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Emergency Rules

DECLARATION OF EMERGENCY Commissioner of Agriculture

Notice is hereby given that implementation of the provisions of Part IV of Chapter 21 of Title 3 of the Louisiana Revised Statutes of 1950, which became effective on January 1, 1983, has created an economic emergency affecting persons in the pesticides industry, in that said Part requires certification prior to engaging in certain activities regulated under the Part and also prohibits certification of applicators and others in the absence of Rules and Regulations adopted by the Commissioner of Agriculture. Therefore, in order to assure that qualified individuals will be able to apply for and receive certification as private and commercial applicators of pesticides, agricultural consultants, and pesticides salespersons, the Commissioner of Agriculture has adopted the following Rules and Regulations for certification of such persons on an emergency basis:

1. All certifications of private and commercial applicators of pesticides, agricultural consultants, and pesticides salespersons issued under prior law are continued in effect until expiration of the time for which the prior certifications were issued.

2. The form of examinations for certification of private and commercial applicators, agricultural consultants, and pesticides salespersons shall be the same as that administered under prior law until changed by the Commissioner of Agriculture.

3. The minimum score necessary for successful completion of examinations for certification as private or commercial applicators of pesticides, agricultural consultants, and pesticides salespersons shall be 70 points.

4. Examinations for certification for private applicators of pesticides and for pesticides salespersons will be given upon request of the applicant at Baton Rouge at the office of Pesticides and Environmental Programs, 9181 Interline Boulevard; at any district office of the Department of Agriculture; or at the office of the County Agent in any parish of the state. There is no cost to the applicant for examination for certification as a private applicator of pesticides. The fee for examination for pesticides salespersons shall be \$5.

5. Examinations for certification for commercial applicators of pesticides will be given upon request of the applicant at Baton Rouge at the above location or in any district office of the Department of Agriculture. The cost to applicants for certification as commercial applicators of pesticides shall be \$5 when the examination is given in the Baton Rouge office and \$15 when the examination is given in a district office. The additional cost for examination in a district office is necessitated primarily by the cost of mailing examinations from Baton Rouge to the district office by certified mail. The examination fee is non-refundable.

6. Examinations for certification as agricultural consultants will be given to qualified applicants after approval of the Advisory Commission on Pesticides in the Baton Rouge office only. The cost to applicants for certification as agricultural consultants shall be \$5. The examination fee is non-refundable.

7. As required under R.S. 3:3251 (B), a fee of \$5 shall be charged for issuance of a certificate to all individuals who successfully complete the examination for certification as a commercial applicator of pesticides, an agricultural consultant, or a pesticides salesperson. No fee shall be required for issuance of a certificate to

a private applicator of pesticides or for a local, state, or federal government employee in any category of certification.

8. A list of the locations and telephone numbers of district offices of the Department of Agriculture may be secured by telephone request at 504/925-3763 or by written request to Harry Calhoun, Director, Pesticides and Environmental Programs, Department of Agriculture, Box 44153, Baton Rouge, LA 70804.

Bob Odom
Commissioner

DECLARATION OF EMERGENCY Department of Agriculture Agricultural Commodities Commission

In accordance with the emergency provisions of the Administrative Procedure Act (LSA 49:953 B), the Louisiana Agricultural Commodities Commission, established in the Department of Agriculture under Act 563 of 1982, adopted a minimum number of Emergency Rules necessary to implement the provisions of Act 563, which becomes effective on January 1, 1983, and continue the regulation of the warehouse and grain industry on an orderly basis. These Emergency Rules were necessitated by the termination of existing law and the establishment of new requirements under Act 563. These Emergency Rules were adopted at the organizational meeting of the Commission on December 14, 1982, at the State Capitol, Baton Rouge, Louisiana, and provide as follows:

Emergency Rules

1. Form of Warehouse Receipts

The Commission approved and adopted the current form of warehouse receipts now used by the State Warehouse Commission and provided that all warehouses having a supply of State Warehouse Commission warehouse receipt forms may continue to issue such receipt forms until their supply is exhausted.

2. Continuation of Current Assessments

A. The following assessments shall be collected by licensed grain dealers when commodities are purchased from producers and by licensed warehouses when commodities are removed from storage:

Rough rice	\$.005 per hundredweight
Sugar	\$.005 per hundredweight
Corn	\$.003 per bushel
Soybeans	\$.003 per bushel
Oats	\$.003 per bushel
Milo or sorghum	\$.003 per bushel
Wheat	\$.003 per bushel
Cotton	\$.10 per bale, 1st 5,000 bales \$.05 per bale, all over 5,000 bales
Canned/frozen fruits/ juices/vegetables	\$.015 per case/carton
Molasses/syrup	\$.05 per 100 gallons
Oil	\$.10 per 100 gallons
Pecans	
Shelled	\$.01 per 30 lb. carton
Unshelled	\$.20 per 130 lb.
Peppers	
Barrels	\$.24 per barrel
Cisterns	\$.20 per cistern

B. The assessments collected as provided above by licensed grain dealers and licensed warehouses shall be due to the Commissioner of Agriculture on a monthly basis, no later than the fifteenth day of each month.

C. Each licensed grain dealer and each licensed warehouse shall file a report of all assessments collected, on forms to be furnished by the Louisiana Department of Agriculture, at the same time as the assessments are due.

3. Procedures for initial licensing of warehouses during the period January 1, 1983, through June 30, 1983

A. Interim license to expire June 30, 1983

(1) Warehouse licenses issued under prior law which expire during the period January 1, 1983, through June 30, 1983, may be renewed for a period from the expiration date of the old license through June 30, 1983, without full compliance with all requirements set forth in Rule 6.0 of the Commission's proposed Rules and Regulations.

(2) No license issued during the stated interim for which the applicant has failed to provide all information required under proposed Rule 6.0 will be valid after June 30, 1983.

(3) No license shall be issued for the period expiring June 30, 1983, unless the applicant has posted bond with the Commission in the amounts required under Act 563 of 1982 and secured provisional stock insurance in the amounts required under Act 563 of 1982.

(4) The interim license shall state on its face that the license will expire as of June 30, 1983.

(5) The fee for issuance of an interim license shall be the same as the fee for issuance of an annual license, or \$100.

B. Initial license for a period of more than one year

(1) Warehouse licenses issued under prior law which expire during the period January 1, 1983, through June 30, 1983, may be renewed from date of expiration of the existing license through June 30, 1984, by compliance with all requirements of Rule 6.0 of the Commission's proposed Rules and Regulations at least 30 days prior to the expiration of the existing license.

(2) The bond and provisional stock insurance of a warehouse desiring an initial license of more than one year, expiring on June 30, 1984, must be written for the entire period covered by the license.

(3) The fee for an initial license issued under this Emergency Rule shall be the same as the fee for an annual license, or \$100.

The Commission will call a public hearing to consider permanent adoption of these and other Rules and Regulations at its meeting in January, 1983.

Bob Odom
Commissioner

DECLARATION OF EMERGENCY

Department of Agriculture Market Commission

In accordance with the emergency provisions of the Administrative Procedure Act (LSA 49:953 B), notice is hereby given that the Department of Agriculture, State Market Commission, has taken emergency action to amend Rule 6.3 of the Commission's Regulations Governing the Certification of Official State Grades of Poultry, Poultry Products, and Shell Eggs to bring the hourly inspection fee charged to vendors under this program into conformance with the Federal inspection fee.

The Poultry Inspection Program of the State Department of Agriculture, State Market Commission, is administered under a

Cooperative Agreement with the Poultry Division, Agricultural Marketing Service, U. S. Department of Agriculture. The Federal inspection fee was increased to \$20.76 per hour, effective November 1, 1982. Therefore, it is necessary to amend the Commission's Rule 6.3 as follows, on an emergency basis, so that there will be no conflict between fees charged by the different administering agencies for the same service:

6.3 The costs of all examination and certification services shall be paid by the vendor at the rate of \$20.76 per hour (\$5.19 per quarter hour) required to conduct the examination, provided that no specific charge shall be made for certification of product when inspection is simultaneously performed.

Bob Odom
Commissioner

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

The State Board of Elementary and Secondary Education, at its meeting of December 16, 1982, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953 B, and adopted the following as Emergency Rules:

1. Amendments to Act 754 Regulations, Sections 513-517 relative to the state-level review process.

2. Amendment to Act 754 Regulations, subsections 130A and 130B relative to membership of the State Special Education Advisory Council.

REVIEW PROCESS

§513. Review of Hearing Decisions

A. Any party to a hearing may appeal within 15 operational days after receipt of the hearing decision by requesting a formal review of the decision by the Review Panel.

B. A written request for review must be sent by the party seeking review by certified mail to the Office. A copy of the request must also be sent to all parties and the hearing officer.

C. The written request must state the basis upon which the review is requested.

D. The Review Panel may on its own authority initiate a review of any hearing decision. In such instance, it must provide full and effective notice to the parent(s), the affected school system, and the hearing officer.

§514. Appointment of Review Panel

A. The State Board shall appoint a panel of persons to serve as officers to evaluate and judge appeals of hearing decisions. The Review Panel will include three persons and one alternate who are all presently serving as IHO's. All panel members will be knowledgeable about the educational and legal issues involved. Appointments will be for a period of one year and may be renewed.

B. Upon receiving a formal written request for a review, the Office shall within 10 operational days notify the Review Panel to evaluate the hearing decision, the hearing record, and other appropriate information.

C. A decision by two review officers on the panel reviewing a particular appeal will be controlling as to the panel's ruling on that appeal.

D. No person may serve on the panel reviewing an appeal if the person has a personal or professional interest that would conflict with his objectivity. A review officer shall not serve on the panel reviewing an appeal that involves a local school system by which the officer is employed.

§515. Conduct of Review

A. The review and written findings and decision shall be completed within 30 operational days from the date a review panel receives hearing record and decision.

B. In conducting the review, the panel shall:

1. Examine the entire hearing record to:

a. Insure that procedures were consistent with the requirements of due process.

b. Determine if there are facts to support the hearing decision.

c. Insure that the decision made by the hearing officer was within the authority of the hearing officer.

2. Seek any additional evidence necessary.

3. Afford the opportunity for oral and/or written argument by the parties at the discretion of the reviewing panel. Any written argument(s) shall be submitted to all parties.

C. All parties have the right to continue to be represented by counsel at the state administrative review level, whether or not the reviewing panel determines that a further hearing is necessary.

§516. Review Decision

A. Based upon the conduct of the review, the review panel may decide to:

1. Affirm the hearing decision.

2. Overrule the hearing decision and enter a new decision.

3. Order the initiation of a new hearing.

B. Within 30 operational days from receipt of the hearing record, the review panel will issue a formal written review decision which either affirms the decision, overrules the hearing decision and substitutes a decision approved by the review panel, or orders the initiation of a new hearing.

C. The Office shall distribute a copy of written findings and decision to the parties and to the State Board.

§517. Appeal

The decision made by the review panel shall be final unless a party brings a civil action within 30 operational days of the decision.

This emergency adoption is necessary due to a recent court decision which suggested that it would be a possible conflict of interest for the State Board of Elementary and Secondary Education to serve as the state-level review panel for due process hearings; therefore the Board relinquished its responsibility for conducting state-level appeals in due process cases and appointed an independent body to conduct such reviews.

SECTION 130A

The State Board of Elementary and Secondary Education and the Department shall appoint a state advisory council for the education of exceptional children. The membership shall consist of 11 persons and the procedures for appointing this council shall follow existing State Board procedures.

SECTION 130B

Membership of the state advisory council for the education of exceptional children shall at all times, include at least one person representing each of the following groups:

1. Handicapped individuals

2. Teachers of handicapped children

3. Teachers of regular children

4. Parents of exceptional children

5. State education officials

6. Local education officials

7. Special education program administrators

8. Representative of recipients of special education related services and their families

9. Representative of advocacy agencies for the handicapped

10. Colleges and universities

11. Vocational technical schools

This emergency adoption is necessary in order that the State special education advisory council may meet in time to review the FY 84-86 Special Education Program Plan.

James V. Soileau
Executive Director

Rules

RULE

Commissioner of Agriculture and Dairy Stabilization Board

The Commissioner of Agriculture, upon the recommendation of the Dairy Stabilization Board and pursuant to the authority contained in LSA 40:931.8 (B) and LSA 36:901 (B) and Notice of Intent published on October 20, 1982, has adopted the following Rules and Regulations for the administration of LRS 40:931.1 -40:931.19:

RULES AND REGULATIONS

1.0 Definitions

1.1 Wherever in the Act or these Rules and Regulations the masculine is used, it includes the feminine; wherever the singular is used, it includes the plural; and *vice versa*.

