

E. Procedures for the Development of Specifications

1. **Provisions of General Application**

a. **Application of Section.** This Section applies to all persons who may prepare a specification for state use, including the chief procurement officer, the head of a purchasing agency, the head of a using agency, the designees of such officers, and also consultants, architects, engineers, designers, and other draftsmen

of specifications used for public contracts.

b. **Specification of Alternates May be Included.** To the extent feasible, a specification may provide alternate descriptions of supplies, services, or major repairs items where two or more design, functional, or performance criteria will satisfactorily meet the state's requirements.

c. **Use of Existing Specification.** If a specification for a common or general use item has been developed in accordance with Section (2) or a qualified products list has been developed in accordance with Section (2) for a particular supply, service, or major repair item, or need, it shall be used unless the chief procurement officer or the head of a purchasing agency makes a written determination that its use is not in Louisiana's best interest and that another specification shall be used.

2. Special Additional Procedures.

a. Specifications for Common or General Use Items.

(i) **Preparation and Utilization.** A specification for common or general use shall, to the extent practicable, be prepared to be utilized:

(A) When a supply, service, or major repair item is used in common by several using agencies or used repeatedly by one using agency, and the characteristics of the supply, service, or major repair item as commercially produced or provided remain relatively stable while the frequency or volume of procurements is significant;

(B) Where the state's recurring needs require uniquely designed or specially produced items; or

(C) When the chief procurement officer, or the head of a purchasing or using agency authorized to prepare such specifications, finds it to be in Louisiana's best interest.

In the event a using agency requests the preparation of a specification for a common or general use item, the chief procurement officer shall prepare such a specification if such officer determines the conditions in Subsections (A), (B), or (C) of this Subsection have been met.

(ii) **Comments on the Draft.** The chief procurement officer, or the head of a purchasing or using agency preparing a specification for a common or general use item, shall provide the using agencies, and a reasonable number of manufacturers and suppliers as such officer deems appropriate, an opportunity to comment on the draft specification.

(iii) **Final Approval.** Final approval of a proposed specification for a common or general use item shall be given only by the chief procurement officer, or by the head of a purchasing or using agency authorized to give such approval.

(iv) **Revisions.** Revisions to specifications for common or general use items which do not change the technical elements of the specifications but which are necessary for clarification may be made upon approval of the chief procurement officer, or the head of a purchasing or using agency authorized to approve such specifications. Interim revisions to fit the requirements for a particular procurement which change the technical elements of the specification may be made by the chief procurement officer, or the head of a purchasing or using agency authorized to approve such a specification. All other revisions shall be made in accordance with Subsections (2)(a)(ii) through (iv) of the Section.

(v) **Cancellation.** A specification for a common or general use item may be cancelled by the chief procurement officer, or by the head of a purchasing or using agency authorized to give final approval to such specifications.

b. Brand Name or Equal Specification.

(i) **Applicability of Subsection (2)(b) of this Section.** Subsection (2)(b) of this Section shall apply whenever brand names are used in specifications except as provided in Subsection (2)(c) of this Section.

(ii) **Use.** Brand name or equal specifications may be prepared to be used when the chief procurement officer or head of a purchasing agency determines in writing that:

(A) No specification for a common or general use item or qualified products list is available; or

(B) Time does not permit the preparation of another form of specification, not including a brand name specification; or

(C) The nature of the product or the nature of Louisiana's requirements makes use of a brand name or equal specifications suitable for the procurement; or

(D) Use of a brand name or equal specification is in Louisiana's best interest.

(iii) **Designation of Several Brands.** Brand name or equal specifications shall seek to designate three or as many different brands as are practicable as "or equal" references and shall state that substantially equivalent products to those designated will be considered for award.

(iv) **Required Characteristics.** Unless the chief procurement officer or the head of a purchasing or using agency authorized to finally approve specifications determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics which are required.

(v) **Nonrestrictive Use of Brand Name or Equal Specifications.** Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.

(c) Brand Name Specification

(i) **Use.** Since use of a brand name specification is restrictive, it may be used only when the procurement officer makes a written determination that only the identified brand name item or items will satisfy the state's needs.

Examples of circumstances which could necessitate proprietary procurement are:

(A) Revolving-fund purchases for resale, such as groceries, canned goods, packing house products, drug sundries, candy, tobacco and other similar items.

(B) Revolving-fund purchases of foods for cafeterias, dining halls or dormitories.

(C) Standard replacement parts such as automobiles, machinery, and equipment.

(D) Repairs to automobiles, machinery, equipment, etc.

(ii) **Competition.** The procurement officer shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section III (Sole Source Procurement) of these regulations.

(iii) **Reports.** The chief procurement officer shall submit reports to the commissioner or cabinet department head within 90 days after the end of the fiscal year stating any brand name specification used; the number of suppliers solicited; the identity of these suppliers; the supplier awarded the contract; and the contract price.

d. Qualified Products List.

(i) **Use.** A qualified products list may be developed with the approval of the chief procurement officer, or the head of a purchasing or using agency authorized to develop qualified products lists, when testing or examination of the supplies or major repair items prior to issuance of the solicitation is desirable or necessary in order to best satisfy state requirements.

(ii) **Comments, Final Approval, Revisions, and Can-**

cellation. Comments on, final approval of, and revisions to the proposed criteria and methodology for establishing and maintaining a qualified products list, and the cancellation thereof, shall follow the procedures of Subsections 2 (a) (ii), (iii), (iv), and (v) of this section applicable to specifications for common or general use items.

(iii) **Solicitation.** When developing a qualified products list, a representative group of potential suppliers shall be solicited in writing to submit products for testing and examination to determine acceptability for inclusion on a qualified products list. Any potential supplier, even though not solicited, may offer its products for consideration.

(iv) **Testing and Confidential Data.** Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with prior published requirements. Except as otherwise provided by law, trade secrets, test data, and similar information provided by the supplier will be kept confidential when requested in writing by the supplier. However, qualified products lists test results shall be made public but in a manner so as to protect the confidentiality of the identity of the competitors by, for example, using numerical designations.

SECTION XI
SUPPLY MANAGEMENT
R.S. 39:1564
(Authority of State Director of
Purchasing)

A. Definitions

Supplies for the purpose of this Section, means tangible personal property owned by the state.

B. Quality Assurance, Inspection, and Testing

The chief procurement officer shall take such steps as deemed desirable to ascertain or verify that supplies, services, or major repair items conform to specifications. In performing this duty, the chief procurement officer may establish inspection and testing facilities, employ inspection personnel, enter into arrangements for the joint or cooperative use of laboratories, and contract with others for inspection or testing work as needed. The chief procurement officer may delegate responsibility for inspection and testing to using agencies.

C. Warehouse and Storage

The chief procurement officer shall exercise general supervision of any receiving, storage, and distribution facilities and services maintained and operated by the office of the chief procurement officer or using agencies.

D. Inventory Management

The chief procurement officer shall have supervision of all inventories of tangible personal property belonging to the state or any of its agencies. This responsibility shall not, however, relieve any agency of accountability for tangible personal property and other supplies under its control. All warehouses and similar storage areas shall be inventoried annually.

E. Transfer of Excess and Surplus Supplies

Insofar as feasible and practical, the chief procurement officer will transfer inventoried excess supplies to other state agencies.

SECTION XII
INTERGOVERNMENTAL REGULATIONS
R.S. 39:1702 (COOPERATIVE PURCHASING)

A. Scope

This Part applies to cooperative purchasing and other cooperative activities authorized by Title 39:1702.

B. Cooperative Purchasing Shall Not Adversely Affect Employees

No employee of any public procurement unit participating

in any cooperative purchasing activity authorized by Part VII (Intergovernmental Relations) of the Louisiana Procurement Code shall suffer any loss of salary, seniority, tenure, or pension rights, or be adversely affected as a result of any such activity.

C. Cooperative Purchasing Agreement in Form of Open-ended State Contract

Any agreement between the state and a local public procurement unit entered into pursuant to R.S. 39:1702 (Cooperative Purchasing Authorized) of the Louisiana Procurement Code which provides that certain open-ended state procurement contracts shall be available to the local public procurement unit, shall also provide that:

1. The state shall conduct the procurements in compliance with the Louisiana Procurement Code;

2. When the local public procurement unit agrees to procure any supply or service under the state contract, its requirements for such supply or service shall be obtained by placing purchase orders against the appropriate state contract in accordance with the terms and conditions of such contract;

3. Payment for supplies or services ordered by the local public procurement unit under state contracts shall be the exclusive obligation of such jurisdiction;

4. Inspection and acceptance of supplies or services ordered by the local public procurement unit under state contracts shall be the exclusive obligation of such jurisdiction;

5. The state may terminate the agreement for failure of the local public procurement unit to comply with the terms of the contract or pay a contractor to whom the state has awarded an open-ended contract;

6. The exercise of any warranty rights attaching to supplies or services received by the local public procurement unit under state contracts shall be the exclusive obligation of such jurisdiction; and

7. Failure of a local public procurement unit which is procuring supplies or services under a state contract to secure performance from the contractor in accordance with the terms and conditions of its purchase order will not necessarily require the state or any other local public procurement unit to consider the default or to discontinue procuring under the contract.

D. Supply of Personnel, Information, and Services

Requests made to a public procurement unit by another public procurement unit or external procurement activity to provide or make available personnel, services, information, or technical services pursuant to R.S. 39:1706 (Supply of Personnel, Information, and Technical Services) of the Louisiana Procurement Code shall be complied with only to the extent that the chief procurement officer determines that it is practical and feasible to do so in terms of personnel, time, and other resources.

E. L. Henry
Commissioner

RULE

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

The Department of Health and Human Resources, Office of Family Security, shall implement, effective August 1, 1982, monthly reporting for all Aid to Families with Dependent Children (AFDC) recipients certified as a result of incapacity and related Food Stamp cases as mandated by federal regulations as published in the *Federal Register* as follows: Vol. 46, No. 182, Mon-

day, September 21, 1981, pp. 46750-46770; Vol. 47, No. 25, Friday, February 5, 1982, pp. 5679-5680; and Vol. 47, No. 101, Tuesday, May 25, 1982, pp. 22684-22701.

AFDC recipients certified as a result of incapacity as defined in 45 CFR:233.90 (a)(6)(c)(1)(iv) shall be required to submit a monthly report because the AFDC error-prone profile indicates a disproportionate number of errors in the category.

The Office of Family Security shall require, as a condition of eligibility, the recipients listed above to submit a completed report form to the agency monthly to provide the following:

1) Budget month income, family composition, and other circumstances relevant to the amount of the assistance payments; and

2) Any changes in income, resources, and other relevant circumstances affecting continued eligibility which the assistance unit expects to occur in the current month or future months.

3) Stepparent's income and alien sponsor's income and resources where appropriate.

This Rule is subject to modification pursuant to the outcome of pending litigation in the case of *French v. Fischer*, Civil No. 81-4853, U.S. District Court, Eastern District of Louisiana.

Roger P. Guissing
Secretary

RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, as mandated by the Omnibus Reconciliation Act of 1981, P.L. 97-35, Sec. 101-117, and federal regulations as published in the *Federal Register* Vol. 47, No. 101, Tuesday, May 25, 1982, pages 22684-22701, effective August 1, 1982, will proceed to phase in retrospective budgeting and monthly reporting (RB/MR) requirements as to all Food Stamp Program recipients, except those described in paragraph B. Retrospective Budgeting/Monthly Reporting will be implemented in three phases as follows:

1) By October, 1982 at least thirteen per cent of the food stamp caseload will have implemented RB/MR. The first phase will require cases in mail codes 10 and 11 to submit a monthly report in September with August being the budget month and benefit to be determined for October.

2) By July, 1983, a total of at least seventy-four per cent of the state's food stamp caseload will be added to RB/MR.

The second phase will actually be accomplished in three stages.

(i) Cases in mail code 8 and 9 will begin monthly reporting in February with January as the budget month and benefits determined for March.

(ii) Cases in mail codes 6 and 7 will begin reporting in May for the April budget month with benefits to be determined for June.

(iii) Cases in mail codes 3, 4, and 5 will complete the second phase of Food Stamp monthly reporting in July for the June budget month with benefits to be determined for August.

3) In August, 1983, the remaining caseload will implement RB/MR. Enhanced data processing capabilities are anticipated to aid in processing these cases. The remaining non-exempt Food Stamp cases will begin reporting in August for the July budget month with benefits to be determined for September.

NOTE: The term "mail code" refers to the computer assigned sequence number by which Authorization to Participate (ATP)

Cards are mailed to eligible recipients each month. The mail code is determined on a mathematical basis which distributes Food Stamp cases equally over eleven mail codes. The basis of the mail code is the recipient's social security number (or an equivalent assigned number) and the recipient's zip code. The method provides a relatively even distribution among all of Louisiana's parishes.

A. The amount of benefits for food stamp recipients will be based on the actual income or circumstances which existed in the second prior month. Food stamp recipients subject to monthly reporting will be required to submit a monthly report of household circumstances including verification of income to the local Office of Family Security.

The monthly reports shall be submitted to the local Office of Family Security by the 10th day of each month or the next working day if the 10th is a holiday or weekend. Failure to submit a completed report, including verification each month, may result in suspension or closure of the case.

B(1a). Those households whose income is by contract for other than an hourly or piecework basis or by self-employment, who derive their annual income in a period of time shorter than one year shall have their income calculated by averaging such income over a twelve-month period. These households shall be subject to the monthly report requirement, but not the retrospective budgeting requirement for this type income.

B(1b). Those households that receive educational loans on which payment is deferred, grants, scholarships, fellowships, veteran's educational benefits, and the like to the extent that they are used for tuition and mandatory school fees at an institution of higher education or school for the handicapped shall have their income calculated by averaging such income over the period for which it is received. These households will be subject to the monthly reporting requirement, but not the retrospective budgeting requirement for this type income.

B(2). Households that have no earned income and in which all members are sixty years of age or over or receive Supplemental Security Income benefits under Title XVI of the Social Security Act or disability and blindness payment under Title I, II, X, XIV and XVI of the Social Security Act shall be subject to the retrospective budgeting requirement but not the monthly reporting requirements.

B(3). Migrant farmworker households, as defined in the Food Stamp Program Operating Guidelines, Section 12-200, will not be subject to either the monthly reporting requirement or the retrospective budgeting requirements.

Roger P. Guissing
Secretary

RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, is adopting the following Rule changes in the General Assistance program effective immediately in regard to allowable resources:

(1) Cash resources - (a) Any cash on deposit with a funeral home for prepaid burial shall be considered as cash in determining the amount of an applicant/client's resources.

(b) If the applicant/client has a joint bank account with a person not a member of his family unit, the total amount of cash in the account shall be considered to belong to the applicant/client.

(2) Power - driven conveyance - Equity value up to \$1,200 in one power-driven land conveyance shall not be considered in determining resource eligibility. The amount of equity above \$1,200 shall be considered a countable resource. Equity in all other power-driven land or water conveyances is subject to the resource limit with one exception. If a family's chief mode of transportation is by motorboat, and no automobile is owned, the equity in that boat, up to \$1,200, shall not be considered.

The equity value is the fair market value minus encumbrances. The fair market value of licensed automobiles, trucks and vans will be determined by the value of those vehicles as listed in the National Automobile Dealers Association's (NADA) Used Cars Guide Book, generally referred to as the "blue book".

Roger P. Guissinger
Secretary

RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, is imposing a maximum limit on the reimbursement rate for certain home and community based services provided through the Medical Assistance Program. Reimbursement to providers for the provision of adult day health, homemaker and habilitation services shall not exceed 75 percent of the Intermediate Care Facility I rate.

Roger P. Guissinger
Secretary

RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, shall implement, effective August 1, 1982, monthly reporting for: 1) all Aid to Families with Dependent Children (AFDC) recipients who are head of the household for the Food Stamp certification and also the payee for the grant; 2) Refugee Resettlement and Cuban/Haitian Entrants (E Category) recipients who are head of the household for the Food Stamp certification and also payee for the grant as mandated by federal regulations as published in the *Federal Register* as follows: Vol. 46, No. 182, Monday, September 21, 1981, pp. 46750-46770; Vol. 47, No. 25, Friday, February 5, 1982, pp. 5679-5680; and Vol. 47, No. 101, Tuesday, May 25, 1982, pp. 22684-22701.

All AFDC and E Category recipients who are head of the household for the Food Stamp certification and also the payee for the grant shall be required to submit a monthly report in conjunction with the monthly reporting requirements for the Food Stamp Program. These recipients will enter the monthly reporting system as the related Food Stamp cases enter the system.

The Office of Family Security shall require, as a condition of eligibility, the recipients listed above to submit a completed report form to the agency monthly to provide the following:

1) Budget month income, family composition, and other circumstances relevant to the amount of the assistance payments; and

2) Any changes in income, resources, and other relevant circumstances affecting continued eligibility which the assistance unit expects to occur in the current month or future months.

3) Stepparent's income and alien sponsor's income and resources where appropriate.

This Rule is subject to modification pursuant to the outcome of pending litigation in the case of *French v. Fischer*, Civil No. 81-4853, U.S. District Court, Eastern District of Louisiana.

Roger P. Guissinger
Secretary

RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, shall implement Retrospective Budgeting effective August 1, 1982 for all General Assistance (GA) recipients. The agency shall determine all factors of eligibility and payment amount for the initial two months of eligibility prospectively. However, the amount of assistance for the initial two months of eligibility will be computed retrospectively if:

(1) The applicant received assistance, computed retrospectively, for the preceding payment month

OR

(2) (a) The initial month and/or month of application follows one month in which the payment was withheld

AND

(b) The family's circumstances for the initial month and/or month of application have not changed significantly from those reported in the corresponding budget month (e.g. loss of job).

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

Roger P. Guissinger
Secretary

RULE

Department of Health and Human Resources Office of Health Services and Environmental Quality Committee of Certification

Effective July 20, 1982, and in accordance with Section 2 of Act 538 of 1972, which is the water supply and sewerage system operator certification law, the water and wastewater operator certification examination fee will be five dollars per examination.

Roger Guissinger
Secretary

RULE

Department of Health and Human Resources Office of the Secretary

The Louisiana Department of Health and Human Resources (DHHR) has adopted Rules to administer Block Grant

federal funding for fiscal year 1982-83. These federal funds will be administered in accordance with Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, and federal regulations as published in the *Federal Register*, Vol. 46, No. 190, Thursday, October 1, 1981, pp. 48582-48598. The Rules apply to the Alcohol and Drug Abuse and Mental Health Services Block Grant, the Maternal and Child Health Services Block Grant, and the Preventive Health and Health Services Block Grant.

The DHHR Offices responsible for administration of programs and services in the Block Grants are as follows:

- (1) Alcohol and Drug Abuse and Mental Health Services - Office of Mental Health and Substance Abuse
- (2) Maternal and Child Health Services - Office of Health Services and Environmental Quality
- (3) Preventive Health and Health Services - Office of Health Services and Environmental Quality

Copies of the entire Block Grant Rules may be viewed at the Office of the State Register, 1500 Riverside North, Baton Rouge, Louisiana 70804.

Roger P. Guissing
Secretary

RULE

**Department of Labor
Office of Labor**

**Community Services Block Grant
Program Agreement**

This document constitutes an agreement by and between the Louisiana Department of Labor and the undersigned eligible entity to expend the following Community Services Block Grant funds for FY82 in the amount of \$_____.

The funds are for the months of ____ through ____, and will cover the administrative costs of current, existing and ongoing programs. These funds shall support only the kinds of programs and activities outlined and approved in the FY82 budget by the Secretary of Labor.

The recipient agency will abide by the Fiscal, Travel, Personnel, Civil Rights, Purchasing, Client Tracking and Carry-Over Balances policies of this grant which are in effect at the signing of this agreement. In the event of the recipient's non-compliance with any of the rules, policies, regulations or orders, funding may be cancelled, terminated, or suspended in whole or in part and the recipient may be declared ineligible for further funding. These policies are minimal acceptable standards and may be made more strict at the discretion of the individual eligible entity's board. This agreement will be reviewed for approval based on the application submitted by the recipient agency with efficiency of budget and intent of program being important criteria.

The signature of the recipient agency should be that of the Chairman of the Board for a nonprofit private agency or that of the Chief Executive Officer of the sponsoring political entity for a public agency.

<p>APPROVED FOR THE ELIGIBLE ENTITY Agency Name _____ Signature _____</p>	<p>APPROVED FOR THE DEPARTMENT OF LABOR _____ Secretary of Labor or Designee</p>
---	--

Title of Signee _____
Address _____

DATE _____ DATE _____
LDOL #712
Effective 7/10/82

Fiscal Policy

PRIVATE AND PUBLIC RECIPIENTS:

A. Application and Financing

The distribution of funds in this Block Grant are determined through the public hearing process required by P.L. 97-35. The funds are distributed only to those agencies deemed eligible in accordance with all state and federal laws which submit LDOL-required applications (Form #851). The request for CSBG funds is subject to approval based on efficiency of budget and intent of program activities by the Secretary of Labor or his designee.

The financing of the system will be on an advance-funding basis in which LDOL will advance a maximum 3-day supply of funds to recipients. The recipient is obligated to request funds on the LDOL Form #850 as needed and report the expenditure of those funds monthly on the LDOL Form #762 by the 15th of the month following the month of operation. The LDOL Form 3762 shall be accompanied by a trial balance and a reconciled bank balance. No funds will be advanced without these requirements.

B. Accounting and Budgeting

The accounting of these funds must be in accordance with generally acceptable accounting policies for government entities and subject to review by LDOL staff upon verbal and/or written request. All records, reports, documents, and/or other supporting information shall be made available to LDOL upon written and/or oral request for 5 years after date of agreement. The recipient agency's accounting system must be able to trace monies from the receipt of funds to the reconciliation of the bank statement. The recipient agency will expend funds only within the budgeted categories itemized on the approved LDOL Form #762. A separate bank account for Community Services Block Grant programs shall be maintained, except where the Secretary of Labor or his designee in writing deems that the accounting system of the recipient provides a clear audit trail and therefore exempts the recipient from this requirement.

All adjustments to the budget must be submitted on an LDOL Form #762 and approved by the Secretary of Labor or his designee prior to implementation. LDOL reserves the right to delay or deny advances of funds to any recipient agency should the agency expend funds beyond these individual categories without prior approval from LDOL.

All salaries of the recipient agency's staff will be approved at the time the application is submitted. Any changes in those salaries must be submitted to the Secretary or his designee for approval prior to implementation. Salaries must be comparable to those of the recipient agency's direct sponsor for similar classifications, whenever sufficient funds are available.

C. Personnel and Travel

All personnel and travel procedures will be in compliance with the policies of the recipient agency's direct sponsor whether that is a local government agency or LDOL. If the recipient agency is sponsored by a public local governmental agency, all rules and procedures associated with personnel and travel matters will comply with that agency's policies. In the absence of policies in these areas, the recipient agency will comply with LDOL policies. For those recipient agencies sponsored by LDOL, all policies in personnel and travel matters will, at the minimum, coincide with LDOL's policy statement in those areas.

D. Auditing

Comprehensive audit of CSBG expenditures will be conducted by an independent auditor at least every other year.

E. Non-Allowable Costs

The recipient agency will not be allowed to expend and/or account for monies approved in this CSBG grant on the following items:

- 1. Dues and/or travel costs to professional, political,

trade, and charity associations except LACAA annual conventions.

*2. Legal fees.

*3. Consultant Services - any service performed by personnel other than staff.

4. Miscellaneous Costs - any cost not identified by budget categories on LDOL Form #762.

5. Indirect Costs - any cost not specifically identified to a budget category on LDOL Form #762, except with Recipient Agencies where the indirect cost method is the typical method of reimbursing the sponsor for services.

6. Entertainment Costs - any cost for entertainment-related expenses which have not been approved in the application.

7. Automobiles for other than program purposes.

*8. Professional Services - any service typically referred to as professional (i.e., legal, architectural, auditing, etc.), which has not been specifically approved in the application process.

9. Out-of-State travel for lobbying and/or political purposes.

10. Participant Allowances, Stipends, and/or Incentives - any reimbursement to participate in employment and/or training programs.

11. Fines and Penalties - costs resulting from violations of, or failure to comply with Federal, State and local laws and regulations to include bank charges for overdrawn checks except where recipient agency is not responsible for change.

12. Interest and Other Financial Costs - interest on borrowings (however represented), costs of financing and refinancing operations, and legal and professional fees paid in connection therewith.

13. Deficits in any Grant Agreement - any excess of cost beyond any other Grantor's contribution under any other grant agreement is unallowable under this grant agreement.

*Requests for exceptions should be submitted to LDOL prior to implementation.

Carry-Over Balances Policy

PRIVATE AND PUBLIC NONPROFIT RECIPIENTS:

A. According to Health and Human Services Grants Management Policy Guidelines 82-1A, any recipient which received funds in FY81 from CSA:

1. Shall require their employees to use as much leave as possible in order to reduce the amount of accrued leave prior to the end of their program year. Where accrued leave is forecasted or expected to exist at the end of the program year, recipients shall fund those costs within their current program year budget. Where necessary, recipients may set aside funds in a particular reserve to insure coverage of these costs.

2. Who is unable to cover the costs related to accrued leave because of exceptional circumstances, may request additional assistance by submitting a revised budget to CSA showing the amount (days, dollars) of such costs. These requests and budget submissions should be sent to the RCOM for review. The RCOM shall forward these requests to the Director, Office of Special Grants, OCS, with recommendations for action to be taken. These requests will be based on availability of funds and future status of the grantee.

3. Shall cover the costs of their Program Year End (PYE) audit and/or final audit in their current program year budget.

4. Who is unable to cover costs related to PYE audits because of exceptional circumstances may request additional assistance by submitting a revised budget and following the procedure outlined in the above policy, Item 2.

5. Where a carry-over balance exists after the recipient has met all of its obligations, including those for goods and services received (employee accrued leave, current audit costs, etc.), the recipient may request programming of these funds to supplement its work program under its Community Service Block Grant if (1) it has adequate funds in reserve to close out the activities related to the continued use of those funds, and (2) the State will agree in writing to audit those funds as part of its audit of the Block Grant. If these two situations exist, the recipient must submit the State's audit confirmation as well as a Form 25B accompanied by a budget to the Regional Close Out Manager for review and approval.

B. With reference to any recipient who receives funds in FY82 and subsequent years from LDOL:

1. Recipients who have FY82 Community Services Block Grant funds remaining in balance as of September 30, 1982, can carry those funds forward into subsequent fiscal years only with approval through the LDOL FY83 budget process. LDOL reserves the right to make any adjustments in the subsequent years' budgets in conjunction with the amount of the carry-over balances.

2. This policy will remain the same for all unexpended balances as of September 30 in all subsequent years.

Personnel Policy

A. PRIVATE NONPROFIT RECIPIENT:

I. Equal Opportunity:

Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline or any other aspect of personnel administration because of political or religious opinions or affiliations or because of race, color, sex, handicap, national origin, marital status or other non merit factors is prohibited.

II. Scope of Coverage:

All employees in the recipient agency and all employees of agencies which receive any part of the grantor's appropriation are included in this policy. The following employees are expressly exempt from coverage:

- (1) All members of boards and commissions of the parish.
- (2) Consultants, advisors, and counsel rendering temporary professional service.
- (3) Independent contractors.

