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This public document was published at a cost of \$8,343.88. 1,375 copies of this first printing at a cost of \$3,572.80. The total cost of all printing of this document, including reprints is \$8,343.88. This document was published 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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Executive Orders

EXECUTIVE ORDER NO. DCT 83-23

WHEREAS, Louisiana's role in contributing to our nation's status as the world's greatest trader is a significant one, with 11.0 percent of the nation's imports and 17.5 percent of the nation's exports passing through Louisiana's ports in 1982; and,

WHEREAS, at a time when the state is experiencing its highest rate of unemployment in over 30 years, International Trade Activities in Louisiana provide over 100,000 jobs for the citizens of Louisiana,

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and applicable statutes of the State of Louisiana, do hereby order and direct:

1. The creation of the Governor's Council on International Trade and Industry with duties as follows:

a. Coordinate the activities of the public and private organizations active in international trade.

b. Develop recommendations for a statewide policy and programs to encourage the growth in international trade.

c. Plan, organize and host an annual Conference on International Trade to spotlight the contribution of international trade to Louisiana and the nation.

d. Provide an annual report to the Governor describing the activities of the Council, the status of international trade in the state (with specifics on number of jobs created and revenues to the state), and recommendations for policy positions, programs, and/or legislation to enhance this sector of the Louisiana economy.

2. That the Governor's Council on International Trade and Industry shall be composed of at least the following:

Four members by position:

a. Secretary of the Louisiana Department of Commerce

b. President of the International Trade Mart

c. Chairman of the Louisiana District Export Council

d. Commissioner of Agriculture

Twelve to be appointed by the Governor:

a. Three representatives of Louisiana ports, at least two of which are from deep draft ports.

b. Two representatives of the academic community with expertise in international trade or finance.

c. One representative of the agri-business sector.

d. Six representatives from private sector firms engaged in some international trading activity (importers, exporters, steamship lines, freight forwarders, banks).

3. The Council shall serve as the coordinating and advisory body of the Louisiana Department of Commerce on international trade activities. The appropriate personnel from the Louisiana Department of Commerce shall serve as staff to the Council.

IN WITNESS WHEREOF, I have herewith set my hand officially and consent to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 7th day of October, A.D., 1983.

David C. Treen
Governor

EXECUTIVE ORDER NO. DCT 83-24

WHEREAS, the Governor's Task Force on Saltwater Finfish Management was created by Executive Order 83-13 to develop a proper management plan to assure the protection and proper management of finfish in the coastal areas of Louisiana;

WHEREAS, the work of this task force holds great potential for the future of finfish management in Louisiana;

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, by virtue of the authority of the power invested in me by the Constitution and applicable laws of the State of Louisiana, do hereby recreate the Governor's Task Force on Saltwater Finfish Management.

The responsibilities of such task force shall be those detailed in Executive Order 83-13.

The membership of such task force shall include those persons stated in Executive Order 83-13 and others who shall be appointed by the Governor.

IN WITNESS WHEREOF, I have herewith set my hand officially and consent to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 11th day of October, A.D., 1983.

David C. Treen
Governor

EXECUTIVE ORDER NO. DCT 83-25

WHEREAS, the Governor's Task Force on Organ Donations was created by Executive Order 83-17; and

WHEREAS, such Task Force was created to assess various methods for encouraging organ donations; and

WHEREAS, the work of this Task Force holds great potential for enhancing the lives of all Louisianians;

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and applicable laws of the state of Louisiana, do hereby recreate the Governor's Task Force on Organ Donations.

Such Task Force shall possess those duties and responsibilities provided by Executive Order 83-17.

Such Task Force shall consist of those members included in Executive Order 83-17 and others who shall be appointed by the Governor.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 12th day of October, A.D., 1983.