1.2 "Act" means LRS 40:931.1 -40:931.19, the Dairy Stabilization Act.

1.3 "Agent" means an employee of the Commissioner or any person authorized to act on behalf of the Commissioner.

1.4 "Board" means the Dairy Stabilization Board created in LRS 40:931.6.

1.5 "Bulk milk" means milk which has not yet been placed in the container in which the product will be offered for sale to consumers, retailers, or institutions.

1.6 "Cartage" means the transportation of dairy products within a limited geographical area, such as delivery of dairy products from the processor to the retailer or distributor.

1.7 "Commissioner" means the Commissioner of Agriculture.

1.8 "Cost" means:

A) "Cost to the retailer" means the invoice cost, or the replacement cost, of the merchandise to the retailer, whichever is lower;

(1) Less all trade discounts except customary discounts for cash;

(2) Plus, in the following order:

a) Freight charges not otherwise included in the invoice cost or the replacement cost of the merchandise;

b) Cartage to the retail outlet if done or paid by the retailer, which cartage cost, in the absence of proof of a lesser cost, shall be three-fourths of one per cent of the cost to the retailer after adding freight charges but before adding cartage and markup; and,

c) A markup to cover a proportionate part of the cost of doing business, which markup, in the absence of proof of a lesser cost, shall be six percent of the cost to the retailer after adding freight charges and cartage.

B) "Cost to the distributor" means the invoice cost, or the replacement cost, of the merchandise to the distributor, whichever is lower;

(1) Less all trade discounts except customary discounts for cash and discounts from the state or any governmental agency allowed for the collection of any taxes;

(2) Plus, in the following order:

a) Freight charges not otherwise included in the invoice cost or the replacement cost of the merchandise;

b) Cartage cost which shall be three-fourths of one percent of the cost to the distributor after adding freight charges but before adding cartage and markup; and

c) A markup to cover a proportionate part of the cost of doing business which markup, in the absence of proof of a lesser cost, shall be two per cent of the cost to the distributor after adding freight charges and cartage.

(3) "Cost to the processor" means the cost of raw product, ingredients and/or additives; labor costs (including salaries of executives and officers); costs of receiving, cooling, processing, packaging, and manufacturing; rent; interest; depreciation; power and supplies; selling and delivery costs; storing; maintenance of plant and equipment; advertising; transportation; all types of licenses, taxes and fees; insurance; any and all overhead expenses; and all other costs of doing business. Cost shall be allocated proportionately to each unit of product sold.

C) In determining "cost to the retailer" in those cases where the retailer buys at wholesale and receives the wholesalers' profits and discounts on merchandise to be sold at retail, both the wholesale markup of two per cent and the retail markup of six percent, in the absence of proof of a lesser cost, shall be added to cover a proportionate part of the cost of doing business.

D) When one or more items are advertised, offered for sale, or sold with one or more other items at a combined price, or are advertised, offered as a gift, or given with the sale of one or more items, each and all of the items shall be considered as advertised, offered for sale, or sold, and the price of each item shall be governed by the provisions of Sub-sections A, B, and C of this Section.

E) "Cost to the retailer" and "cost to the distributor" as defined by Sub-sections A, B, and C of this Section means bona fide costs. Purchases made by retailers and wholesalers at prices which cannot be justified by prevailing market conditions within this state shall not be used in determining "cost to the retailer" and "cost to the distributor."

1.9 "Dairy products" means:

A) "Fluid milk related product(s)" means homogenized milk, creamline milk, low fat milk, fortified low fat milk, buttermilk, flavored milk, chocolate milk, low fat chocolate milk, half and half, breakfast cream, whipping cream, egg nog, sour cream, cottage cheese (dry or creamed), Creole creamed cheese, yogurt, U.H.T. milk, reene, and lo-reene.

B) "Frozen dessert(s)" means ice cream, fruit ice cream, nut ice cream, frozen yogurt, ice milk, malt ice milk, malt ice cream, French ice cream, milk sherberts, mellorine, olarine, sherine, and the mix from which any such product is made.

1.10 "Department" means the Department of Agriculture.

1.11 "Discount" means any reduction in the face amount of the invoice price for dairy products.

1.12 "Disruptive trade practices" means any of the acts more fully defined in Rule 5.0 hereof.

1.13 "Distributor" means a person, other than a processor, who sells dairy products to one or more retail establishments or home delivery routes. The term "distributor" includes wholesale grocers, cooperative grocery associations, and any per-

son engaged in marketing dairy products at wholesale (the sale of goods in bulk or quantity as opposed to retail or direct sales to consumers).

1.14 "Institution" means a school, hospital, state agency, religious organization, charitable organization, or nursing home.

1.15 "Licensee" means any person licensed under the Act or these Rules and Regulations.

1.16 "Markup" means an amount added to the invoice or replacement cost of dairy products to establish a reasonable sales price.

1.17 "Milk" means the lacteal secretion of one or more cows (including such secretions when raw, cooled, pasteurized, standardized, homogenized, recombined, or concentrated) which meets applicable requirements of the state health officer.

1.18 "Milk case(s)" means the wood, metal, or plastic container essential for transporting and/or delivering cartons, bottles, jugs, or other packages of dairy products.

1.19 "Person" means any individual, partnership, corporation, cooperative association, governmental agency, or other business entity engaged in any of the activities regulated under the Act.

1.20 "Processor" means a person who processes one or more dairy products or a person who purchases bulk milk for resale to a person who processes dairy products. The term does not include a person who purchases ice cream mix or ice milk mix whose processing activities are limited to converting such mix into a dairy product which will be sold on the premises where such processing occurs.

1.21 "Quorum", with respect to the Board, means four members of the Board. (See LRS 40:931.7).

1.22 "Retailer" means any person who is engaged in transferring title to dairy products to consumers at a fixed business location within the state.

1.23 "Supplier" means processors and distributors, including wholesale grocers and cooperative grocery associations.

1.24 "Volume discount" means a rate of reduction applicable to an invoice for dairy products, which rate is established on the basis of total purchases of dairy products from all suppliers of such products.

1.25 "Volume discount year" means the twelve months commencing on the 1st day of April and ending on the last day of March in the year which immediately follows.

1.26 "Wholesaler" means any licensee engaged in the business of making sales at wholesale (the sale of dairy products in bulk or quantity as opposed to retail or direct sales to consumers) within this state, or if any person is engaged in the business of making sales at both wholesale and at retail, "wholesaler" shall apply only to the wholesale portion of the business.

2.0 Administration of the affairs of the Board

2.1 The Board shall annually elect a chairman, vice-chairman, and secretary at a regular meeting during the month of August.

2.2 The chairman shall preside at all meetings, provided that in the absence of the chairman, the vice-chairman shall preside.

2.3 The Board shall meet upon the call of the chairman or the Commissioner.

2.4 The Board shall conduct at least one meeting during each quarter but may meet more frequently upon call.

2.5 The Board may, from time to time, delegate some of its responsibilities to subcommittees of the Board, provided that such delegation of authority may be granted only at a meeting where a quorum is present.

2.6 Members of the Board shall be entitled to reimbursement in accordance with regulations governing state employees for expenses incurred in attending meetings of the Board or its

subcommittees, provided that no member shall be entitled to reimbursement except for the performances of duties specifically assigned by the Commissioner.

2.7 Meetings of the Board shall normally be held in the domicile of the Board but may be held at other locations from time to time.

2.8 Proxies shall not be permitted.

2.9 The Commissioner shall provide clerical and other support services as may be required by the Board.

2.10 No final action shall be taken by the Board except at a meeting where a quorum is in attendance.

3.0 Licenses required

3.1 Each retailer, distributor, and processor of dairy products must be licensed by the Commissioner prior to conducting a business of buying and/or selling dairy products.

3.2 Each retailer license issued under the Act will remain in effect unless cancelled by the Commissioner.

3.3 A separate license must be secured for each business location.

3.4 Prior to licensure, each applicant for a license must:

a) Complete the application form required by the Commissioner

b) Demonstrate compliance with all pertinent requirements of the Department of Health and Human Resources

3.5 Each license is personal to the holder thereof and may not be transferred to another for any purpose nor for any period of time.

3.6 The Commissioner shall cancel any existing license whenever any of the following occurs:

a) ownership of the licensed business changes

b) ownership of 25 percent or more of the stock of a licensed business changes

c) the location of a licensed business changes

d) the name or trade name of a licensed business changes

e) the licensee ceases to operate a business of buying and/or selling dairy products for more than 60 days

3.7 A license cancelled by the Commissioner for any of the reasons listed in Rule 3.6 may be re-issued by the Commissioner upon compliance with the requirements of Rule 3.4 above.

3.8 A license suspended/revoked by the Commissioner in accordance with Rule 8.0 hereof may not be re-issued until the act causing the suspension/revocation has been corrected to the satisfaction of the Commissioner.

3.9 Each license shall be prominently displayed in an area accessible to the general public, in the case of retailers, or to the usual customers of the establishment, in the case of distributors and processors.

3.10 In order to maintain the records of the Commissioner in a current status, each license shall be re-issued biennially to all existing licensees whose status has not changed since initial issuance of the license. Each license shall be prominently marked to show the period covered by the license.

4.0 Assessments

4.1 Pursuant to LRS 40:931.13(B) and (D), an assessment of \$.03 per hundredweight is hereby levied upon the first sale of dairy products within the State of Louisiana by the processor, distributor, or retailer licensee who sells such product. The assessment shall be due and payable on all sales of dairy products during the previous month.

4.2 Only one assessment shall be levied on any given lot of dairy products. For example, when a processor makes the first sale of a given lot of dairy products and pays the assessment due thereon, no assessment shall be due from the distributor of that lot of dairy products. However, when a distributor makes the first sale within this state of a given lot of dairy products, the distributor shall be liable for payment of the required assessment on such lot.

4.3 The assessment on frozen desserts shall be determined by converting the frozen desserts to milk equivalents by the following procedure:

Multiply total non-fat milk solids \times 5.79 and add total pounds fat \times 12.5.

4.4 Assessments must be paid on or before the last day of the month following the month in which the sales occur. (For example, a report filed on December 31st should include all sales made during the month of November.) Assessments must be remitted to the Commissioner together with the reporting form required by the Commissioner. Each processor or distributor or retailer required under Rule 4.1 to pay the assessment must file the required report and pay the assessment on the due date.

4.5 The assessment becomes delinquent, if unpaid, on the twentieth day following the due date for the assessment report.

4.6 Licensees whose assessments amount to \$25 or less each year may pay the total assessment for the twelve months of the year on an annual basis, provided that such licensees must file the required assessment report on a monthly basis.

5.0 Disruptive trade practices defined; prohibited practices; retail accounts; volume discounts and delinquent accounts; exceptions

5.1 Disruptive trade practices are any act or acts by any person in commerce where the effect of such act or acts may be substantially to lessen competition or to create a monopoly in the sale of dairy products; or to injure, reduce, prevent, or destroy competition in the sale of dairy products.

5.2 The following acts are specifically defined as disruptive trade practices:

A) It shall be prohibited for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, where either or any of the purchases involved in such discrimination are in commerce, where such commodities are sold for use, consumption, or resale within the State of Louisiana and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them; Provided, that nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered. Provided, that nothing herein contained shall prevent price changes from time to time where in response to changed conditions affecting the market for or the marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

B) No licensee engaged in the production, manufacture, or distribution of milk and/or milk products shall intentionally, for the purpose of injuring or destroying the business of a competitor in any locality, discriminate between different sections, communities, cities, or localities in the state by selling such commodity at a lower rate in one section, community, city, or locality, than is charged for the commodity by such person in another section, community, city, or locality, after making due allowance for the difference, if any, in the grade or quality of the commodity and in the actual cost of transportation of the commodity from the point of production, if a raw product, or from the point of manufacture, if a manufactured product. All sales so made shall be prima facie evidence of unfair discrimination.

C) It shall be unlawful for any person engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance of discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to the agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf of, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

D) It shall be unlawful for any person engaged in commerce to pay or contract for the payment of anything of value to or for the benefit of a customer of such person in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such person, unless such payment or consideration is available on proportionately equal terms to all other customers competing in the distribution of such products or commodities.