III. Grounds for Disciplinary Action:

Employees may be subject to disciplinary action for any of the following offenses:

- Being tardy or absent without authorization.
- Performing work without authorization of the supervisor.
- Causing loss of material due to carelessness.
- Leaving place of work without permission.
- Gambling during working hours.
- Carelessness affecting personal safety or safety of others.
- Threatening, intimidating, or interfering with fellow employees.
- Making false, vicious, or malicious statements.
- Failure to follow job instructions.
- Misusing, destroying, or damaging property.
- Fighting, provoking or instigating a fight.
- Reporting for work under the influence of alcohol or drugs or use of such while at work.
- Sleeping on the job.
- Insubordination.
- Falsifying records.
- Theft.
- Drinking any alcoholic beverage on the job.
- Engaging in sabotage.
- Immoral conduct of indecency, including use of profane or vulgar language.
- Any other just cause as defined by the appointing authority.

Formal disciplinary action taken under this Section or other Sections or other types of formal adverse action may be appealed in writing directly to the appointing authority within three (3) working days following notice of action. The adverse action may be stayed pending decision on the appeal or may take effect at any time after issuance of notice as determined by the Director.

The Director, following careful examination of all available information, shall approve, disapprove, modify or rescind any disciplinary actions taken or proposed.

IV. Nepotism:

The recipient will not employ members of the immediate family (refer to Item IX) of present employees or agency board members.

V. Compensation:

The recipient will approve the salaries of all private nonprofit recipient employees. Those salary rates will, whenever financially and administratively possible, coincide with State Civil Service salary ranges for similar positions.

VI. Overtime:

Overtime work shall be considered work performed by an employee which exceeds the normal 40-hour work week, excluding the recipient's director and any other personnel whom the Board chooses to exclude.

Whenever service is rendered by an employee in excess of the normal 40-hour work week, at the discretion of the director, overtime will either be paid at the rate of one and one-half times the employee's regular hourly earnings or be rewarded as compensatory time on an hour-for-hour basis.

VII. Holidays:

The recipient agency may observe the same days for holidays as the grantor observes, but may not observe any more total days within the year. Any holidays declared by the Governor, in addition to the following 8 typical holidays, are also allowable. Any combination of 8 holidays in one year is allowable (these are examples of allowable holidays): New Year's Day, Mardi Gras, Good Friday, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, and Christmas Day.

VIII. Annual and Sick Leave:

Annual and sick leave is provided to employees for the purpose of their rehabilitation and the maintenance of work efficiency. The annual leave year shall be from January 1 through December 31 of the same year. The maximum amount of annual and sick leave that can be earned by employees is in accordance with the following schedule:

Continuous Service	Hours of Annual and Sick Leave Accrued/mo.	No. of Days Per Year
From date of hiring to less than three years	8	12
Three years to less than five years	10	15
Five years or more	12	18

Annual and sick leave shall be earned in accordance with the foregoing schedule for any month in which compensation is received and accumulated for at least 96 hours exclusive of overtime. Regular part-time employees will accrue leave on a pro-rata basis.

Employees shall be eligible to take annual leave and/or sick leave as it is accrued from date of hiring. Any annual/sick leave accrued from previous Community Services Administration employment may be carried into the Community Services Block Grant, except as specified in the Grants' Management Policy Guideline: 82-1a.

Payment for unused annual leave time shall be made upon the discharge, resignation, removal of an employee due to reduc-

tion in force, retirement or death of an employee. The rate of payment will be an hourly rate which is an average of the three highest years of employment. LDOL recommends a maximum of 300 hours, but actual hours paid may be in accordance with recipient Board Policy. No unused sick leave shall be paid upon termination.

Annual leave may be taken as earned subject to the approval of the Director. Regular holidays and normal nonworking days occurring during a leave period shall not be considered as annual leave. Directors should make every effort to plan annual leave.

IX. Funeral Leave:

A maximum of two days will be granted at the time of death of an employee's immediate family member and one day at the death of an immediate family member of either the husband or wife of an employee defined as follows: Child, Mother, Father, Brother, Sister or Paternal Grandparent, Maternal Grandparent, Stepbrother, Stepsister, or Husband/Wife.

X. Notification of Absence:

An employee who is absent from work for any reason is required to notify his or her supervisor within one (1) hour of the beginning of the daily work schedule, if possible, and provide a reason for his absence. Unexcused absences of two (2) or more days is considered cause for dismissal. Excessive absences are also just cause for dismissal. If illness is given as a cause of absence, the Director reserves the right to require a written statement from the employee's physician. All absences must be reported on the time reports submitted semi-monthly by all supervisory personnel responsible for submitting payroll, and will be recorded on employee's individual time record.

An employee on sick leave shall inform his or her supervisor of the fact and the reason within one hour of the beginning of the daily work schedule. Failure to do so by noon of the first day of illness may result in denial of sick leave with pay for the period of absence. An employee who is on sick leave for 72 continuous hours shall be required by the supervisor or administrative officer to submit a medical clearance or release for return to work.

XI. Attendance:

The normal work day is from 8:00 a.m. to 5:00 p.m. with an hour for lunch. The lunch period is from 12:00 Noon to 1:00 p.m.; however, this may be altered, depending on the work schedule of the employee and the approval of the supervisor.

The normal work week of all employees is 40 hours, composed of eight hours per day, Monday through Friday. These may vary depending on the job and department involved. These differences will be spelled out in the employee's job description or by his supervisor.

XII. Dress Code:

The director has the right to prescribe appropriate dress and grooming and to set standards in the best interest of the service.

The Louisiana Department of Labor's present policy is to require merely that the clothing and overall appearance of employees must be in good taste. Generally, office workers should avoid extreme fashion. Employees who work around machinery and equipment should observe sound safety regulations, including the wearing of appropriate articles of clothing (shoes, goggles, hard-hats, etc.).

XIII. Kickbacks:

Staff members of recipient agency and its board members shall not solicit or accept gratuities, favors or anything of monetary value from any actual or potential subrecipient or contractor.

XIV. Political Activities:

Staff members of recipient agency and its board members shall not engage in partisan or nonpartisan political activities and/or work on any elected official's staff during hours for which the

employee or board member is paid with Community Services Block Grant funds.

XV. Lobbying Activities:

No funds received from this grantor in the Community Services Block Grant may be used to attempt to influence in any manner a member of the U.S. Congress, state Legislature and/or local governing body to favor and/or oppose any legislation or appropriation of such legislators.

B. PUBLIC NONPROFIT RECIPIENT:

The personnel procedures will be in accordance with the policies of the political subdivision sponsor. Should the political subdivision sponsor not have formal policies in personnel matters, the recipient will follow the same policies as the Private Nonprofit Recipient.

Travel Policy

1. PRIVATE NONPROFIT RECIPIENT:

I. Authority to Incur Traveling Expenses:

A. All travel must be authorized and approved in writing by the head of recipient agency from whose funds the traveler is paid. A file shall be maintained on all approved travel authorizations.

B. Traveling expenses of travelers shall be limited to those expenses necessarily incurred by them in the performance of a public purpose authorized by law to be performed by the agency, and must be within the limitations prescribed.

C. Recipient agency head may approve an authorization for routine repetitive travel for an employee who must travel in the course of performing his/her duties. An authorization for routine travel shall not cover out-of-state travel or travel to conferences or conventions and must be renewed each fiscal year.

II. Transportation: (Applicable to all travelers)

A. Travel Routes - The most direct and usually traveled route must be used by official travelers. All mileage shall be computed on the basis of odometer readings.

B. Method of Transportation - The most cost effective method of transportation that will accomplish the purpose of the travel shall be selected. Among the factors to be considered should be length of travel time and cost of operation of a vehicle.

1. Recipient agency-owned vehicles shall be utilized for travel to points within Louisiana whenever possible unless another method of transportation can be documented as more efficient.

2. A personally-owned vehicle may be approved when recipient agency vehicle is not available or appropriate and this has been certified by the traveler and prior approval received.

C. Operation of Motor Vehicles on Official Recipient Business

1. No vehicle may be operated in violation of state or local laws including the automobile insurance coverage requirements as provided by R.S. 32-861. No traveler may operate a vehicle without having in his/her possession a valid state driver's license.

2. If available, safety restraints shall be used by the driver and passengers of vehicles.

3. All accidents, major and minor, must be reported on the standard Department of Public Safety report form (SR-10) and immediately sent to the insurance carrier of the Recipient agency together with names and addresses of principals and witnesses. An accident report concerning agency-owned vehicles shall also be filed with the insuring agency. These reports shall be in addition to reporting the accident to the Department of Public Safety as required by law.

D. Recipient Agency-Owned Automobiles

1. All purchases on agency gasoline credit cards must be signed for by the Director or employee making the purchase, and the license number, unit price, and quantity of the commodity purchases must be noted on the delivery ticket by the vendor. Items incidental to the operations of the vehicle may be purchased by agency gasoline credit cards only in an emergency situation. In

all instances where a credit card is used to purchase items or services which are incidental to the operation of a vehicle, the tissue copy of the credit ticket along with a written explanation of the reason for the purchase will be attached to the report required in Item 3 of this section.

2. No traveler may carry unauthorized passengers in agency-owned automobiles unless their presence is for purposes relating to official agency business.

3. The user of each agency-owned automobile shall submit a monthly report to the director indicating the number of miles traveled, odometer readings, credit-card charges, dates, and places visited. When an agency vehicle is used, the traveler, upon returning the vehicle, shall report the operating condition of the vehicle to the person designated as the responsible assigning officer.

E. Personally-Owned Vehicles

1. No personally-owned vehicle may be used on official agency business unless prior written approval has been granted.

2. When two or more persons travel in the same personally-owned vehicle, only one charge will be allowed for the use or expense of the vehicle. The person claiming reimbursement shall report the name of the other passengers.

III. Reimbursement for Transportation, Subsistence, and other expenses: (Applicable to Employees)

A. Transportation - For the purpose of reimbursement, the following regulations are prescribed.

1. Mileage allowance shall be authorized for travelers approved to use personally-owned vehicles while in the conduct of official agency business. Mileage shall be reimbursable on the basis of 21¢ per mile. Reimbursement shall be on the basis of the most direct route. The traveler shall be required to pay all operating expenses of the vehicle such as, but not limited to, fuel, repairs, replacement of parts, and insurance.

2. Travelers using motor vehicles on official agency business will be reimbursed for storage and parking fees, ferry fares, and road and bridge tolls.

3. Agency-owned credit cards will not be issued to recipient employees for use in the operation of privately-owned vehicles.

4. In no case will a traveler be allowed mileage or transportation when he/she is gratuitously transported by another person.

B. Lodging and Meals - For purposes of reimbursement, the following Rules apply:

1. Meals only (including tips): Employees, while on authorized travel, may be allowed up to the maximum allowable state rates for meals.

2. Employees may be reimbursed for meals according to the following schedule:

Breakfast: When travel begins on/or before 6 a.m. on the first day of travel, or extends beyond 9 a.m. on the last day of travel, and for any intervening days.

Lunch: When travel begins on/or before 10 a.m. on the first day of travel, or extends beyond 2 p.m. on the last day of travel, and for any intervening days.

Dinner: When travel begins on/or before 4 p.m. on the first day of travel, or extends beyond 8 p.m. on the last day of travel, and for any intervening days.

3. Lodging Only: Employees may be reimbursed actual expenses for lodging, not to exceed the maximum allowable state rate. Receipts from a bona fide hotel or motel for lodging shall be submitted and attached to the travel voucher.

C. Other expenses - Only the following expenses incidental to

travel may be reimbursed:

1. Communication expenses relative to official agency business.
2. Registration fees at conferences (meals that are a designated integral part of the conference may be reimbursed on an actual expense basis with prior approval by the agency head).
3. Charges for parking and/or storage and handling of equipment.
4. Taxi and local public transportation.
5. Tips (\$1 will be allowed for boarding and leaving the plane and for in/out the hotel or motel).

D. Restrictions Governing Claims for Reimbursement:

1. Travel allowances shall not be granted for travel accomplished on Saturday, Sunday, or holidays without prior written approval by the head of the agency or his designee. (Approval and justification must be readily available in the department's reimbursement file).
2. No claim for reimbursement shall be made for any lodging and/or meals furnished at a state institution or other state agency.
3. In case an employee travels by an indirect route for his/her own convenience, any extra cost shall be borne by the traveler and reimbursement for expenses shall be based only on such charges as would have been incurred by the most direct and usually traveled route.
4. Items included in any expense account which do not fully conform to these regulations will be disallowed for payment.
5. In all cases where lodging expenses are incurred, the traveler shall utilize the most economical room available, considering such factors as the availability and cost of transportation to the site where agency business will be conducted and the availability of special discount rates.

E. Receipts and Other Support (Applicable to Employees)

Receipts or other substantiation are required for travel expenses, except for the following:

1. Taxi fares less than \$5.
2. Routine meals (number of meals must be shown on travel voucher).
3. Telephone and telegraph under \$3.
4. Tips for baggage handling (\$1 will be allowed for boarding and leaving the plane and for in/out the hotel or motel).
5. Parking at self-service lots when less than \$5. The location of the lot and the length of time parked must be indicated on the travel voucher in these cases.

IV. General:

The traveler is expected to exercise the same care in incurring expenses that a prudent person would exercise when traveling on personal business.

A. Funds for Travel Expense - Persons traveling on official business will provide themselves with sufficient funds for all routine expenses. Advance of funds for travel shall be made only for overnight travel and for extraordinary travel and should be submitted punctually when submitting the travel voucher covering the related travel.

The expense claim covering the related travel shall be submitted no later than the fifteenth day of the month following the completion of travel, and any advance made for the purpose of travel shall be repaid no later than the time the expense claim is submitted.

B. Recipient Agency Credit Cards - Credit cards used in the name of the agency are not to be used for the purpose of securing transportation, lodging, meals, or telephone and telegraph service, unless prior written permission has been obtained from the Secretary of Labor.

C. Claims - All claims for reimbursement for travel shall be submitted on a standard travel expense report and shall include all

details necessary to evaluate accountability. It must be signed by the person claiming reimbursement and approved by his/her immediate supervisor. The purpose for extra and unusual travel must be stated in the space provided on the front of the form. In all cases, the date and hour of departure from and return to domicile must be shown. In all cases, and under any travel status, cost of meals and lodging shall be paid by the traveler and claimed on the travel voucher for reimbursement, and not charged to the recipient.

D. Lodging - Agency heads shall take necessary steps to inform all personnel on travel status that whenever possible travelers shall request and make use of special discount rates for lodging usually granted to government employees.

E. Fraudulent Claims - Any person who submits a claim pursuant to the aforementioned regulations, and who willfully makes and subscribes to any such claim which he/she does not believe to be true and correct as to every material matter, and who willfully aids, assists in, procures, counsels or advises the preparation or presentation of a claim which is fraudulent or is false as to any material matters shall be subject to immediate dismissal, as well as being criminally and civilly liable within the provisions of state law.

2. PUBLIC NONPROFIT RECIPIENT:

The travel procedures will be in accordance with the policies of the political subdivision sponsor. Should the political subdivision sponsor not have formal policies in travel matters, the recipient will follow the same policies as the private nonprofit recipient.

Client Tracking Policy

PRIVATE AND PUBLIC NONPROFIT RECIPIENTS:

All recipients shall establish and maintain a client tracking system consisting of records on applicants, participants, and terminees which will be audited and monitored in the recipient's programs by the Secretary of Labor or his designee, particularly with respect to the eligibility of participants and the propriety of participant selection procedures and practices for all programs funded by the Community Services Block Grant including the traditional programs in which Community Services Block Grant funds are used for administrative purposes. A record of each participant's participation in a Community Service Block Grant Program, including dates of entry and termination in each activity, and cost shall be retained for a period of five years from the date of enrollment into the program.

Purchasing Policy

I. PRIVATE NONPROFIT RECIPIENT:

A. Purchasing of Office and/or Program Supplies, Equipment and/or Furniture:

The following Rules apply to each individual purchase order excluding taxes for those items not on state contract bid lists. 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". To the maximum extent possible, all procurement authorized under the CSBG will be set aside for small and minority owned businesses.

1. All purchases under \$100 for supplies and/or equipment can be purchased without competitive bid by the recipient.

2. All purchases for supplies and equipment between \$100 and \$500 must have three written bids and can be bought by the recipient. If time does not permit, telephone bids may be obtained but documented in writing why time did not permit written bids.

3. All purchases for supplies and equipment between \$500 and \$2,000 must have five written bids and can be bought by the recipient.

4. All purchases for supplies and equipment between

\$2,000 and \$5,000 must have eight written bids and can be bought by the recipient.

5. All purchases for supplies and equipment above \$5,000 must have eight written bids submitted to LDOL for final selection and award. Upon approval, purchase is completed by recipient.

B. Any items listed on the Louisiana State Contract Bid List may be bought without restrictions or LDOL approval only if those items are specifically mentioned in the budget proposal and subsequently approved by LDOL.

C. LDOL will supply the recipient with any surplus equipment which it may possess in its inventory in lieu of purchasing new equipment. The recipient must be responsible for transportation both to and from LDOL and to the recipient's location. The recipient will be notified at the time of budget approval of any available surplus equipment.

D. LDOL will tag all equipment bought with Community Services Block Grant funds costing above \$100 for purposes of ownership. Recipient must submit a copy of the invoice of said equipment detailing serial and model numbers, date of delivery, and description with the monthly expense report (LDOL #762).

E. Ownership of any equipment purchased by funds from this Community Services Block Grant shall be retained by the grantor. All equipment purchased from funds of this Community Services Block Grant shall be returned to the grantor 30 days after termination of said grant. All liability insurance associated with any equipment purchased with funds from this Community Services Block Grant will be the responsibility of the recipient and must be paid from funds already appropriated in this grant.

The following Rules apply to the total expenses of a particular service in a grant period. The lowest responsive and responsible bidder shall be awarded the purchase on all occasions.

1. Utilities (energy, water, phone, etc.) may be bought without restriction.

2. Janitorial, security, copier, waste disposal and/or pest control services must have eight written bids unless there are fewer vendors in a serviceable area.

II. PUBLIC NONPROFIT RECIPIENT:

A. All purchases of furniture, equipment, supplies, and services may be processed according to the purchasing procedures and/or mechanism of their political subdivision sponsor. Should the political subdivision not have formal policies in purchasing matters, the recipient will follow the same policies as the Private Nonprofit Recipient.

B. Ownership of any equipment purchased by funds from this grant shall be retained by the grantor. All equipment purchased from funds of this grant shall be returned to the grantor 30 days after termination of said grant. All liability insurance associated with any equipment purchased with funds from this grant will be the responsibility of the grantee and must be paid from funds already appropriated in this grant.

Policy For Selection and Operation of Boards and Committees

I. TO WHOM IS THIS APPLICABLE:

Applies to all recipients receiving assistance administered by the Louisiana Department of Labor under authority of Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981 for the Community Services Block Grant. If a board already exists for that recipient, its bylaws and membership must conform to these policies.

II. FOR WHAT PURPOSE DOES THE POLICY EXIST:

Compliance with these requirements are the condition for receipt of funds (Under Public Law 97-35).

III. POLICY REQUIREMENT:

A. Board Size and Designation:

Each recipient may have a broadly representative board of

between 15 and 35 members.

The designation of the agency is determined by which entity receives funds according to the formula development through annual public hearings. An entity is designated a Private-Nonprofit Recipient if it has no political subdivision sponsor other than the state of Louisiana. An entity is designated a Public Non-profit Recipient if it is sponsored by a political subdivision on a local level such as a police jury.

NOTE: Public Entities as Sponsors: When the state, local government, or any public entity serves as the recipient in its own right, it may elect to administer its program through a Community Action Board. If the entities' governing laws require that representatives of the board be appointed, then the chief elected official of that public entity will have full authority in the appointment of board members in the cases of the elected officials and the executive director of the recipient. Removal of board members shall also be at the discretion of the chief elected official, but must be in accordance with local procedures.

B. Board composition: (The term "board" refers equally to governing boards and community action boards except in the discussion of board powers)

Section 675 (c) (2) (b) (3) of Public Law 97-35 stipulates the requirements for board composition:

1. Elected public officials or their representatives comprise one-third of the Board.

NOTE: If the number of elected officials reasonably available and willing to serve is less than one-third of the Board composition, then appointed officials must be counted in meeting one-third requirement.

2. Persons chosen to represent the poor shall comprise at least one-third of the Board.

3. Representatives of business, industry, labor, religious, welfare, or other private groups and interests shall comprise the balance of the Board.

C. Selecting Members of the Board:

Selection should be made in such a manner as to assure that the members speak and act on behalf of the group or organization they represent.

1. Public Officials - Designated officials (the chief elected official of the state, local government or a combination of governments who collectively possess the power to designate a recipient according to Louisiana Department of Labor) shall select the elected public officials to serve.

Should there not be sufficient elected public officials, the chief elected official may select appointed public officials to fulfill the requirement of the act.

NOTE: Both elected and appointed officials should have at least a general knowledge of governmental responsibilities or other responsibilities which enable them to deal with the problem of poverty.

a. Each elected public official may select one permanent member to serve either full time or to represent the public official when the official is unable to attend a meeting. They need not be public officials but shall have full authority to act for the public officials they represent.

b. If the public officials, both elected and appointed, do not comprise the one-third requirement, then the remainder of the seats allotted shall remain vacant until such time as the chief elected official fills the seats with officials willing to sit on the Board.

2. Representatives of the Poor:

a. At least one-third of the representatives shall be persons chosen in accordance with democratic election procedures adequate to assure that they will represent the poor in the area served. The chief elected official of the state or local government shall determine the selection procedures to assure the integrity of Section 675 (c) (2) (b) (3) (c).

NOTE: The representatives of the poor need not be poor themselves, but must have demonstrated the ability to understand and represent the needs of the poor before the public.

b. The members may be selected either to represent a specific area or neighborhood served by the recipient or at large to represent a particular organization.

c. Selection procedures which may be used alone or in combination:

1. Write-in nominations within the neighborhoods or within the community as a whole;
2. Nomination at a meeting (or conference of poor persons) which date, time and place have been adequately publicized;
3. Nomination of representatives to a community-wide Board by members of neighborhood or sub-area Boards who are themselves selected by low income neighborhood or area residents;
4. Selection on a small area basis (city block) of representatives who in turn select members for a community-wide Board;
5. Selection by existing organizations designated by the designating official whose membership is predominantly composed of poor persons;

NOTE: This list is not meant to limit the selection process. Any well thought-out procedure that is equitable and impartial, and assures maximum representation of the poor is potentially acceptable.

3. Representatives of Private Organizations:

This one-third shall be selected by the previously selected representatives of the poor, and public officials and shall be approved by the Louisiana Department of Labor in such a manner as to assure that the Board would benefit from broad community involvement and support.

Representation should be selected not only from private social service agencies, educational institutions, constituencies of the poor concerned with specific problems, and other private organizations within the community, but also from business, industry, and labor organizations.

NOTE: Once an organization is selected, the organization shall choose the person to represent it on the Board.

D. Terms of Board Membership:

1. Public officials or their representatives serve at the pleasure of the chief elected official of the state or local governments, as long as the chief elected official is currently holding office.

2. Representatives of agencies of the poor and private organizations or groups shall serve staggered terms not to exceed six years. After serving a six year staggered term, a Board member cannot be reappointed to another term until a full year has elapsed following completion of his original term on the Board.

E. Conflict of Interest:

1. No officer or employee of an organization contracting to perform a component of the Community Services Block Grant Program funded by the Louisiana Department of Labor may sit on the Board.

NOTE: This Rule is in accordance with state policy on conflict of interest.

2. No employee of the recipient or Louisiana Department of Labor may serve in the capacity which will require him to act as an agent or as an attorney for the recipient in its dealing with the Louisiana Department of Labor or with other federal agencies.

IV. A. General Authority and Power of the Board:

The governing Board of a private nonprofit recipient or a recipient which is a separate public agency has the same legal powers and responsibilities granted under its state charter as the board of directors of any private nonprofit corporation subject to the policies which LDOL has promulgated in the areas of accounting, financing, personnel, budgeting, purchasing, carry-over ba-

lances and client tracking.

The Board will be able to enter into legally binding agreements (subject to LDOL approval) with any federal, state or local agency or private funding organization for the purpose of operating programs or providing services.

B. Specific Authority and Power Assigned to the Board of Private Nonprofit Recipient:

The Board of a Private Nonprofit Recipient has the authority:

1. To appoint the executive director;
2. To determine personnel, organization, fiscal and program procedures subject to LDOL policies;
3. To determine overall program plans and priorities for the recipient, including provisions for evaluation progress against performance;
4. To grant final approval on program proposals and budgets as negotiated with LDOL;
5. To enforce compliance with all regulations and conditions of the LDOL grants and policies;
6. To supervise the extent and the quality of the participation of the poor in the programs of the recipient;
7. To determine (subject to LDOL policies) Rules and procedures of governing Boards;
8. To select officers and the executive committee, if any, of the governing Board.

C. Specific Authority and Power Assigned to the Board of a Public Nonprofit Recipient:

When the state or local government serves as the recipient in its own right, the chief elected official has the authority to either assume the following responsibilities or elect to administer its program through a Community Action Board with the following responsibilities:

1. To appoint the executive director of the recipient in accordance with local procedures;
 2. To determine personnel, organization, fiscal, and program policies and procedures or delegate the power to do the same;
- NOTE: Alternative delegation of powers will be considered only when it will increase the participation of the poor in the program;
3. To determine overall program plans and priorities for recipient including provisions for evaluating progress against performance;
 4. To grant final approval of all program proposals and priorities for recipient;
 5. To enforce compliance with all regulations and conditions of LDOL grants and policies;
 6. To supervise the extent and quality of participation of the poor in the programs of the recipient;
 7. To select officers and the executive committee, if any, of the governing Board.

D. Contracts for Performing Components of the Community Services Block Grant Program:

1. When a recipient (whether private or public designation) chooses (subject to LDOL approval) to place responsibility for planning, conducting, or evaluating a component of its work program funded by LDOL with another organization, it must formalize the relationship with the organization in a contract that sets forth specific responsibilities contracted and conditions of performance. The Board may only delegate these responsibilities to organizations whose board of directors have a membership of at least one-third representatives of the poor or which form an advisory committee, at least a majority of which are democratically selected representatives of the poor.

2. When a recipient places responsibility for major policy determinations with respect to the character, funding, extent, administration, and budgeting of programs to be carried on in a

subsidiary board or council, that Board or council shall have a membership of at least a majority of representatives of the poor, selected according to Section 675 (c) (2) (B) (3) (c).

NOTE: These Boards shall include in their bylaws, procedures for seating elected public officials who represent the area served by the Board and who wish to be seated on it. Procedures for seating elected public officials shall be in accordance with the community-wide board.

E. Bylaws of Boards:

If a board does not already exist, an interim board is to be established to draw up the bylaws. The interim board will be selected by either the chief elected officials of a Public Nonprofit Recipient or by the LDOL if the recipient has Private Nonprofit designation. If a board already exists, it will modify the existing bylaws to conform with LDOL policy. The LDOL must approve the bylaws of the interim or the already existing board. Once approved, and assuming that an interim board exists, the interim board will initiate the process of establishing a new board in accordance with the procedures outlined in the bylaws and this policy document.

The bylaws must include the following:

1. a. Composition - Total number of seats and allotments to the aforementioned groups.

b. Selection Procedures -

1. A plan for selecting the representatives of the poor which indicates how the recipient will apportion representation throughout the community; by what procedure representatives will be selected; how eligibility to vote will be established; and safeguards against persons voting more than once.

2. The fixed term of office for representatives of the poor and private organizations shall be set along with the following (see LDOL instructions on board size):

a. Petition by other groups for adequate representation on the board:

Interest groups who adequately represent the poor and feel that they are inadequately represented on the board, must submit justifications to LDOL within 15 days of the board selection process. LDOL will review the justifications and respond within five days to the aggrieved party.

b. Removal: Procedures for removal of representative of the poor shall be established by the board.

c. Alternates: The board may allow alternates to substitute for its representative members of the poor.