David C. Treen
Governor

Emergency Rules

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

The State Board of Elementary and Secondary Education, at its meeting of October 27, 1983, exercised those powers

conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953B, and adopted the following items as Emergency Rules:

1. The Board approved an amendment to Bulletin 741, page 41 regarding credit for National Guard Services as recommended by the State Department of Education as follows:

Veterans or Members of the United States Armed Forces

1. Definition

a. A person is considered a veteran if he has served at least 90 days in active military service and been honorably discharged from such service.

b. A person is considered a member of the armed forces if he /she is engaged in active military duty in the Army, Navy, Air Force, Marine Corps or Coast Guard. A member of the National Guard is not considered a "member of the Armed Forces" unless his unit has been federalized by the U. S. Government.

2. Service Credit

a. Two units of credit toward high school graduation may be awarded to any member of the United States Armed Forces or any honorably discharged veteran who has completed his/her basic training, upon presentation of a military record attesting to such completion.

b. When a member of the National Guard is certified by his company or unit commander as having completed one year of satisfactory service, this shall be accepted by the Department of Education as one-fourth unit credit toward graduation from high school. No credit shall be allowed for fractions of less than one-half and the maximum credit for National Guard service shall be one unit.

c. Special training obtained while in the armed forces, comparable to courses offered in civilian secondary schools, may be accredited up to a maximum of two units.

d. All subjects completed by a member of the armed forces, or by an honorably discharged veteran, through the United States Armed Forces Institute, the Marine Corps Institute, or the Coast Guard Institute, may be accredited at face value.

The emergency adoption is necessary in order to correct a conflict of policy in R.S. 29, Section 36. The policy in Bulletin 741, page 41, regarding the definition of a member of armed forces and high school credit for such services was revised in January, 1980 to include the National Guard. This policy is in conflict with R.S. 29, Section 36.

2. The Board approved the addition of Computer Literacy and Technology Education to the textbook adoption cycle for 1983-84.

This emergency adoption is necessary in order to meet the 1983-84 adoption cycle and the invitation to bid, which is due to be mailed by October, 1983.

James V. Soileau
Executive Director

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, has exercised the emergency provisions of the Administrative Procedure Act (R.S. 49:953B), to implement policy on the provision of non-emergency ambulance transportation for Title XIX recipients.

EMERGENCY RULE

The Office of Family Security, Medical Assistance Manual,

Section 19-858C, has a policy of prior authorization for non-emergency ambulance transportation. Effective November 4, 1983, the following are three exceptions to the policy.

1. Long Term Care Facilities may arrange for non-emergency ambulance transportation for Title XIX recipients in need of such services at times when the Parish Office of Family Security is closed. This includes nights, weekends and holidays.

2. When the Parish Office of Family Security is closed and a local ordinance defines "emergency" differently than the definition utilized by the Office of Family Security and the local ordinance definition is more restrictive, and the local ordinance does not allow for the transportation of non-emergency cases in an emergency vehicle according to the local ordinance definition, arrangements may be made by a Long Term Care Facility to have a recipient, who was transported to a hospital on an emergency basis and not admitted, returned to the facility in a qualified non-emergency ambulance vehicle.

3. If an emergency situation occurs and the local emergency ambulance unit will not transport due to the fact that their definition of an emergency is more restrictive than the definition utilized by the Office of Family Security, the Long Term Care Facility or interested party, if the recipient is at a place other than a Long Term Care Facility, may arrange for the transport of the recipient to the hospital or medical provider by a non-emergency ambulance vehicle.

For the Office of Family Security to make payment for the above services, the ambulance provider must be Title XIX certified and the Office of Family Security must be provided documentation of the need for the service.

This action is necessary to assure that Title XIX recipients have adequate non-emergency ambulance transportation to Title XIX services during times when the Parish Office of Family Security is closed and when a local emergency ambulance unit will not transport due to their definition of emergency being more restrictive than the definition utilized by the Office of Family Security.