E) It shall be unlawful for any person to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of any services or facilities connected with the processing, handling, sale or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

F) It shall be unlawful for any person engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by this Section.

G) It shall be unlawful for any person engaged in commerce, in the course of such commerce, to be a party to, or assist in, any transaction of sale, or contract to sell, which discriminates to his knowledge against competitors of the purchaser, in that, any discount, allowance, or advertising service charge is granted to the purchaser over and above any discount, rebate, allowance, or advertising service charge available at the time of such transaction to said competitors in respect of a sale of goods of like grade, quality, and quantity; to sell, or contract to sell, goods in any part of Louisiana at prices lower than those exacted by said person elsewhere in Louisiana for the purpose of destroying competition, or eliminating a competitor in such part of Louisiana or to sell, or contract to sell, goods at unreasonably low prices for the purpose of destroying competition or eliminating a competitor.

H) Any advertising, offer to sell, or sale of any dairy products either by retailer or wholesaler, at less than cost as defined herein plus any state, parish, or municipal sales tax that is then payable under any existing law or ordinance, with the intent or effect of inducing the purchase of other merchandise or of unfairly diverting trade from a competitor or impairing fair competition and thus injuring public welfare, is unfair competition and contrary to and violative of public policy as expressed in Louisiana law, where the result of such advertising, offer or sale is to tend to deceive any purchaser or prospective purchaser, or to substantially lessen competition, or to unreasonably restrain trade, or to tend to create monopoly in any line of commerce.

5.3 Burden of Proof

A) Upon proof being made at any adjudicatory hearing that a licensee has advertised, offered to sell, or sold dairy products at less than cost as defined herein plus applicable taxes, the **licensee** shall be presumed in violation hereof and shall have the burden of proving such advertisement, offer or sale was not for a proscribed purpose, did not have a proscribed effect or was otherwise lawful.

B) Upon proof being made at any hearing on a complaint that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima facie case thus made shall be upon the licensee charged with a violation of this Section, provided, however, that nothing herein contained shall prevent a licensee rebutting the prima facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor.

5.4 Nothing in this Rule shall prevent a cooperative association from returning to its members, producers, or consumers the whole or any part of the net earnings or surplus resulting from its trading operations, in proportion to their purchases or sales from, to, or through the association.

5.5 The prohibitions contained in 5.2 above do not apply to the following:

A) Price changes which are necessary from time to time in response to changing conditions affecting the marketability of dairy products, such as, but not limited to, actual or imminent deterioration, seasonal obsolescence, distress sales under court process, sales in good faith in discontinuance of a business in the dairy product being sold with a changed price, or final liquidation sales;

B) Reduction in price to meet a competitor's price, when such reduction is made in good faith solely to meet the competitor's price; provided that such reduction in price must be reported in writing to the Commissioner prior to such reduction, or, if prior notification is not possible, within 72 hours thereafter;

C) The donation of dairy products to nonprofit charitable groups, organizations, institutions such as schools, hospitals, state agencies, religious or charitable organizations, nursing homes, or other similar organizations.

5.6 Retail accounts; Volume discounts and delinquent accounts

A) Any discount in excess of the schedules hereinbelow provided are disruptive trade practices, unfair methods of competition and unfair or deceptive acts or practices and are hereby prohibited with respect to the sale of milk and milk products.

B) Any licensed retailer desiring to receive a volume discount from his suppliers must first be approved by the Commissioner to receive a volume discount. To be approved by the Commissioner, the retailer must complete a Volume Discount Eligibility application, on forms provided by the Commissioner. The application must include all fluid milk purchases during the standard 3-month base period and/or all frozen dessert purchases during the standard 12-month base period. The application is subject to verification by the Commissioner.

C) Processors/distributors may grant volume discounts to a licensed retailer upon receipt of notification from the Commissioner of the retailer's eligibility to receive a volume discount.

D) The Commissioner will annually, on or before April 1st, publish a list of all retailers eligible to receive volume discounts, including the retailer's name and address, the rate(s) of discount authorized for each such retailer, and the effective date of such volume discount. The Commissioner shall promptly notify all processors/distributors of any retailer approved for volume discounts subsequent to publication of the annual listing.

E) The authorized rate(s) of volume discount will be established on the basis of a retailer's total purchases of fluid milk and/or frozen dessert products from all suppliers during the appropriate base period.

F) The standard base period for calculation of the authorized rate of volume discount for fluid milk will be the months of August, September, and October of each year. The standard base period for calculation of the authorized rate of volume discount for

frozen dessert products will be the months of November 1 through October 31 immediately preceding the retailer's application.

G) A retailer that has not been in operation during the entire standard base period may, with the approval of the Commissioner, use, for fluid milk, his first full three calendar month's purchases and, for frozen desserts, his first full twelve calendar month's purchases.

H) The authorized rate of volume discount on fluid milk purchases will be established by totaling the value of all fluid milk purchases from all suppliers during the approved base period and dividing by 3.

I) The authorized rate of volume discount on frozen dessert products will be established by totaling the value of all frozen dessert products purchased from all suppliers during the approved base period.

J) The authorized rate of volume discount for each retailer shall become effective on April 1 of the year following the application and shall remain in effect until the following March 31, except as provided in Rule 5.6(L). Volume discount rates for a new retailer shall become effective as of his first day of business and remain in effect until he has operated for a full volume discount year.

K) The authorized rates of volume discount on fluid milk purchases shall be as follows:

Average Monthly Purchases From All Suppliers	Volume Discount Rate
\$1,000.00 to \$1,500.00	3%
\$1,500.01 to \$2,500.00	4%
\$2,500.01 to \$3,500.00	5%
\$3,500.01 to \$4,500.00	6%
\$4,500.01 and over	7%

L) The authorized rates of volume discount on frozen dessert products shall be as follows:

Total Annual Purchases From All Suppliers	Volume Discount Rate
\$ 4,000.00 to \$ 6,000.00	3%
\$ 6,000.01 to \$ 8,000.00	4%
\$ 8,000.01 to \$11,000.00	5%
\$11,000.01 to \$15,000.00	6%
\$15,000.01 and over	7%

M) All applications for volume discount must be submitted within one month after the close of the appropriate base period. One month's volume discount shall be forfeited for each month the application is late.

N) In a retail ownership transfer, the buyer may receive the volume discount rate approved for the previous owner by indicating his choice to do so on his application for license. Alternatively, the buyer may choose to establish his own volume rate in accordance with Rule 5.6(F) hereof.

O) Accounts shall become delinquent 30 days from the end of the month in which the purchases were made, unless a good faith dispute exists between the parties concerning the amount of such account in which case the account becomes delinquent 30 days following resolution of such good faith dispute.

P) Retailers who are delinquent in payment of their account with any processor/distributor are not eligible to receive a volume discount from any supplier on any purchases of dairy products made during the period when the account was delinquent.

Q) Each processor/distributor must report to the Commissioner no later than the 10th of each month the name and address of each account which was delinquent.

R) No processor/distributor may extend credit to a retailer who is more than 60 days delinquent in payment of his account.

5.7 The following trade practices are hereby declared not to be disruptive trade practices:

A) No person shall be deemed to be in violation of the Act or of these regulations on account of giving to any other person advertising novelties unless the nature and value of the advertising novelty is such as to justify the belief that the giver intended to use such gift to induce a retailer to divert business from a competitor to the giver.

B) Nothing contained in either the Act or these regulations is to be interpreted as prohibiting the normal social activities of any person or the entertainment by any processor or distributor (or any processor's or distributor's officers and employees) of any customer unless the expenditure involved in such entertainment is excessive or unreasonable.

C) Processors and distributors may give samples of dairy products to consumers if the following requirements are observed:

1) In the case of fluid milk products, the quantity must be limited to three fluid ounces.

2) In the case of frozen desserts, the quantity must be limited to one fluid ounce.

3) The retailer on whose premises such sampling activity takes place must have been in operation at that location for at least 60 days prior to the date on which such activity takes place.

4) Prior to engaging in sampling activities on the premises of a retailer, the processor or distributor shall notify the Commissioner of the planned sampling activity. If such notification is by mail, it shall be given at least ten days prior to the date of the planned sampling activity; and if such notification is by telephone, it shall be given at least three days prior to such activity.

5) Notwithstanding the above provisions, processors may give homogenized milk, low fat milk, skim milk, or chocolate milk in half-pint containers or a frozen dessert sample weighing no more than three fluid ounces to persons participating in plant tours, if such products are consumed on the premises where given.

6) The giving of such samples by a processor or distributor shall not extend over a period of more than two consecutive days for each retailer and shall not occur more frequently than once per calendar quarter; provided that the giving of such samples during the month of December shall not be considered in determining whether there has been compliance with the provisions of this Subsection limiting frequency of demonstrations to one per calendar quarter.

6.0 Obligations of licensees

6.1 Each licensee must maintain all financial records pertaining to transactions subject to the Act in accordance with standards generally prevailing in the industry for a period of two years.

6.2 In order to enforce the provisions of the Act and these regulations, the Commissioner may from time to time audit the books and records of licensees, and each licensee is to permit access to his financial records, during normal business hours, for such audit.

6.3 Each licensee which is required to pay an assessment must submit a monthly report of sales, together with the assessments due, to the Commissioner no later than the last day of the month following the date of purchase. (See Rule 4.0)

6.4 No licensee may use, ship, lend, borrow, give away, throw away, donate, or dispose in any way of milk cases which belong to another licensee.

6.5 Each processor and/or distributor is responsible for assuring that retailers purchasing dairy products from him are properly licensed by the Commissioner.

6.6 Each licensee shall submit such additional reports concerning the sale of dairy products as may from time to time be required by the Commission.

7.0 Violations

7.1 No person shall knowingly violate any of the provisions of the Act or these Rules and Regulations.

7.2 The following acts, but not by way of limitation, are specifically defined as violations of the Act and/or these Rules and Regulations:

A) Sales of dairy products by a retailer, distributor, or processor who is not licensed by the Commissioner.

B) Transfer of a license issued by the Commissioner to another for any purpose.

C) Failure to display a current license in a prominent place at each business location.

D) Failure to submit, on a timely basis, the monthly report of sales of dairy products required under Rule 4.0.

E) Failure to pay, on a timely basis, the monthly assessment on sales of dairy products required by LRS 40:931.13 and Rule 4.0 of these regulations.

F) Any sale to or purchase from a licensee whose license has been suspended/revoked.

G) Granting a volume discount to any retailer without notification from the Commissioner of the retailer's eligibility for such discount.

H) Granting a volume discount at a rate different from the rate authorized by the Commissioner.

I) Extension of credit to any licensee whose account is delinquent for more than 60 days.

J) Filing of any fraudulent information of any kind with the Commissioner.

K) Any disruptive trade practice enumerated in Rule 5.0 of these Rules and Regulations.

L) Failure or refusal to permit an examination of financial records when the request of the Commissioner to audit is made for valid purposes.

M) Failure or refusal to provide any report or audit report required by the Commissioner.

N) Any misuse of milk cases belonging to another, as more fully enumerated in Rule 7.4 hereof.

O) Any retailer's use of equipment furnished by a frozen dessert processor or distributor for the storage or display of frozen desserts other than those sold to such retailer by such frozen dessert processor or distributor. The storage or display of products other than frozen desserts received from such processor or distributor, in such storage or display cabinet by a retailer shall constitute prima facie evidence of a violation of this regulation.

P) The advertisement of lowfat milk (milk with a milk fat content of not less than 0.5 percent nor more than 2.0 percent) in any form of mass media without clearly stating the percentage of milk fat contained in said product.

7.3 No processor or distributor shall furnish, give, lend, sell, or rent, and no retailer shall accept, receive, buy, or rent any signs and/or display materials except those advertising only the supplier's own products. Such signs and display materials shall not contain the name or product of any retailer.

7.4 No licensee may use, ship, lend, borrow, or possess in any way, give away, throw away, donate or dispose in any manner of milk cases belonging to any licensed processor or distributor.

7.5 No processor or distributor may provide a fluid milk dispenser to any retailer, except under the following conditions

A) The processor or distributor has been engaged in selling dispenser milk to the retailer for at least 60 days prior to the date on which the dispenser is furnished.

B) The period during which the dispenser is furnished must not exceed 30 days.

C) The processor or distributor must report to the Commissioner within ten days after the date on which the dispenser is furnished to the retailer the make and serial number of the dispenser,

the name and address of the retailer, and the date on which the dispenser was installed.