3. The selection of private organization representatives shall be the responsibility of the recipient, with final approval from LDOL. The selection process should balance the representation between private social service organizations, business and labor.

NOTE: All amendments to these procedures are subject to LDOL approval.

2. Vacancy: When the seat of a public official is vacant, the board shall, as the chief elected official, select another public official. When the seat of a private organization is vacant and no alternate has been named, the board shall request LDOL to select someone else. When the seat of a representative of the poor is vacant, the board may include in its bylaws either of the two following options:

a. It may repeat the selection process.

b. It may allow the remaining representatives of the board to select a person to complete the term with the condition that the person selected should represent the constituency as much as possible.

3. Quorum: For a meeting of the board to convene, there shall be at least 50 percent of the members present.

4. Schedule and Notice of Meetings:

a. Meetings should be scheduled on a regular basis, once every two months. Scheduling should be convenient for members

and the general public.

b. Notices - The agenda and notice should be provided to all members at least five days in advance of the meeting.

5. Minutes:

a. Written minutes shall be kept of each meeting.

b. Minutes of previous meeting should be distributed within 15 days of the next meeting to all members.

c. The board, upon request, should make available to the public, translation of minutes where a large portion of the population is non-English speaking.

6. The Executive Committee shall be appointed by the board or its membership shall be defined in the bylaws.

7. Other policy making committees of board may be established as deemed necessary by the board as long as those committees do not function as a legislative or lobbying arm of the board.

8. Proxy voting shall not be permitted by members of the board, committee members or other members.

9. Regular compensation to all members for their services on the board is not permitted; however, legitimate reimbursement to all members of the board for expenses related to board activities is permitted. This will include travel, meals, and lodging related to board meetings and/or activities in accordance with travel regulations of the recipient. The funds to pay for these expenses will be borne by the recipient's already approved funds or from private sources other than the grant.

Civil Rights Policy

A. PRIVATE NONPROFIT RECIPIENT:

To be eligible for funding, each CSBG grantee shall have an affirmative action plan approved by the Chief of Human Resources and Development or her designee which shall include the following:

(1) A written Equal Opportunity Policy;

(2) An Equal Opportunity Committee;

(3) An Equal Opportunity Officer;

(4) A written discrimination complaint procedure.

(5) A data-collection, record-keeping and reporting system to provide the information required by Louisiana Department of Labor.

(6) A comprehensive self-analysis, which shall include a comparison of the provision of benefits on the basis of race, sex and national origin population.

This analysis shall also include a comparison of the grantee's employment by race, sex, and national origin to the racial, sexual, and national origin characteristics of the relevant workforce. Where significant disparities are found, the recipient shall determine the reasons and, if appropriate, set forth corrective actions.

The recipient of CSBG financial assistance is required to implement its CSBG approved affirmative action plan and to ensure compliance with this part. At a minimum, the following requirements must be met:

(1) Each grantee board shall formally adopt an Equal Opportunity Policy and establish an Equal Opportunity committee which shall reflect the composition of the board in regard to the representation of the public, private and low-income sectors.

(2) The Equal Opportunity Committee shall review the determinations of the Equal Opportunity Officer (EOO) regarding complaints of discrimination and shall oversee the enforcement of the grantee's civil rights program.

(3) Grantees shall have at least one EOO, who shall report directly to the Board of Directors on EO matters with responsibility for the civil rights program required by this part and such additional personnel as are necessary to carry out the requirements of this part. The EOO shall not be the Executive Director, Deputy Direc-

tor or Personnel Officer. The Secretary of Labor will make the determination whether the EOO will be full-time or part-time.

(4) The EOO shall undergo training as prescribed by Louisiana Department of Labor. All expenses incurred by such training shall be borne by the grantee.

(5) The EOO shall be granted the authority to carry out the following activities:

(i) Receive and attempt to resolve complaints of discrimination;

(ii) Provide aggrieved persons with information and advise on equal opportunity procedures including local, state, and federal redress procedures, and notification of the filing deadlines for Equal Employment Opportunity Commission complaints, where applicable;

(iii) Take other steps which may assist in the resolution of a problem, prior to the filing of a formal complaint;

(iv) Assist, if requested by a complainant, in preparing a formal complaint to the Louisiana Department of Labor of alleged discrimination based on race, color, creed, sex, national origin, age, handicap, political affiliation or beliefs; and

(v) Provide staff leadership in developing, implementing, and evaluating the grantee's Affirmative Action Plan (AAP).

(6) Grantees shall display, in conspicuous places, posters which summarize the rights of the employees, program participants and beneficiaries under Title VI, of the Civil Rights Act. Such posters shall describe the functions of the EOO and the procedures for filing complaints of discrimination, including the right to complain directly to Louisiana Department of Labor.

(7) In addition to the posters, each grantee shall make available information regarding the provisions of this part and its applicability to the program under which the grantee receives Federal financial assistance and make such information available in such manner as the Chief of Human Resources and Development or her designee finds necessary to apprise such persons of the protections against discrimination assured them by Title VI.

Ulysses Williams
Secretary of Labor

RULE

Department of Transportation and Development Office of the Undersecretary

The "Purchasing Rules and Regulations" are amended, to read, as follows:

Section I
* * *

D. Submission of Bids

1. **Bid Forms.** All written bids, unless otherwise provided for, must be submitted on and in accordance with forms provided by the Department, 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 the time indicated on bid form in order to be considered. Telephone quotations for sealed bids will not be accepted.

2. **Special Envelope.** All bids should be submitted in special bid envelopes furnished for that purpose. Bids presented in other than special bid envelopes must be properly identified by showing Purchase Requisition number and bid opening date on the face of the envelope. 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 the Department to determine whether the item meets the Department's specifications.

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 the items bid.

d. The Invitation for Bids shall state whether bid samples or descriptive literature should be submitted. Unsolicited bid samples or descriptive literature are submitted at the bidder's risk.

e. When required, samples must be received no later than the time specified for bid opening, free of expense to the Department, marked plainly with the name and address of bidder, bid number and opening date of bid. Failure to submit samples when requested shall result in nonconsideration of bid.

4. **Cancellation of Bid Request.** A request for bids may be cancelled or all bids may be rejected if it is determined in writing by the Procurement and Warehousing Administrator or his designee that such action is taken in the best interest of the Department.

5. **Bid Prices.** Bid prices, unless otherwise specified, must be net and must include transportation and handling charges fully prepaid to destination and subject only to cash discount.

6. **Taxes.** All bids and quotations shall be submitted exclusive of all federal taxes. Tax exemption number 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. State sales tax shall be added to invoice and will be paid by the Department.

O. Award

1. **Rejection of Bids.** The Department reserves the right to reject any or all bids in whole or in part, and to award by item or parts of items, or by any group of items. Written reasons for rejection of an individual bid will be supplied to a bidder upon written request from bidder. The Department reserves the right to waive technical defects when the best interest of the Department will be served.

2. **Increase or Decrease in Quantities.** Unless otherwise specified on bid, the Department reserves the right to increase or decrease the quantities of any item or items shown in the bid by ten percent.

3. **Information on Bid Results.** Bid tabulations will be mailed to each bidder.

4. **Terms.** Terms offered will be considered in determining the low bid. Time shall begin on date of delivery or from date correct invoice is received. Discounts for less than 30 days will not be considered in making an award.

5. **Assignments.** No contract may be assigned, sub-let or transferred without written consent of the Procurement and Warehousing Administrator.

Section VI: Authority

These regulations are consistent with the Louisiana Procurement Code (La. R.S. 39:1551-1736) and La. R.S. 48:204-210. Title 39 shall govern except where Title 48 grants specific authority to the Department of Transportation and Development or provides specific requirements for the Department of Transportation and Development.

Paul J. Hardy
Secretary

RULES

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

1982-83 HUNTING SEASONS

The Rules and Regulations contained within this digest have been officially approved and adopted by the Louisiana Wildlife and Fisheries Commission under authority vested by Section 115 of Title 56 of the Louisiana Revised Statutes of 1950 and are considered to be in full force and effect in conjunction with all applicable statutory laws. The Secretary of the Louisiana Department of Wildlife and Fisheries has the authority to close or alter seasons in emergency situations in order to protect fish and wildlife resources.

RESIDENT GAME BIRDS AND ANIMALS

(Shooting hours - one-half hour
before sunrise to one-half hour after sunset)

Also consult Regulation Pamphlet for seasons in specific localities or WMAs.

QUAIL: Nov. 25-Feb. 28. Daily bag limit 10, Possession 20.

RABBIT: Oct. 2-Feb. 28. Daily bag limit 8, Possession 16.

SQUIRREL: Oct. 2-Jan. 10. Daily bag limit 8, Possession 16.

BEAR: Oct. 16-Oct. 24. One per season (see schedule).

DEER: One per day. (see schedule and map).

TURKEY: One per day.

RACCOON and OPOSSUM: No closed season. Raccoon bag limit, one per person per night. Can be taken only at night by two or more hunters with one or more dogs and one .22 rimfire rifle. Hunting from boats or motor vehicles prohibited. No limit during open trapping season.

CROWS and BLACKBIRDS: Considered crop depredators in Louisiana and may be taken any time; no limit.

ARCHERY SEASON: Oct. 1-Jan. 20.

COMMERCIAL HUNTING PRESERVES: Oct. 1-Apr. 30. Pen-raised birds only.

INTENSIVE DEER MANAGEMENT UNITS: Full season; Nov. 6 through the last day of deer season in each particular area. Cooperators failing to comply with specific requirements will be denied opportunity to participate the following year.

HUNTING - GENERAL PROVISIONS

TAKING GAME QUADRUPEDS OR BIRDS from aircraft, automobiles or moving vehicles is prohibited.

MIGRATORY GAME BIRDS - Baiting and live decoys are prohibited. Duck and goose hunters 16 years and older must have a signed federal waterfowl stamp available from any U. S. Post Office. Shotguns larger than 10 gauge or capable of holding more than three shells are prohibited. Plugs used in guns must be incapable of being removed without disassembling gun. No person shall kill or cripple any migratory game bird without making a reasonable effort to retrieve the bird and include it in the daily bag limit. Shooting waterfowl and other migratory game birds from a moving motorboat is prohibited. A craft under power, however, may be used to retrieve dead or crippled birds.

METHODS OF TAKING RESIDENT GAME BIRDS AND QUADRUPEDS - Use of a longbow (including compound bow) and arrow and a shotgun not larger than a No. 10 gauge fired from the shoulder without a rest shall be legal for taking all resident game birds and quadrupeds. Also, the use of a handgun, rifle and falconry (special permit required) shall be legal for taking all game species except turkey.

Shotguns larger than No. 10 gauge or capable of holding more than three shells prohibited. Plugs used in shotguns must be incapable of being removed without disassembly.

Refer to game schedules contained within these regulations for specific restrictions on the use of firearms and other devices.

OUTLAW BIRDS - Crows, red-winged blackbirds (rice birds), English sparrows, starlings, and (when destructive to crops) grackles and other species of blackbirds.

ENDANGERED SPECIES - Wolf, Florida panther (cougar), brown pelican, southern bald eagle, red cockaded woodpecker, peregrine falcon, the American ivory-billed woodpecker and the American alligator in designated portions of Louisiana. Taking or harassment of any of these species, except the alligator in prescribed season, is a violation of federal law.

OUTLAW QUADRUPEDS - Holders of a legal hunting license may take coyotes and armadillos year round during legal daylight shooting hours. The running of coyotes with dogs from 30 minutes before sunrise to 30 minutes after sunset is prohibited in all turkey hunting areas during the open turkey season.

Foxes and bobcats are protected quadrupeds and may be taken only by licensed trappers during the trapping season. Remainder of the year "chase only" permitted by licensed hunters. The running of foxes and bobcats with dogs from 30 minutes before sunrise to 30 minutes after sunset is prohibited in all turkey hunting areas during the open turkey season.

These regulations are necessary for the proper management of our fur, game and fish in order to assure the trapper, hunter and fisherman a never-ending supply of these valuable resources. Conservation laws are designed by the state or federal government to permit the wise use of our natural resources. Your cooperation is necessary for the success of this conservation program.

1982-83 DEER HUNTING SCHEDULE GENERAL

A. Bag, one legal deer per day.

B. A legal buck is a deer with visible antler, hardened bony material, broken naturally through the skin. Killing bucks without at least one visible antler as described above and killing doe deer is prohibited except where specifically permitted.

C. Deer hunting restricted to legal bucks only, except where otherwise permitted.

D. Either sex deer is defined as male or female deer. The taking of spotted fawns is prohibited.

E. Muzzleloaders may be used for all game species in season, however, muzzleloading rifles are prohibited for hunting wild turkey.

F. It is illegal to hunt or shoot deer with firearms smaller than .22 caliber centerfire or a shotgun loaded with anything other than buckshot or rifled slug. Handguns may be used for hunting.

G. Pursuing, driving or hunting of deer with dogs during the still hunting season is prohibited and will be strictly enforced. The training of deer dogs is prohibited in all still hunting areas during still hunting season. Deer hunting with dogs is permitted in all other areas having open deer seasons that are not specifically designated as still hunting only.

H. Areas not specifically designated as open are closed.

I. The running or training of dogs is prohibited in turkey hunting areas during the open turkey season from 30 minutes before sunrise to 30 minutes after sunset.

J. Archery Season: Still hunting only; Oct. 1-Jan. 20 in all open deer hunting areas, including WMAs (See schedule). Either sex deer may be taken in all areas open for deer hunting including WMAs. Where a bucks only season is in progress for gun hunting, archers must conform to the bucks only regulations.

BOW AND ARROW REGULATIONS: Hunting arrows for deer must have well-sharpened metal broadhead blades not less than 7/8 inch in width. Bow and arrow fishermen must have a sports fishing license and not carry any arrows with broadhead points unless a big game season is in progress.

It is unlawful:

1. To carry a gun including those powered by air or other

means, while hunting with bow and arrow during the special bow and arrow deer season.

2. To have in possession or use any poisoned or drugged arrow, arrows with explosive tips, or any bow drawn, held or released by mechanical means except as specified by law.

3. To hunt deer with a bow having a pull less than 30 pounds.

K. HUNTER ORANGE: Deer hunters (except on property privately owned and legally posted) must wear 400 square inches of "Hunter Orange" material on the head or chest and/or back. Archers are not required to wear "Hunter Orange" if no gun season for deer is in progress.

WARNING: Deer hunters are cautioned to watch for persons hunting other game or engaged in activities not requiring "Hunter Orange".

L. HUNTING OR DISCHARGE OF FIREARMS: Hunting and/or discharging firearms on public roads or highways is prohibited. Hunting and/or discharging firearms on roads or highways located on public levees or within 100 feet from the center line of such roads or highways is prohibited.

DESCRIPTION OF AREAS

Area 1 - 53 days

9 days still hunting only: Nov. 6-14
10 days with or without dogs: Nov. 26-Dec. 5
34 days with or without dogs: Dec. 18-Jan. 20

ALL OF THE FOLLOWING PARISHES ARE OPEN:

Ascension	Lafourche	St. James
Assumption	Madison	St. Mary
Concordia	Orleans	St. Tammany
East Baton Rouge	Plaquemines	Tangipahoa
East Feliciana	Pointe Coupee	Tensas
Franklin	St. Charles	Terrebonne
Jefferson	St. Helena	Washington
Iberville	St. John	West Baton Rouge
		West Feliciana

PORTIONS OF THE FOLLOWING PARISHES ARE ALSO OPEN:

- Avoyelles - East of La. 29 and 115 lying south of Red River.
- Catahoula - East of Boeuf and Ouachita Rivers. South and east of La. 8 from Ouachita River west.
- East Carroll - That portion lying south of La. 877 and 580 and west of U. S. 65.
- Evangeline - East of Ville Platte between La. 29 and U. S. 167.
- Iberia - East of U. S. 90 and south of La. 14.
- Lafayette - East of U. S. 167 and U. S. 90.
- LaSalle - East of Whitehall lying north of U. S. 84 and south of La. 8. Also the area south of La. 28 and east of Saline Bayou.
- Livingston - ALL EXCEPT that portion east of La. 447 from I-12 southward to La. 16, east of La. 16 from Port Vincent to French Settlement, north of La. 444 from French Settlement to Horse Bluff Landing Road to Tickfaw River, west of Tickfaw River from Horse Bluff Landing northwest to I-12, south of I-12 from Tickfaw River to La. 447.
- Richland - The small portion east of La. 17 and south of U. S. 80.
- St. Landry - East of La. 29 in the northwestern portion; and also east of U. S. 167 southward.
- St. Martin - Upper - East of U. S. 90. Lower - All.
- Vermilion - South of La. 14.
- West Carroll - East of La. 17 and South of La. 877.

EXCEPT STILL HUNTING ONLY IN PORTIONS OF THE FOLLOWING PARISHES:

EAST FELICIANA - East of Thompson Creek from the Mississippi State line to La. 10. North of La. 10 from Thompson

Creek to La. 67 at Clinton, West of La. 67 from Clinton to Mississippi State line. South of Mississippi State line from La. 67 to Thompson Creek. Also that portion of East Baton Rouge and East Feliciana Parishes east of La. 67 from La. 64 north to La. 959, south of La. 959 to La. 63, west of La. 63 to Amite River, west of Amite River southward to La. 64, north of La. 64 to La. 37 at Magnolia, east of La. 37 northward to La. 64 at Indian Mound, north of La. 64 from Indian Mound to La. 67.

PLAQUEMINES - East of the Mississippi River from the termination of La. 39 on the northern boundary of Bohemia WMA to the lower end of the parish, west of the Mississippi River between the Mississippi River Levee and the back levee from Port Sulphur to Empire and from lower Doullut Canal or Empire-Gulf Waterway to the lower end of the parish.

RICHLAND and FRANKLIN - North and west of La. 4 and 17, south of U. S. 80, and east of La. 137 and 15 to La. 4.

ST. LANDRY - Those lands surrounding Thistlethwaite WMA bounded north and east of La. 359, west by La. 10, and south by La. 103, which has the same season as Thistlethwaite WMA.

ST. JOHN - South of Pass Manchac from Lake Pontchartrain to U. S. 51, east of U. S. 51 from Pass Manchac to La. 638 (Frenier Beach Road). North of La. 638 from U. S. 51 to Lake Pontchartrain. West of Lake Pontchartrain from La. 638 to Pass Manchac.

WASHINGTON and ST. TAMMANY - Twenty-nine days Nov. 6-14 and Jan. 1-20. East of La. 21 from the Mississippi state line to the Bogue Chitto River, north of the Bogue Chitto River from La. 21 eastward to the Pearl River Navigation Canal, east of the Pearl River Navigation Canal southward to the West Pearl River, north of the West Pearl River from the Pearl River Navigation Canal to Holmes Bayou, west of Holmes Bayou from the West Pearl River northward to the Pearl River, west of the Pearl River from Holmes Bayou northward to the Mississippi state line, south of the Mississippi state line from Pearl River westward to La. 21.

WEST FELICIANA - West of Thompson Creek to Illinois-Central Railroad, north of Illinois-Central Railroad to Parish Road #7, east of Parish Road #7 to the junction of U. S. 61 and La. 966, east of La. 966 from U. S. 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

EITHER SEX HUNTING

ASCENSION:

Four days, Nov. 13 and Nov. 26-28, in that portion of the parish lying west of the Mississippi River.

ASSUMPTION, IBERIA, JEFFERSON, LAFOURCHE, ORLEANS, PLAQUEMINES, ST. CHARLES, ST. JAMES, ST. JOHN, ST. MARTIN (lower), ST. MARY and TERREBONNE:

Four days, Nov. 13 and Nov. 26-28.

AVOYELLES:

One day; Nov. 26, in that portion bounded on the north and east by the Atchafalaya and Red Rivers, on the south by La. 1 from Simmesport to Marksville, and on the west by La. 115, from Marksville to Red River. EXCEPT that portion surrounding Pommé de Terre WMA, bounded on the north, east and south by La. 451 and on the west by La. 1 which shall be BUCKS ONLY.

CONCORDIA, MADISON and TENSAS:

Three days; Nov. 13 and Nov. 26-27 EXCEPT ten days Nov. 26-Dec. 5, in those portions known as Paw-Paw Island, Togo Island, Sargents Point and Louisiana lands on Diamond Island. EAST CARROLL:

Three days, Nov. 13 and Nov. 26-27 in that portion south of La. 877 and La. 580 and west of U. S. 65.

EAST FELICIANA, EAST BATON ROUGE and ST. TAMMANY:

Two days, Nov. 13 and 26 in all of these parishes.

EVANGELINE:

Four days; Nov. 13 and Nov. 26-28 in that portion east of Ville Platte, south of La. 29 and north of U. S. 167.

FRANKLIN:

Two days; Nov. 13 and 26, east of La. 17, south of Martin Road 5530, west of Bayou Macon, and Cut-Off No. 3, north of parish road 5504 (Bakers Road).

IBERIA: (See ASSUMPTION)

IBERVILLE: West of Mississippi River

Four days; Nov. 13 and Nov. 26-28.

JEFFERSON and LAFOURCHE: (See ASSUMPTION)

PLAQUEMINES: (See ASSUMPTION)

POINTE COUPEE:

Two days, Nov. 13 and Nov. 26, in that portion of the parish lying north of La. 1 and west of La. 15.

Two days, Nov. 13 and Nov. 26, in that portion of the parish bounded on the north and east by La. 1, from Oscar to U. S. 190, south of U. S. 190 to the West Baton Rouge Parish line, bounded on the south and east by the Iberville-West Baton Rouge Parish line, on the west by La. 411 from the Iberville Parish line northward to U. S. 190, south of U. S. 190 from La. 411 to La. 978, east of La. 978 from U. S. 190 to Oscar.

Four days; Nov. 13 and Nov. 26-28 in the remainder of the parish.

ST. CHARLES, ST. JAMES and ST. JOHN: (See ASSUMPTION)

ST. LANDRY:

One day, Nov. 26, in that portion surrounding Thistlethwaite WMA bounded north and east by La. 359, west by La. 10 and south by La. 103.

Four days, Nov. 13 and Nov. 26-28, in all the parish EXCEPT that portion surrounding Thistlethwaite WMA as described above and those portions of the parish west of U. S. 167.

ST. MARTIN (Upper):

Four days, Nov. 13 and Nov. 26-28 in all of Upper St. Martin east of the West Atchafalaya Floodway Levee.

Two days, Nov. 13 and Nov. 26 in that portion bounded on the north by I-10, on the west by the Missouri Pacific Railroad, on the south by La. 96, and on the east by the West Atchafalaya Protection Levee.

ST. MARTIN (lower), ST. MARY and TERREBONNE: (See ASSUMPTION)

VERMILION:

Four days, Nov. 13 and Nov. 26-28, in that portion lying south of La. 14.

WEST BATON ROUGE:

Four days, Nov. 13 and Nov. 26-28, in that portion bounded on the north by I-10, on the east by Bayou Choctaw from I-10 to the Texas Pacific Railroad, and by the Texas Pacific Railroad from Bayou Choctaw to the Iberville line, and on the south and west by the Iberville line.

Two days, Nov. 13 and Nov. 26 in the remainder of the parish.

WEST FELICIANA:

Five days, Nov. 13-14 and Nov. 26-28 in that portion west of the eastern right-of-way boundary of the abandoned L & A Railroad Grade from St. Francisville to Como Bayou, south of Como Bayou westward to the Mississippi River, east of main channel of the Mississippi River from Como Bayou southward to La. 10, west of La. 10 from main channel of Mississippi River to St. Francisville.

Four days, Nov. 13-14 and Nov. 26-27 in the remainder of the parish.

Four days, Nov. 13 and Nov. 26-28 in that portion known as Raccourci Island.

ALSO, three days, Nov. 13 and Nov. 26-27 in that portion known as Turnbull Island.

Area 2 - 45 days

19 days still hunting only:

Nov. 6-24

13 days with or without dogs:

Nov. 26-Dec. 8

13 days with or without dogs:

Dec. 18-30

ALL OF THE FOLLOWING PARISHES ARE OPEN:

Bienville	Grant	Red River
Bossier	Jackson	Sabine
Caddo	Lincoln	Union
Caldwell	Morehouse	Webster
Claiborne	Natchitoches	Winn

DeSoto

PORTIONS OF THE FOLLOWING PARISHES ARE ALSO OPEN:

Allen - North of U. S. 190.

Avoyelles - West of La. 29 and 115 and north of Red River.

Beauregard - That portion north of U. S. 190 and east of U. S. 171-190 to Longville, south of Longville Gravel Pit Road to La. 113, east of La. 113 and north of La. 394 to U. S. 171-190. East of U. S. 171-190 to junction of La. 112 and south of La. 112 and 113.

Catahoula - West of Boeuf and Ouachita Rivers, and north and west of La. 8 from Ouachita River west.

Evangeline - ALL EXCEPT that portion east of Ville Platte between La. 29 and U. S. 167.

Jefferson Davis - North of U. S. 190.

LaSalle - ALL EXCEPT that area east of Whitehall lying north of U. S. 84 and south of La. 8. Also EXCEPT that portion south of La. 28 and east of Saline Bayou.

Ouachita - ALL EXCEPT still hunting only in that portion south of U. S. Hwy. 80 and east of Ouachita River.

Rapides - North of La. 465, east of La. 121 and 112, and all south of La. 113.

Richland - West of Bayou Macon and north of U. S. 80 and also west of La. 137 and 15 and Big Creek southward from U. S. 80. EXCEPT still hunting only in that portion of parish south of U. S. 80 and west of La. 137 and La. 15.

St. Landry - That portion west of La. 29. South and west of U. S. 167 and north of U. S. 190.

Vernon - East and south of La. 113, north of La. 465, west of La. 117 and north of La. 8.

West Carroll - ALL EXCEPT that portion east of La. 17 and south of La. 877.

EITHER SEX HUNTING

BIENVILLE, BOSSIER, CADDO, CLAIBORNE, DESOTO, WINN, GRANT, JACKSON, NATCHITOCHEs, RAPIDES, RED RIVER, SABINE, UNION, VERNON and WEBSTER:

Two days, Nov. 13 and Nov. 26.

ALLEN:

Two days, Nov. 13 and Nov. 26 in that portion west of U. S. 165 south from Rapides Parish to Oakdale. North of La. 10 from Oakdale to Elizabeth and north of La. 112 from Elizabeth to Sugartown.

ALSO, in that portion west of La. 113, south of Dry Creek to Reeves, north of U. S. 190 from Reeves to Ragley.

BEAUREGARD:

Two days, Nov. 13 and Nov. 26 in that portion north of U. S. 190 from Reeves to Ragley, East of U. S. 171-190 to Longville, south of gravel pit road to La. 113, west of La. 113 from Dry Creek to Reeves. ALSO, that portion north of La. 112 from Elizabeth to Sugartown and east of La. 113 from Sugartown to Pitkin.

CALDWELL:

One day, Nov. 13, west of Ouachita River southward from Ouachita line to Columbia, west of U. S. 165 from Columbia southward.

LINCOLN, OUACHITA, and RICHLAND:

One day, Nov. 13, in all these parishes.

MOREHOUSE:

One day, Nov. 13 in all of the parish EXCEPT, four days, Nov. 20 and Nov. 26-28, north of La. 134 from Oak Ridge to Lake Irwin Road (Parish Road 5503). West of Lake Irwin Road to Texas Eastern Pipeline. North of Texas Eastern Pipeline to Swan Lake Road (Parish Road 8803). East of Swan Lake Road to La. 134, south of La. 134 from Swan Lake Road to La. 138, east of La. 138 from La. 134 to Collinston, south of Belle Road (Parish Road 8604) from Collinston to La. 133, west of La. 133 from Belle Road to Oak Ridge.