Roger P. Guissinger
Secretary

Rules

RULE

Department of Agriculture Seed Commission

Notice is hereby given that, pursuant to the authority contained in R.S. 3:1433 and in accordance with Notice of Intent published on September 20, 1983, the Department of Agriculture, Seed Commission, has deleted Mexican Weed from the noxious weeds prohibited in the field standards for certified rice seed, i.e., Rule 35.2 of the Louisiana Seed Certification Standards. This deletion has no effect upon other noxious weeds prohibited under Rule 35.2 nor does it remove Mexican Weed from the noxious weed seed prohibited under Rule 35.3 of the Louisiana Seed Certification Standards. Final action concerning deletion of Mexican Weed from the field standards for certified rice seed was taken by the Department of Agriculture, Seed Commission, at a regular

Commission meeting, open to the public, held on November 10, 1983, on the Twenty-first Floor of the State Capitol, Baton Rouge, Louisiana.

Bob Odom
Commissioner

RULE

Department of Commerce Racing Commission

The Louisiana State Racing Commission, at its meeting of October 14, 1983, formally adopted Rule LAC 11-6:14.9 in its final proposed version.

RULE LAC 11-6:14.9 CURRENTLY READS:

"An applicant for a license as trainer must show proof of at least two years track experience with a racing stable. Application shall be accompanied by the written statements of two reputable persons to the effect that the applicant is personally known to them and that he is a person of good reputation and capable of satisfactory performance of the vocation he seeks to follow. An applicant shall be given a thorough examination by the stewards and such other persons as they may appoint."

AMEND AND READOPT LAC 11-6:14.9 BY ADDING THE FOLLOWING TO THE LAST SENTENCE THEREOF:

"Failure of applicant to obtain license will automatically require a 90 day waiting period before reapplying."

Gordon A. Burgess
Chairman

RULE

Department of Commerce Racing Commission

The Louisiana State Racing Commission, at its meeting of October 14, 1983, formally adopted Rule LAC 6:53.17 in its final proposed version.

LAC 11-6:53.17

When a report as described in Section 53.15 is received from the state chemist, the stewards shall conduct an investigation and a hearing. There shall be no ruling and the stable shall remain in good standing pending a ruling by the stewards. However, the horse allegedly to have been administered any such chemical substance or material shall not be allowed to enter in a race during the investigation and hearing.

In the event the horse is claimed in the race in which the horse ran allegedly with prohibited medication, the new owner may enter and race the horse, however should the horse be claimed thereafter by the same owner who raced the horse, allegedly with prohibited medication, in the previous race in question, the horse shall not be allowed to enter a race during the investigation and hearing concerning the horse in the previous race in question.

For the purpose of this Rule "the investigation and hearing" referred to herein shall mean the steward's hearing following receipt of the report of the state chemist described herein and in Rule 53.15.

Gordon A. Burgess
Chairman

RULES

Board of Elementary and Secondary Education

Rule 3.01.70.u(9)a

The Board adopted an amendment to Bulletin 746 and Foreign Language Certification requirements as follows:

"Beginning with freshmen entering higher education institutions in the 1984-85 school year, all candidates for certification will be required to complete 36 semester hours or 24 hours above the sophomore level which shall include a 3-hour methods course in modern foreign languages. A minimum of 12 of the 24 hours may be fulfilled by a two-semester residence in a university abroad or by two summers of intensive immersion study on a Louisiana university campus, an out-of-state university campus, or abroad."*

*The two-semester abroad or alternative is required for French certification and is optional for all other foreign languages.
NOTE: Certification is awarded in each individual language.

James V. Soileau
Executive Director

RULE

Governor's Special Commission on Education Services Loan/Grant Division

The Governor's Special Commission on Education Services pursuant to Notice of Intent published in the *Louisiana Register* on October 20, 1983, by action during its regular meeting held in Baton Rouge October 26, 1983, adopted Part 682 of Title 34 of the Code of Federal Regulations dated September 17, 1979 in lieu of Part 177 of Title 45 CFR dated September 17, 1979 which had previously been published in the July 20, 1983 issue of the *Louisiana Register*.