8.0 Suspension/revocation of license; hearing under Administrative Procedure Act required; penalties; amount

8.1 The Commissioner may suspend or revoke the license of any licensee found to have violated any provisions of the Act or these Rules and Regulations.

8.2 No license shall be suspended or revoked unless the accused licensee is given an opportunity for a public hearing noticed and conducted as required by the Administrative Procedure Act (LRS 49:951, et seq.).

8.3 The Commissioner may, in lieu of suspension or revocation of the license, impose a penalty as a result of any violation of the Act or these Rules and Regulations which is sustained at such hearing. No penalty may be imposed until such time as an adjudicatory hearing under the Administrative Procedure Act is held.

8.4 The maximum penalty which may be imposed by the Commissioner shall not exceed \$500.00 per violation.

8.5 Each day on which a violation occurs shall be considered a separate offense.

9.0 Confidentiality

9.1 Neither the Board, the Commissioner, nor any agent nor representative of either shall disclose any financial or business information of any licensee which is acquired or collected in the enforcement of the Act of these Rules and Regulations, except as provided by LRS 40:931.11.

10.0 Delegation of authority and duties

10.1 The Commissioner may, from time to time, in accordance with the authority granted to him under R.S. 36.901B, delegate to the Board any of the authority and/or duties herein received to the Commissioner.

Bob Odom
Commissioner

RULES

Board of Elementary and Secondary Education

Rule 3.01.70.u(1)a

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

Rule 4.03.03

The Board adopted as policy, the placement of classified employees of vocational technical schools under the Board's grievance procedure.

Rule 3.01.70.v(29)a

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

James V. Soileau
Executive Director

RULE
Office of the Governor
Division of Administration
Office of Data Processing

Notice is hereby given that the Office of Data Processing, under the authority granted by R.S. 39:1901 through 39:1903 and Act 855 of the 1982 Regular Session of the Legislature, and in

accordance with applicable provisions of the Administrative Procedure Act, adopts a new Rule.

The following Rule is adopted.

**LAC 1-9:15 GUIDELINES FOR PROCURING
FISCAL INTERMEDIARY SERVICES**

I. INTRODUCTION

This document provides guidelines and procedures related to the procurement of contracts for fiscal intermediary services in processing claims of health care providers. Guidelines contained herein are based on Act 855 of the 1982 Regular Session.

II. CALENDAR OF MAJOR MILESTONES

DATE	MILESTONE
Start - 13 Months	Justification for contract submitted to ODP
Start - 12 Months	Issuance of Solicitations for Proposals
Start - 8 Months	Award of Contract
Start	Contract Effective Date

III. PROCUREMENT SUPPORT TEAM INVOLVEMENT

Act 855 stipulates that each procurement will involve a Procurement Support Team (PST). General information regarding a PST is given in LAC 1-9:8 (see Attachment A).

IV. STEP-BY-STEP PROCEDURES

STEP	RESPONSIBILITY	PROCEDURE
1	User Agency	<ul style="list-style-type: none"> a. Develops justification for procuring contract, to include identification and consideration of all factors, including costs, relevant to the Solicitation for Proposals and the final contract. b. Develops functional requirements and draft of Solicitation for Proposals including description of method by which the contract shall be awarded as well as the criteria to be used and the weights assigned to each criteria. c. Sends request, including justification and Solicitation for Proposals, to the Office of Data Processing at least 13 months prior to the termination date of an existing contract.
2	ODP	Receives and logs user request, and forwards to ODP Procurement Coordinator
3	ODP Procurement Coordinator	<ul style="list-style-type: none"> a. Reviews justification and functional requirements b. Verifies funding c. Makes recommendation d. Forwards request to Director of Office of Data Processing
4	Director of ODP	<ul style="list-style-type: none"> a. Reviews justification and functional requirements b. Notifies user agency via letter of initial approval or reason for disapproval
5	User Agency	Requests and presents justification for issuing a Solicitation for Proposal in a public hearing before the House and Senate Committees on Health and Welfare or a Joint Subcommittee thereof
6	Legislative Committee(s)	Holds public hearings and makes recommendations regarding the request to issue a Solicitation for Proposals
7	PST/User Agency	Evaluates Legislative Committee(s) recommendations
8	PST	Reviews and makes recommendations on the final drafting of specifications and the Solicitation for Proposals
9	User Agency	<ul style="list-style-type: none"> a. Finalizes Solicitation for Proposals b. Presents Solicitation for Proposals for PST signoff c. Releases Solicitation for Proposals

		d. Advertises for proposals
		e. Receives proposals
		f. Reviews proposals for compliance with administrative requirements
		g. Evaluates proposals received and makes a selection
		h. Forwards proposals, evaluation and selection to ODP
10	ODP Procurement Coordinator	Schedules PST meeting to review proposals, evaluation and selection
11	PST	a. Reviews proposals
		b. Reviews agency evaluation and selection and provides recommendation to the head of the using agency
12	User Agency	Requests and presents the evaluation and selection in a public hearing before the House and Senate Committees on Health and Welfare or a Joint Subcommittee thereof
13	Legislative Committee(s)	Holds public hearings and make recommendations regarding the award
14	PST/User Agency	Evaluates Legislative Committee(s) recommendations
15	PST	Establishes date of meeting for contract negotiations
16	User Agency	Notifies most responsive and responsible offerer of selection for contract negotiations. In addition to other provisions as required by law or in the best interests of the state, such contract shall contain provisions setting forth, (a) the amount and requirements of the contractor's performance bond, (b) penalty and enforcement provisions for the failure of the contractor to perform in accordance with the contract documents, (c) conditions for optional renewal of the contract by the state in accordance with the provisions of 855, and (d) requirements for termination of the contract by the state at any time, or for cause, or upon the refusal of the state to exercise an option to renew such contract.
17	PST/User Agency	Negotiates final contract and forwards contract to the User Agency
18	User Agency	a. Obtains vendor signature on contract and signs contract
		b. Prepares purchase order
		c. Forwards purchase order and contract for ODP stamp of approval
19	Procurement Coordinator	a. Compares signed contract with contract furnished to insure it is the same
		b. Stamps purchase order and contract and forwards to User Agency for distribution.

RENEWAL OF CONTRACT

1	User Agency	Request and presents justification for exercising option to renew contract in a public hearing before the House and Senate Committees on Health and Welfare or a Joint Subcommittee thereof
2	Legislative Committee(s)	Holds public hearings and makes recommendations regarding the option to renew contract
3	User Agency	Reviews recommendations of Legislative Committee(s) and notifies the contractor of its decision

ATTACHMENT A LAC 1:9.8 PROCEDURES FOR PROCUREMENT SUPPORT TEAM OPERATIONS

8.1 PROCUREMENT SUPPORT TEAM COMPOSITION. A procurement support team shall be formed in accordance with the procedures defined herein for every contract in an amount greater than \$100,000 for the procurement of data processing hardware, software, and related services, as required by Act 628 of the Regular Session of 1981. Purchase release orders issued pursuant to a Direct Order Contract shall not constitute a contract for purposes of these procedures. The formation of a procurement support team shall be accomplished by the Office of Data Processing (ODP).

As stated in Act 628, at least two members of each procurement support team should have formal training in computer con-

tract negotiations. The Office of Data Processing, the Legislative Fiscal Office, the Attorney General's Office, and the Purchasing Office shall each designate in writing to the ODP the names of a primary and an alternate team member, and should insure that at least one of these individuals has received formal training in computer contract negotiations. It shall thereafter be the responsibility of each named agency to keep the ODP advised of any changes in designated individuals.

Each agency in the State which uses data processing hardware, software, and related service shall designate in writing to the ODP at least one individual who will be available to participate in procurement support teams. Each such agency is requested to have at least one individual trained in computer contract negotiations available at all times.

As required by Act 628, at least five members, one from each office designated, must be present to constitute a quorum.

8.2 PROCUREMENT SUPPORT TEAM INVOLVEMENT. Procurement support team participation must include, as a minimum, assistance in final drafting of specifications, drafting of invitations for bids, evaluation of bids, and negotiation of contract terms. Procurements requiring this level of support will involve the active participation of all of the members of the procurement support team as a unit. There will be at least one joint meeting per phase during the process. The procurement support team will make written evaluations and recommendations as a group; these will not supplant written individual agency approvals as required by statute or regulations. The team leader will be designated by the Office of Data Processing.

8.3 EMERGENCY PROCUREMENTS. Notwithstanding the guidelines established above, procurements under emergency conditions (as defined by the ODP) will involve a procurement support team designated by the ODP, under the directions of a team leader designated by the ODP. Agencies and individual team members may be contacted by telephone, and make oral recommendations and comments. Such oral recommendations or comments shall be confirmed in writing as early as possible. A final written evaluation shall be presented to the ODP prior to ODP approval of any emergency procurement. Procurement support team members participating in emergency procurement shall participate in a follow-up meeting, at which time a written evaluation of the process will be prepared and forwarded to the ODP.

8.4 The procurement support team will be a purely advisory body. All decisions with respect to a procurement process will be made by the procuring agency. Such decisions will of course be subject to the review and approval of other agencies as required by statute or regulations. The approval or acceptance of a particular procedure by a procurement support team member is not to be construed as approval by the agency which that team member represents, in those cases where formal agency approval of the final agreements is required.

8.5 In situations where formal negotiations with prospective vendors, or a successful bidder, is appropriate, such negotiations will be conducted by a negotiations team appointed by the procurement support team leader. One member of the negotiating team will be designated as lead negotiator. The procuring agency will establish in writing the authority and constraints under which the negotiating team will operate, and within these constraints, the negotiation team shall have full authority to deal with the other party or parties. The results of such negotiations will, of course, be subject to all statutory required reviews. The lead negotiator and at least one other member of the negotiating team should have formal training in computer contract negotiations.

8.6 The individual agencies represented on procurement support teams will have the following primary responsibilities. These responsibilities may be enlarged or modified as appropriate to each given situation by the procurement support team leader,

with the concurrence of the Office of Data Processing.

A. Office of Data Processing. The ODP shall have primary responsibility for providing advice and support in the area of data processing techniques, negotiations techniques, developing the structure and content of invitations to bid (ITB), and drafting of technical specifications.

B. Legislative Fiscal Office. The Legislative Fiscal Office shall have primary responsibility for the financial analysis of ITB's and bids, and review of funding procedures.

C. Attorney General's Office. The Attorney General's Office shall have primary responsibility for developing the legal terms and conditions of draft contracts, evaluating the legal impact of substantive terms and conditions, review to insure compliance with statutes and regulations, and legal negotiations.

D. Purchasing Office. The Purchasing Office shall have primary responsibility for insuring compliance with procurement procedures and regulations, the drafting of invitations to bid, and the evaluation of bids.

E. The Procuring Agency. The procuring agency shall have primary responsibility for the determination of the compliance of bids with these functional requirements, and for all management decisions at each phase of the procurement process.

8.7 PROCEDURES. Each procurement activity covered by Act 628 shall be conducted in accordance with the following procedures:

8.7.1 Each agency contemplating a procurement covered by the provisions of Act 628 shall, upon definition of the preliminary functional requirements and prior to the drafting of specifications, notify the ODP in writing of the intended procurement. The ODP shall then make a determination as to the best available method of satisfying the agency's requirements (e.g., by transferring equipment from another agency, or by issuance of invitations to bid.) If the ODP determines that bidding procedure is most appropriate, it shall authorize the procuring agency to proceed.

8.7.2 The ODP staff, pursuant to the guidelines established herein, shall identify the level of support required, notify the appropriate agencies, and obtain from those agencies the names of the individual designated to participate on this particular procurement support team. The ODP staff will then designate a team leader, insure that at least two members of the procurement support team have received formal training in computer contract negotiations, and forward to the team leader the names of the other team members, along with any information received from the procuring agency.

8.7.3 The team leader will establish a schedule for the procurement activity, define the role and task of each team member, and establish a project file. The procuring agency and all team members are responsible for insuring that the team leader receives a copy of all correspondence and documentation.

8.7.4 The team leader will maintain a file containing all documentation and correspondence relating to the procurement. At the end of the process one copy will be provided to the procuring agency and one copy will be retained on file by the ODP. The team leader will make written status reports at the end of each phase to the ODP. Such status reports shall be presented to the ODP at each regular meeting.

8.7.5 Each member of the procurement support team must review as a minimum the final specifications, the invitation to bid, the bids, any formal bid evaluation, and the final contract. As a minimum, this review must be indicated by the signature of each team member. Where team evaluations are made, each team member must sign the evaluation, or his designating or qualifying reports.