OUACHITA: (See LINCOLN)

RICHLAND: (See LINCOLN)

Area 3 - 45 days

19 days still hunting only: Nov. 6-24
13 days with or without dogs: Nov. 26-Dec. 8
13 days with or without dogs: Dec. 18-30

PORTIONS OF THE FOLLOWING PARISHES ARE OPEN:

Beauregard - West of La. 27 northward to DeRidder and south of U. S. 190 and west of La. 111.

Calcasieu - West of La. 27 and north of U. S. 90 from Sulphur to Texas State Line.

EITHER SEX HUNTING

PORTIONS OF THE FOLLOWING PARISHES ARE OPEN:

BEAUREGARD and CALCASIEU:

Two days, Nov. 13 and 26 in those portions of the foregoing parishes in Area Three.

Area 4 - 45 days

19 days still hunting only: Nov. 6-24
13 days still hunting only: Nov. 26-Dec. 8
13 days still hunting only: Dec. 18-30

ALL OF CAMERON PARISH IS OPEN.

PORTIONS OF THE FOLLOWING PARISHES ARE ALSO OPEN:

Acadia - South of U. S. 190.

Allen - South of U. S. 190.

Beauregard - South of U. S. 190 to Ragley; west of U. S. 171-190 from Ragley to Longville; north of Longville Gravel Pit Road to La. 113; west of La. 113 and south of La. 394 to U. S. 171-190; west of U. S. 171-190 to the junction of La. 112. North and west of La. 112 and 113; also east of La. 27 northward to DeRidder and north of U. S. 190 and east of La. 111.

Calcasieu - ALL EXCEPT that portion west of La. 27 and north of U. S. 90 from Sulphur to Texas state line.

Iberia - West of U. S. 90 and north of La. 14.

Jefferson Davis - South of U. S. 190.

Lafayette - West of U. S. 167 and U. S. 90.

Rapides - South of La. 465, west of La. 121 and La. 112, and north of La. 113.

St. Landry - West of U. S. 167 and south of U. S. 190.

St. Martin - West of U. S. 90.

Vermilion - North of La. 14.

Vernon - West and north of La. 113, south of La. 465, east of La. 117, and south of La. 8.

EITHER SEX HUNTING

PORTIONS OF THE FOLLOWING PARISHES ARE OPEN:

ALLEN, BEAUREGARD, CALCASIEU, JEFFERSON DAVIS, RAPIDES and VERNON:

Two days, Nov. 13 and Nov. 26 in those portions of the foregoing parishes within Area 5.

Area 5 - 33 days

17 days with or without dogs: Nov. 26-Dec. 12
16 days with or without dogs: Dec. 18-Jan. 2

PORTIONS OF EAST CARROLL AND WEST CARROLL ARE OPEN:

East Carroll - All north of La. 877 and La. 580 and east of U. S. 65.

West Carroll - All lying north of La. 877 and east of La. 17.

EITHER SEX HUNTING

EAST CARROLL:

Five days, Nov. 26-30 in that portion east of the main line Mississippi River levee, including Henderson Island, Willow Point, Newman Towhead and Duncanby Towhead.

Area 6 - 19 days

9 days still hunting only: Nov. 6-Nov. 14

10 days with or without dogs: Nov. 26-Dec. 5

All of St. Bernard Parish is open.

1983 TURKEY SEASON SCHEDULE

GENERAL

Daily limit one gobbler. Still hunting only. Dogs, baiting, electronic calling devices and live decoys are illegal. Turkeys may be hunted with shotguns and longbows and arrows but by no other means. Shooting turkeys from moving or stationary vehicles is prohibited. Running or training dogs is prohibited in any turkey hunting area during the open turkey season.

Turkey baiting is hereby defined as the placing or distributing of harvested grain such as, but not limited to, corn, wheat or milo in such a manner so as to constitute a lure or attraction to any area where hunters are attempting to take turkeys.

A person shall be deemed to be hunting over bait if he is in the act of hunting (calling or in a blind) within one hundred yards of a baited site. A baited site is only and specifically that immediate area where bait is deposited.

Any area where a hunter or hunters are found hunting or attempting to take turkeys over bait during the open turkey hunting season shall be immediately closed to hunting by posting signs circumscribing the bait site by a distance of 100 yards in all directions from the bait site. The signs shall read "Posted — Baited Area — Closed to Hunting." The area shall remain closed until all bait has been removed and for 10 days afterward.

TURKEY SEASON

Open Only in the Following Areas

AREA A - 37 days. Mar. 19-Apr. 24.

ALL OR PORTIONS OF THE PARISHES DESCRIBED AS FOLLOWS ARE OPEN:

Allen - West of U. S. 165 southward to La. 26, north of La.

26.

Beauregard - North and west of U. S. 190 and north of La.

26.

Bienville - East of La. Hwy. 7.

Caldwell - West of Ouachita River southward to U. S. 165 at Columbia; east of U. S. 165 from Columbia to La. 4; south of La. 4 and west of Boeuf River, east and north of La. 126, also south and west of La. 127.

Catahoula - West of Boeuf River to Ouachita River, west of Ouachita River southward to La. 8 at Harrisonburg and north of La. 8 to La. 126; north and east of La. 126.

Claiborne - All of Claiborne Parish east of U. S. Hwy. 79.

DeSoto - South of U. S. 84 from Bayou Pierre to La. 175 at Mansfield, and east of La. 175 southward to La. 177, North and West of La. 177 from La. 175 to Bayou Pierre.

Grant - ALL.

Jackson - ALL.

LaSalle - That area north and east of La. 126 between Rosefield and Holum; also that portion lying east of Little River and Castor Creek and west of La. 127 from Little River to Caldwell Parish line.

Lincoln - ALL.

Natchitoches - ALL EXCEPT those portions lying between U. S. 84 and Red River from Campti northward, and north of La. 174 from Bayou Pierre toward Pleasant Hill, and ALSO EXCEPT

that portion north of La. 6 from Natchitoches to La. 485, east and south of La. 485 from La. 6 to Powhatan, west of La. 1 from Powhatan to Natchitoches.

Ouachita - All west of Ouachita River.

Rapides - North of La. 28 from Saline Bayou to Alexandria, west of U. S. 165 from Alexandria southward.

Red River - East of La. Hwy. 7, and north and east of U. S. Hwy. 84 to Red River (Coushatta). South of U. S. 84 from Red River at Coushatta westward to Bayou Pierre.

Sabine - South of La. 174 at Toledo Bend Lake to U. S. 171 at Converse, west and south of U. S. 171 to La. 175 at Many, east of La. 175 from Many northward to Pleasant Hill and south of La. 174 from Pleasant Hill eastward.

Union - ALL.

Vernon - ALL.

Webster - Al of Webster Parish east of U. S. Hwy. 79 and La. Hwy. 7 from Minden southward to Bienville line.

Winn - All EXCEPT a small portion east of Sikes lying south of La. 126 and north of La. 127, which is CLOSED.

AREA B - 37 days. Mar. 19-Apr. 24.

PORTIONS OF THE FOLLOWING PARISHES ARE OPEN:

Catahoula, Concordia, Franklin, Madison, and Tensas - South of U. S. 80 from Mississippi River to La. 17, east of La. 17 and La. 15 from Delhi to Winnsboro to Clayton; west of U. S. 65 from Clayton to junction of La. 128, north of La. 128 to St. Joseph; west and north of La. 605, 604, and 3078 northward to Port Gibson Ferry. Including all lands in Tensas and Madison Parishes lying east of the main channel of the Mississippi River.

AREA C - 37 days. Mar. 19-Apr. 24.

ALL OR PORTIONS OF THE FOLLOWING PARISHES DESCRIBED AS FOLLOWS ARE OPEN:

East Baton Rouge - All north of I-12 to junction with I-10, north of I-10 to Mississippi River.

East Feliciana - ALL.

Livingston - North of I-12.

St. Helena - ALL.

St. Tammany - ALL.

Tangipahoa - ALL.

Washington - ALL.

West Feliciana - All east of the Mississippi River.

AREA D - 37 days. Mar. 12-Apr. 17.

Within Pointe Coupee, Iberville and upper St. Martin bounded on the north by La. 1 and the North Morganza Floodway Levee; on the south by I-10; on the east by the East Atchafalaya Basin Protection Levee; and on the west by the Atchafalaya River.

AREA E - 29 days. Apr. 2-Apr. 30.

Within East Carroll lying east of the main line (New) Mississippi River Levee from the Arkansas State line to the Madison Parish line, EXCEPT those areas east of the main channel of the Mississippi River known as Willow Point, Henderson Island, Newman Towhead and Duncanby Towhead which shall have 37 days, Mar. 19-Apr. 24.

AREA F - 23 days. Mar. 19-Apr. 10.

PORTIONS OF THE FOLLOWING PARISHES ARE OPEN:

Ascension Iberville

Assumption West Baton Rouge

North of La. 70 from La. 1 to the East Atchafalaya Basin Protection Levee, east of the East Protection Levee northward to the town of Pigeon, east of La. 75 from Pigeon to La. 77 at Indian Village, east of La. 77 to I-10, south of I-10 to La. 1, south and west of La. 1 from I-10 to La. 70.

AREA G - 23 days. Mar. 19-Apr. 10.

PORTIONS OF THE FOLLOWING PARISHES ARE OPEN:

West Feliciana - That portion known as Raccourci Island.

Pointe Coupee - That portion south of La. 10 and 1 from Morganza to New Roads. West of La. 1 from New Roads to Parlange Lane and La. 78. West of La. 78 from La. 1 to U. S. 190 at Livonia. East of La. 77 and 10 from Livonia to Morganza, and east of La. 1 and La. 418 northward from Morganza to La. 15. AREA H - 23 days. Mar. 19-Apr. 10.

That portion of St. Landry, bounded on the north by U. S. 190, on the east by the Atchafalaya River, on the south by the St. Landry Parish line and on the west by the Grimmet Canal and Bayou Fardoche.

AREA I - 16 days. Mar. 19-Apr. 3.

PORTIONS OF THE FOLLOWING PARISHES ARE OPEN:

Allen Calcasieu

Beauregard Jefferson Davis

South of La. 26 from Oberlin to U. S. 171, west of U. S. 165 from Oberlin to Kinder, north and west of La. 383 from Kinder to La. 3059, north of La. 3059 from La. 383 westward to U. S. 171, east of U. S. 171 to La. 26.

BEAR SEASON

Nine days: Oct. 16-24 with or without dogs. Taking cub bears is prohibited. That part of the Atchafalaya Floodway in portions of St. Landry, St. Martin, Iberville, and Pointe Coupee. Bounded on the north by La. 10, and the east by East Atchafalaya Basin Protection Levee, on the south by I-10, and on the west by West Atchafalaya Basin Protection Levee.

1982-83

WILDLIFE MANAGEMENT AREA REGULATIONS GENERAL

The following Rules and Regulations concerning the management, protection and harvest on wildlife management areas have been officially approved and adopted by the Louisiana Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject individual to citation and/or expulsion from the management area.

Wildlife management area seasons can be altered or closed any time by the Department in emergency situations (floods, fires or other critical circumstances).

Lands within WMA boundaries will have same seasons and regulations as the management area with which they are associated.

Dumping garbage or trash on WMAs except in designated locations is prohibited.

Disorderly conduct or hunting under influence of alcoholic beverages, chemicals and other similar substances is prohibited.

Deer seasons are for legal buck deer unless otherwise specified.

Requests for WMA maps may be directed to any district office: P. O. Box 915, Minden, 71055; P. O. Box 4004, Monroe, 71203; P. O. Box 278, Tioga, 71477; P. O. Box 426, Ferriday, 71334; 1213 North Lakeshore Drive, Lake Charles, 70601; P. O. Box 585, Opelousas, 70570; P. O. Box 14526, Southeast Station, Baton Rouge, 70898; or 400 Royal Street, New Orleans, 70130.

PERMITS

DAILY: When required, may be obtained at the permit stations on or near each WMA. Hunters must check out daily one half hour after the end of legal shooting time.

SEASON: Basic resident and non-resident hunting licenses serve as season permits on WMAs when required. EXCEPT additional permits required on Ft. Polk and Peason Ridge WMAs. Persons under 16 and those 60 or over need no season permits EXCEPT on Peason Ridge WMA and Fort Polk WMA.

When permits are required, hunters may enter an area one hour before legal shooting time and must be off the area one-half hour after legal shooting time EXCEPT when daily permits are required.

TRAPPING: Permits to take furbearers from WMAs may be obtained at district offices. No trapping is allowed on Alexander State Forest. Other special trapping exceptions are listed under respective WMA season schedules. Unless otherwise noted, WMA trapping seasons are the same as outside seasons. All traps must be run daily. Traps with teeth are illegal. Each trapper must submit an annual trapping report to the district office where his permit was obtained. Non-compliance will result in forfeiture of trapping privileges on the WMAs.

RACCOON HUNTING: Raccoon hunters must submit an annual report of his kill, to the district office where his permit was obtained. Non-compliance will result in forfeiture of hunting privileges on the WMAs.

COMMERCIAL FISHING: Permits are required of all commercial fishermen using Red River, Grassy Lake, Pearl River, Pomme de Terre, Three Rivers, and Spring Bayou WMAs. Drag seines (except minnow seines) are prohibited. Commercial fishing is prohibited during regular waterfowl season on Grand Bay, Silver Lake, and Lower Sunk Lake on Three Rivers WMA. Non-compliance with permit regulations will result in revocation of commercial fishing privileges.

SPORT-FISHING: Sport fishing and frogging are permitted on WMAs when in compliance with current laws and regulations EXCEPT frogging prohibited on Salvador and Point-Au-Chien WMAs.

FIREARMS

Firearms having live ammunition in the chamber, magazine, cylinder, or clip when attached to firearms, are not allowed in vehicles on WMAs. Firearms may not be carried on any area before or after permitted hours except in authorized camping areas.

Firearms are not permitted on WMAs during closed seasons, EXCEPT on designated shooting ranges.

Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists (see respective WMA season schedule).

Loaded firearms are not permitted near WMA check stations.

Rifles and handguns larger than .22 caliber rimfire, shotgun slugs, or shot larger than Number 2 cannot be carried onto any WMA except during deer season.

Target shooting and other forms of practice shooting are prohibited on WMAs EXCEPT as otherwise specified.

METHODS OF TAKING GAME

Organized drivers and standers making use of noises or noisemaking devices are not permitted on WMAs.

Baiting is prohibited on all WMAs (Hogs included).

Unmarked hogs may be taken on certain WMAs only during prescribed seasons and only with guns or bow and arrow legal for specified seasons in progress. Proper licenses and permits are required for hunting the game species for which the area is open at the time.

Hunters who kill deer on WMAs where daily permits are required must have deer checked at the check station.

Deer hunting on WMAs is restricted to still hunting only. No WMA will be open for deer during early still hunt season unless specified in the regulation pamphlet.

Construction of and hunting from permanent tree stands or permanent blinds on WMAs prohibited.

Tree climbing spurs are also prohibited. Any permanent stand or permanent blind will be destroyed.

A permanent blind or stand is defined as any structure and/or material, including vegetation, used for concealment while hunting, that is not completely dismantled or removed from the wildlife management area daily.

All waterfowl hunters must dismantle blind and remove decoys within 30 minutes after close of shooting hours on each respective area. Unattended decoys will be confiscated and forfeited to the Department of Wildlife and Fisheries and disposed of by the Department. This action necessary to prevent preemption of hunting space.

Hunters shall not hunt, take, or pursue game birds or animals from vehicles on any WMA.

The use of horses and mules prohibited for hunting on WMAs, EXCEPT for quail hunting.

All hunters EXCEPT waterfowl hunters (including archers and small game hunters) on WMAs must wear 400 square inches of "Hunter Orange" during open gun season for deer. ALSO all non-hunters afield during hunting seasons are encouraged to wear "Hunter Orange".

ARCHERY SEASON FOR DEER: Still hunting only. The entire archery season is open to either-sex deer, EXCEPT, archers must abide by bucks only and other restrictions when bucks only gun seasons are in progress and EXCEPT archery season is closed on certain WMAs during the muzzleloader hunts.

MUZZLELOADER SEASON FOR DEER: December 4-5 on Sabine, Spring Bayou, West Bay, and Pearl River. December 11-12 on Fort Polk, Loggy Bayou, and Ouachita; Either sex, season permit. Legal muzzleloader firearms are single-barrelled rifles, .44 caliber minimum, or shotguns 10 gauge or less, either of which must load exclusively from the muzzle, use black powder or approved substitute only, take single ball or slug only, have exposed percussion caps or flintlock, and be fitted only with iron sights.

CAMPING

Camping on WMAs, including trailers, houseboats, recreation vehicles, and tents is permitted only in designated areas and for a period not to exceed 16 consecutive days. Camping area use limited exclusively to outdoor recreational activities.

Houseboats are prohibited from overnight mooring within WMAs except on stream-banks adjacent to Department-owned boat launching ramps, and/or designated camping areas.

On Atchafalaya Delta WMA and Pass-A-Loutre WMA, camp boats may be moored in specially designated areas throughout the waterfowl season. At all other times of the year mooring period limited to a period not to exceed 16 consecutive days.

No refuse or garbage may be dumped from these boats while vessel is within the WMA boundary.

Firearms may not be kept loaded or discharged in a camping area.

Campsites must be cleaned by occupants prior to leaving and all refuse placed in designated locations.

Non-compliance with camping regulations will subject occupant to immediate expulsion and/or citation.

Damage to or removal of trees, shrubs, and wild plants on WMAs without prior approval is prohibited.

Swimming prohibited within 100 yards of boat launching ramps.

DOGS

Except for bird hunting, duck hunting, raccoon hunting, and rabbit hunting, when allowed, having or using dogs on any WMA is prohibited. Only recognizable breeds of bird dogs and retrievers are permitted for quail and migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on WMAs having experimental rabbit seasons.

VEHICLES

Vehicles having wheels with a wheel-tire combination having a radius of 17 inches or more from the center of the hub (measured horizontal to ground), are prohibited on specified WMAs.

Airboats, aircraft, and hover craft are prohibited on all WMAs.

Driving or parking vehicles on food or cover plots and strips is prohibited.

Motorized vehicles including ATVs, ATCs, and motorcycles, are restricted entirely to designated roads on WMAs.

1982-83 SEASON

WILDLIFE MANAGEMENT AREAS HUNTING SCHEDULE

1. ALEXANDER STATE FOREST (Owner — Office of Forestry-DNR-7,875 Acres):

Deer: Nov. 6-10 bucks only. Season Permit.
Nov. 26-27 either-sex. Daily Permit.
Squirrel and Rabbit: Same as outside EXCEPT closed during either-sex gun hunts for deer and EXCEPT still hunt only.
Quail, Woodcock, and Doves: Same as outside EXCEPT closed during either-sex gun hunts for deer.
Waterfowl: Same as outside EXCEPT closed during either-sex gun hunts for deer and hunting after 2 p.m. prohibited.

2. ATCHAFALAYA DELTA (Owner — State of Louisiana-125,000 Acres):

Waterfowl: Same as outside.
Hunting Only:
Rabbits: May be taken with beagles same as outside season EXCEPT closed during duck season.

3. ATTAKAPAS (Owner — State of Louisiana-25,500 Acres):

Deer: Nov. 26 either-sex. Season Permit.
Nov. 27-Dec. 5 and Dec. 27-Jan. 16 bucks only. Season Permit.
Squirrel and Rabbit: Same as outside EXCEPT closed during either-sex gun hunts for deer and EXCEPT still hunt only.
Woodcock: Same as outside.
Waterfowl: Same as outside EXCEPT hunting after 2 p.m. prohibited.

Unmarked Hogs may be taken during deer season only by properly licensed hunters with guns or bow and arrow.

Trapping: Same as outside EXCEPT permit required from area supervisor or Opelousas District Office.

4. BILOXI (Owner — Biloxi Marsh Land Corporation-39,583 Acres):

Deer: Nov. 26-Dec. 5 bucks only. Season Permit.
Still Hunt Only.
Rabbit: Oct. 2-Jan. 9 Still Hunt Only.
All Other Game: Same as outside EXCEPT still hunt only and morning hunting only for waterfowl (closed 12 noon).

5. BODCAU (Owner — U. S. Army Corp of Engineers-32,471 Acres):

Deer: Same as outside EXCEPT still hunt only. And EXCEPT Nov. 13 and Nov. 26 either-sex. Season Permit.
All Small Game: Same as outside EXCEPT still hunt only and EXCEPT bird dogs and retrievers allowed.

Waterfowl: Same as outside EXCEPT hunting after 2 p.m. prohibited. No vehicles allowed on slopes of dams and levees.

Unmarked Hogs may be taken during deer season only by properly licensed deer hunters and with gun and bow and arrow.

6. BOEUF (Department Owned-38,403 Acres):

Deer: South of Bayou LaFourche Cut-Off
Nov. 26 - either sex; Nov. 27-28 - bucks only. Daily Permit.
Dec. 18-30 - bucks only. Season Permit.
North of Bayou LaFourche Cut-Off
Nov. 26-28, Dec. 18-30 - bucks only. Season Permit.
Squirrel and Rabbit: Oct. 2-Nov. 21 and Dec. 4-12 Still Hunt Only, EXCEPT beagles permitted for rabbit
Jan. 22-Feb. 6 EXPERIMENTAL.
Waterfowl: Same as outside EXCEPT hunting after 2 p.m. prohibited.
Quail and Woodcock: Same as outside EXCEPT closed during either-sex gun hunts for deer.
Turkey: South of Bayou LaFourche Cut-Off. Mar. 19-Apr. 10, Gobblers only.
Raccoon: EXPERIMENTAL, Nov. 6-14 taking permitted, Feb. 7-28 (Chase Only) taking prohibited. Permit required from Ferriday District Office.
Trapping: Dec. 1-Jan. 16. Permit Required from Ferriday District Office.

Free-ranging livestock not permitted south of Bayou LaFourche Cut-Off in fenced areas. ALSO, unmarked hogs may be taken by all properly licensed hunters during seasons with gun or bow and arrow south of Bayou LaFourche Cut-Off.

Encased or broken down firearms and any game harvested may be transported through the area by the most direct route, provided that no other route exists.

7. BOHEMIA (Owner — Orleans Levee District-33,000 Acres):

Deer: Nov. 13-14 and Nov. 26-Dec. 12 either-sex. Daily Permit.
Dec. 24-Jan. 9. Bucks only. Season Permit.
Squirrel: Same as outside EXCEPT closed during either-sex gun hunts for deer. Still hunt only.
Rabbit: Same as outside EXCEPT closed during either-sex gun hunts for deer North of Bayou Lamoque, still hunt only EXCEPT beagles permitted Jan. 10-Feb. 28 on entire area. EXPERIMENTAL.
Snipe and Dove: Same as outside EXCEPT closed north of Bayou Lamoque during either-sex gun hunts for deer.
Waterfowl: Same as outside EXCEPT morning hunting only (closes 12 noon).
Crawfish: No more than 100 pounds per party per day.

8. BOISE-VERNON (Owner — Boise-Southern Company-54,269 Acres):

Deer: Nov. 6-24, bucks only. Season Permit.
Nov. 26-28, either-sex. Daily Permit.
Squirrel and Rabbit: Same as outside EXCEPT, still hunt only and EXCEPT closed during either-sex gun hunts for deer.
Quail, Woodcock, and Dove: Same as outside EXCEPT closed during either-sex gun hunts for deer.

Turkey: Same as outside. Gobblers only.
 Waterfowl: Same as outside EXCEPT closed during either-sex gun hunts for deer and hunting after 2 p.m. prohibited.

9. CITIES SERVICE (Owner — Cities Service Oil Company, et al-16,714 Acres):

Deer: Nov. 6-24 and Nov. 27-30 bucks only. Season Permit.
 Nov. 26 either-sex. Season Permit.
 Squirrel and Rabbit: Oct. 2-Nov. 21 and Dec. 11-19, Still hunt only. Beagles permitted for rabbit hunt Feb. 5-13 EXPERIMENTAL.
 Quail, Woodcock, and Dove: Same as outside EXCEPT closed during either-sex gun hunts for deer.
 Turkey: Mar. 26-Apr. 10. Gobblers Only.
 Waterfowl: Same as outside EXCEPT closed during either-sex gun hunts for deer and hunting after 2 p.m. prohibited.
 Trapping: Dec. 1-Jan. 15. Permit Required from Monroe District Office.
 Raccoon: EXPERIMENTAL. Permit Required from Monroe District Office.
 Oct. 2-Oct. 31 (Chase Only) taking prohibited, Jan. 29-Feb. 6 taking permitted.

10. CONCORDIA (Owner — Fisher Lumber Corporation-1,030 Acres):

Deer: Nov. 26-Dec. 3 and Dec. 27-Jan. 16, bucks only. Season Permit.
 Squirrel and Rabbit: Same as outside EXCEPT still hunt only.
 Waterfowl: Same as outside EXCEPT hunting after 2 p.m. prohibited.

Encased or broken down firearms and any game harvested may be transported through the area by the most direct route, provided no other route exists.

11. FORT POLK (Owner — U. S. Army and U. S. Forest Service-109,855 Acres):

DAILY military clearance required to hunt any game. All hunting except either-sex deer hunting available by self clearing permit system. Registration for use of self clearing permit required once per year at Building No. 8601, North Fort Polk. Either-sex deer season daily permits available at daily permit stations. Trappers must also register at Building No. 8601 and use self clearing system.

Deer: Nov. 6-24, bucks only. Season Permit.
 Nov. 26-28, either-sex. Daily Permit.
 Muzzleloader: Dec. 11-12, either-sex. Special Permit. Building No. 8601. A selected portion of the area to be open. Special archery regulations for Cantonment Areas, check locally at Building No. 8601. Either-sex deer legal Oct. 1-Jan. 20. Remainder of WMA restricted to bucks only when bucks only gun season is in progress.
 Squirrel and Rabbit: Same as outside EXCEPT still hunt only, and shotguns only permitted and EXCEPT closed during either-sex gun hunts for deer. Hunter orange must be worn when bucks only gun hunts for deer are in progress.
 Quail, Woodcock, and Dove: Same as outside season EXCEPT closed during either-sex gun hunts for deer. EXCEPT bird dogs or retrievers allowed for bird hunting. No member of a party engaged in bird hunting shall use or have in his possession a rifle, shotgun slugs, or shotgun shell larger than Number 6.

Turkey: Same as outside season. Gobblers only.
 Waterfowl: Same as outside EXCEPT closed during all gun hunts for deer and hunting after 2 p.m. prohibited.

Unmarked Hogs may be taken during deer season only by properly licensed deer hunters with gun or bow and arrow.

12. GEORGIA-PACIFIC (Owner — Georgia-Pacific Corporation, et al-28,000 Acres):

Deer: Nov. 6-24 and Nov. 27-30, bucks only. Season Permit.
 Nov. 26 either-sex. Daily Permit.
 Squirrel and Rabbit: Oct. 2-Nov. 21 and Dec. 11-19, Still Hunt Only.
 Quail, Woodcock, and Dove: Same as outside EXCEPT closed during either-sex gun hunts for deer.
 Waterfowl: Same as outside EXCEPT closed during either-sex gun hunts for deer and hunting after 2 p.m. prohibited.
 Trapping: Dec. 1-Jan. 23. Permit from Monroe District Office required.
 Raccoon: EXPERIMENTAL. Permit from Monroe District Office required.
 Oct. 2-31 and Feb. 5-13 (Chase Only) taking prohibited.