Part 682 of Title 34 of CFR was designated by the Federal government to retractively replace Part 177 of Title 45 of CFR at the time the U.S. Department of Education was created by Congress to succeed the U.S. Office of Education under the U.S. Department of Health, Education and Welfare. In all instances, the "Commissioner" of Education was redesignated the "Secretary" of Education throughout the regulations, effective October 21, 1979.

Part 682 of Title 34 of CFR combines the following Guaranteed Student Loan Program Regulations, showing publication date in the Federal Register in parenthesis and effective date outside the parenthesis:

GSL Program Final Regulation
(September 17, 1979) October 21, 1979
Amendments to GSL Program Final Regulation
(June 24, 1980) August 27, 1980
Nomenclature and Technical Amendments
(December 30, 1980) December 30, 1980
GSL Deferment
(January 16, 1981) March 30, 1981
GSL Refund of Tuition Charges and other Fees
(January 16, 1981) March 30, 1981
Cost of Attendance and Treatment of Bankruptcy Regulation
(January 21, 1981) March 30, 1981

Requests for copies may be made to GSCES, P.O. Box 44127, Baton Rouge, LA 70804.

Richard W. Petrie
Director

RULE

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

The Department of Health and Human Resources, Office of Family Security, hereby amends a Final Rule which was published in the April 20, 1983, issue of the *Louisiana Register*, Vol. 9, No. 4, Page 213. The amended Rule, effective November 20, 1983, deletes reference to Home and Community Based Services. The standard deduction shall only apply to Title XIX recipients of long term care who have earned income and tracks the standard deduction currently allowed AFDC recipients under Title IV-A.

RULE

The Medical Assistance Program shall adopt the standard deduction amount specified below for Title XIX recipients of long term care services (except Intermediate Care Facilities for the Handicapped), who have earned income. The appropriate standard deduction amount shall be deducted from the individuals' earned income in determining the amount of countable income to be applied towards the recipient's liability income for Title XIX services received.

The standard deduction amounts are:

Number of Hours of Employment	Deductible Amount
1-27	\$12.50
28-55	25.00
56-82	37.50
83-109	50.00
110-136	62.50
137 or more	75.00

The above standard deductions are applicable for all long term care recipients except those in Intermediate Care Facilities for the Handicapped (ICF/H). ICF/H recipients shall continue to utilize the earned income disregard effective December 1, 1982, published in the November 20, 1982, *Louisiana Register* (Volume 8, Number 11, page 598).

Roger P. Guissingier
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 a change in General Assistance Program policy regarding Referral to Social Security Administration, (18-636), effective 8-1-83. This Rule is submitted to formally adopt an emergency rule published in the August 20, 1983, *Louisiana Register* and is authorized by R.S. 46:154 and 46:155. The General Assistance Program manual (18-635 and 18-636) has been amended as follows:

When incapacity for a General Assistance applicant/recipient is expected to last at least 2 months but no more than 6 months, as substantiated by medical information which the client is able to present or readily secure or which the agency can readily secure at no cost, referral shall be made to the Medical Social Review Team and not to the Social Security Administration. If MSRT then determines that (1) medical documentation does not clearly define or establish the length of incapacity or (2) that the client appears to meet SSI incapacity criteria, MSRT will indicate on the Form 90 that the client is to be referred to the Social Security Administration.

When the client appears to meet factors of social inad-

equacy as defined in 18-635-A. (2) and does not have a medical impairment, the case shall be referred directly to MSRT.

If no medical information is readily available and social inadequacy is not the sole consideration for determining incapacity, the case shall be referred to SSA regardless of the anticipated length of incapacity beyond two months.