8.7.6 In the event that a team member indicates acceptance or concurrence of any activity, and that team member's agency subsequently refuses to approve the process pursuant to its

statutorily required review, the reviewing agency and the individual team member must submit to the team leader written reasons for their actions. The team leader shall file these documents in the final activity file.

8.7.7 After a procurement process has been completed, team members and the procuring agency are encouraged to submit written evaluations and comments of the process, and suggestions for future improvements. Such evaluations, comments, and suggestions shall be sent to the ODP.

Thomas G. Hagan
State Director

RULE

Office of the Governor State Planning Office

The Office of the Governor, Louisiana State Planning Office, in accordance with the Notice of Intent published December 20, 1982, has adopted the following Rules for the administration of a Planning and Development District Assistance Program:

GOALS AND OBJECTIVES:

The State of Louisiana supports regional planning and development activities for the effective promotion of the economic and social welfare of the people within the various regions of the state. To that end, the Louisiana State Planning Office (SPO) will disburse funds to the State's Regional Planning and Development Districts (District or Districts), or Regional Planning Commissions, to meet the following program objectives:

- A. Activities to promote the economic development of the region, or;
- B. Planning and project development activities to accomplish any of the following goals:
 - 1. Greater employment opportunities
 - 2. Provision of adequate infrastructure to meet community needs
 - 3. Better living environment including more decent and affordable housing
 - 4. Improved transportation services
 - 5. Improved social services, or;
- C. Any combination of the above.

PROGRAM REQUIREMENTS FOR MEETING PROGRAM OBJECTIVES

A. Document Submission. No later than July 1 of each year, (except FY 1983, which may be submitted upon approval of these Rules) the regional agency shall submit a budget and program narrative outlining expected expenditures in the same detail as found in the agency's normal budgeting procedure and giving a reasonably detailed narrative of the expected program for the following 12 months. The budget and program narrative shall be approved by the agency's governing body. Upon receipt of such budget and program narrative, SPO shall make comments on them and shall then forward such comments, along with the budget and program narrative to the Governor, the Senate Finance Committee, and the House Appropriations Committee. Where quantitative results are applicable, the program narrative shall contain an estimate of accomplishments expected during the 12 month period.

B. Payments. Payments will be made within six weeks after the quarterly dates of July 1, October 1, January 1, April 1, provided that the July 1 payment will not be disbursed prior to receipt by SPO of the budget and program narrative required above with documentation of approval by the District Agency's

governing authority. Quarterly payments thereafter shall not be made until receipt of quarterly progress reports outlining activities in relation to the work program. Quarterly progress reports shall contain the following:

- 1. A statement of activities accomplished during the quarter, accompanied by any appropriate documentation (i.e. studies, plans, maps, industrial development reports, etc.) showing that these activities were carried out.
 - 2. A projection of activities expected to be conducted during the next following quarter.
 - 3. Amended copies of any changes in the budget or program narrative as approved by the agency's governing body.
- SPO shall have the same right of comment on these quarterly progress reports as in B., and shall also send such comments, along with the quarterly progress reports, to the Governor, the Senate Finance Committee, and the House Appropriations Committee.

C. Period of Work. Work will be accomplished and/or obligated during the fiscal year. (i.e., July 1 - June 30) in which the Legislative appropriation is made.

D. Final Report. By June 30 of each year, each agency shall submit a final report of activities summarizing work accomplished for the year and all materials produced by the agency. Copies of all materials produced by the agency shall be submitted to SPO by June 30 or in a timely fashion thereafter. By September 1 of each year, the State Planning Office shall submit a report to the Governor and the Legislature on the accomplishments of the program, with an evaluation of the program's merit, during the previous fiscal year.

E. Audits. It is understood that all subject regional agencies are required to submit annual audits to the State Legislative Auditor's office. It is understood that it is the SPO's prerogative to request that such audits be filed in a timely fashion with SPO, for submission to the Legislative Auditor's Office.

F. Application. The above Rules and Regulations apply only to those funds disbursed under the Planning and Development District Assistance Program.

FUND RECIPIENTS

Recipients of these funds, appropriated by Act No. 13 of the 1982 Louisiana Legislature and the total amounts they are eligible to receive, upon compliance with the aforementioned requirements, are as follows:

NAME	AMOUNT
Regional Planning Commission for Jefferson, Orleans, St. Bernard, and St. Tammany Parishes (New Orleans, La.)	\$40,000
Capitol Economic Development District (Baton Rouge, La.)	\$40,000
South Central Planning & Development Commission (Thibodaux, La.)	\$40,000
Evangeline Economic & Planning District (Lafayette, La.)	\$40,000
Imperial Calcasieu Regional Planning Commission (Lake Charles, La.)	\$40,000
Kisatchie-Delta Regional Planning & Development District, Inc. (Alexandria, La.)	\$40,000
Coordinating & Development Corporation (Shreveport, La.)	\$40,000
North Delta Planning & Development District, Inc. (Monroe, La.)	\$40,000
TOTAL	\$320,000

These regulations are to be effective on January 20, 1983, and are to remain in force until they are amended or rescinded. Anyone having questions should contact Wallace L. Walker, Executive Director, Louisiana State Planning Office, Office of the Governor, Box 44426, Baton Rouge, LA 70804. He is the person responsible for administering this program.

Wallace L. Walker
Executive Director

RULE

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

The Department of Health and Human Resources, Office of Family Security, adopts a Rule, effective February 1, 1983, to implement a state program of maximum allowable costs (MAC) for multiple-source drugs. This Rule establishes maximums for the costs of certain drugs which shall be reimbursed under Title XIX. The state established MAC for these drugs shall be applicable unless a lower Federal MAC for the respective products is established. The proposed MAC limits shall be applicable for the specified drugs unless the prescriber has certified, in his own handwriting, that a specified brand is medically necessary for the recipient. In no case may a recipient be required to provide payment for any difference in a prescription price that may occur with implementation of the MAC limit, nor may OFS use a cost which exceeds the established maximums except as specified below.

This program shall track federal Health and Human Services regulations regarding exceptions to their MAC limitations. The specific guidelines regarding procedures for such exceptions provide that:

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

Maximum Allowable Costs (MAC's) for reimbursement under Title XIX are proposed as follows on those multiple-source drugs specified:

DRUG	PROPOSED STATE MAC
Amitriptyline Tablets	
10 mg.	\$0.0350
25 mg.	0.0550
50 mg.	0.0750
75 mg.	0.1000
100 mg.	0.1350
150 mg.	0.1850
Chlorothiazide Tablets	
250 mg.	0.0400
500 mg.	0.0650
Diphenhydramine Capsules	
25 mg.	0.0160
50 mg.	0.0175
Diphenhydramine Elixir	
cc	0.0100

Furosemide Tablets		
20 mg.		0.0600
40 mg.		0.0825
Potassium Chloride, Oral,		
liq. 20%		
cc		0.0060
Dicyclomine Capsules		
10 mg.		0.0220
Dicyclomine Tablets		
20 mg.		0.0220
Chlorthalidone Tablets		
25 mg.		0.0850
50 mg.		0.1050
Dipyridamole Tablets		
25 mg.		0.0700
Ferrous Gluconate Tablets		
5 gr. (300-325 mg.)		0.0110
Imipramine HC1 Tablets		
10 mg.		0.0350
25 mg.		0.0500
50 mg.		0.0750
Papaverine HC1 TR Capsules		
150 mg.		0.0550
Spironolactone Tablets		0.1250
Spironolactone w/Hydrochlorothiazide Tablets		0.1600
Meclizine Tablets		
12.5 mg.		0.0250
25 mg.		0.0350
Ibuprofen Tablets		
400 mg.		0.1600
Propoxyphene HC1 65 mg. Acetaminophen 650 mg. Capsules and Tablets		0.0700
Belladonna Alkaloids with PB Tablets or Capsules		0.0050
Potassium Gluconate Elixir USP		
cc		0.0120
Butalbital w/APC Tablets or Capsules		0.0400
Chloral Hydrate Capsules		
500 mg.		0.0400
Chlorpromazine HC1 Tablets		
10 mg.		0.0200
25 mg.		0.0300
50 mg.		0.0350
100 mg.		0.0500
200 mg.		0.0700

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 exclude the coverage of voice evaluations

or voice therapy from the Title XIX Medical Assistance Program. This includes instructions in use and hygiene of the voice as treatment for vocal cord nodules or hoarseness, and related conditions, unless it is serious enough to interfere with normal speech.

Coverage of these particular services was the issue of a request for a Fair Hearing. This proposed exclusion will clarify the policy concerning voice evaluations or voice therapy. These services have never been covered and there are presently insufficient funds to allow the Medical Assistance Program to offer coverage of these services.

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 provide Medicaid to any child for whom the State makes adoption assistance or foster care maintenance payments under Title IV-E of the Social Security Act.

This Rule had been placed in effect on an emergency basis and was published in the October 20, 1982, issue of the *Louisiana Register* (Volume 8, No. 10, page 509).

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

This action is mandated by Public Law 96-272 and is being taken in response to final Federal regulations published in the July 1, 1982 issue of the *Federal Register* (Volume 47, No. 127, pages 28652-28658).

Roger P. 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 adopt a Rule in the Medical Assistance Program to amend the requirement that Title XIX recipients in Intermediate Care facilities (ICF I and II) be visited by a physician at least every 60 days following admission unless the physician decides that this frequency is unnecessary and records the reasons for that decision. Current policy requires physician visits every 60 days regardless of medical necessity.

This change does not affect separate requirements for recertification by a physician regarding continued need for care and/or review or revision of the plan of care for the recipient.

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, hereby reduces the personal care needs allowance for long term care recipients from \$50 to \$40 per month effective February 1, 1983. The maximum Optional State Supplement payment shall also be reduced from \$25 to \$15 per month effective February 1, 1983.

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, hereby suspends the Maximum Allowable Cost (MAC) limit for the drug, Erythromycin Stearate 500 mg. Tablets. The original MAC limit for this drug was published as a final Rule in the March 20, 1979 *Louisiana Register* (Volume 5, Number 3, page 64).

This action is required as a result of a telegram received from the chairman of the Pharmaceutical Reimbursement Board of the Health Care Financing Administration (HCFA). The federal government is suspending this drug from the MAC list because of the potential lack of product availability in the marketplace at the current MAC limit.

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, hereby amends the policy regarding the number of therapeutic leave days which are reimbursable under Title XIX effective February 1, 1983 from the current limit of 25 days per recipient per year to an allotted number of leave days per facility based on the number of certified recipients enrolled in the facility as to January 1, 1983. Each facility's number of leave days will be recomputed annually based on the formula of 25 days per recipient multiplied by the number of certified recipients enrolled as of January 1 of each year.

A maximum limit of 50 therapeutic leave days per year for each individual recipient will be eligible for reimbursement under Title XIX where permitted by the facility's use of their allotted number of leave days.

Leave days for the following purposes shall be excluded from the annual 50 day limitation per recipient:

- 1) Special Olympics
- 2) Roadrunner sponsored events
- 3) Summer camp
- 4) Louisiana planned conferences
- 5) Trial discharge leaves
- 6) Elopement days

The above exclusions shall be applicable to all Title XIX ICF-H recipients effective February 1, 1983.

Roger P. Guissinger
Secretary

RULE

**Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund**

In accordance with Louisiana Revised Statutes 56:700.1 through 56:700.5, the Fishermen's Gear Compensation Fund, and pursuant to Notice of Intent published December 20, 1982, the Department of Natural Resources has adopted a fee of \$100 per state mineral lease and \$100 per state right-of-way for those leases and rights-of-way located in the Coastal Zone of Louisiana. The fee will be assessed on January 20, 1983, and will apply to all leases and rights-of-way in effect on that date.

Frank P. Simoneaux
Secretary

RULE

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

The Fire Marshal Mobile Home Board of Review hereby adopts the following Rules for appealing to the Board:

I. Any application to the Board of Review shall contain the following basic information set off in organized fashion with captions indicating that the paragraph in question contains the following basic information.

1. The name of the applicant.
2. A brief description of the facts.
3. A copy of the order of the Fire Marshal which is being appealed.
4. A reference to the section of the law or code being reviewed.
5. A brief description of why the applicant feels the requirements of the Fire Marshal is not within the Fire Marshal's authority, or brief description of why the interpretation of the Fire Marshal is incorrect, or what specific relief is required by the applicant.
6. A list of the individuals who will be appearing before the Board, and a brief description of the testimony or information they will be providing to the Board.
7. A list of all the documents which will be introduced or provided to the Board along with a brief description of the documents, and if possible, a copy of said documents.
8. A list of each exhibit except for documents, and a brief description of the exhibit.