SPECIAL REGULATION: Company Pond Road is treated as a state or parish road. Hunters may transport guns along this road if broken down or encased when gun only season is in progress on outside.

13. GRASSY LAKE (Department Owned-13,297 Acres):

Deer: Nov. 26 either-sex. Daily Permit.
 Nov. 27-28 and Dec. 27-Jan. 16, bucks only. Season Permit.
 Squirrel and Rabbit: Same as outside EXCEPT closed during either-sex gun hunts for deer and still hunting only. Beagles permitted for rabbits Jan. 22-30. EXPERIMENTAL.
 Woodcock: Same as outside.
 Waterfowl: Same as outside EXCEPT closed during either-sex gun hunts for deer and hunting after 2 p.m. prohibited.
 Sport Fishing: Permitted only after 2 p.m. during waterfowl season, on Smith Bay and Grassy Lake proper.
 Commercial Fishing: Permitted EXCEPT on Smith Bay and Grassy Lake proper on Saturday and Sunday and during waterfowl season. Permits available from area supervisor or Opelousas District office.

Unmarked Hogs may be taken during deer season only by properly licensed deer hunters with gun or bow and arrow.

ALL free ranging livestock prohibited.
 Raccoon: EXPERIMENTAL. Nov. 4-14, permits available at Spring Bayou WMA headquarters.

14. JACKSON-BIENVILLE (Owner — Williamette Industries, Continental Can Co., et al-30,845 Acres):

Deer: Nov. 26-Dec. 5, either sex. Daily Permit.
 Dec. 18-24, bucks only. Season Permit.
 All Small Game: Same as outside EXCEPT still hunt only and closed during either-sex gun hunts for deer.
 Turkey: Same as outside. Gobblers only.
 Waterfowl: Same as outside EXCEPT closed during either-sex gun hunts for deer and hunting after 2 p.m. prohibited.

Trapping: Same as outside EXCEPT closed during either-sex gun hunts for deer.

Unmarked Hogs may be taken during deer season only by properly licensed deer hunters, with gun or bow and arrow.

15. LOGGY BAYOU (Department Owned-3,600 Acres):

Deer: Nov. 26, bucks only. Season Permit (gun hunt).

Muzzleloader: Dec. 11-12, either-sex. Season Permit.

Archery: Closed during muzzleloader season.

All Small Game: Same as outside EXCEPT closed during muzzleloader hunts for deer and still hunt only.

Waterfowl: Same as outside EXCEPT hunting after 2 p.m. prohibited and EXCEPT closed during ALL gun hunts for deer.

16. LUTCHER-MOORE (See Boise-Vernon)

17. MANCHAC (Department Owned-8,325 Acres)

Deer: Jan. 8-16 still hunt only, bucks only. Season Permit.

Small Game: Same as outside.

Waterfowl: Same as outside EXCEPT closed 12 noon.

Rabbits: May be hunted with beagles all day after the last day of waterfowl season, EXPERIMENTAL.

18. OUACHITA (Department Owned-3,125 Acres):

Deer: Nov. 26, either-sex. Daily Permit.
Nov. 27-30 and Dec. 18-30, bucks only. Season Permit.

Muzzleloader: Dec. 11-12, either-sex. Season Permit.

Archery: Closed during muzzleloader season.

Waterfowl: Same as outside EXCEPT hunting after 2 p.m. prohibited, EXCEPT closed during either-sex gun hunts for deer.

Squirrel and Rabbit: Oct. 2-Dec. 5, still hunt only. EXCEPT beagles permitted for rabbits Feb. 5-13. EXPERIMENTAL. EXCEPT closed during either-sex gun hunts for deer.

Woodcock: Same as outside.

Trapping: Dec. 1-Jan. 15. Permit from Monroe District Office Required.

Raccoon: EXPERIMENTAL. Permit from Monroe District Office Required.

Oct. 9-Nov. 7 (Chase Only) taking prohibited.

Jan. 29-Feb. 6, taking permitted.

19. PASS-A-LOUTRE (Department Owned-66,000

Acres):

Waterfowl: Same as outside.

Hunting Only: May be taken with beagles same as outside

Rabbits: season EXCEPT closed during duck season.

20. PEARL RIVER (Department Owned-26,716 Acres):

Deer: Nov. 26-28, either-sex. Daily Permit.
Dec. 18-Jan. 16, bucks only. Season Permit.

Muzzleloader: Dec. 4-5, either-sex. Season Permit.

Archery: Closed during muzzleloader season.

Squirrel and Rabbit: Oct. 2-Nov. 21 and Dec. 6-Jan. 9. Still hunt only.

Snipe, Woodcock, Rail and Gallinule: Same as outside EXCEPT closed during muzzleloader hunts for deer and EXCEPT snipe, rail and gallinule hunting permitted south of I-10 only.

Turkey: Mar. 26-Apr. 24, Gobblers only.

Waterfowl: Same as outside EXCEPT morning hunting only (closes 12 noon) and closed during either-sex gun hunt for deer.

Crawfish: 100 pounds per party per day limit.

Commercial Fishing: Permit from Baton Rouge District Office or Area Supervisor Required.

Raccoon: EXPERIMENTAL. Oct. 16-Nov. 1 and Feb. 19-Feb. 28. Permit from Baton Rouge District Office or Area Supervisor Required.

Unmarked Hogs may be taken during deer season only by properly licensed hunters, with gun or bow and arrow.

Area will be closed to hunting when river gauge at Pearl River, Louisiana reaches 16.5 feet.

Trapping: Dec. 1-Feb. 15. For permit information contact Baton Rouge District Office or Area Supervisor.

21. PEASON RIDGE (Owner — U. S. Army-33,488 Acres):

Daily military clearance required to hunt any game. All hunting except either-sex deer hunting available by self clearing permit system. Registration for use of self clearing permit required once per year at Building No. 8601, North Fort Polk. Either-sex deer season daily permits available at daily permit stations. Trappers must also register at Building No. 8601 and use self clearing system.

Deer: Nov. 6-24, bucks only. Season Permit.
Nov. 26-28, either-sex. Daily Permit.

Squirrel and Rabbit: Same as outside EXCEPT still hunt only and shotguns only permitted and EXCEPT closed during either-sex gun hunts for deer. Hunter orange must be worn when bucks only gun hunts for deer are in progress.

Quail, Woodcock, and Dove: Same as outside EXCEPT closed during either-sex gun hunts for deer. Bird dogs or retrievers permitted.

Turkey: Same as outside. Gobblers only.

Waterfowl: Same as outside EXCEPT closed during all gun hunts for deer and hunting after 2 p.m. prohibited.

Unmarked Hogs may be taken by properly licensed hunters only during deer seasons with gun or bow and arrow.

22. POINTE-AU-CHIEN (Department Owned-28,244 Acres):

Morning hunting only (Closed 12 Noon) on All Game.
Deer: Nov. 26-28 and Dec. 18-26, bucks only. Still Hunt Only.

All Other Game: Same as outside. Still Hunt only. Beagles permitted for rabbit hunting same as outside season EXCEPT closed during duck season. EXPERIMENTAL.

Mudboats with inboard engines larger than 25 h.p. prohibited in interior ditches.

All night time activities prohibited on area from thirty minutes after sundown to thirty minutes before sunrise.

23. POMME DE TERRE (Department Owned-3,991 Acres):

Deer: Nov. 26-28 and Dec. 27-Jan. 9, bucks only. Season Permit. Still Hunting Only.

Waterfowl and Snipe: Same as outside EXCEPT hunting after 2 p.m. prohibited.

Squirrel and Rabbit: Same as outside EXCEPT still hunting only. EXCEPT Beagles permitted for rabbits Jan. 22-30, EXPERIMENTAL.

Woodcock: Same as outside.

Commercial Fishing: Permitted Monday through Friday. Permits available from Area Supervisor or Opelousas District Office.

24. RED RIVER (Department Owned-16,604 Acres; U. S. Corps of Engineers-11,717 Acres):

Deer: Nov. 26, either-sex and Nov. 27-28, bucks only. Daily Permit.

Dec. 27-Jan. 16, bucks only. Season Permit.

Squirrel and Rabbit: Oct. 2-Nov. 21 and Dec. 4-12, still hunt only.

Waterfowl: Same as outside EXCEPT closed during either-sex gun hunt for deer and hunting after 2 p.m. prohibited.

Woodcock: Same as outside EXCEPT closed during either-sex gun hunt for deer.

Raccoon: EXPERIMENTAL. Permit required from Ferriday District Office Nov. 6-14, taking permitted and Feb. 7-28 (Chase Only) taking prohibited.

Trapping: Dec. 1-Jan. 16. Permit Required from Ferriday District Office.

Unmarked Hogs may be taken by properly licensed hunters only during deer season with gun or bow and arrow. No hunting allowed in restricted areas.

Encased or broken down firearms and any game harvested may be transported through the area by the most direct route provided that no other route exists.

Free-ranging livestock not permitted in area.

25. RUSSELL SAGE (Department Owned-17,220 Acres):

Deer: Nov. 26-27, either-sex. Daily Permit.
Nov. 28-30 and Dec. 18-30, bucks only. Season Permit.

Squirrel and Rabbit: Oct. 2-Dec. 5, still hunt only. Closed during either-sex gun hunts for deer. Beagles permitted for rabbits Feb. 5-13. EXPERIMENTAL.

Dove and Woodcock: Same as outside EXCEPT closed during either-sex gun hunts for deer.

Turkey: Mar. 26-Apr. 10.

Waterfowl: Same as outside EXCEPT closed during either-sex gun hunts for deer and hunting after 2 p.m. prohibited.

Trapping: Dec. 15-Jan. 30. Permit from Monroe District Office Required. No trapping in waterfowl refuge.

Raccoon: EXPERIMENTAL. Permit from Monroe District Office Required. Oct. 9-Nov. 7 (Chase Only) taking prohibited. Dec. 4-12 taking permitted.

Crawfish: 100 pounds per party per day limit.

NOTE: All regulations on Chauvin Tract on U. S. Hwy. 165 north same as outside. EXCEPT STILL HUNT ONLY. No permanent tree stands allowed.

26. SABINE (Owner — Boise Southern Co., International Paper Company, et al-12,500 Acres):

Deer: Nov. 6-24, bucks only. Season Permit.

Nov. 26-28, either-sex. Daily Permit.

Muzzleloader: Dec. 4-5, either-sex. Season Permit.

Archery: Closed during muzzleloader season.

Squirrel and Rabbit: Same as outside EXCEPT still hunt only and EXCEPT closed during either-sex gun hunts for deer.

Quail, Woodcock, and Dove: Same as outside EXCEPT closed during either-sex gun hunts for deer.

Turkey: Same as outside. Gobblers only.

Waterfowl: Same as outside EXCEPT closed during either-sex gun hunts for deer and hunting after 2 p.m. prohibited.

Unmarked Hogs may be taken by properly licensed deer hunters only during deer season with gun or bow and arrow.

27. SABINE ISLAND (Owner — State of Louisiana and Calcasieu Parish School Board-8,103 Acres):

All seasons same as outside EXCEPT still hunting only and morning hunting only for waterfowl (Closes 12 noon).

Sabine Island boundaries are Sabine River on the west, Cut-Off Bayou on the north, and Old River and Big Bayou on the south and east.

28. SALINE (Department Owned-60,276 Acres):

Deer: Nov. 26 either-sex and Nov. 27-28 bucks only. Daily Permit.

Dec. 27-Jan. 16 bucks only. Season Permit.

Squirrel and Rabbit: Oct. 2-Nov. 21 and Dec. 4-12 still hunt only. Beagles permitted for rabbits, Jan. 22-Feb. 6. EXPERIMENTAL.

Woodcock: Same as outside, EXCEPT closed during either-sex gun hunts for deer.

Turkey: Mar. 19-Apr. 17. Gobblers Only.

Waterfowl: Same as outside season EXCEPT closed during either-sex gun hunts for deer and hunting after 2 p.m. prohibited.

Trapping: Dec. 1-Jan. 16, Permit Required from Ferriday District Office.

Raccoon: EXPERIMENTAL. Nov. 6-14 Taking permitted; Feb. 7-28 (Chase Only) Taking prohibited, Permit Required from Ferriday District Office.

Unmarked Hogs may be taken by all properly licensed hunters during open hunting season with gun or bow and arrow in fenced-in areas south and east of Hwy. 28. Also, free ranging livestock not permitted in area south and east of Hwy. 28.

Encased or broken down firearms and any game harvested may be transported through the area by the most direct route, provided that no other route exists. No hunting allowed in research areas. Trapping prohibited in greentree reservoir.

29. SALVADOR (Department Owned-30,600 Acres):

Morning Hunting ONLY (Closed 12 noon) on ALL game.

Deer: Nov. 26-28 and Dec. 18-26 bucks only. Still hunting only.

All Other Game: Same as outside, still hunting only. Beagles permitted for rabbit hunting same as outside EXCEPT closed during duck season. EXPERIMENTAL.

Mud boats with inboard engines larger than 25 h.p. prohibited in interior ditches.

All night time activities prohibited on area from 30 minutes after sundown to 30 minutes before sunrise.

30. SICILY ISLAND HILLS (Department Owned-6,179 Acres):

Deer: Nov. 26-Dec. 3 and Dec. 27-Jan. 16 bucks only. Season Permit. Still Hunt Only.

Squirrel and Rabbit: Oct. 2-Nov. 21 and Dec. 4-19, Still Hunt Only. Beagles permitted for rabbits Jan. 22-Feb. 6, EXPERIMENTAL.

Quail and Woodcock: Same as outside.

Waterfowl: Same as outside EXCEPT hunting after 2 p.m. prohibited.

Encased or broken down firearms and any game harvested may be transported through the area by the most direct route provided that no other route exists.

31. SODA LAKE (Owner — Caddo Levee District-1,300 Acres):

All Game: Same as outside EXCEPT still hunting only, EXCEPT hunting for waterfowl after 2 p.m. prohibited.

32. SPRING BAYOU (Department Owned-11,678 Acres):

Deer: Nov. 26 either-sex. Daily Permit.
Nov. 27-28 and Dec. 27-Jan. 16 bucks only. Season Permit.

Muzzleloader: Dec. 4-5 either-sex. Season Permit.

Archery: Closed during muzzleloader season.

Squirrel and Rabbit: Oct. 2-Nov. 21, still hunt only. Beagles permitted for rabbits Jan. 22-30, EXPERIMENTAL.

Woodcock: Same as outside EXCEPT closed during muzzleloader season and either-sex gun hunts for deer.

Waterfowl: Same as outside EXCEPT closed during either-sex gun hunts for deer and hunting after 2 p.m. prohibited.

Raccoon: EXPERIMENTAL, Nov. 6-14, taking permitted. Permits available at WMA headquarters.

Commercial Fishing: Permitted Monday through Friday. Permits available from area supervisor or Opelousas District Office. Closed during waterfowl season.

No hunting allowed in headquarters area.

Unmarked Hogs may be taken by properly licensed deer hunters only during deer seasons with gun or bow and arrow. Only overnight campers allowed in the improved Boggy Bayou Camping area after 10 p.m. Water skiing permitted only in Old River and Grand Lac.

Sport Fishing: Permitted only after 2 p.m. during waterfowl season.

33. THISTLETHWAITE (Owner — Thistlethwaite Heirs-11,100 Acres):

Deer: Nov. 26 either-sex. Daily Permit.
Nov. 27-28 and Dec. 27-Jan. 16 bucks only. Season Permit.

Squirrel and Rabbit: Oct. 2-31 Still Hunt Only.

Woodcock: Same as outside EXCEPT closed during either-sex gun hunts for deer.

Waterfowl: Same as outside EXCEPT closed during either-sex gun hunts for deer and hunting after 2 p.m. prohibited. No early teal season.

Unmarked Hogs may be taken during deer season only by properly licensed deer hunters with gun or bow and arrow.

ALL motorized vehicles restricted to improved roads.

ALL hunters must enter and leave through main gate only.

34. THREE RIVERS (Department Owned-23,222 Acres; U. S. Corps of Engineers-1,085 Acres):

Deer: Nov. 26 either-sex and Nov. 27-28 bucks only. Daily Permit. Dec. 27-Jan. 16 bucks only. Season Permit.

Quail, Snipe, and Woodcock: Same as outside EXCEPT closed during either-sex gun hunts for deer.

Squirrel and Rabbit: Oct. 2-Nov. 21 and Dec. 4-12 Still Hunt Only.

Waterfowl: Same as outside EXCEPT closed during either-sex gun hunts for deer and hunting after 2 p.m. prohibited.

Trapping: Dec. 1-Jan. 16, Permit Required from Ferriday District Office.

Raccoon: EXPERIMENTAL, Nov. 6-14 Taking permitted; Feb. 7-28 (Chase Only) taking prohibited. Permits Required from Ferriday District Office.

Free ranging Livestock Not Permitted. Unmarked Hogs may be taken by all properly licensed hunters during open seasons with gun or bow and arrow.

Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists.

35. UNION (Owner — Manville Forest Products Corporation, et al-12,397 Acres):

Deer: Nov. 6-24 bucks only. Season Permit.
Nov. 26-Dec. 5 either-sex. Daily Permit.

Squirrel and Rabbit: Oct. 2-Nov. 21 and Dec. 11-19. Still Hunt Only. EXCEPT Beagles permitted for rabbits Feb. 5-13. EXPERIMENTAL

Quail, Woodcock, and Dove: Same as outside EXCEPT closed during either-sex gun hunts for deer.

Trapping: Dec. 11-Feb. 13. Permit required from Monroe District Office.

Waterfowl: Same as outside EXCEPT closed during either-sex gun hunts for deer and hunting after 2 p.m. prohibited.

36. WEST BAY (Owner — Boise Southern Company, Kirby Lumber Co., Quatre-Parish Company, et al-55,185 Acres):

Deer: Nov. 6-10 bucks only. Season Permit.
Nov. 26-28 either-sex. Daily Permit.

Muzzleloader: Dec. 4-5 either-sex. Season Permit.

Archery: Closed during muzzleloader season.

Squirrel and Rabbit: Same as outside EXCEPT Still Hunt Only and closed during either-sex gun hunts for deer.

Quail and Woodcock: Same as outside EXCEPT closed during either-sex gun hunts for deer.

Turkey: Mar. 19-Apr. 3. Gobblers only.

37. WISNER (Owner — Edward Wisner Donation Advisory Committee-21, 621 Acres):

Rabbit: Same as outside EXCEPT closed during waterfowl season and beagles permitted Oct. 2-Feb. 28. EXPERIMENTAL.

All Other Game: Same as outside EXCEPT still hunting only and morning hunting only for waterfowl (Closes 12 noon).

Jesse J. Guidry
Secretary

Notices of Intent

NOTICE OF INTENT

Department of Agriculture Seed Commission

In accordance with the provisions of LSA 49:951, et seq., the Administrative Procedure Act, and LSA 3:1433, relative to the authority of the Seed Commission to prescribe standards for the certification of seed grown in Louisiana, notice is hereby given that the Department of Agriculture, Seed Commission, will conduct a public hearing on the 21st Floor of the State Capitol, Baton Rouge, at 1 p.m. on Wednesday, September 8, 1982, for the purpose of revising and consolidating its regulations governing the certification of seeds, including but not limited to consideration of methods of sampling, inspecting and making analyses, times for submission of samples, procedures for certification, and other matters relevant to the certification of seeds. Revisions will be made to various standards to bring the regulations of the Seed Commission into conformance with Federal law governing the certification of seeds offered in interstate commerce. The Seed Commission will repeal existing seed certification regulations which are no longer necessary because of changed cultivation practices.

The Seed Commission may also consider adoption or amendment of regulations relative to the Seed Law at the public hearing.

Copies of the Seed Certification Standards which will be under consideration at the said public hearing may be secured by writing to Barby Carroll, Office of Agricultural and Environmental Sciences, Department of Agriculture, Box 44153, Baton Rouge 70804, or in person at his office in the Harry D. Wilson Building on the LSU Campus, Baton Rouge.

Written comments will be accepted up to and including September 6, 1982. All interested persons will be afforded a reasonable opportunity to submit data, views, or arguments, orally or in writing, at the public hearing.

Bob Odom
Commissioner

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Certified Seed

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)
There will be no increased cost/savings to the agency.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)
There will be no effect on revenue collections.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)
There would be a serious economic loss to Louisiana growers of certified seeds if Louisiana should lose its national accreditation as a seed-certifying agency. Adoption of the upgraded seed certification regulations will protect the agency's recognition nationally as a seed-certifying agency and thus protect the out-of-state markets for Louisiana growers.

The effect of upgrading the Louisiana seed certification standards will be beneficial so far as Louisiana growers are concerned.

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

No effect on competition or employment in the private sector by the enactment of new regulations. Conversely, failure to upgrade the Louisiana standards, if the failure results in a loss of accreditation, would prevent Louisiana growers from making out-of-state sales of seeds and thus eliminate many jobs in the private sector. Additionally, it is important that Louisiana consumers of certified seeds have a source of quality seed of known genetic purity adapted for Louisiana growing conditions, and the loss of accreditation might also have an adverse effect on in-state sales by Louisiana growers.

John Compton, Jr.
Deputy Commissioner

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Agriculture State Entomologist

In accordance with the provisions of LSA 49:951 et seq., the Administrative Procedure Act, and LSA 3:1652, relative to the authority of the Department of Agriculture to deal with crop pests, notice is hereby given of the intention of the State Entomologist to repeal the Department's regulation entitled "Pink Bollworm Quarantine and Regulations, effective July 15, 1964" and "Supplement to Pink Bollworm Quarantine and Regulations, effective July 15, 1964" because there is no further need for said regulation, the pink bollworm having been substantially eradicated within the State of Louisiana.

Written comments will be accepted by Dr. John Impson, State Entomologist, State Department of Agriculture, Box 44163, Baton Rouge 70804 up to and including Monday, August 9, 1982, or may be presented in person at Dr. Impson's office at 9151 Interline Boulevard, Baton Rouge. Interested persons may secure a copy of the regulation to be repealed at either of the above addresses.

Bob Odom
Commissioner

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Pink Bollworm

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)
There will be no increased cost/savings to the agency.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)
There will be no effect on revenue collections.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)
There would be no cost to affected groups; however, the Louisiana farmer would benefit if existing regulations were repealed. Farmers would no longer be required to have cotton inspected for pink bollworms (the last known infestation was in 1968).
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)

Repealing these regulations would eliminate the cotton farmer from having to go through the certification process, thus allowing the farmer to market his product more expeditiously while at the same time allowing farmers to be competitive.

John Compton, Jr.
Deputy Commissioner

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Commerce Office of Financial Institutions

Under authority granted by R.S. 6:237-B, the Commissioner of Financial Institutions intends to adopt the following amendment to the Adjustable Rate Mortgage Rule for the purpose of providing a means by which state charter banks may have authority consistent with that granted national banks by the Comptroller of the Currency Rules and Regulations 12 CFR, Part 29, which was published on Page 23948, Volume 47, No. 106 of the *Federal Register* dated June 2, 1982.

PROPOSED AMENDMENT

Notwithstanding any limitations imposed by R.S. 6:237 and 322, state chartered banks are hereby authorized to make, purchase, and participate in adjustable rate mortgage instruments authorized for national banks by the Comptroller of the Currency Regulation 12 CFR, Part 29. For the information and guidance of state chartered banks, the Comptroller of the Currency Regulation is outlined below. The words "national" and "Comptroller of the Currency" have been changed to "state" and "Commissioner of Financial Institutions". Accordingly, the Office of Financial Institutions proposes to revise the Adjustable Rate Mortgage Rule to read as follows.

ADJUSTABLE-RATE MORTGAGE INSTRUMENTS

1 Purpose

This regulation is issued by the Office of Financial Institutions to establish Rules for state banks making or purchasing adjustable-rate loans secured by liens on one to four-family dwellings.

2 Definition

An adjustable-rate mortgage loan is any loan made to finance or refinance the purchase of and secured by a lien on a one to four-family dwelling, including a condominium unit, cooperative housing unit, or a mobile home, where such loan is made pursuant to an agreement intended to enable the lender to adjust the rate of interest from time to time. Adjustable-rate mortgage loans include loan agreements where the note and/or other loan documents expressly provide for adjusting the rate at periodic intervals. They also include fixed-rate loan agreements that implicitly permit rate adjustment by having the note mature on demand or at the end of an interval shorter than the term of the amortization schedule unless the bank has clearly made no promise to refinance the loan (when demand is made or at maturity) and has made the disclosure specified in 8 (d).

3 General Rule

Banks may make or purchase adjustable-rate mortgage loans only if they conform to the conditions and limitations contained in this Part. Banks may make or purchase adjustable-rate mortgage loans pursuant to this Part.

4 Index

Changes in the interest rate charged on an adjustable-rate mortgage loan must be linked to changes in the index specified in the loan documents, i.e., a 1 basis point (1 basis point = .01

percentage point) change in the index must be translated into a 1 basis point change of the same direction in the contract interest rate except as otherwise provided in 5 (b). A bank may use as an interest rate index any measure of market rates of interest that is readily available to and verifiable by the borrower and is beyond the control of the bank. The index for an adjustable-rate mortgage loan shall be either single values of the chosen measure or a moving average of the chosen measure calculated over a specified period. The initial index value shall be the most recently available index value on the date that the lender commits to the initial interest rate on the loan. Subsequent interest rate changes shall be based on the most recently available index value at the date for notifying borrowers of impending changes in the interest rate.

5 Rate Changes

(a) Frequency of Changes. Interest rate changes on an adjustable-rate mortgage loan shall occur at intervals specified in the loan documents.

(b) Required and Permitted Rate Changes. Interest rate changes on adjustable-rate mortgage loans shall be subject to the following provisions:

(1) Interest rate increases permitted in accordance with this Part shall be at the option of the bank.

(2) Interest rate decreases warranted by decreases in the index shall be mandatory except to the extent they would exceed limitations established pursuant to 5(b) (3); to the extent that rate increases fully reflecting increases in the index have not been implemented by the bank, either at its option or because of limitations on interest rate adjustments as permitted in 5(b) (3); or to the extent that the bank has previously voluntarily reduced the interest rate on an adjustable-rate mortgage loan.

(3) Banks offering adjustable-rate mortgage loans may establish in the loan documents limitations on maximum or minimum interest rate increases or decreases, minimum increments of interest rate increases or decreases, and procedures for rounding the interest rate on the loan to the nearest percentage point or some fraction thereof.

(4) Voluntary interest rate reductions not related to index changes and changes in the index that do not result in equal changes in the interest rate (including differences between changes in the index rate and changes in the interest rate due to rounding) shall, to the extent not offset by subsequent movements of the index, be carried over and be available at succeeding rate change dates.

(5) A bank may decrease the contract rate on an adjustable-rate mortgage at any time and by any amount beyond the decreases required by the Rules contained in this Part.

(c) Method of Rate Changes. Interest rate changes to an adjustable-rate mortgage loan may be implemented through changes in the amount of the installment payment or the rate of amortization or any combination of these two methods, according to a schedule agreed upon by the borrower and the bank in the loan documents or as agreed upon by the parties at the time of an interest rate change. Notwithstanding the foregoing, installment payments shall be required for an adjustable-rate mortgage loan that are sufficient to reduce the outstanding principal balance of the loan beginning no later than during the twenty-first year and are sufficient to amortize the entire principal of the loan without a substantial balloon payment by the end of the thirtieth year. These methods are permissible regardless of any state-law prohibitions on the charging of interest on interest. Such prohibitions are expressly preempted, provided the interest rate charged by the bank does not exceed the applicable usury limit, if any.