Roger P. Guissingier
Secretary

RULE

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

The Department of Health and Human Resources, Office of Family Security, shall adopt a change in the flat grant payment standard for the General Assistance Program. This Rule is submitted to formally adopt an Emergency Rule published in the August 20, 1983, *Louisiana Register* and is authorized by R.S. 46:154 and R.S. 46:155. The General Assistance Program policy manual (18-922) has been amended as follows:

Flat Grant Amounts To Be Included In Every General Assistance Payment Budget

Number of Persons	Flat Grant Amount
1	\$ 91
2	138
3	190
4	234
5	277
6	316
7	352
8	391
9	427
10	462
11	501
12	540
13	580
14	620
15	662
16	707
17	741
18	789

Roger P. Guissingier
Secretary

RULE

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

The Department of Health and Human Resources, Office of Family Security hereby rescinds the Rule listed below which was published in the *Louisiana Register* (Volume 9, Number 6, Page 415) on June 20, 1983 and reads as follows:

RULE

"Effective July 1, 1983, the Medical Assistance Program shall limit the reimbursement rate for Title XIX Services provided by a Home Health Agency to the current reimbursement rates for FY 82/83."

This Rule is hereby rescinded. The Office of Family Secur-

ity will continue to reimburse Home Health Agencies on a reasonable cost basis which will not exceed the Medicare rate of reimbursement. All payments to Home Health Agencies are subject to an annual audit which is utilized to adjust payments as well as set interim reimbursement rates.

Roger P. Guissinger
Secretary

RULE

Department of Health and Human Resources Office of Management and Finance Division of Policy, Planning and Evaluation

Effective November 20, 1983, the Department of Health and Human Resources, Office of Management and Finance, Division of Policy and Evaluation, is changing the policies and guidelines for Section 1122 capital expenditure reviews. The proposed changes will be made to the Rule published in Volume 9, Number 7 of the *Louisiana Register*, July 20, 1983.

These changes are the result of the passage of Act 13 of the 1983 Special Session of the Louisiana Legislature. This Act abolished the Office of Licensing and Regulations and reassigned responsibility for the Section 1122 program. In addition, the Social Security Amendments of 1983 (HR 1900) allowed changes in the Section 1122 capital expenditure review thresholds.

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 Security 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 Policy, Planning and Evaluation DPPE — 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 carry 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, or 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. Person — an individual, a trust or estate, a partnership, a corporation (including associations, joint-stock companies, and insurance companies), a state, or a political subdivision or instrumentality (including a municipal corporation) of a state.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. Change of Bed Capacity — any increase or decrease in the licensed bed capacity of a health care facility.

12. 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.

13. 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 (moveable 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.

14. Secretary — as used within the confines of this document, the term secretary refers to the secretary of the United States Department of Health and Human Services or his designee.

REVIEWING AGENCIES

Division of Policy, Planning and Evaluation, Box 3776,
Baton Rouge, LA 70821.

Division of Licensing and Certification, 333 Laurel Street,
Room 610, Baton Rouge, LA 70804.

Any other agency deemed appropriate by Division of
Policy, Planning and Evaluation.

RESPONSIBLE AGENCY

The state agency responsible for carrying out Section 1122 provisions in Louisiana is the Division of Policy, Planning and Evaluation DPPE, 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. Offices of Physicians are also specifically excluded from such reviews.

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 \$600,000, (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 DPPE for an official determination.

When making a determination of the total amount of any capital expenditure discussed herein, DPPE shall consider the cost of studies, surveys, designs, plans, working drawings, specifications and other activities essential to the acquisition, improvement, expansion or replacement of the plant and equipment with respect to which such expenditure is made.

Proposals for the acquisition of facilities or equipment by lease or comparable arrangement or through donation may be subject to review under Section 1122. DPPE 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 DPPE 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 DPPE 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 DPPE 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.

An application 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 DPPE a request for an elect not to review. After examining the information contained in such request, and any additional information DPPE may request, a determination will be made by DPPE whether or not to elect not to review the proposed expenditure. If DPPE elects not to review the proposed project, all required notifications will contain written reasons for DPPE's determination of election not to review.