II. Whenever possible, a notice of the meeting, date and place and the agenda will be recorded in the *Louisiana Register*, however, whenever that is not possible, a copy of the meeting notice including the date, time and place and agenda of the meeting of the Board will be published in the official notices of the official state journal; furthermore, a press release containing the same information will be mailed to the official journals of the cities of Shreveport, Monroe, Lafayette, Lake Charles, Alexandria, New Orleans, and Baton Rouge and any city or town in which the meeting of the Board is to be held if it is not one of the aforementioned major cities; and the same information shall be mailed to each individual who has notified the Fire Marshal of his desire to receive a notice of such appeal.

III. A copy of the determination of the Board as prepared by the Chairman will be mailed to each individual who requests a copy of that specific determination as well as to the applicant.

IV. The time delays for filing an appeal shall be those specified in R.S. 40:1577 and 40:1578.1 D.

Carrol L. Herring
State Fire Marshal

RULE

**Department of Public Safety
Division of State Police**

The Louisiana Department of Public Safety hereby adopts a Rule adding to the approved list of protective helmets and goggles for use while operating motorcycles.

The proposed addition in its entirety may be examined at the Department of Public Safety, Bureau of Motor Vehicle Inspection, 265 South Foster Drive, Baton Rouge, LA, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Donald G. Bollinger
Secretary

RULE

**Department of Public Safety
Office of State Police**

Notice is hereby given that the Louisiana Department of Public Safety, pursuant to R.S. 32:387 (B) (3) as amended, has adopted the following fee scale for the use of state police vehicles as escorts to vehicles moving over the highways of this state under special permits:

Distance travelled by escort vehicle	fee
0-49 miles	\$ 25
50-99 miles	\$ 50
100-199 miles	\$ 75
200-299 miles	\$100
300 and over miles	\$125

Grover W. Garrison, Colonel
Deputy Secretary, Public Safety
Head, Office of State Police

Notices of Intent

NOTICE OF INTENT

**Department of Commerce
Board of Certified Public
Accountants of Louisiana**

Notice is hereby given that the State Board of Certified Public Accountants of Louisiana pursuant to the authority vested in Section 75 of the Louisiana Revised Statutes, Title 37, Chapter 2, proposes to adopt, amend, and repeal effective April 1, 1983 the following Rules:

1. LAC 11-9:4 R.S. 37:75 Amends Rule 4.3
2. LAC 11-9:5 R.S. 37:75 Amends Rule 5.5.4
Adopts Rule 5.5.5
Amends by renumbering former Rules 5.5.5, 5.5.6, 5.5.7 and 5.5.8 to 5.5.6, 5.5.7, 5.5.8, 5.5.9.

3. LAC 11-9:6 R.S. 37:75 Amends Rule 6.1.4 and 6.1.5
4. LAC 11-9:9 R.S. 37:78 Amends Rule 9.1.1
5. LAC 11-9:10 R.S. 37:78 Amends Rule 10.2.1, 10.2.2, 10.2.3
6. LAC 11-9:11 R.S. 37:79 Amends Rule 11.1, 11.2, 11.3, 11.4, 11.5
Adopts Rule 11.6
7. LAC 11-9:12 R.S. 37:80 Amends Rule 12.4,
Adopts Rule 12.7
8. LAC 11-9:13 R.S. 37:80 Amends Rule 13.1*
9. LC 11-9:15 R.S. 37:80 Adopts Rule 15.2.1 B, 15.2.2 B, adopts Rule 15.2.6, Amends by renumbering former Rules 15.2.6, and 15.2.7 to 15.2.7 and 15.2.8

REVISED RULES

4.3 Any meeting may be called by the President or by joint call of at least two of its members, to be held at the principal office of the Board, or at such other place as may be fixed by the Board. Regularly scheduled Board meetings are usually held on the last working day of January, March, July and September.

5.5.4 Solicitation. A licensee shall not by any direct uninvited personal communication solicit an engagement to perform professional services:

A. If the communication would violate Rule 5.5.3 above if it were a public communication; or

B. By the use of coercion, duress, compulsion intimidation, threats, overreaching, or vexatious or harassing conduct; or

C. Where the solicitation is done in-person or by telephone by the licensee or an employee or agent of the licensee.

Any written solicitation shall be subject to the provisions of Rule 5.5.5.

5.5.5 Written Advertisements, Solicitations, and Other Public Communications. A Licensee shall have the right to mail or deliver advertisements, solicitations and other public communications, subject to the following provisions:

A. A licensee shall not mail or deliver any advertisement, solicitation or other public communication if such advertisement, solicitation or other public communication would violate Rule 5.5.3 or Rule 5.5.4 above.

B. A licensee shall retain for a period of at least three years an original or copy of all mailed or delivered advertisements, solicitations and other public communications, together with a list of all addresses to whom it has mailed or delivered such advertisement, solicitation or other public communication.

C. A licensee shall mail or deliver to the Board an original or copy of all uninvited mailed or delivered advertisements, solicitations or other public communications simultaneously with such mailing or delivery.

For purposes of this Rule, a public communication shall be deemed to include newsletters, brochures, magazines, books, announcements, notices, reports, notes, journals, letters, cards, inquiries, tapes, recordings and all other written, printed or recorded materials mailed or delivered to one or more addresses who are not clients of the licensee at the time of such mailing or delivery. Materials disseminated only to clients of the licensee shall be not deemed to be a public communication.

5.5.6 Form of Practice. A licensee may practice public accountancy only in a proprietorship, a partnership, or a professional corporation organized in accordance with the Louisiana Professional Accounting Corporations Law or similar law of another state.

5.5.7 Firm name. The name under which a licensee practices public accounting must indicate clearly whether he is an

individual practicing in his own name or a named member of a partnership or professional accounting corporation. The words "and Associates" or "and Company" or similar words shall be used only to denote unnamed partner(s) of a partnership or shareholder(s) of a professional accounting corporation. However, names of one or more past partners or shareholders may be included in the firm name of a successor partnership or corporation. Also, a partner or shareholder surviving the death or withdrawal of all other partners or shareholders may continue to practice under the partnership or corporate name for up to two years after becoming a sole practitioner or sole shareholder. No licensee shall allow a person who is not a licensee and who is not in partnership with him or in his employ on a salary, to practice in his name. If a firm is incorporated, words so indicating must appear in or with the firm name each time it is used.

5.5.8 Communications. A CPA shall, when requested, respond to communications from the Board within thirty days of the mailing of such communications by registered or certified mail.

5.5.9 Applicability. All of the Rules of Professional Conduct shall apply to and be observed by licensees. Notwithstanding anything herein to the contrary, they shall also apply to and be observed by CPAs not in public practice, where applicable.

6.1.4 A certified public accountant who wishes to reenter practice after having allowed his license to lapse must present proof, documented in a form satisfactory to the Board, that he has satisfied the requirements for continuing professional education for the preceding period as specified by Rule 6.1.1.

6.1.5 For good cause shown, the Board may at its sole discretion issue a temporary license to an applicant and provide a specified period of time within which to satisfy the required continuing professional education.

9.1.1 Examinations are ordinarily held in May and November of each year. Candidates for these examinations shall file complete application forms. A complete application is one that is properly filled out, including payment of the required examination fee and, if a first-time application, accompanied by all required official transcripts.

Applications for the May examination must be received in the Board's office no later than March 1. Applications for the November examination must be received in the Board's office no later than September 1.

First-time or transfer-of-grades candidates who have not taken their accounting courses in Louisiana must include a copy of the course description(s) of all accounting courses not clearly identified by titles listed in Rule 9.2.2B.

10.2 By Reciprocity

10.2.1 An applicant who has been certified as a public accountant by any state, as defined by R.S. 37:71F, shall be eligible for certification by the Board, provided that:

A. The applicant possesses a baccalaureate degree;

B. The applicant has successfully passed the Uniform Certified Public Accountant Examination prepared and graded by the American Institute of Certified Public Accountants;

C. The application for certification by the Board is made through the state that issued the applicant's original certification;

D. At the time of the application and consideration thereof by the Board, the certificate issued to the applicant by the state of original certification is in good standing; and

E. The state that issued the applicant's original certification grants reciprocity certification to public accountants certified by the Board.

10.2.2 The provisions of the above Rule notwithstanding, if an applicant for a reciprocal certificate holds a certificate issued by the state of original certification prior to September 1, 1975 or has been in practice as a certified public accountant for four years

in the ten years immediately prior to the date of submitting the application, he will not be required to possess a baccalaureate degree.

10.2.3 Applicants for reciprocal certificates shall not be required to reside or have a place for the regular transaction of business in Louisiana, but shall be required to take the CPA oath.

Complete applications for reciprocal certificates must be received in the Board's office 30 days prior to a regular Board meeting (Rule 4.3).

11.1 Eligibility for Licensing; Experience Requirement. To be eligible for initial licensing, other than upon renewal pursuant to R.S. 37:82, or for reinstatement of licensure which has expired by virtue of nonrenewal, a certified public accountant shall present proof, documented in a form satisfactory to the Board, that he has obtained such professional accounting experience as is prescribed by Rule 11.2 and 11.3 begun and completed within the six years immediately preceding the date of application for licensing.

11.2 Qualifying Accounting Experience; Nature of Practice.

11.2.1 The professional experience requisite to licensing may be obtained:

A. By full-time employment for a period of two years, as a staff accountant, by a licensed, practicing certified public accountant or by a firm of certified public accountants who are licensed to practice public accounting under the laws of any state;

B. By employment for a period equivalent in the opinion of the Board to employment under 11.2.1A. in the accounting field in industry, business, government, or college teaching, or any combination of such types of employment, provided that such experience is obtained under proper supervision and is of sufficient depth and quality, as defined by Rule 11.4; or

C. By any combination of the types of employment specified in the preceding subparagraphs A and B of this Rule.

11.3 Qualifying Accounting Experience; Attest Function Concentration. In whatever employment obtained, the professional accounting experience requisite to licensing shall include and reflect at least 1,000 hours (500 hours with respect to applications received prior to February 28, 1985) of actual time devoted by the applicant, within a four year period, to work underlying or leading to the preparation and rendition of audit, review or other statements or reports in any way attesting to or expressing an opinion on the reliability of any representation or estimate in regard to any person or organization, embracing financial information or facts respecting compliance with conditions established by law or contract, and which audit, review or other statements or reports are prepared and rendered by a certified public accountant or firm of certified public accountants in accordance with generally accepted accounting principles and/or generally accepted auditing standards.

11.4 Equivalent Experience.

11.4.1 In addition to the requirements of Rule 11.2 and 11.3, the professional accounting experience requisite to licensing, if obtained in whole or in part in industry, business, government, or college teaching, must meet the following criteria:

A. The experience must be obtained under proper supervision, which may be evidenced by:

1. Supervision in the application of generally accepted accounting principles by a certified public accountant holding a managerial level one or more positions above the applicant's level.

2. Employment by a firm or organization having its financial statements examined on a periodic basis by independent certified public accountants during the term of the applicant's employment. The applicant must have been responsible for providing information, explaining systems and procedures and/or preparing schedules and analyses.

3. Employment by a governmental agency recognized by the Board as having responsibility and organizational structure for performing auditing and accounting functions.

4. Employment as a full-time teacher of subjects primarily in the accounting discipline, with the rank of assistant professor or above (or comparable positions), for an accredited college or university.

5. Such other forms of supervision as the Board considers adequate.

B. The experience must be of sufficient depth and quality, meeting the following criteria:

1. A level of responsibility shall have been attained which requires the applicant to exercise professional judgment on significant financial accounting and reporting matters.

2. The applicant shall have experience in the areas of financial accounting and reporting which follows generally accepted accounting principles. Additionally, the applicant may have had experience in other technical areas of the accounting profession, such as financial analysis, budget, management information systems, management accounting techniques (cost accounting, financial appraisal of capital expenditures, etc.) or internal auditing.

3. If the applicant's experience is in college teaching, he shall have taught courses for academic credit in at least three different areas of accounting above the introductory or elementary level. Examples of these areas are intermediate accounting, cost or managerial accounting, auditing, accounting systems, advanced problems, and accounting theory.