6 Prepayment Fees

Banks offering or purchasing adjustable-rate mortgage loans may impose penalties for prepayments.

7 Assumption

Banks offering or purchasing adjustable-rate mortgage loans that include due-on-sale clauses are not required to allow those loans to be assumed by new purchasers of the mortgaged property or to allow new purchasers to take title to such property subject to the lien of an adjustable-rate mortgage loan made pursuant to this Part, regardless of any limitations on the validity or enforceability of due-on-sale clauses found in state law, which limitations are expressly preempted. If a bank does allow such a loan to be assumed or a purchaser to take title to property subject to the lien of an adjustable-rate mortgage loan made pursuant to this Part, the interest rate and any other loan terms may be reset as of the date of assumption. In order for an adjustable-rate mortgage loan to qualify for the benefits of this Section, the loan note must contain a clause stating that the loan is due on sale or must contain some other provision indicating that the loan may be assumed or the property purchased subject to the bank's mortgage lien only at the bank's discretion.

8 Disclosure

(a) A bank offering adjustable-rate mortgage loans shall disclose in writing on the earlier of the date on which the bank first provides written information concerning adjustable-rate mortgage loans available from the bank or provides a loan application form to the prospective borrower, the following items:

(1) The fact that the interest rate may change and a brief description of the general nature of an adjustable-rate mortgage loan;

(2) The index used, including the name of at least one readily available source in which it is published. If the index is based on a cost of funds rate for any group of financial institutions subject to limitations on the interest they may pay certain classes of depositors, a bank must describe that fact and point out that the removal of interest rate ceilings will likely result in an upward bias on future movements of the index, regardless of movements in market interest rates;

(3) A 10-year series updated at least annually showing the values of the index on at least a semiannual basis, presented in a table. The table should show either single values of the measure of interest rates or an average of single values, consistent with the bank's adjustable-rate mortgage loan program;

(4) The frequency with which the interest rate and payment levels will be adjusted;

(5) The method used to calculate the initial monthly payment, if that payment differs from the fully amortizing payment;

(6) Any Rules relating to changes in the interest rate, installment payment amount, and/or increases in the outstanding loan balance;

(7) A description of the method by which interest rate changes will be implemented, including an explanation of negative amortization and balloon payments, if they may occur in connection with the loan;

(8) A statement, if appropriate, of the Rules or conditions relating to refinancing of short-term and demand mortgage loans, prepayment, and assumption;

(9) A statement, if appropriate, of fees that will be charged by the bank and/or any other persons in connection with the adjustable-rate mortgage loan, including fees due at loan closing, prepayment fees and fees that will be charged for interest rate or payment adjustments and a statement of when and how such fees will be charged;

(10) A schedule of the dollar amounts of the installment payments (principal and interest), and the outstanding loan balance at each payment adjustment date on a \$10,000 adjustable-rate mortgage that might occur under the bank's adjustable-rate mortgage loan program. The initial interest rate should be a commitment rate offered by the bank within the preceding 12-month period.

(b) At least 30 days and no more than 45 days before any interest rate change may take effect, the bank must notify the borrower in writing of the following items:

(1) The current and proposed new interest rate;

(2) The base index value and the index values upon which the current interest rate and the new interest rate are based;

(3) The extent to which the bank has forgone any increase in the mortgage interest rate;

(4) The monthly payment due after implementation of the interest rate adjustment and/or other contractual effects of the rate change;

(5) The amount of the monthly payment, if different from that given in response to item 4, that would be required to fully amortize the loan at the new interest rate over the remainder of the loan term;

(6) The amount of the prepayment penalty, if any, that will be charged if the borrower chooses to prepay the loan rather than accept an interest rate increase.

(c) If under the bank's adjustable-rate mortgage program, a payment change may occur at a different date than an interest rate change, at least 30 days and no more than 45 days before any such payment change may take effect, the bank must notify the borrower in writing of the following items:

(1) An explanation of the circumstances that have led to such a payment change;

(2) The monthly payment due after implementation of the payment adjustment;

(3) The amount of the monthly payment, if different from that given in response to item 2, that would be required to fully amortize the loan at the new interest rate over the remainder of the loan term;

(4) The amount of any prepayment penalty that will be charged if the borrower chooses to prepay the loan.

(d) A bank making any loan to finance or refinance the purchase of and secured by a lien on a one to four-family dwelling which is either payable on demand or at the end of a term which, including any terms for which the bank has promised to refinance the loan, is shorter than the term of the amortization schedule, must include the following notice displayed prominently and in capital letters in or affixed to the loan application form and in or affixed to the loan note:

THIS LOAN IS PAYABLE IN FULL (AT THE END OF ___ YEARS or ON DEMAND).(AT MATURITY or IF THE BANK DEMANDS PAYMENT) YOU MUST REPAY THE ENTIRE PRINCIPAL BALANCE OF THE LOAN AND UNPAID INTEREST THEN DUE. THE BANK IS UNDER NO OBLIGATION TO REFINANCE THE LOAN AT THAT TIME. YOU WILL THEREFORE BE REQUIRED TO MAKE PAYMENT OUT OF OTHER ASSETS YOU MAY OWN, OR YOU WILL HAVE TO FIND A LENDER WILLING TO LEND YOU THE MONEY AT PREVAILING MARKET RATES, WHICH MAY BE CONSIDERABLY HIGHER THAN THE INTEREST RATE ON THIS LOAN. IF YOU REFINANCE THIS LOAN AT MATURITY, YOU MAY HAVE TO PAY SOME OR ALL CLOSING COSTS NORMALLY ASSOCIATED WITH A NEW LOAN, EVEN IF YOU OBTAIN REFINANCING FROM THE SAME BANK.

Fixed-rate short-term or demand loans for which this notice has been properly given will not be characterized as adjustable-rate mortgage loans.

(e) At the date on which the initial interest rate on an adjustable-rate mortgage loan is determined, the bank must inform the borrower of the initial index value against which interest rate changes will be measured. This initial index value must be included in the note which the borrower signs. The borrower must be given a copy of that note no later than at loan closing.

Interested persons may submit written comments on the proposed Rule until 4:30 p.m., August 5, 1982, at the following address: Hunter O. Wagner, Jr., Commissioner, Office of Financial Institutions, Box 44095 — Capitol Station, Baton Rouge, LA 70804.

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

Hunter O. Wagner, Jr.
Commissioner

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Amendment to Adjustable Rate Mortgage Rule

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

The implementation of this amendment to the ARM Rule will not increase or decrease the operating budget of this office in any manner.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

The adoption of this amendment should allow state banks to make more residential loans and therefore stimulate the growth of the industry which in turn would increase our revenue which is calculated on the size of the institutions.

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

The payments and interest rate on these adjustable rate mortgages could increase or decrease which will provide greater flexibility in mortgages, making them more available.

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

This amendment allows state banks to continue to compete with national banks. This should help building starts and stimulate that industry by making mortgages easier to obtain.

Hunter O. Wagner, Jr.
Commissioner

Richard W. England
Legislative Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

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

1. An amendment to Bulletin 741, page 14 to allow a foreign language or a course taught in a foreign language as a substitute for the fourth English requirement.

2. Amend Bulletin 746 to allow speech therapists who are certified to teach in Louisiana the certification endorsement of English as a Second Language upon completion of the four required courses as described in the Bulletin.

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

James V. Soileau
Executive Director

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

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

The establishment of the Alternative High School for Foreign Languages and International Studies will involve the Louisiana Department of Education, the local school boards of Orleans, Jefferson and St. Bernard, the Archdiocese of New Orleans, and the International Trade Mart. The costs of this program will be borne by the various agencies.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There is no estimated effect on revenue collections.

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

The cost of providing the instructional staff will be borne by the Department of Education in cooperation with CODOFIL and The Cordell Hull Foundation for International Education. Benefits will accrue to both limited English-speaking students as well as to English dominant students.

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

Skills acquired in a second language will increase employment possibilities for all participating students.

George B. Benton, Jr.
Deputy Superintendent

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Office of the Governor Division of Administration [Policy & Procedure Memorandum No. 49 (Revised)]

Subject: General Travel Regulations

In accordance with the authority vested in the Commissioner of Administration by Section 231 of Title 39 of the Revised Statutes of 1950 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:951-968 as amended, notice is hereby given to intent to revise Policy and Procedures Memorandum No. 49, the State General Travel Regulations, to be effective August 20, 1982. These amendments are both technical and substantive in nature and are intended to clarify certain portions of the previous regulations or provide for more efficient administration of travel policies. These regulations apply to all State departments, boards, and commissions created by the Legislature or Executive Order, with the exceptions noted below, and operating from funds appropriated, dedicated, or self-sustaining; federal funds; or funds generated from any other source.

Legal Basis - L.R.S. 39:231 - "The Commissioner, with the approval of the Governor, shall prescribe Rules defining the conditions under which each of various forms of transportation may be used by State officers and employees and used by them in the discharge of the duties of their respective offices and positions in the State service and he shall define the conditions under which allowances will be granted for all other classes of traveling expenses and the maximum amount allowable for expenses of each class."

I. Definitions: For the purpose of this Section, the following words have the meaning indicated.

A. State Officer

1. State Elected Officials

2. Department Head as defined by Title 36 of the Louisiana Revised Statutes. (secretary, deputy secretary, under-secretary, assistant secretary, and the equivalent positions in Higher Education and the Offices of Elected Officials.)

B. State Employee - Employees below the level of state officer

C. Authorized Persons

1. Advisors and consultants who are called upon to contribute time and services to the state who are not otherwise required to be reimbursed through a contract for professional, personal, or consulting services in accordance with R.S. 39:1481 et. seq.

2. Members of boards, commissions, and advisory councils required by federal or state legislation or regulation. Travel allowance levels for all such members and any staff shall be those authorized for state employees unless specific allowances are legislatively provided.

3. Other persons performing official state business who have prior approval for travel from the Commissioner of Administration.

D. Official Domicile

1. Except where fixed by law, the official domicile of an officer or employee assigned to an office shall be the city in which the office is located and the surrounding area, with a radius of at least 30 miles. The official domicile of an authorized person shall be the city in which the person resides, except when the department head has designated another location (such as the person's workplace).

2. The official domicile of a person located in the field shall be the city or town nearest to the area where the majority of work is performed, or such city, town, or area as may be designated by the department head, provided that in all cases such designation must be in the best interests of the agency and not for convenience of the person.

3. Every state officer, employee, and authorized person, except those on temporary assignment, shall be assigned an official domicile, and no travel or subsistence expenses shall be allowed at the place of official domicile unless granted under the provisions of Section II or IV. Documentation of official domicile assignments shall be readily available in the department's travel reimbursement files.

E. Temporary Assignment - Any assignment made for a period of less than thirty-one consecutive days at a place other than the official domicile.

F. Traveler - A state officer, state employee, or authorized person when performing authorized travel.

G. Travel Period - A period of time between the time of departure and the time of return.

H. In-State Travel - All travel within the borders of Louisiana or travel through adjacent states between points within Louisiana when such is the most efficient route.

I. Out-of-State Travel - Travel to other states within the continental United States. Travel through an adjacent state when this is the most efficient route between points within Louisiana is not considered out-of-state travel for the purpose of these regulations.

J. International Travel - All travel outside the 48 contiguous states.

K. Special Meals - Reimbursement designed for those occasions when, as a matter of extraordinary courtesy or necessity, it is appropriate and in the best interest of the state to use public funds for provision of a meal to a person who is not otherwise eligible for such reimbursement. Examples include:

1. Visiting dignitaries or executive-level persons from other governmental units, and persons providing identified gratuity services to the State, when such persons are not being reimbursed from other sources for the expenditure directly or indirect-

ly. This explicitly does not include normal visits, meetings, reviews, etc. by federal or local representatives.

2. Bona-fide official business meetings at which a meal is served and it is required to meet during a meal hour.

3. Extraordinary situations when state employees are required by their supervisors to work more than a twelve hour weekday or six hour weekend day (when such are not normal working hours) to meet crucial deadlines or to handle emergencies.

II. Exceptions to Regulations: The Travel Regulations established by the Commissioner of Administration shall govern reimbursement of travel expense (transportation, meals, lodging, and miscellaneous expenses) for all travelers with the following exceptions.

A. Where allowances are fixed by law.

B. Where the best interests of the state call for exceptions; however, no change from the established regulations will be allowed without first securing prior written approval from the Commissioner of Administration. After-the-fact approvals will be granted only under the most unusual of circumstances.

C. Department heads may establish travel regulations within their respective agencies, but such regulations shall not exceed the maximum limitations established by the Commissioner of Administration. Three copies of such regulations shall be submitted for prior review and approval by the Commissioner of Administration.

D. Department heads, may, in special instances, allow their employees to exceed the lodging and meal provisions of these regulations by no more than twenty percent on a case-by-case basis. Each case must be fully documented as to necessity (e.g., proximity to meeting place) and cost effectiveness of alternative options. Documentation must be readily available in the department's travel reimbursement files. This authority shall not be delegated to any other person.

III. Eligibility for Reimbursement of Travel Expenses:

A. Travelers are eligible to receive reimbursement for travel only when away from "official domicile" or on temporary assignment unless reimbursed under provisions of Section II or IV. Temporary assignments will be deemed to have ceased after a period of thirty-one calendar days, and after such period the place of assignment shall be deemed to be his/her official domicile. He/she shall not be allowed travel and subsistence unless permission to extend the thirty-one day period has been previously secured from the Commissioner of Administration.

B. A traveler whose residence is other than the official domicile of his/her office shall not receive travel and subsistence while at his/her official domicile nor shall he/she receive reimbursement for travel to and from his/her residence, unless exception has been granted under Section II.

C. State Officers and others so authorized by statute or individual exception will be reimbursed on an actual expenses basis for all reasonable travel expenses except in cases where other provisions for reimbursement have been made by statute. In cases where actual expenses are claimed, all state officers and others so authorized will cooperate to the extent that all records of travel will be clear and complete. The request for reimbursement must be accompanied by a receipt or other supporting document for each item claimed, with the exceptions noted in Section VI.H. The "actual expense" status relates only to meal and lodging limitations. All other limitations, procedures, and allowances in these regulations apply to all elected and appointed state officials, unless exception has been granted by the Commissioner of Administration. Any prior exception granted is declared null and void.

IV. Authority to Incur Traveling Expenses:

A. All travel must be authorized and approved in writing by the head of the department, board, or commission from whose

funds the traveler is paid. A department head may delegate this authority in writing to one designated person, except as noted in Sections II.D, IV.D and V.B.6. Additional persons within a department may be designated with approval from the Commissioner of Administration. A file shall be maintained on all approved travel authorizations.

B. Traveling expenses of travelers shall be limited to those expenses necessarily incurred by them in the performance of a public purpose authorized by law to be performed by the agency, and must be within the limitations prescribed.

C. The department head may approve an authorization for routine travel for an employee who must travel in the course of performing his/her duties; this may include domicile travel if such is a regular and necessary part of the employee's duties, but not for attendance at infrequent or irregular meetings, etc. In such cases, the employee may be reimbursed for mileage only, in accordance with Section VI.A.1. An authorization for routine travel shall not cover travel between an employee's home and workplace, out-of-state travel, or travel to conferences or conventions and must be renewed each fiscal year.

D. All international travel must be approved by the Commissioner of Administration prior to departure, unless specific authority for approval has been delegated to a department head pursuant to Section II.C of these regulations. Requests for approval must be accompanied by a detailed account of expected expenditures (such as room rate/day, meals, local transportation, etc.), the funding source from which reimbursement will be made, and an assessment of the adequacy of this source to meet such expenditures without curtailing subsequent travel plans. Reimbursement for international travel will not exceed the high cost area rates unless prior approval is specifically sought and granted by the Commissioner of Administration. Such requests must be documented as to the necessity to incur such expenses. (See VI.I)

E. All special meals must have prior approval from the Commissioner of Administration in order to be reimbursed, unless specific authority for approval has been delegated to a department head for a period not to exceed six months (which may be rescinded at any time). In such cases, the department head will report on a monthly basis to the Commissioner of Administration all special meal reimbursements made during the previous month. These reports must include, for each special meal, the name and title of the person requesting reimbursement, the name and title of each recipient and the cost of each meal (noting alcohol costs not reimbursable), and an explanation as to why the meal was in the best interest of the state. Renewal of such delegation will depend upon a review of all special meals authorized and paid during the period. Documentation (all receipts, authorizations, etc.) shall be on file in the department head's office for review by DOA and the Legislative Auditor. Any prior approvals or understandings in this regard are not applicable. Requests to the Commissioner for special meal authorization must include, under signature of the department head:

1. Name and position of the state officer or employee requesting authority to incur expenses and assuming responsibility for such.

2. Clear justification of the necessity and appropriateness of the request, including why such is in the best interests of the state.

3. Names, official titles, and affiliations of all persons for whom reimbursement of meal expenses is being requested, and whether reimbursement for such is available to each person from another source.

4. Statement that reimbursement limitations found in Section VI.C.1 will be followed.

V. Transportation (Applicable to all travelers):

A. Travel Routes - The most direct and usually traveled

route must be used by official state travelers. All mileage shall be computed on the basis of odometer readings or from point of origin to point of return on the basis of the current official state Department of Transportation and Development highway map. For out-of-state travel, mileage shall be computed on the basis of standard highway guides. Any substantial deviations from distances shown in the standard highway guides shall be documented.

B. Method of Transportation - The most cost-effective method of transportation that will accomplish the purpose of the travel shall be selected. Among the factors to be considered should be length of travel time, cost of operation of a vehicle, cost and availability of common carrier services, etc.

1. State-owned vehicles shall be utilized for travel to points within Louisiana whenever possible unless another method of transportation can be documented as more efficient.

2. When common carrier services are unavailable and time is at a premium, travel via state aircraft shall be investigated, and such investigations shall be documented and readily available in the department's travel reimbursement files.

3. A common carrier (train, bus or airplane) shall be used for out-of-state travel unless it is documented that utilization of another method of travel is more cost-efficient or practical and approved in accordance with these regulations.

4. A personally-owned vehicle may be approved for use when a state vehicle or common carrier is not available or appropriate and this has been certified by the traveler's supervisor.

5. Before travel by privately-owned aircraft is authorized by a department head, the traveler shall certify that: a) at least one hour of working time will be saved by such travel; and b) no other form of transportation, such as commercial air travel or a state plane, will serve this same purpose. Chartering a privately-owned aircraft at any rates higher than those permitted by Section VI.A.7. must have prior written approval of the Commissioner of Administration.

6. Written approval of the department head prior to departure is required for the rental of vehicles. Such approval may be given when it is shown that vehicle rental is the only or most economical means by which the purposes of the trip can be accomplished. In each instance, documentation showing cost effectiveness of available options must be readily available in the department's travel reimbursement files. This authority shall not be delegated to any other person.

C. Operation of Motor Vehicles on Official State Business

1. No vehicle may be operated in violation of state or local laws. No traveler may operate a vehicle without having in his/her possession a valid state driver's license.

2. If available, safety restraints shall be used by the driver and passengers of vehicles.

3. All accidents, major and minor, shall be reported first to the local police department or appropriate law enforcement agency. An accident report form, available from the Office of Risk Management (ORM) of the Division of Administration, should be completed as soon as possible and returned to ORM, together with names and addresses of principals and witnesses. An accident report concerning state-owned vehicles shall also be filed with the insuring agency, Travelers Insurance Company, as soon as possible. The branch closest to the official domicile of the vehicle should be contacted. Any questions about this should be addressed to the Office of Risk Management of the Division of Administration. These reports shall be in addition to reporting the accident to the Department of Public Safety as required by law.

4. Unauthorized persons should not be transported in state or privately-owned vehicles during the conduction of official state business. Approval of exceptions to this policy may be made by the traveler's supervisor if he determines that the best interests

of the state will be served and if the passenger (or passenger's guardian) signs a statement acknowledging the fact that the state assumes no liability for any loss, injury, or death resulting from said travel.

D. State-owned Automobiles

1. All purchases made on state gasoline credit cards must be signed for by the approved traveler making the purchase. The license number and the unit price and quantity of the commodity purchases must be noted on the delivery ticket by the vendor. Items incidental to the operation of the vehicle may be purchased via state gasoline credit cards only when away from official domicile on travel status. In all instances where a credit card is used to purchase items or services which are incidental to the operation of a vehicle, the tissue copy of the credit ticket along with a written explanation of the reason for the purchase will be attached to the report required in Item 3 of this Section.

2. Travelers in state-owned automobiles who purchase needed repairs and equipment while on travel status shall make use of all fleet discount allowances and state bulk purchasing contracts where applicable. Each agency/department shall familiarize itself with the existence of such allowances and/or contracts and the location of vendors by contacting the Purchasing Office, Division of Administration.

3. The user of each state-owned automobile shall submit a monthly report to the department head, board, or commission indicating the number of miles traveled, odometer readings, credit card charges, dates, and places visited. When an agency car pool vehicle is used, the traveler, upon returning the vehicle to the pool, shall report the operating condition of the vehicle to the person designated as the responsible assigning officer.

4. State-owned vehicles may be taken out of state only if permission of the department head has been given prior to departure. If a state-owned vehicle is to be used to travel to a destination more than 500 miles from its usual location, documentation that this is the most cost-effective means of travel should be readily available in the department's travel reimbursement files.

E. Personally-Owned Vehicles

1. No personally-owned vehicle may be used on official state business unless prior written approval by the traveler's supervisor, conforming to Section IV.A. and IV.B., has been granted.

2. When two or more persons travel in the same personally-owned vehicle, only one charge will be allowed for the expense of the vehicle. The person claiming reimbursement shall report the names of the other passengers.

F. Rented Motor Vehicles

Department heads shall send to the Commissioner of Administration a monthly report listing each instance in which a vehicle has been rented and showing the name of the renter, the type of vehicle, the location where the vehicle was rented, the number of days of rental, the total expense, and the source of funds. Non-conformance with this provision will result in suspension of the department's authority to approve vehicle rental.

VI. Reimbursement for Transportation, Lodging, Meals, and Other Expenses

A. Transportation

1. A mileage allowance shall be authorized for travelers approved to use personally-owned vehicles while in the conduct of official state business. There will be no reimbursement for mileage incurred commuting to/from one's residence to his official domicile, unless previously mentioned exception has been granted. Mileage shall be reimbursable on the basis of 21¢ per mile. Mileage shall be computed as provided for in Section V.A. When the use of a privately-owned vehicle has been approved in accordance with Sections V.B.4. or V.B.5. for out-of-state travel, the traveler will be reimbursed on the basis of 21¢ per mile not to exceed the cost of travel by coach/economy class air rates. Reimbursement shall be

on the basis of the most direct route. The traveler shall be required to pay all operating expenses of the vehicle such as, but not limited to, fuel, repairs, replacement of parts and insurance.

2. Travelers using motor vehicles on official state business will be reimbursed for necessary storage and parking fees, ferry fares, and road and bridge tolls.

3. State-owned credit cards will not be issued to travelers for use in the operation of privately-owned vehicles.

4. In no case will a traveler be allowed mileage or transportation when he/she is gratuitously transported by another person.

5. When a traveler is required to regularly use his/her personally-owned vehicle for agency activities, the agency head may request authorization from the Commissioner of Administration for a lump sum allowance for transportation or reimbursement for transportation (mileage) as provided in Section VI.A.1. Request for lump sum allowance must be accompanied by a detailed account of routine travel listing exact mileage for each such route. Miscellaneous travel must be justified by at least a one-month travel history to include a complete mileage log for all travel incurred, showing all points traveled to or from and the exact mileage. Requests for lump sum allowance shall be granted for periods not to exceed one fiscal year.

6. Commercial air travel will be reimbursed only at coach or economy class rates. The difference between the air coach or economy class rates and first class air rates will be paid by the traveler, if the travel was performed at first class air rates. If space is not available in less than first class air accommodations in time to carry out the purpose of the travel, the traveler will secure a signed statement from the airline indicating this fact and attach such to the travel voucher.

7. Reimbursement for use of a privately-owned aircraft under the guidelines of Section V.B.5. will be made as provided for in VI.A.1. or the cost of coach/economy class commercial air rates, whichever is less.

B. Lodging and Meals

1. Meals only (including tips): Except as provided in Section II.D., travelers may be allowed up to the following amounts for meals:

Breakfast	\$4.00
Lunch	\$5.00
Dinner	\$9.00
	<hr/>
	\$18.00

2. Travelers may be reimbursed for meals according to the following schedule:

Breakfast: When travel begins at/or before 6 a.m. on the first day of travel, or extends beyond 9 a.m. on the last day of travel, and for any intervening days.

Lunch: When travel begins at/or before 10 a.m. on the first day of travel, or extends beyond 2 p.m. on the last day of travel, and for any intervening days.

Dinner: When travel begins at/or before 4 p.m. on the first day of travel, or extends beyond 8 p.m. on the last day of travel, and for any intervening days.

3. Lodging only - Except as provided in Section II.D., travelers may be reimbursed actual expenses for lodging not to exceed \$40 (plus tax) per day. Receipts from a bona fide hotel or motel for lodging shall be submitted and attached to the travel voucher.

C. Lodging and Meals in High Cost Areas

1. Meals only (including tips) - Except as provided in Section II.D., travelers on official state business in high cost areas as designated in Section VI.C.5., may be reimbursed up to the following amounts for meals, or \$26 per day, if receipts are attached.

Breakfast	\$5.00
Lunch	\$7.00
Dinner	\$14.00
	<hr/>
	\$26.00

If the request for reimbursement for meals is not over \$18.00 for a single day, receipts for that day will not be required. It is recommended that all employees in high cost and extra high cost areas who anticipate meal expenses of over \$18 per day make plans to receive receipts for all meals.

2. Travelers may be reimbursed for meals according to the same schedule as that in Section VI.B.2.

3. Lodging only - Except as provided in Section II.D., travelers may be reimbursed actual expenses for lodging not to exceed \$55 (plus tax) per day. Receipts from a bona fide hotel or motel for lodging shall be submitted and attached to the travel voucher.

4. High Cost Areas: Atlanta, Georgia; Baltimore, Maryland; Boston, Massachusetts; Chicago, Illinois; Dallas, Texas; Denver, Colorado; Detroit, Michigan; Houston, Texas; Las Vegas, Nevada; Los Angeles, California; Miami, Florida; Minneapolis-St. Paul, Minnesota; New Orleans, Louisiana; Orlando, Florida; Philadelphia, Pennsylvania; Pittsburgh, Pennsylvania; St. Louis, Missouri; Salt Lake City, Utah; San Francisco, California; Seattle, Washington.

5. The inclusion of suburbs of these cities as high cost areas shall be determined by the department head on a case-by-case basis.

D. Lodging and Meals in Extra High Cost Areas

1. Meals only (including tips): Except as provided in Section II.D., meals may be reimbursed in accordance with guidelines in Section VI.C.1,2.

2. Lodging only: Except as provided in Section II.D., employees may be reimbursed actual expenses for lodging not to exceed \$70 (plus tax) per day. Receipts from a bona fide hotel or motel for lodging shall be submitted and attached to the travel voucher. The traveler still has the responsibility to save the state money by seeking the least expensive, appropriate lodging; sharing rooms when appropriate; requesting government discounts; etc.

3. Extra-High Cost Areas: New York City, New York; Washington, D.C. (and immediate suburbs).

E. Other Expenses - Only the following expenses incidental to travel may be reimbursed.

1. Communication expense relative to official state business.

2. Conference room rental or other extraordinary expenses with prior approval from the Commissioner of Administration and when not funded from another source.