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

EXPEDITED REVIEW

The DPPE 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 or modification of equipment with an expenditure in excess of \$600,000.
2. Sale or lease of an existing facility with no change in services or beds.
3. Renovation of an existing facility up to \$1,000,000 that does not result in a change in existing services or beds.
4. A change of 10 licensed beds or 10 percent over a two year period whichever is less.
5. A cost overrun on an initially approved project.
6. Addition of non-medical equipment or purchase of land.
7. Addition of a new service in an existing facility that will not exceed \$600,000.

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 DPPE a request for an expedited review. After examination by DPPE a determination will be made whether to proceed with the expedited review process. If DPPE 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 DPPE 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 DPPE of such a change.

2. DPPE will promptly send to the applicant the necessary form(s) in addition to a copy of these policies and guidelines.

3. Upon receipt of the completed form(s), DPPE 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. DPPE 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 Policy, Planning and Evaluation.

c. The staff of the DPPE shall review the application for completeness within 15 calendar days from date application is received by DPPE. If DPPE 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 DPPE. 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 DPPE determines that an application is complete, DPPE 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 DPPE after the review process has begun. DPPE will again deem the application complete or incomplete. If the additional information is allowed, the timetable must be adjusted so that DPPE has 90 days for project review after the receipt of the additional or new information.

3. When the application is determined complete by the DPPE, the DPPE 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 subject 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 Policy, Planning and Evaluation shall 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 shall 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 shall be accepted on only those applications which have not previously been reviewed at public hearing. Notice of applications to be considered at each hearing shall be provided to interested parties and professional organizations requesting such notice at least five calendar days prior to each public hearing.

5. DPPE 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 shall be received

by DPPE 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, DPPE shall coordinate with LIC to establish a date by which comments will be received by DPPE. 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 DPPE to discuss their application at any time during the course of the review.

7. The DPPE, 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 DPPE to provide any such notification within the time limitations set forth below, shall have an effect of a determination by the DPPE that the capital expenditure is in conformity. This step shall be completed not more than 90 days after the date DPPE has received the completed application unless the applicant has indicated an earlier date for obligation of expenditure. (However, a minimum of 60 days from the date DPPE 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 DPPE.

8. Copies of the findings of the DPPE shall also be sent to the other reviewing agencies, interested parties and professional organizations who request such notification 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 DPPE to conduct an expedited review, DPPE shall notify the applicant of its decision and forward to the applicant an application which shall be completed and returned to DPPE in duplicate.

2. When DPPE determines that the application is complete, DPPE 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, DPPE will again confer and deem the application information complete or incomplete. If the additional information is allowed, the timetable must be adjusted so that DPPE has 30 days for project review after the receipt of the additional or new information.

4. When the application is determined complete by the DPPE, the DPPE 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, the local newspaper in the impacted service area of the projects as specified by the applicant.

5. The DPPE, 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;

RECONSIDERATION BY DPPE

b. Such capital expenditure has been determined not to be in conformity with the criteria, standards and plans; or

c. The failure of the DPPE to provide any such notification within the time limitations set forth below, shall have an effect of a determination by the DPPE that the capital expenditure is in conformity. This step shall be completed not more than 30 days after the date DPPE 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 DPPE.

6. Copies of the findings and recommendations of the DPPE shall also be publicized through local newspapers and public information channels and sent to interested parties and professional organizations who request such notification.

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 DPPE'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 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 DPPE 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 DPPE will be considered upheld.

2. DPPE will notify the Hearing Officer who is responsible for conducting the appeal. He will select a hearing date and notify all parties.

3. DPPE 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 the hearing 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, DPPE 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 the hearing officer. The exclusive options available to the hearing officer are as follows:

a. Uphold the DPPE findings.

b. Overturn the DPPE findings.

c. Revise the DPPE findings.

d. Order further action by DPPE.

6. DPPE will issue a press release of the appeal decision.

7. Copies of the decision shall be sent to interested parties and professional organizations requesting such notification.

In any case in which the Secretary of the United States Department of Health and Human Services has determined pursuant to a finding by DPPE 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 DPPE in the form of revised applications as required in original submission procedures, to a reconsideration by DPPE of such finding whenever:

a. There has been a substantial change (since the previous DPPE 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 DPPE 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 DPPE.