4. Such other experience of quality and depth as the Board considers adequate.

11.5 Advanced Degree Experience Equivalency. A Master's degree, or a more advanced degree, with a concentration in accounting shall be considered equivalent to one year of experience obtained on the staff of a certified public accountant or firm of certified public accountants and to 500 hours (250 hours with respect to applications received prior to February 28, 1985) of the work prescribed by Rule 11.3. As used herein, concentration in accounting shall mean at least 15 credit hours in accounting courses (auditing, theory, practice, managerial, tax) the contents of which are at a level higher than the contents of the advanced accounting, basic cost accounting, basic income tax accounting, and basic auditing provided for the undergraduate level in Rule 9.2.2B, with at least three of the required 15 credit hours in accounting theory and practice and at least three credit hours in auditing.

11.6 In satisfaction of the experience requirement, the applicant must submit such substantiating written statements and documentation in such form as the Board shall require, from employers or others who have actual knowledge of such facts.

Complete applications must be received in the Board's office 30 days prior to a regular meeting (Rule 4.3.). Written statements confirming an applicant's experience must be submitted with the application. An application received without proper support, or support received without the application, is not acceptable.

12.4 The Board may reject or refuse to consider any application which is not complete in every detail, including submission of every document required by the application form and received in the Board's office by the appropriate due date.

12.7 In the event that examination papers are lost, any claim candidates may have against the State Board of Certified Public Accountants of Louisiana, its agents and employees will be limited to the examination fee paid.

Amend Rule 13.1 to substitute for (*)

*Candidates having passed the examination and meeting

all other requirements for licensure must submit a complete application on forms prescribed by the Board and accompanied by all required supporting documentation within 30 days after the official release date of examination grades to avoid payment of additional fees. Applications that are incomplete or late are subject to the original license fee.

15.2 Annual Notice of Form of Practice

15.2.1

A. Every certified public accountant who is registered with the Board and who is engaged in the practice of his profession on his behalf shall file annually with the Board a certification that he is practicing as an individual and that there are no partners or associates practicing with him.

B. Firms which do not have offices in Louisiana but which do have Louisiana licensees as partners/shareholders must register the firm in Louisiana.

15.2.2

A. Each firm of certified public accountants which has one or more offices located in Louisiana shall designate a resident licensee to actively supervise each office. One licensee may be so designated for more than one office. If such supervising licensee is not a partner or shareholder, the firm must have at least one partner or shareholder who is a licensee.

B. Each firm of certified public accountants with one or more Louisiana licensees as partners or shareholders which does not have an office located in Louisiana shall designate a licensee to register that firm in Louisiana. The designated licensee shall file those forms, lists, and documents required of a firm maintaining offices in Louisiana as set forth in Rule 15.2.3.

15.2.6 The statement referred to in Rules 15.2.1 and 15.2.2 above shall be accompanied by one legible copy of a compilation, review and audit report issued by the certified public accountant or firm of certified public accountants within the preceding twelve months of the Annual Notice of Form of Practice. The name of the clients for whom such reports were prepared may be obscured on or deleted from the copies submitted to the Board. The Board may request a copy of the registrant's current Peer Review Report.

15.2.7 An annual filing fee to be set by the Board, based on the total number of partners and/or shareholders in the firm who are not licensed to practice in Louisiana but not to exceed \$15 per partner/shareholder with a maximum of \$2,500 per firm, shall be paid by each firm that files in accordance with the provisions of Rule 15.2.3 above.

15.2.8 A filing fee, calculated in the same manner as the most recent annual filing fee provided in Rule 15.2.6 and prorated for the number of complete months remaining in the year, shall be paid by each firm that files in accordance with the provisions of Rule 15.2.4 above and that did not pay an annual filing fee for the immediately preceding filing period.

Interested persons may submit written comments on the proposed Rules through February 15, 1983 to Mrs. Mildred M. McGaha, Executive Director, the State Board of CPAs, 310 Masonic Temple Building, 333 St. Charles Avenue, New Orleans, LA 70130.

R. Wendel Foushee
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Title 37, Chapter 2**

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

There will be no increased implementation cost to this agency because the changes will involve no staff time or other expenses in addition to that needed to administer the Rules before the changes were made. There will be no savings to the agency.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

It is possible that there may be an increase in reciprocal certificates issued because of the liberalization of Rule 10.2; however, it is not anticipated that this will be of any significant amount.

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

It is not anticipated that these changes will result in any additional costs or benefits to any CPA groups, but the public will benefit from more competent services from licensees because of the attest function requirement.

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

The proposed Rule changes are not expected to affect employment. The proposed amendment of Rule 5 will permit more active competition by advertising and other forms of non-personal communication.

Mrs. Mildred M. McGaha
Executive Director

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Commerce
Office of Financial Institutions**

Under authority granted by R.S. 6:902 B and R.S. 902.1, the Commissioner of Financial Institutions intends to adopt the following Rule for the purpose of providing a means by which state chartered savings and loan associations may have authority consistent with that granted federal associations by Federal Home Loan Bank Board Rules and Regulations 546.2 (b) and (e).

PROPOSED RULE

Notwithstanding limitations imposed by Chapter 9, Title 6, Louisiana Revised Statutes, one or more state chartered savings and loan associations may merge in accordance with the following Rule:

(a) Each association, by a two-thirds vote of its board of directors, shall approve a plan of merger evidenced by a merger agreement. The agreement shall state that it is effective only when approved by the Commissioner of Financial Institutions, State of Louisiana, and the Federal Home Loan Bank Board and shall specify (1) which association will be the resulting association; (2) the name it will use; (3) the location of its home office and branch offices; (4) the basis on which its savings accounts will be issued; and (5) the number of its directors and their names, addresses, and the length of their terms.

(b) Notwithstanding any other provision of this Rule, the Commissioner may require that a plan of merger be submitted to the voting members of any of the merging associations at a duly called meeting(s) and that the plan, to be effective, be approved by them.

Interested persons may submit written comments on the proposed Rule through 4:30 p.m., February 5, 1983, to the following address: Hunter O. Wagner, Jr., Commissioner, Office of Financial Institutions, Box 44095, Capitol Station, Baton Rouge, LA 70804.

He is the person responsible for responding to inquiries about the proposed Rule.

Hunter O. Wagner, Jr.
Commissioner

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Supervisory Merger**

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

New funds will not be required to implement this Rule.

The intent of this Rule is to expedite the solution of supervisory problems, thus reducing costs in this area.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

The dual chartering system as well as asset growth of state chartered savings and loan associations should be enhanced by these new powers. This will result in increased semi-annual assessments being paid into the General Fund. (This increase will be negligible.) The amount of semi-annual fees for each association is \$25 to \$800 on institutions with resources ranging from \$1,000,000 to \$19,999,999. Associations with gross assets of \$20,000,000 or more pay \$830 plus an additional fee of \$30 for each million or fraction thereof assets in excess of \$20,000,000.

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

Costs to affected groups cannot be estimated; however, expenses and time used will be substantially less than going to the full membership of the involved associations for concurrence of the merger agreement.

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

Adoption of this Rule will enable savings and loan associations in an "impaired" condition to expeditiously be merged into a solvent association, reduce costs to the associations involved, continue the livelihood of the employees of an insolvent association that could be liquidated by supervisory authorities, and help maintain the integrity of the savings and loan industry.

Hunter O. Wagner, Jr.
Commissioner

Mark C. Drennen
Legislative Fiscal Officer

**NOTICE OF INTENT
Department of Commerce
Racing Commission**

The Louisiana State Racing Commission does hereby give notice in accordance with law that it intends to amend its Rule LAC 11-6:45.1 relative to the claiming of horses at a race meeting.

Copies of the amended Rule, LAC 11-6:45.1, may be obtained by telephoning the Commission at area code 504, 568-

5870 or by writing to 616 Baronne Street, Second Floor, New Orleans, LA 70113.

The office of the Commission will be open from 9 a.m. to 4 p.m. and interested persons may call Alan J. Le Vasseur during this time, holidays and weekends excluded for a copy of this Rule. All interested persons may submit written comments relative to this Rule through February 3, 1983.

W. Ray Vanderhider
Chairman

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LAC 11-6:45.1**

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

There is no implementation cost to the agency.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There is no effect on revenue collections.

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

Benefits: The horse owners who race (start) horses at a particular track will be benefited by prohibiting others who have not been exposed to the potential loss of a horse through the claiming process from claiming a horse at a race meeting at which they have not started a horse.

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

There is no effect on competition or employment.

W. Ray Vanderhider
Chairman

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

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

1. Amendments to Act 754 Regulations, Section 513-517 relative to the state-level review process. (see Emergency Rule this issue)

2. Amendment to Act 754 Regulations, subsections 130A and 130B relative to membership of the State Special Education Advisory Council. (see Emergency Rule this issue)

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., February 3, 1983 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 Act 754 Sections 513-517

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

For 1982-83, salary and travel costs for a three-person panel to review approximately 21 cases are estimated to cost \$10,080 which will be absorbed in the existing operating budget of the agency. For subsequent years a cost of \$17,280 for review of 36 cases per year is estimated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There will be no effect.

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

There will be no effect.

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

There will be no effect.

George B. Benton, Jr.
Deputy Superintendent

Mark C. Drennen
Legislative Fiscal Officer

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

Rule Title: Amend Act 754 Sections 130A & 130B

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

There will be no effect.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There will be no effect.

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

There will be no effect.

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

There will be no effect.

George B. Benton, Jr.
Deputy Superintendent

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Division of Administration**

SUBJECT: MISCELLANEOUS PAYROLL DEDUCTIONS

Pursuant to the authority of the Commissioner of Administration in Article IV, Section 5(A), (H), and (I), Louisiana Constitution of 1974, the Division of Administration, Office of the Governor, proposes to adopt the following uniform accounting policy concerning miscellaneous payroll deductions for state employees:

I. Definitions

A. "Miscellaneous payroll deductions" shall be defined as those voluntary payroll withholdings not mandated or otherwise authorized by state or federal statute.

B. "Organization" as utilized herein shall be defined as those groups authorized to receive payroll deductions or those corporations registered with the Secretary of State who have been

approved or are requesting approval from the Division of Administration to receive payroll deductions under these provisions, primarily insurance companies. Intraoffice payroll deductions such as flower, gift and coffee funds previously permitted will not be authorized.

II. Application Process

A. Any organization requesting authority to implement a miscellaneous payroll deduction shall submit a completed application form to the State Accounting Office. The application form shall include:

(1) A letter from at least one Department Secretary or Undersecretary requesting establishment of the particular deduction.

(2) A petition signed by at least 200 current state employees requesting that the organization be permitted to receive payroll deductions.

3. Information relative to the organization requesting the payroll deduction.

(4) And information relative to the disposition and processing of the payroll deduction by the organization, reflecting the use of generally accepted accounting procedures.

B. The petition and application shall be reviewed by the Division of Administration to ascertain its potential impact on and service to state employees, reserving the right to investigate and verify any material submitted. The Division of Administration shall notify the organization of the approval or rejection of its application.

(1) For statewide payroll system agencies, the Division of Administration shall implement the payroll deduction.

(2) For payroll systems independent of the statewide payroll system, the Division of Administration shall notify the appropriate fiscal authority of the system that the payroll deduction has been approved and may be implemented.

III. Termination of Payroll Deductions

A. Organizations failing to maintain participation of at least 100 employee deductions for each of eight consecutive bi-weekly pay periods, four consecutive monthly pay periods, or the equivalent pay period appropriate for the agency involved will be terminated.

B. Any deduction established by and for an elected official by specific request for exemption to these Rules and Regulations may be terminated by that elected official or his successor by written notice to the director of the statewide payroll system.

C. The Division of Administration, State Accounting Office, shall notify the organization of the date of its final payroll deduction after termination. It will be the responsibility of the organization to notify its participants of the termination of deduction.

IV. Transitional Procedures for Currently Authorized Organizations

A. Any organization or other group currently receiving payment through voluntary state employee payroll deductions shall continue to be approved as a receiving organization under the following conditions:

(1) An application is completed and submitted to the Division of Administration, State Accounting Office, with any required documentation by April 1, 1983. A petition with 200 signatures is not required.

(2) The Division of Administration approves the applicant organization after review and consistent with the definition in Section I as a receiving organization.