3. Registration fees at conferences (meals that are a designated integral part of the conference may be reimbursed on an actual expense basis with prior approval by the department head).

4. Charges for storage and handling of equipment.

5. Taxi and bus fares.

6. Tips (for baggage handling only).

7. Limousine services to and from terminals or stations, when a less expensive mode is not available.

8. Vehicle rental, when documented and approved as required in Section V.B.6.

(a) Only the cost of rental of sub-compact or compact models is reimbursable, unless non-availability is documented, or the vehicle will be used to transport more than three persons.

(b) Collision deductible waiver insurance is not reimbursable. Should a collision occur while on official state business, the cost of the deductible should be paid by the traveler and reimbursement claimed on a travel expense voucher. The accident should also be reported in accordance with Section V.C.3. Person-

al accident insurance when renting a vehicle is not reimbursable; employees are covered under workmen's compensation while on official state business.

(c) Any personal mileage on a vehicle rented for official state business is not reimbursable and shall be deducted.

F. Special Meals - All of the following must be submitted for review and approval of the department head or his designee prior to reimbursement:

1. Detailed breakdown of all expenses incurred, with appropriate receipt(s).

2. Subtraction of costs for any alcoholic beverages.

3. Copy of prior written approval from the Commissioner of Administration (Section IV.E.4).

4. Reimbursement shall be limited to the amounts indicated in Section VI.C.1.

G. Restrictions Governing Claims for Reimbursement

1. Travel allowances shall not be granted for travel accomplished on Saturday, Sunday, or holidays unless approved in writing by the head of the department or his designee. (Approval and justification must be readily available in the department's reimbursement file.)

2. No claim for reimbursement shall be made for any lodging and/or meals furnished at a state institution or other state agency, or by any other party at no cost.

3. In case an employee travels by an indirect route for his/her own convenience (including when travel by automobile instead of by available aircraft incurs additional food and/or lodging expenses), any extra cost shall be borne by the traveler and reimbursement for expenses shall be based only on such charges as would have been incurred by the most direct and usually traveled route and method.

4. Items included in any expense account which do not fully conform to these regulations will be disallowed for payment.

5. In all cases where lodging expenses are incurred, the traveler shall utilize the most economical rooms available, considering such factors as the availability and cost of transportation to the site where state business will be conducted, availability of special discount rates, and cost savings obtainable by sharing rooms.

6. Request for exceptions to the lodging rate regulations must include the names, phone numbers, and lowest available rates of at least two other nearby hotels contacted. If this is not possible, the request should explain why.

H. Receipts or Other Support - Receipts or other substantiations are required for travel expenses, except for the following:

1. Taxicab or local public transportation less than \$10.

2. Routine meals (number of meals must be shown on travel voucher) under a total of \$18 per day. Receipts are required for meals in high cost areas unless the total expenditure for the day does not exceed \$18. If meals of state officials exceed this same limitation, receipts are required. All special meals require receipts.

3. Telephone and telegraph under \$3.

4. Tips for baggage handling.

5. Parking at self-service lots when less than \$5. The location of the lot and length of time parked must be indicated on the travel voucher in these cases.

I. Reimbursement for International Travel - International travelers will be reimbursed at the high-cost area rates for lodging and meal pursuant to Sections VI.C.1 and C.3 unless the necessity for incurring higher expenses is fully documented and approved by the Commissioner of Administration prior to departure. Receipts or other substantiation are required for all travel expenses (with the exceptions noted in Section VI.H) by all international travelers requesting reimbursement.

VII. General - The traveler is expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business.

A. Funds for Travel Expense - Persons traveling on official business will provide themselves with sufficient funds for all routine expenses. Advances of funds for travel shall be made only for extraordinary travel and should be punctually repaid when submitting the travel voucher covering the related travel, not later than the fifteenth day of the month following the completion of travel.

B. State Agency Credit Cards - Credit cards used in the name of the state agency are not to be used for the purpose of securing transportation, lodging, meals, or telephone and telegraph service, unless prior written permission has been obtained from the Commissioner of Administration.

C. Claims - All claims for reimbursement for travel shall be submitted on state Form BA-12, unless exception has been granted, and shall include all details provided for on the form. It must be signed by the person claiming reimbursement and approved by his/her immediate supervisor. The purpose for extra and unusual travel must be stated in the space provided on the front of the form. In all cases the date and hour of departure from and return to domicile must be shown.

Excepting where the cost of air transportation is invoiced directly to the agency/department, all expenses incurred on any official trip shall be paid by the traveler and his travel voucher shall show all such expenses in detail to the end that the total cost of the trip shall be reflected by the travel voucher. If the cost of the air transportation is paid directly by the agency/department, a notation will be indicated on the travel voucher indicating the date of travel, destination, amount, and the fact that it has been paid by the agency/department. The traveler's copy of the passenger ticket shall be attached to the travel voucher.

In all cases, and under any travel status, cost of meals and lodging shall be paid by the traveler and claimed on the travel voucher for reimbursement, and not charged to the state department.

Claims should be submitted within the month following the travel, but preferably held until a reimbursement of at least \$10 is due. In no case shall reimbursement for travel in a previous fiscal year be possible unless funds have been specifically reserved for that purpose.

D. Extended Stays - For travel assignment involving duty for extended periods at a fixed location, the reimbursement rates indicated should be adjusted downward whenever possible. Care should be exercised to prevent allowing rates in excess of those required to meet the necessary authorized subsistence expenses. It is the responsibility of each agency head to authorize only such travel allowances as are justified by the circumstances affecting the travel. The rates authorized will not exceed the reimbursable allowance stated herein, unless special approval is granted by the Commissioner of Administration.

E. Emergency Travel - Under extraordinary circumstances where the best interests of the state require that travel be undertaken not in compliance with these regulations, approval after the fact may be given if appropriate documentation is presented promptly. Each department shall establish internal procedures for authorizing travel in emergency situations.

F. Authorized Persons - Reimbursement of expenses for travel to be performed by authorized persons who are called upon to contribute time and service as defined in Section I.C. or who are requesting reimbursement in excess of state employee allowances shall require prior written approval from the Commissioner of Administration. Complete explanation and DOA approval must be shown on the travel expense form or attached thereto.

G. Fraudulent Claims - Any person who submits a claim pursuant to the aforementioned regulations, and who willfully makes and subscribes to any claim which he/she does not believe to be true and correct as to every material matter, or who willfully aids or assists in, or procures, counsels or advises the preparation

or presentation of a claim which is fraudulent or is false as to any material matter shall be guilty of official misconduct. Whoever shall receive an allowance or reimbursement by means of a false claim shall be subject to immediate dismissal, as well as being criminally and civilly liable within the provisions of state law.

VIII. The Commissioner of Administration may waive in writing any provision in these regulations when the best interest of the state will be served.

Interested persons may submit written comments on the proposed amendments to the regulations until 4:30 p.m. on August 5, 1982 to: Wayne E. Grant, Assistant Commissioner, Division of Administration, Box 44095, Capitol Station, Baton Rouge, LA 70804.

E. L. Henry
Commissioner of Administration

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: PPM 49 (Revised)**

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

The proposed changes will greatly reduce the number of requests for exceptions submitted to the Commissioner's office. Since these requests are being handled by existing staff in addition to regularly assigned duties, no staff reduction is anticipated.

The DOA will be an "affected agency" (see Section III) as all other departments in the executive branch and/or under Title 39.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

None.

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

The proposed changes will benefit affected groups by reducing the number of requests for exceptions to the regulations that they must submit to the DOA.

If the current level of travel is maintained, the proposed regulations could require an additional \$1,200,000 for travel reimbursements. Contrarily, if the current funding level for travel is maintained, the proposed change in reimbursements could mandate a decrease of the number of meals and lodging paid for by the State.

It is estimated that lodging expenses will not be significantly increased because exceptions as necessary are already being approved, but at the very maximum the number of nights of lodging in low-cost areas would have to be reduced by 12.5 percent. Increase in meal reimbursement rates could force a decrease in the number of meals approved in low-cost areas by a maximum of 17 percent.

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

None.

Wayne Grant
Assistant Commissioner

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Human Resources, Office of Family Security proposes to increase the maximum allowable

monthly income limit for long term care eligibility for an individual from \$794.10 to \$852.90. For a couple occupying the same room in a long term care facility, the double rate of \$1,705.80 would apply.

This increase will allow the Medical Assistance Program to be in compliance with federal regulation 42 CFR 435.1005 which sets the maximum income limit, before deductions, at 300 percent of the Supplemental Security Income (SSI) payment amount.

Effective July 1, 1982 the monthly SSI payment was increased to \$284.30.

Interested persons may submit written comments through August 4, 1982, at the following address: R. K. Banks, Acting Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, Louisiana 70804. He is the person responsible for responding to inquiries about this proposed Rule.

Roger P. Guissinger
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Maximum Income Limit (CAP Rate) Increase

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

The estimated implementation costs are \$64,346 for FY 82-83 and \$70,195 for FY 83-84. The sources of funding for implementing the proposed action for FY 82-83 are \$22,946 state funds and \$41,400 federal funds and for FY 83-84, \$25,326 state funds and \$44,869 federal funds. The necessary funds for implementing the proposed action were included in the budget request for FY 82-83.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

No effect on revenue collections is anticipated as a result of the proposed actions.

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

The long term care applicant/recipient with an income below the proposed maximum allowable monthly income limit would be financially eligible for long term care services.

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

No effect on competition and employment is anticipated.

R. K. Banks
Acting Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

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

Whereas the statistical evaluation of the bacteriological analyses of a recent sanitary survey completed in May of 1982 revealed the water quality of East Pass, West Pass, and the Calcasieu Ship Channel to be substandard and failed to meet State/Federal Guidelines governing shellfish harvesting waters, effective September 1, 1982 the Department of Health and Human Resources, Office of Health Services and Environmental Quality proposes to close East Pass, West Pass, and the Calcasieu Ship Channel in Cameron Parish, Louisiana to shellfish harvesting.

Specifically, this area is located in lower Cameron Parish, Louisiana (Map Reference U.S. Department of Commerce NOAA Nautical Chart 11347).

Calcasieu Ship Channel - The Calcasieu Ship Channel from its intersection at the Gulf of Mexico at a point 29°45'30" north latitude and 93°20'35" west longitude to the junction of the

Intercoastal Waterway at a point 30°45'30" north latitude and 93°19'25" west longitude is closed in its entirety from the east bank to the west bank and throughout the described length.

East Pass - This area is closed in its entirety from the intersection of East Pass and the Calcasieu Ship Channel at a point 29°49'12" north latitude and 93°20'55" west longitude to the intersection of East Pass and Calcasieu Lake east of St. John's Island at a point 29°50'25" north latitude and 93°19'45" west longitude.

West Pass - West Pass in its entirety is closed from the intersection with the Calcasieu Ship Channel at a point 29°49'10" north latitude and 93°18'30" west longitude to the intersection of West Pass and West Cove at a point 29°49'30" north latitude and 92°20'30" west longitude.

All areas within the areas described above and/or shown on the enclosed map are closed to shellfish harvesting as of September 1, 1982.

Roger P. Guissinger
Secretary

ORDER OF CLOSURE Shellfish Harvesting Waters

West Pass, East Pass, and the Calcasieu
Ship Channel Lower Cameron Parish

Reference LA R.S. 40:3,5

The Department of Health and Human Resources, office of Health Services and Environmental Quality hereby orders that the areas described below are closed to shellfish harvesting effective September 1, 1982:

Calcasieu Ship Channel

The Calcasieu Ship Channel from its intersection with the Gulf of Mexico at a point 29°45'30" north latitude and 93°20'35" west longitude to its junction with the Intercoastal Waterway at a point 30°45'30" north latitude and 93°19'25" west longitude; this closure includes the entire channel from the east bank to the west bank of the channel.

East Pass

East Pass in its entirety from the junction of East Pass and the Calcasieu Ship Channel at a point 29°49'12" north latitude and 93°20'55" west longitude to the intersection of East Pass and Calcasieu Lake at a point 29°19'45" north latitude and 93°19'45" west longitude.

West Pass

West Pass in its entirety from the junction of West Pass and the Calcasieu Ship Channel at a point 29°49'10" north latitude and 93°18'30" west longitude to the intersection of West Pass and West Cove at a point 29°49'30" north latitude and 93°20'30" west longitude.

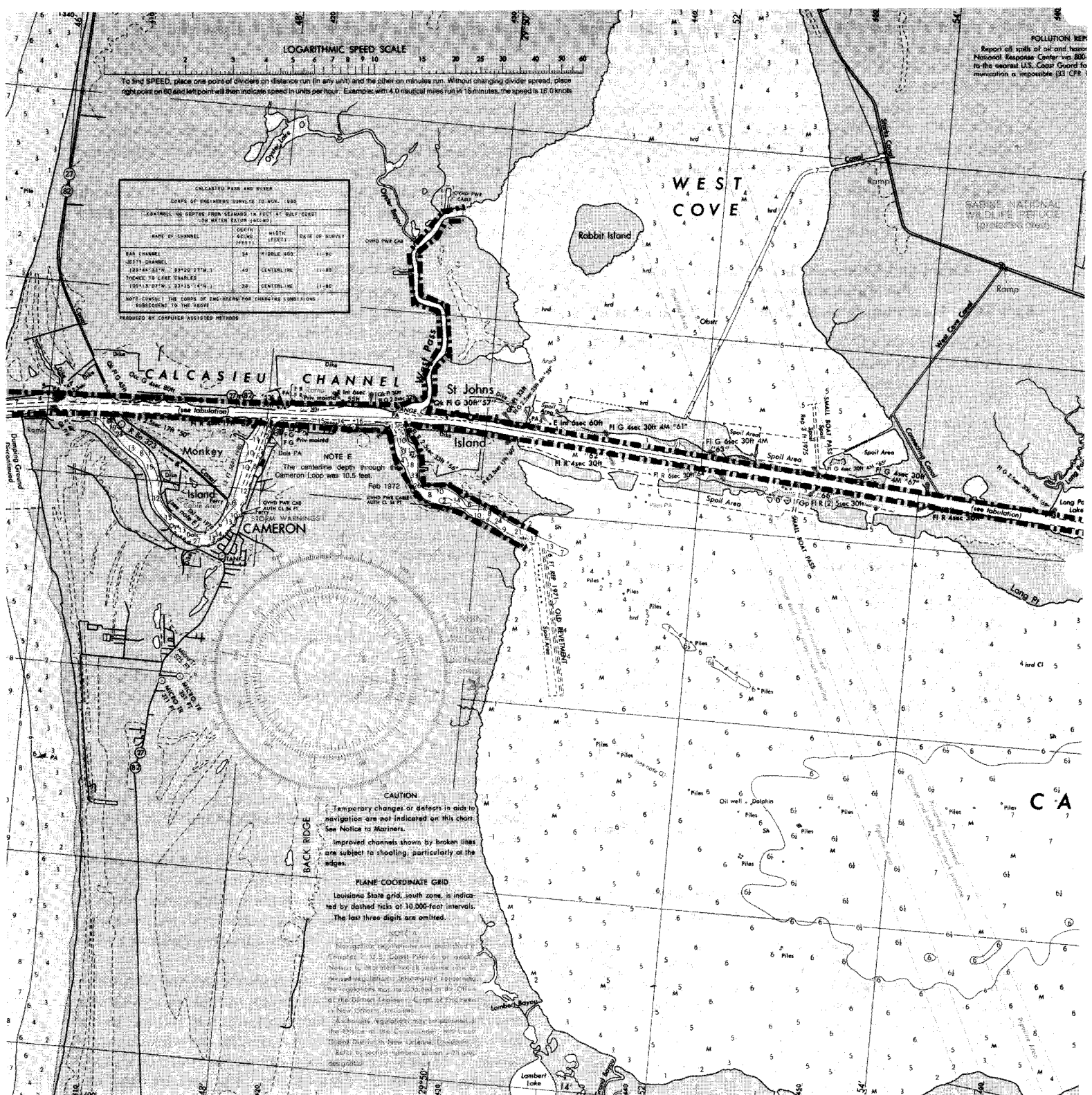
All areas within the described areas and/or shown on the enclosed map are closed to shellfish harvesting.

Statistical evaluation of a recent sanitary survey revealed that the water quality of these areas described above is substandard and failed to meet State/Federal guidelines governing shellfish harvesting waters.

More specifically these standards require that all shellfish harvesting waters whose bacteriological quality has exceeded a fecal coliform median of 14 fecal coliforms per 100 ml. and of which more than 10 percent of the samples ordinarily exceed a median of 43 fecal coliforms per 100 ml. be closed to shellfish harvesting. Additionally, the area may be so contaminated with fecal material that consumption of the shellfish may be hazardous.

So ordered the first day of September, 1982.

Sarah M. Braud, M.D.
State Health Officer and
Acting Assistant Secretary
Roger P. Guissinger
Secretary



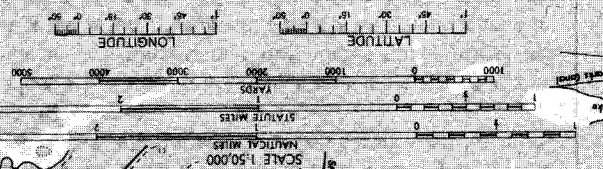
POLLUTION REPORT
Report all spills of oil and hazardous materials to the nearest U.S. Coast Guard or municipality as appropriate. (33 CFR 157.10)

SABINE NATIONAL WILDLIFE REFUGE
(201000010000)

CA



NOTE 8
 Regulations for Ocean Dumping shall be
 obtained in 40 CFR Parts 220-228. Additional
 information concerning the regulations and
 requirements for use of this area may be ob-
 tained from Environmental Protection Agency
 (EPA). See U.S. Coast Pilot's appendix for
 addresses of EPA offices.



CAUTION
 One more instance has been ob-
 served for surface ice. Limitations on the use of
 Great Lakes and Canada Shipping
 Agency (Hazardous/Toxicity) Center
 Publication (TP 14-B)
 Radio direction-finder bearings to com-
 mercial stations are subject to error
 and should be used with caution.
 Station positions are shown in this
 publication.

CAUTION
 SUBMERGED PIPELINES AND CABLES
 A section of the pipe submerged
 in water has been reported
 in the vicinity of the
 cables, may exist in the vicinity of
 well structures and between well
 lines and the surface. Mariners should
 use caution when anchoring, dragging or
 fishing. Covered water may be marked by
 hand or unmarked buoy.

CAUTION
 The tower, outside the observation zone,
 is located at west bearing 270 degrees and
 1.5 miles. The tower is situated in
 shallow water and is well exposed.
 Mariners should use caution when
 navigating in this area.

ADVIS TO NAVIGATION
 Consult U.S. Coast Guard Light List for
 supplemental information concerning aids to
 navigation.

ADVIS TO NAVIGATION
 Radar reflectors have been placed on many
 floating aids to navigation. Individual radar
 reflector identification on these aids has been
 omitted from this chart.

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**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Oyster Bed Closure**

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

There are no additional costs or savings to the Office of Health Services and Environmental Quality in administrative costs. No additional costs (i.e. enforcement, patrol, etc.) to Department of Wildlife and Fisheries are projected inasmuch as enforcement agents of that Department routinely patrol the affected area.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

No effects on revenue collections by DHHR are projected as a result of this action. A reduction of \$480 in severance tax collections by the Louisiana Department of Wildlife and Fisheries is projected during the year based on a 3.0¢ tax per barrel for an estimated 16,000 barrels.

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

This action will assure the general public that Louisiana shellfish are being harvested from only certified growing waters and public grounds. The projected loss of income to oyster fisherman who would normally be expected to work the affected areas is estimated at approximately \$256,000, based on 32,000 sacks at \$8 per sack. However, it should be noted that affected fishermen will be able to work other open areas. At the intermediate processor level, an additional loss of \$96,000 is projected based on a cost differential of \$3 (i.e. \$8/sack harvested cost; \$11/sack at intermediate processing point), if production from closed areas were not replaced by harvest from other beds. The affected areas are all state public grounds; therefore, no impact related to leasing of shellfish water bottoms will result.

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

As a result of shortfall in production in the area, a nominal increase in oyster shellstock prices may result due to a lessened competition in the market place.

Sarah M. Braud, M.D.
State Health Officer

Richard W. England
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Human Resources
Office of Licensing and Regulation**

The Department of Health and Human Resources, Office of Licensing and Regulation, proposes to adopt a Rule to implement the following new policies and guidelines for Section 1122 Capital Expenditure Review in accordance with 42 CFR, Part 100.106 (a) 1. (38 FR 31381, November 13, 1973, as amended at 39 FR 32030, September 4, 1974)

INTRODUCTION

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

DEFINITIONS

1. Certificate of Need: Louisiana conducts certificate of need reviews in accordance with Section 1122 of the Social Secur-

ity Act, as amended. This process is required of health care facilities in order to receive full reimbursement under the Medicare and Medicaid Programs. (This should not be confused with state legislated certificate of need programs which Louisiana, at present, does not have enacted.)

2. Division of Health Planning and Development (DHPD): the state agency designated to carry out in Louisiana the provisions of Section 1122 and P. L. 93-641, as amended by P. L. 96-79.

3. Division of Licensing and Certification: that Division of the Department of Health and Human Resources charged with the responsibility of carrying out licensure and certification functions for the state of Louisiana.

4. Hospital: an institution which is engaged in providing to inpatients or to inpatients and outpatients by or under the supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment and care of injured, disabled, sick or pregnant persons, rehabilitation services for the rehabilitation of injured disabled; sick or pregnant persons; such term does include chronic care hospitals, but does not include psychiatric and tuberculosis hospitals.

5. Psychiatric hospital: an institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons.

6. Tuberculosis hospital: an institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, medical services for the diagnosis and treatment of tuberculosis.

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

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

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

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

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

12. Emergency: means an unforeseen occurrence, condition or mischance or perplexing contingency or complication of circumstances bringing with it destruction or injury of life or property (movable and immovable) or the imminent threat of such destruction or injury or as the result of an order from any judicial body having jurisdiction therein to take any immediate action which requires construction, repair or acquisition of property or equipment, where the unforeseen occurrence, condition or mischance or perplexing contingency or complication of circumstances or court order will not permit a health care facility the time necessary for an application for full review under Section 1122. Prior to submitting a request for an election not to review, the Board of Directors or other governing body of the health care facility shall adopt a resolution approved by two-thirds of the members of said governing body formally declaring an emergency for purposes of submitting the request to DHPD for an election not to review.

REVIEWING AGENCIES

Division of Health Planning and Development
333 Laurel Street, Room 210
Baton Rouge, LA 70801

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

RESPONSIBLE AGENCY

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

FACILITIES INCLUDED

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

EXPENDITURES SUBJECT TO REVIEW

Capital expenditures covered are those which are not properly chargeable as expenses of operation and maintenance and which either

(1) exceed \$100,000

OR

(2) change the bed capacity of the facility

OR

(3) substantially change the services of the facility.

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

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

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

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

EFFECTIVE DATE

Any capital expenditure for which the obligation is incurred by or on behalf of a health care facility after December 31, 1972 is subject to review under these provisions.

EXCLUSIONS

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

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

PRE-APPLICATION CONFERENCE

Anytime prior to submitting an application for review or a

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

ELECTION NOT TO REVIEW

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

1. Renovations to meet Life Safety Codes.
2. Capital expenditures for emergency situations.
3. Replacement or modification of equipment up to \$1,000,000.

An applicant proposing a capital expenditure by or on behalf of a health care facility, which expenditure may qualify for election not to review according to the above criteria, must submit in writing to DHPD a request for an elect not to review. After examining the information contained in such request, and any additional information DHPD may request, a determination will be made by DHPD whether or not to elect not to review the proposed expenditure. If DHPD elects not to review the proposed project, all required notifications will contain written reasons for DHPD's determination of election not to review. If DHPD determines that such proposal shall require full or expedited review, the applicant will be notified of such decision and will be supplied with appropriated application forms to provide information adequate for such review of the proposal.

EXPEDITED REVIEW

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

1. Replacement of equipment with an expenditure in excess of \$1,000,000.
2. Sale or lease of an existing facility with no change in services or beds.
3. Renovation of an existing facility up to \$500,000 that does not result in a change in existing services or beds.
4. Addition of a new service in an existing facility that will not exceed \$300,000.
5. A change of 10 licensed beds or 10 percent over a two year period.
6. A cost overrun on an initially approved project.
7. Addition of non-medical equipment.

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

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

REVIEW PROCEDURES

A. Notification Procedures

1. Any person, agency, organization or health care facility which proposes to make a capital expenditure subject to review under the provisions of Section 1122 of the Social Security Act

should submit in writing to DHPD a request for such review. At any time during the review procedure should the contact person for the project change, it is incumbent upon the applicant to notify DHPD of such a change.

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

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

- a. The project will require full review, or
- b. The project will require an expedited review, or
- c. The project is subject to elect not to review.

4. In the case of a full review being required:

a. DHPD will forward to the proponent a questionnaire and a list of those documents which will be considered in the review;

b. The applicant shall submit the application in triplicate to Division of Health Planning and Development.

c. The staff of the DHPD shall review the application for completeness within 15 calendar days from date application is received by DHPD. If DHPD fails to mail within such period a written notice advising the applicant that the application is complete or additional information is needed, the application shall be deemed to be complete for the purpose of determining the period of review. Failure of the applicant to respond and provide the information requested within 90 days shall be considered withdrawal of the application; and

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

B. Review Procedures

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

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

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

4. In the case of applications being subjected to a full review as opposed to an election not to review or expedited review, on the third Wednesday of each month at 10 a.m., the Director of the Division of Health Planning and Development will conduct a public hearing at Division headquarters. The purpose of this hearing will be to receive written (in duplicate) and oral comments on applications having been declared complete by the Division 15 days prior to the hearing date. Oral presentations will be limited to an amount of time to be specified by the individual in charge of the hearing at the time of the hearing. The same amount

of time will be allowed to those in favor and those opposed to the application. Comments will be accepted on only those applications which have not previously been reviewed at public hearing.

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

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

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

a. Such capital expenditure has been determined to be in conformity with the criteria, standards and plans; or

b. Such capital expenditure has been determined not to be in conformity with the criteria, standards and plans; or

c. The failure of the DHPD to provide any such notification within the time limitations set forth below, shall have an effect of a determination by the DHPD that the capital expenditure is in conformity. This step shall be completed not more than 90 days after the date DHPD has received completed application unless the applicant has indicated an earlier date for obligation of expenditure. (However, a minimum of 60 days from the date DHPD considers the application complete must be allotted for completion of the review. At an applicant's request or concurrence, the review period may be for a longer period of time as agreed.)

Notification in accordance with federal interpretation is deemed to be given upon the date of mailing of such notification by DHPD.

8. Copies of the findings of the DHPD shall also be sent to the other reviewing agencies, and shall be publicized through local newspapers and public information channels in the form of a press release.

C. EXPEDITED REVIEW PROCEDURES

1. In the case of a decision by DHPD to conduct an expedited review, DHPD shall notify the applicant of its decision and forward to the applicant an application which shall be completed and returned to DHPD in duplicate.

2. When DHPD determines that the application is complete, DHPD shall notify the applicant in writing that the period for review has begun. The review period shall not exceed 30 days from date of receipt of the application if it is declared complete. Or, in the case of an incomplete application, the period for review will not exceed 30 days from the date of receipt of the additional information (if it is determined the additional information completes the application) unless the applicant agrees to a longer period of time.

3. If additional information is submitted after the review period has begun, DHPD will again confer and deem the application information complete or incomplete. If the additional information is allowed, the timetable must be adjusted so that DHPD has 30 days for project review after the receipt of the additional or new information.