If DPPE 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 DPPE of its reconsideration.

EVIDENCE OF OBLIGATION: TERMINATION OF APPROVAL

Evidence of obligation to make the capital expenditure must be received by DPPE 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 DPPE 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 as described in 45 CFR 100.103(b), the date on which the gift is completed in accordance with applicable Louisiana law.

It is the sole responsibility of the proponent to keep DPPE 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 DPPE.

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

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

d. In the case of bonds, an obligation is deemed to have been incurred whenever the bonds have received final approval 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 DPPE 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 DPPE 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 was 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 DPPE 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, DPPE shall send written notification to such health care facility, the Secretary and all other agencies deemed appropriate by DPPE 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.

For computing the need for Hospital projects, computations will be based on the population projections for the anticipated year of opening of the facility which in no case will

exceed the ending year of the State Health Plan in effect at the time of review. For computing long term care projects, computations will be based on population projections for the anticipated year of the opening of the facility which in no case will exceed the ending year of the State Health Plan in effect at the time of review, nor be computed for a period of time to exceed two years from the date the application was received. The Division does not recognize the concept of phasing in beds and all beds shall be considered available as of the projected opening date.

In considering the need for a proposed project, DPPE 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

3. Length of stay (average):
$$\frac{\text{Number of beds}}{\text{Annual Admission}} \times 365$$

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 DPPE 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 DPPE 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 in addition to a legal property description of the site and must present evidence of ownership or option to acquire such site.

XIV. The applicant shall provide disclosure of those natural persons who are registered agents, directors, officers and principal shareholders of the corporation proposing the capital expenditure.

XV. The extent of cooperation with other facilities in the area; and

XVI. 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 DPPE Bureau of Research and Information as published on a quarterly basis.

B. The middle population projections recognized by the State Planning Office as official projections to be used by (DPPE) 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 DPPE 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 DPPE.

For assistance in preparing Section 1122 applications contact the Division of Policy, Planning and Evaluation, 333 Laurel Street, Suite 530, Baton Rouge, LA 70801, (Phone: 504/342-2001).

Roger P. Guissinger
Secretary

RULE

Department of Natural Resources Office of Environmental Affairs Environmental Control Commission

Under the authority of the Environmental Affairs Act, L.R.S. 30:1066 (1) and (7), and 1084 B (1), and in accordance with the provisions in L.R.S. 49:950 et seq., the Louisiana Environmental Control Commission adopted revisions to the Louisiana State Implementation Plan at the October 27, 1983 hearing. Preceding final adoption of the revisions by the Commission, the revisions were forwarded and found acceptable by the Joint Committee of Natural Resources.

This action allows Conoco, Incorporated, Lake Charles Refinery, and Conoco Chemicals, Company adequate time to implement Volatile Organic Compound (VOC) bubbles under a schedule. Under justifiable circumstances, certain point sources were unable to meet the December 31, 1982 deadline to be in compliance with the Clean Air Act. Therefore, excess reductions achieved at other sources within the same facilities were used to offset the emission levels of the subject point sources. The "bubble" will be in effect until the schedule which brings the total facility into compliance is met. There will be no adverse effects on the ambient air quality.

Persons requesting copies and/or further information concerning the revisions listed above may contact Ms. Terrie de-Lorimier, Office of Environmental Affairs, Box 44066, Baton Rouge, LA 70804-4066, or phone (504) 342-9028.

B. Jim Porter
Assistant Secretary

RULE

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

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874, the Board of Trustees of the State Employees Group Benefits Program has adopted a rule to delete coverage for sponsored dependent parents, effective July 1, 1984, except as it applies to those presently covered or those who become eligible and apply for coverage prior to June 1, 1984.

James D. McElveen
Executive Director

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

Pursuant to the authority granted by R.S. 42:871 (c) and R.S. 42:874, the Board of Trustees of the State Employees Group Benefits Program has amended its Rules to require that school boards enrolling in the State Employees Group Benefits Program must submit a completed adoption instrument at least 120 days prior to the proposed effective date of coverage.

James D. McElveen
Executive Director

Notices of Intent

NOTICE OF INTENT
Department of Agriculture
Commissioner of Agriculture and
Advisory Commission on Pesticides

Notice is hereby given that, in accordance with the authority contained in R.S. 3:3203, the Commissioner of Agriculture, subject to the recommendations of the Advisory Commission on Pesticides, will repeal existing Rules 10.0 through 14.0 of the Rules and Regulations for the Implementation of R.S. 3:3201-3280 and will enact comprehensive new regulations governing the application and constructive re-use of certain pesticides in general use throughout the State of Louisiana and comprehensive new regulations for permitting of pesticide applicators and/or pesticide dealers as hazardous pesticide waste disposal facilities.

Subject areas to be encompassed in regulations to be enacted by the Commissioner of Agriculture include but are not necessarily limited to the following: certification of certain categories of agricultural consultants; fees; licensing of owner-operators, pesticide dealers, and agricultural consultants; regulations governing application of pesticides: general requirements, restrictions on application of certain pesticides in specified locations, waiver of certain restrictions on application of specified pesticides, and aerial application of pesticides to rights-of-way for control of woody vegetation; closed containment systems; procedures for management of residues and/or rinsates of certain pesticides; schedule for implementation of surface impoundment requirements; standards for application equipment; standards for base operations; procedures for washing of application equipment; containers of pesticides; bulk storage of pesticides; monitoring procedures; other access requirements; record-keeping requirements; penalties for violations; and comprehensive new regulations governing procedures for permitting of pesticide applicators and/or dealers as hazardous pesticide waste disposal facilities.

In accordance with regular procedures of the Commis-

sioner of Agriculture, hearings will be conducted throughout the state prior to final action concerning the enactment of these proposed regulations. Interested persons may secure a list of scheduled hearing dates and places by contacting Harry Calhoun, Director of Pesticides and Environmental Programs, Box 44153, Baton Rouge, LA 70804; 9151 Interline Boulevard, Baton Rouge 70806; or by calling him at 504/925-3763.

The Advisory Commission on Pesticides will consider these proposed regulations at a public hearing following the conclusion of other items of business, or approximately 2 p.m., on November 30, 1983, at the State Capitol, Baton Rouge, and may conduct additional public hearings thereafter prior to final action on these proposed regulations. Information concerning additional public hearings may be secured at the above locations.

Copies of proposed regulations may be secured from Harry Calhoun at any of the above locations. He will also accept comments from any interested person concerning the proposed regulations and present such comments for the consideration of the Advisory Commission on Pesticides and the Commissioner of Agriculture.

At any public hearing conducted by the Advisory Commission on Pesticides and/or the Commissioner of Agriculture, any interested person may present data, argument, and views, orally or in writing, which data, argument, and views will be given due consideration prior to final action on the proposed regulations by the Commissioner of Agriculture and/or the Advisory Commission on Pesticides.

Bob Odom
Commissioner

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Pesticide Wastes

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)
It is estimated that no additional cost saving nor additional expenditure requirements will be incurred due to implementation of this regulation.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)
It is estimated that implementation of this regulation will not affect revenue collections.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)
The regulation provides for the installation of several pieces of equipment and some minor construction around the landing sites of aerial applicators. It is estimated that compliance costs for the 192 applicators operating with three planes or less will be \$10,000 each. It is estimated that the compliance costs that will be incurred by the twenty operators with four or more planes will be \$50,000 each.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
Implementation of this regulation will not affect competition as all applicators are governed by the regulation. There may be an effect on employment if the additional costs involved force some operators to shut down, however that impact cannot be determined at this time.

John Compton
Deputy Commissioner

Mark C. Drennen
Legislative Fiscal Officer