4. When the application is determined complete by the DHPD, the DHPD shall issue a press release of its receipt of the completed application through local newspapers and public information channels. Publications to be used in required press releases should include the state journal, the major urban newspaper in the affected area, and the local newspaper in the impacted

service area of the projects as specified by the applicant.

5. The DHPD, after having reviewed the application, shall provide written notification to the proponent that:

- a. Such capital expenditures have been determined to be in conformity with the criteria, standards and plans;
- b. Such capital expenditure has been determined not to be in conformity with the criteria, standards and plans; or
- c. The failure of the DHPD to provide any such notification within the time limitations set forth below, shall have an effect of a determination by the DHPD that the capital expenditure is in conformity. This step shall be completed not more than 30 days after the date DHPD has received the completed application unless at an applicant's request or concurrence, the review period may be for a longer period of time as agreed.

Notification in accordance with federal interpretation is deemed to be given upon the date of mailing of such notification by DHPD.

6. Copies of the findings and recommendations of the DHPD shall also be publicized through local newspapers and public information channels.

D. Appeal Procedures

In the case of a negative finding, a fair hearing will be offered to the applicant to determine whether the proposed expenditure is consistent with the standards, criteria and plans specified in the applicable statutes. The correctness, completeness, adequacy or appropriateness of the standards, criteria, and plans against which the proposed expenditure was measured are *not* appealable, although the question of DHPD's adherence to its procedures as outlined in the federal regulations and State Health Plan and these policies may be considered. The applicant may introduce evidence and argument on the issue of whether exclusion of expenses related to the proposed expenditure would discourage the operation or expansion of the facility or organization or would discourage the operation or expansion of the facility or organization otherwise be inconsistent with the effective organization or delivery of health services or the effective administration of Titles XVIII and XIX. Whether a proposed capital expenditure is subject to review under Section 1122 will not be a question in the fair hearing. The applicant is encouraged to retain counsel for this process.

1. Should the applicant wish to appeal, he must respond in writing to DHPD not more than 30 days after the date of notification of disapproval requesting a fair hearing on his case or he forfeits his right of appeal. The hearing must begin within 30 days after receipt of the request or later at the option of the applicant. If the applicant requests an extension beyond the required 30 day time frame, the hearing must be finalized not later than six months after the date of the original request for a fair hearing or the decision of DHPD will be considered upheld.

2. DHPD will notify the Hearing Officer who is responsible for conducting the appeal. He will select a hearing date and notify all parties.

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

4. The applicant is required to notify the hearing officer in writing at least 10 days in advance of those witnesses whom he wishes to be subpoenaed.

5. As soon as possible, but not later than 45 days after the conclusion of the hearing, the hearing officer will notify the applicant, DHPD and Regional Health Administrator ("DHHS") of the appeal decision. Notification in accordance with federal interpretation is deemed to be given upon the date of mailing of such notification by DHPD. The exclusive options available to the hearing officer are as follows:

- a. uphold the DHPD recommendation.
- b. overturn the DHPD recommendation.
- c. modify the DHPD recommendation.

6. DHPD will issue a press release of the appeal decision.
RECONSIDERATION BY DHPD

In any case in which the secretary of the United States Department of Health and Human Services has determined pursuant to a finding by DHPD that a proposed capital expenditure is not in conformity with the standards, criteria or plans and that costs related to such capital expenditure shall not be included in determining Federal reimbursement, the health care facility shall be entitled upon its request to DHPD in the form of revised applications as required in original submission procedures, to a reconsideration by DHPD of such finding whenever:

- a. there has been a substantial change (since the previous DHPD finding) in existing or proposed health facilities or services, of the type proposed, in the area served; or
- b. there has been a substantial change (since the previous DHPD finding) in the need for health facilities or services, of the type proposed, in the area served, as reflected in the plans, criteria or standards (see Criteria for Section 1122 Reviews); or
- c. at least three years have elapsed from the date of the most recent negative finding of DHPD.

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

EVIDENCE OF OBLIGATION: TERMINATION OF APPROVAL

Evidence of obligation to make the capital expenditure must be received by DHPD within one year after approval of the project, or the approval will expire. As provided in the regulation, the one year approval period may be extended for up to six months at the discretion of DHPD upon showing one of the following conditions exist:

- a. Delays caused by review bodies beyond control of the applicant. This includes delays caused in the process of obtaining financing due to excessive interest rates substantially greater than those projected in the application.
- b. An extension may be granted at the discretion of the designated planning agency when refusal of an extension would be detrimental to the best interest of the community involved.

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

- a. When an enforceable contract is entered into by such facility or organization or by a person proposing such capital expenditure on behalf of such facility or organization for the construction, acquisition, lease or financing of a capital asset; or
- b. Upon formal internal commitment of funds by such facility or organization for a force account expenditure which constitutes a capital expenditure; or
- c. In the case of donated property, the date on which the gift is completed in accordance with applicable Louisiana law.

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

- a. In the case of a construction contract, such document must be duly executed by the appropriate parties and filed with DHPD.
- b. In the case of a purchase or lease arrangement, a purch-

ase or lease agreement signed by lessor and lessee must be submitted.

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

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

EFFECT OF NEGATIVE RECOMMENDATION

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

EFFECT OF FAILURE TO GIVE TIMELY NOTICE OF PROPOSED EXPENDITURE

When DHPD has good cause to believe that an obligation for a capital expenditure has been incurred by or on behalf of a health care facility and that timely notice of at least 60 days was not provided, DHPD shall send written notification to such health care facility, the secretary and all other agencies deemed appropriate by DHPD of a proposed finding that an obligation for a capital expenditure subject to review has been incurred and that timely notice was not provided. Procedures for processing such a finding shall be according to Section 100.108 (a) of the Regulations, and the policy on lack of timely notice as published in the *Federal Register* on January 26, 1977, Vol. 42, No. 17, and on December 16, 1981, Vol. 46, No. 241.

CRITERIA FOR SECTION 1122 REVIEWS

In making recommendations concerning projects reviewed under Section 1122 of the Social Security Act, the review body or agency at each level designated in the review process shall consider, but not be limited to, the following criteria, as required under P.L. 93-641 and 96-79 and implementing Rules and Regulations:

I. The relationship of the health services being reviewed to the applicable Health Systems Plan, Annual Implementation Plan and the State Health Plan.

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

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

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

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

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

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

3. Comparison of service area bed ratio with other health

service areas in the state and other relevant areas.

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

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

C. Measures of utilization of existing facilities and services:

1. Admission rates per 1,000 persons.

2. Occupancy rate: Average Daily Census

Number of beds

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

Annual Admissions

4. Other appropriate utilization material.

D. Projections of utilization.

E. A delineation of the proposed service area.

F. Various projections of bed need.

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

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

A. Potential availability of such services.

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

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

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

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

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

The DHPD will review, but not be limited to, the following information regarding health care staffing:

A. Physicians

a. Availability in the service area

b. Projected availability in the service area

B. Nursing Personnel

a. Availability in the service area

b. Projected availability in the service area

c. Adequacy of proposed staffing according to required standards

C. Management and Other Personnel

a. Availability in the service area

b. Projected availability for the proposal

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

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

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

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

XII. In the case of a construction project —

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

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

XIII. In the case of a new facility the applicant must specify the specific site where the facility will be located and must present evidence of ownership or option to acquire such site.

XIV. The extent of cooperation with other facilities in the area; and

XV. Support of the project by the local community, including health related agencies and professional organizations.

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

In the review of proposed expenditures for new facilities or services, the following general criteria also will be considered:

1. Need
2. Accessibility
3. Availability
4. Financial Feasibility
5. Cost

DATA SOURCES USED IN REVIEWS

Data sources to be used in considerations of full reviews, expedited reviews and election not to reviews shall include, but not be limited to, the following:

A. Information compiled by the DHPD Bureau of Research and Information as published on a quarterly basis.

B. Population projections recognized by the State Planning Office as official projections to be used by DHPD in the conduct of its reviews.

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

Notification of intent to make a capital expenditure subject to Section 1122 review should be addressed to DHPD at the address set forth below. Also, questions in regard to applicability of Section 1122 to proposed expenditures or in regard to statewide review policies and procedures should be directed to DHPD.

For assistance in preparing Section 1122 applications contact the Division of Health Planning and Development, 333 Laurel Street, Room 210, Baton Rouge, LA 70801 (Phone: 504/342-2001).

In accordance with the provisions of R.S. 49:951 et. seq., the Department of Health and Human Resources, Office of Licensing and Regulation, will hold a public hearing at 9 a.m., Tuesday, August 4, 1982 at 333 Laurel Street, Second Floor Conference Room, Baton Rouge, LA regarding the proposed adoption of the above policy.

Any interested person may submit written comments through August 5, 1982 to Jim Harris, Assistant Secretary, Office of Licensing and Regulation, 333 Laurel Street, Room 210, Baton Rouge, LA 70801 regarding the proposed adoption of the above policy.

Roger P. Guissinger
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Section 1122 Capital Expenditure Review

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

No anticipated fiscal impact to agency. It is assumed

that no additional staff will be required by the Division of Health Planning and Development.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

None.

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

The review process will be easier and shorter for the applicant. At this point, it is impossible to assess the impact of this change on the effectiveness of the review process and on the resulting growth in health care facilities and services, whether needed or unneeded.

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

It is difficult to assess the impact of this change on competition and employment. The Division of Health Planning and Development will continue to have authority to approve and disapprove health care facility expansion.

Jim Harris
Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Human Resources Office of the Secretary

The Louisiana Department of Health and Human Resources proposes to apply for the Low Income Home Energy Assistance Program (LIHEAP) Block Grant federal funding for fiscal year 1982-83. The Department will continue to administer this program under Block Grant federal funding in accordance with provisions set forth in Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, and federal regulations as published in the *Federal Register*, Vol. 46, No. 190, Thursday, October 1, 1981, pp. 48582-48598.

The Department of Health and Human Resources, Office of Family Security, is responsible for administration of the Low Income Home Energy Assistance Program. This program will assist AFDC, SSI, Food Stamps, VA and other low income households with the rising cost of home energy. Interested persons may review a copy of the proposed application at any Office of Family Security or by requesting one in writing from R. K. Banks, Acting Assistant Secretary, Box 44065, Baton Rouge, LA 70804. The application/proposal for the Low Income Home Energy Assistance Block Grant may also be obtained by contacting the Governor's TIE LINE, Box 44004, Capitol Station, Baton Rouge, LA 70804, Phone: 1-800-272-9868.

Public hearings on the Low Income Home Energy Assistance Program application/proposal are scheduled as follows:

(1) Friday, August 6, 1982 at 9:30 a.m. at the Insurance Rating Office, 950 North 5th Street, Plaza Floor Hearing Room, Baton Rouge, LA.

(2) Monday, August 9, 1982, at 1:00 p.m. at the State Office Building, 122 St. John Street, Room 242, Monroe, LA.

(3) Tuesday, August 10, 1982, at 9:30 a.m. at the State Office Building, Room 205, 1525 Fairfield Avenue, Shreveport, LA.

(4) Wednesday, August 11, 1982, at 9:30 a.m. at the State Office Building, 2nd Floor Conference Room, 900 Murray St., Alexandria, LA.

(5) Thursday, August 12, 1982, at 9:30 a.m. at the Calcasieu Parish Health Unit Auditorium, 721 Prien Lake Road, Corner of Kirkman and Prien Lake Road, Lake Charles, LA.

(6) Friday, August 13, 1982, at 9:30 a.m. at the Orleans Office of Family Security Building, 2nd Floor Auditorium, 2601

Tulane Avenue, New Orleans, LA.

Written comments on the proposal may be submitted through August 5, 1982, to R. K. Banks, Acting Assistant Secretary, Box 44065, Baton Rouge, LA 70804. He is the person responsible for responding to inquiries regarding the proposed Rule.

Roger P. Guissing
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Low Income Energy Assistance Program

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

An amount estimated to be \$15,356,200 is to be allocated to the State of Louisiana for Federal FY 1983 to provide for administration and benefits of the program. Administrative costs cannot exceed 10 percent of the total allotment and are estimated to be \$524,852.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There is no estimated effect on revenue collections.

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

Estimate obtained using data from the Office of Family Security's file indicates 110,000 households will have automatic eligibility based on declared income and their vulnerability to the rising cost of energy. An additional 10,000 are estimated to gain eligibility through individual walk-in application procedure. Estimated benefits will range from \$70 to \$45 in February and August, 1983. Total benefits depend upon the state's actual allotment.

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

Competition and employment will not be noticeably affected by the Low Income Energy Assistance Program as benefits to eligible recipients will be applied to on-going current utility bills for the households. The economic impact is that the state will have an additional \$13,000,000 in circulation by the low income consumer groups.

R. K. Banks
Acting Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Natural Resources Office of Environmental Affairs Environmental Control Commission

Under the authority of the Louisiana Environmental Affairs Act, La. R.S. 30:1051 et seq., Sections 1066 (1)(3) and 1124 B(2), and in accordance with the provisions of the Administrative Procedure Act, La. R.S. 49:951 et seq., the Louisiana Environmental Control Commission (ECC) gives notice that it initiated Rule making procedures to amend Section 10.1.B.6 of the Rules of Procedure of the Louisiana Environmental Control Commission at its June 24, 1982 meeting. These proposed regulations are being forwarded to the Joint Committee on Natural Resources for acceptance. After review of these proposed amendments by the Joint Committee, the Commission shall consider their adoption at its meeting to be held at 9 a.m. on Thursday, August 26, 1982, in the Mineral Board Hearing Room, State Land and Natural Resources

Building, 625 North Fourth Street, Baton Rouge, Louisiana. The proposed amendment to the Rules of Procedure pertains to the delegation of authority from the Commission to the Assistant Secretary.

The proposed amendment to Section 10.1.B.6 would change the term **permits** to **standard permits** to read, "in regard to solid waste management, authority to perform all action delegable to the Assistant Secretary under the Act, except that the Commission specifically retains the authority to issue registrations, standard permits, and compliance schedules and modifications thereto for any solid waste disposal facility." The purpose of this recommendation is to provide authority for the Assistant Secretary to issue routine interim permits for the operation of several hundred facilities governed by the Solid Waste Management Plan Rules and Regulations.

All interested persons are invited to submit written comments, speak at the public hearing, or both, about the action proposed above. Any comments received in person or by mail prior to the public hearing will be considered by the Commission before making the final decision on the proposed action. All comments and requests to speak at the hearing should be submitted to B. Jim Porter, Secretary, Environmental Control Commission, Box 44066, Baton Rouge, LA 70804.

Persons requesting copies and/or further information concerning the amendments listed below may contact Ms. Barbara Delatte, Office of Environmental Affairs, Solid Waste Management Division, Box 44066, Baton Rouge, LA 70804 or phone (504) 342-1216. The amendment is also available for inspection until 4:30 p.m., July 21, 1982, at the State Land and Natural Resources Building, 625 North Fourth Street, 7th Floor reception area, Baton Rouge, LA from 8 a.m. until 4:30 p.m.

B. Jim Porter
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: ECC Rules of Procedures

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

Issuance of 148 Interim Permits by the Commission during FY 80-81 and 81-82 has involved some 8,732 pieces of paper at a cost of approximately \$593.48. The paperwork is generated thusly: 1. Letter to potential recipient advising that a recommendation will be made to the Commission for issuance of the Interim Permit; 2. Letter to same notifying him of the date, time, and place of the Commission meeting; 3. Preparation of copies of the Interim Permit and associated documents for distribution to Commission members, record-keepers, and miscellaneous copies. Implementation of the Rule change would, in effect, save 80 percent of the operating expenses incurred in generating this paperwork. First, one letter would suffice to advise the operator of impending issuance of the Interim Permit. Secondly, copies prepared for the Commission would be eliminated. Total FY 82-83 savings are estimated to be \$478.04.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There are no revenues collected by the Solid Waste Management Division.

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

In summary, other groups which will be affected by the Rule changes include the Environmental Control Commission

members and others associated with Commission functions who will experience decreased workload and decreased preparation costs. Also affected will be members of industry and local governing bodies who will no longer incur the expense of losing a working day to travel to ECC meetings in Baton Rouge.

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

No significant changes will be made concerning competition and employment.

Jerry D. Hill
Undersecretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT
Department of Natural Resources
Office of Forestry

Pursuant to the provisions of R.S. 56:1476, amended by Act 169 of 1969, the Office of Forestry proposes to change and increase the charges for performing prescribed burning for private landowners. Revised charges, to be effective September 1, 1982 are as follows:

	Current	Proposed
Prescribed Burning	\$10/hr. equipment time plus \$1/acre	\$ 3/acre
Fireline Plowing Only (when owner burns)	\$10/hour	\$30/hour

Interested persons may submit written comments on these proposed charges within 15 days of this date of publication to D. L. McFatter, Assistant Secretary, Office of Forestry, Box 1628, Baton Rouge, LA 70821.

D. L. McFatter
Assistant Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Prescribed Burning Charges

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

There will be no implementation costs involved in the proposed charges.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

Office of Forestry self-generated income from prescribed burning is estimated to increase by approximately 45 percent, increasing from almost \$17,000 to \$24,600.

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

Private forestland owners will be affected, but they know even with the proposed increase, this is still a most cost-beneficial service.

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

There will be no impact by this proposal on either competition or employment.

D. L. McFatter
Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Public Safety
Office of State Fire Marshal

The Fire Marshal for the State of Louisiana hereby intends to adopt the following amendment to L.A.C. 17-4:15 Inspection of Prisons by amending sub-paragraphs 15.2 A and B to delete the specific square footage requirements and to read as follows:

L.A.C. 17-4:15 Inspection of Prisons

L.A.C. 17-4:15.2 The basic requirements for prisons are as follows:

A. The amount of gross square feet per prisoner required shall be a sufficient amount to safely evacuate the premises in the event of a fire.

B. No more prisoners shall be incarcerated in any cell block than can be safely evacuated from the cell block in the event of a fire.

Anyone having any questions with regard to this proposed administrative Ruling should contact Plauche F. Villere, Jr., Attorney for the State Fire Marshal, 500 Dufossat Street, New Orleans, LA 70115, (504)-897-6600. There will be a hearing on Tuesday, August 24, 1982 at noon in his office. If Plauche Villere cannot be reached, please contact Jeffrey Gleason, 1033 North Lobdell Boulevard, Baton Rouge, LA, 925-4911 or Delaune Ordogne, 106 Louisiana State Office Building, New Orleans, LA 70112.

Carrol L. Herring
State Fire Marshal

Fiscal and Economic Impact Statement
For Administrative Rules

Rule Title: Amendment to L.A.C. 17-4:15
by amending L.A.C. 17-4:15.2 sub-paragraphs A and B

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

It is estimated that implementation of this regulation will have no impact on agency expenditures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

It is estimated that implementation of this regulation will have no effect on revenue collections.

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

There may be some additional cost savings incurred by the Department of Corrections and by local prison systems if implementation of this regulation allows the prison systems to incarcerate an increased number of inmates without being required to construct additional cell space. The regulation provides for the deletion of a mandated square footage requirement per inmate and allows merely for commensurate exit ability. If in the determination of the Office of the Fire Marshal that adequate exit ability will require additional square footage per inmate than is presently required, then there will be additional construction costs required. However, a negative or positive impact cannot be determined at this time and will depend upon the physical configuration and number of inmates at each facility concerned.

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

It is estimated that implementation of this regulation will have no impact on competition and employment.

Carrol L. Herring
State Fire Marshal

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT
Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

The Louisiana Wildlife and Fisheries Commission at its regular meeting held in New Orleans, Louisiana, June 29, 1982 adopted the following resolution:

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

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

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

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

THEREFORE BE IT RESOLVED, the Louisiana Wildlife and Fisheries Commission hereby prohibits the use of gill, trammel and flagg nets in Caddo Lake, Caddo Parish, Louisiana.

Interested persons may submit their views in writing to Bennie Fontenot, Chief, Fish Division, Department of Wildlife and Fisheries, Box 14526, Baton Rouge, LA 70898.

Jesse J. Guidry
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules

Rule Title: Prohibit certain netting in Caddo Lake

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

Caddo Parish enforcement agents are presently employed to patrol Caddo Lake as part of their routine duty in Caddo Parish. Whether or not netting is banned will not affect their present job description, duties and cost.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

It is estimated that implementation of this regulation will have no impact on revenue collections.

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

There is a small commercial fisheries effort in the lake with catfish as the primary species targeted for harvesting. However, the usual devices used to harvest catfish are hoop nets, slat traps, and trot lines. Therefore, there will be no additional costs to be borne by the commercial fishermen in the area. The general sportsfishing public, however, will encounter larger catches of bass, crappie, and striped bass as these populations increase once netting is banned.

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

It is estimated that there will be no impact on competition and employment due to implementation of this regulation as the commercial fishermen in the area are currently using other devices to harvest their catch.

Mary Mitchell
Chief Fiscal Officer

Mark C. Drennen
Legislative Fiscal Officer

Committee Reports

COMMITTEE REPORT

House of Representatives
Natural Resources Committee
Oversight Review

Pursuant to the provisions of R.S. 49:968, the House of Representatives Natural Resources Committee met on July 1, 1982, and reviewed certain changes in state regulations proposed by the Louisiana Department of Natural Resources, for which Notice of Intent was published in the June 20, 1982, *Louisiana Register* with the following results:

1) Amendments to §5.1 and 6.10.2 and repeal of §5.2, 5.3, and 5.4 of the Louisiana Air Quality Regulations — Department of Natural Resources, Environmental Control Commission.

- Approved by a vote of 9-0.

Arthur W. Sour, Jr., Chairman
House Committee on Natural Resources

COMMITTEE REPORT

House of Representatives
Natural Resources Committee
Oversight Review

Pursuant to the provisions of R.S. 49:968, the House of Representatives Natural Resources Committee met on July 1, 1982, and reviewed certain changes in state regulations proposed by the Louisiana Department of Natural Resources with the following results:

1) Changes in charges for prescribed burning for private forestland owners — Department of Natural Resources, Louisiana Forestry Commission.

- Approved by a vote of 9-0.

Arthur W. Sour, Jr., Chairman
House Committee on Natural Resources

COMMITTEE REPORT

House of Representatives
Natural Resources Committee
Oversight Review

Pursuant to the provisions of R.S. 49:968, the House of Representatives Natural Resources Committee met on July 1, 1982, and reviewed certain changes in state regulations proposed by the Louisiana Department of Natural Resources, for which Notice of Intent was published in the March 20, 1982, *Louisiana Register* with the following results:

1) Amendments to Appendix C1 of the Rules and Procedures for Coastal Use Permits and amendments to Appendix C5 of the Procedural Rules for the Hearing of Appeals by the Louisiana Coastal Commission — Department of Natural Resources, Division of State Lands.

- Approved by a vote of 10-0.

Arthur W. Sour, Jr., Chairman
House Committee on Natural Resources

COMMITTEE REPORT
House Oversight Subcommittee
Department of Public Safety

Potpourri

POTPOURRI

Department of Health and Human Resources
Office of Family Security

In accordance with provisions of La. R.S. 49:951 et. seq., the Department of Health and Human Resources, Office of Family Security, will hold a public hearing beginning at 9:00 a.m., Wednesday, July 28, 1982, in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge, Louisiana, regarding the proposed deletion of the provision of permanent cataract eyeglasses or cataract lenses following cataract surgery from the Title XIX Medical Assistance Program except for EPSDT eligibles.

Roger P. Guissing
Secretary

POTPOURRI

Department of Natural Resources
Fishermen's Gear Compensation Fund Claims

In accordance with the provisions of the Fishermen's Gear Compensation Fund, R.S. 56:700.1 through R.S. 56:700.5 and in particular Section 700.4 thereof; Regulations adopted for the fund as published in the *Louisiana Register* on August 20, 1980; and also the Rules of the Secretary of this Department, notice is hereby given that 15 completed claims were received during the month of June, 1982, amounting to \$13,983.84. Eleven claims amounting to \$10,534.34 were paid during the month of June, 1982.

Public hearings to consider completed claims have been scheduled as follows:

Tuesday, August 3, 1982 at 11 a.m. in the Lafitte City Hall, Lafitte, Louisiana to consider payment of the following claims against the fund:

Claim No. 82-468

Bennie A. Trosclair, while trawling on the vessel "Lady Nellie" in the Gulf of Mexico, near Locust Bayou at LORAN-C coordinates of 27,732.7 and 46,886.7, Terrebonne Parish, encountered an unidentified obstruction on May 2, 1982, at approximately 12 p.m., causing damage to his trawl and related gear. Amount of claim: \$950.

Claim No. 82-472

Bennie A. Trosclair, while trawling on the vessel "Lady Nellie" in the Gulf of Mexico, south of Quatre Bayou Pass at LORAN-C coordinates of 28,628.0 and 46,868.1, Plaquemines Parish, encountered an unidentified obstruction on May 11, 1982, at approximately 3 p.m., causing damage to his trawl. Amount of claim: \$200.

Claim No. 82-489

Brian Plaisance, while trawling on the vessel "Little Reo" in Barataria Bay, north of Grand Island Point, Plaquemines Parish, encountered an unidentified obstruction on May 24, 1982, at approximately 6:30 p.m., causing damage to his trawl. Amount of claim: \$185.55.

On June 8, 1982, the Office of Fire Marshal, submitted for review two proposed Rule changes to mandate liability insurance coverage for gasoline service stations in an amount not less than \$5,000,000.00 Proposed Rule 17-4:16.12 addresses itself to unattended gasoline stations. Proposed Rule 17-4:23 addresses itself to attended gasoline stations and, in addition to the mandatory liability insurance, requires that such systems comply with the National Fire Protection Association Pamphlet No. 30, regarding the handling and use of flammable liquids. Both Rules mandate the insurance coverage will contain a hold harmless clause and a waiver of subrogation clearly indicating that no action will be taken by the owner or the insurer against the State of Louisiana. On June 22, 1982, the House Subcommittee on the Oversight of the Department of Public Safety took up consideration of the proposed Rules. Representative Joe Bleich presided as chairman of the subcommittee. After hearing the testimony of the representatives of the Office of the Fire Marshal, the subcommittee, with a quorum present, voted 8-0-1 to find both proposed Rule changes unacceptable.

In accordance with R.S. 49:968(F)(1)(a), a copy of the proposed Rule change is attached hereto and made a part hereof.

In accordance with R.S. 49:968(F)(1)(b), below is a summary of the determinations made by the subcommittee in accordance with R.S. 49:968(D) and (E), to wit:

1. The subcommittee, by vote, determined both Rule changes were not in conformity with the intent and scope of the enabling legislation. This issue was discussed at the hearing and no objections were raised by the committee members.

2. The subcommittee, by vote, determined both Rule changes were not in conformity with and were contrary to applicable provisions of law and of the constitution.

3. The subcommittee, by vote, determined both Rules were unadvisable and without relative merit. There were three major points brought out during the hearing regarding the advisability and merit of the Rule change, to wit:

(a) The subcommittee expressed concern that the Office of the Fire Marshal was improperly extending its authority into matters of tort liability and insurance. It was felt the imposition of mandatory insurance by regulation is beyond the rule making authority of the Office of the Fire Marshal as set out in R.S. 40:1578.6.

(b) The representative of the Office of the Fire Marshal was unable to supply any estimate as to the cost involved for insureds.

(c) The subcommittee expressed the opinion that a more proper way to address the dangers inherent in the "self-service" type of gasoline station is to promulgate and enforce stringent safety regulations.

Respectfully submitted on behalf of the House Subcommittee on the Oversight of the Department of Public Safety:

Joe Bleich, Chairman
House Subcommittee on the Oversight of the
Department of Public Safety

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