(3) State Accounting Office or agency records verify vendor certification relative to minimum participation required in Section III has been maintained during the third quarter of the 1983 state fiscal year (Jan.-Feb.-Mar. '83) and annually thereafter. Payroll systems other than the statewide system must validate

annual vendor certification and forward to the State Accounting Office a list of qualified and remaining vendor deductions for the ensuing fiscal year, no later than July 30 each year.

(4) Because records of original requests and/or authority for some payroll deduction slots currently recognized do not exist, a specific written request for exemption from these Rules and Regulations must be received from each statewide elected official for each deduction (to a maximum of five*) for which such exemption is desired.

(5) Documented requests for additional slots, which were subsequently approved, made prior to publication of this Notice of Intent shall comply with the continued participation requirements only and shall not require a petition of 200 names.

B. Organizations (or groups not included under this definition) which do not meet the criteria in Section III(A), above, for continued receipt of payroll deductions will be terminated on the last payroll of the fiscal year unless the organization voluntarily terminates its payroll deduction before that time.

V. General

A. Miscellaneous payroll deductions withheld shall be made payable only to the incorporated organization or carrier, not an individual, company, or agent representing the principal.

B. Approval of any organization by the Division of Administration for payroll deduction in no way constitutes an approval or certification of the organization or the deduction. The services, insurance or policy may be available to state employees for lesser cost through other organizations or vendors.

C. Voluntary withholding authorized under statutory authority shall continue to be governed by the statutory provisions.

D. Procedural requirements described herein shall govern only those agencies in the Executive Branch under the control of the governor but are recommended to departments under statewide elected officials. Annual written notification by the governing elected official will be required for continued exemption of a specific deduction (maximum of five per department).

VI. Waivers

The Commissioner of Administration may waive in writing any provision of these regulations when the best interest of the State of Louisiana will be served.

Interested persons may submit written comments on the proposed policy until 4:30 p.m., February 3, 1983 to: Wayne Grant, Assistant Commissioner, Division of Administration, Box 44095, Capitol Station, Baton Rouge, LA 70804.

*This represents a mechanical system limitation rather than a policy determination.

E. L. Henry
Commissioner

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Miscellaneous Payroll Deductions

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

For each deduction liquidation check eliminated, a savings of over \$6 would be realized; however, the total savings is undeterminable.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There is no estimated effect on revenue collections.

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

Based on data from the Office of State Accounting which shows 44,890 persons paid on uniform payroll system and 13,630 paid on departmental systems and using an average hourly rate of \$8.40/hour, it can be shown that total savings would be

FY 82-83 \$81,928 Savings for four months

FY 83-84 \$245,784 Savings per fiscal year

*These savings are the dollars associated with the loss of work time and/or productivity.

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

There is no effect on competition and employment anticipated.

Frances Toney
Payroll Project Director

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Division of Administration Facility Planning and Control

DEMOLITION OR DISPOSING OF STATE OWNED BUILDINGS

In order to assure compliance with Act 537 of the 1982 Session the following procedure will be followed when demolition or disposing of a state owned building is necessary.

1. Upon receipt of a properly authorized request from any State agency to raze, demolish or otherwise dispose of any building or structure owned by the State of Louisiana, except highways, bridges, and railroads, Facility Planning and Control shall immediately notify all State Legislators representing the Parish in which the involved structure is located. (Legislation only requires notification to legislators representing the *district* in which the structure is located, but interest in the disposition of State property is parish-wide and not limited to district boundaries).

2. The letter to the legislators should identify the building or structure to be razed, demolished or otherwise disposed of, the location, reasons for such action, brief description of the work involved, etc. Recipients of such a letter are to be assured that under no conditions shall a request for property disposition be approved by Facility Planning and Control prior to 30 days from the date of notification.

3. After the receipt of a request for approval of disposition, Facility Planning and Control will issue a written order to the appropriate Facility Planning and Control Field Engineer to make an inspection of the subject building or structure. His report will include his recommendations regarding disposition, any suggested alternatives or possible use of the structure by other State Agencies, a description of any moveable property which may currently be in demand elsewhere or which may have value as surplus property, etc.

4. Copies of the inspection report by the Field Engineer are to be sent to the Departments of Buildings and Grounds and Surplus Property. Contents of the report may require a response from those Departments.

5. If it is concluded that it is appropriate to raze, demolish or otherwise dispose of the building or structure, the user agency will be required to furnish a written report to Facility Planning and Control as to how the structure will be disposed of, the estimated costs involved and the source of the funding.

6. Act 537 requires that all work exceeding the contract limit of \$30,000 shall be advertised and awarded by contract to the lowest responsible bidder. The contract limit of \$30,000 for each of ten succeeding calendar years after 1982 shall be increased by a factor equal to 3 percent per year. If funding is available through Facility Planning and Control and public bidding is required, this procedure will be handled by the Facility Planning and Control Department.

7. Although not required by law for projects of \$30,000 or less, the user agency should obtain three or more proposals for every approved disposal project in this category when feasible and expedient. Such proposals, along with the user's recommendations, should then be forwarded to Facility Planning and Control for consideration for an award of contract.

8. Any professional services contract requirements will be handled by Facility Planning and Control.

Interested persons may submit written comments on the proposed procedure until February 15, 1983, to Cornelius A. Lewis, Assistant Commissioner, Division of Administration, Box 44095, Capitol Station, Baton Rouge, LA 70804.

E. L. Henry
Commissioner

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Demolition or Disposal of
State Owned Buildings**

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

There is no estimated implementation costs (savings) to agency.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There is no estimated effect on revenue collections.

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

All State agencies that have facilities would be affected.

Cost is unknown; however, if any, it would be minimal.

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

There is no estimated effect on competition and employment.

Roger Magendie
Director

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Human Resources, Office of Family Security, proposes to implement the following changes in the Food Stamp Program as required by 7 CFR part 271, 272, 273, 277, and 281, as published in *Federal Register*, Vol. 47, No. 224, pages 52328-52338, dated November 19, 1982.

(1) Amendment to the definition of household, to include as a separate household, parents living with their natural, adopted or step-children or such children living with such parents, if at least

one parent is 60 years of age or older receiving Supplemental Security Income benefits under Title XVI, or disability, or blindness benefits under Titles I, II, X, XIV, or XVI of the Social Security Act.

(2) Households with striking members shall be ineligible to participate in the Food Stamp Program unless the household was eligible for benefits the day prior to the strike and is otherwise eligible at the time of application. However, such a household shall not receive an increased allotment as the result of a decrease in the income of the striking member(s) of the household. Eligibility shall be determined by considering the day prior to the strike as if it were the day of application and assume the strike did not occur. Eligibility at time of application shall be determined by comparing the striking member's income before the strike to the striker's current income and adding the higher of the two to the current income of nonstriking members during the month of application. To determine benefits, deduction shall be calculated for the month of application as for any other household. Whether the striker's pre-striker earnings are used or his current income is used the earnings deduction shall be allowed if appropriate.

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 9:30 a.m., Monday, February 7, 1983, in the Louisiana State Library Auditorium, 760 Riverside North, Baton Rouge, LA regarding the proposed adoption of the above policy.

Any interested persons may submit written comments through February 5, 1983, to R. K. Banks, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804. He is the person responsible for responding to inquiries about the proposed Rule.

Roger P. Guissing
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Amendment of Household Definition
and Strikers Eligibility to Participate in
the Food Stamp Program**

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

The only cost to the agency will be printing to update manual policy which is anticipated to be \$214.50.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There is no effect on revenue collections.

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

This proposed action will increase benefits to some households with a parent receiving certain SSI, disability, or blindness payments, while reducing benefits to some households with members who are on strike. However, there is no means of determining the total number of affected recipients by these changes.

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

There is no effect on competition and employment.

R. K. Banks
Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, proposes the following amendments to Expedited Service Policy in the Food Stamp Program as required by 7 CFR Parts 271, 272, 273, and 275 as published in *Federal Register*, Vol. 47, No. 230, pages 53828-53831, dated November 30, 1982.

(1) A maximum allowable limit of \$100 in liquid resources shall be imposed and expedited services shall be limited to households with less than \$150 in monthly gross income, or destitute migrant or seasonal farmworker households.

(2) Expedited services shall be defined as providing food stamp benefits no later than five calendar days from the application date.

(3) Verification shall be required of income and liquid resources to the extent practical within the expedited service time-frame.

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 9:30 a.m. Monday, February 7, 1983, in the Louisiana State Library Auditorium, 760 Riverside North, Baton Rouge, LA regarding the proposed adoption of the above policy.

Any interested persons may submit written comments through February 5, 1983, to R. K. Banks, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804. He is the person responsible for responding to inquiries about the proposed Rule.

Roger P. Guissing
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Amendment of Expedited Services Policy in the Food Stamp Program

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

The only cost to the agency will be printing to update manual policy which is anticipated to be \$42.90.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There is no effect on revenue collections.

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

This change should result in no measureable increase or reduction in benefits to participants.

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

There is no effect on competition and employment.

R. K. Banks
Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, proposes to require the IV-A agency to treat assigned support payments retained in the current month as income, in determining the need and amount of assistance payments. Under this proposed Rule an overpayment of assistance shall occur for each month in which a direct support payment is retained by a recipient and not counted by the IV-A agency to reduce the AFDC payment. This proposed Rule is elected by the Office of Family Security under 45 CFR 233.20(a)(3)(v) as published in the *Federal Register*, Vol. 47, No. 193, dated October 5, 1982, and shall become effective March 1, 1983.

Interested persons may submit written comments through February 7, 1983, at the following address: R. K. Banks, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804. He is the person responsible for responding to inquiries about the proposed Rule.

Roger P. Guissing
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Treatment of Assigned Support Payments Received Directly and Retained by AFDC Applicants and Recipients

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

There is no estimated implementation cost as this Rule was previously mandated by federal regulations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There is no effect on revenue collections.

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

There is no expected change in costs or benefits.

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

There is no effect on competition and employment.

R. K. Banks
Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, proposes to discontinue reimbursement for the following two drugs, deemed "less than effective."

TRADE NAME	ACTIVE INGREDIENT	DOSAGE FORM	FIRM
Clistin	Carbinoxamine		
R-A	Maleate	SRT/Oral	McNeil
Parafon Forte	Acetaminophen/ Cloroxazone	Tab/Oral	McNeil

This action is necessary because Section 2103 of the "Omnibus Budget Reconciliation Act of 1981" (P.L. 97-35) prohibited the use of Federal funds, therefore discontinuing reimbursement, under Medicare Part B and Medicaid for expenses incurred on or after October 1, 1981, for drugs identified in Section 2103. Identical products made by manufacturers not shown on the list are also excluded from payment.

Lists of drugs deemed "less than effective" and identical, similar and related were published in the *Louisiana Register* on November 20, 1981 and September 20, 1982.

Interested persons may submit written comments through February 4, 1983, at the following address: R. K. Banks, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804. He is the person responsible for responding to inquiries regarding the proposed Rule.

Roger P. Guissinger
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: "Less than Effective"
Drugs (DESI Drugs)**

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

There will be no costs incurred as a result of the proposed Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There is no effect on revenue collections.

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

Only in those cases where physicians continue to prescribe drugs on the list will there be a cost to recipients.

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

There is no effect on competition and employment.

R. K. Banks
Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

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

The Department of Health and Human Resources, Office of Family Security, proposes to adopt a new Maximum Allowable Cost (MAC) determination as outlined below for the following drug:

Doxepin HCl - 10 mg. capsule	.1030 per capsule
Doxepin HCl - 25 mg. capsule	.1328 per capsule
Doxepin HCl - 50 mg. capsule	.1869 per capsule
Doxepin HCl - 100 mg. capsule	.3382 per capsule

In no case may a recipient be required to provide payment for any difference in a prescription price that may occur with implementation of MAC, nor may our office use a cost which exceeds the established maximums except as follows. DHHS's regulations provide that when a physician certifies that a specific

brand is medically necessary for a particular patient then the MAC limitations for that medication will not apply. In this case, their specific guidelines provide that:

(1) the certification must be in the physician's handwriting;

(2) the certification may be written directly on the prescription, or on a separate sheet which is attached to the prescription;

(3) a standard phrase written on the prescription, such as "brand necessary" will be acceptable;

(4) a printed box on the prescription blank that could be checked by the physician to indicate brand necessity is unacceptable;

(5) a handwritten statement transferred to a rubber stamp and then stamped on the prescription blank is unacceptable.

This action is in response to a telegram received from the chairman of the Pharmaceutical Reimbursement Board of the Health Care Financing Administration (HCFA). Medicaid regulations mandate compliance with these costs in order to assure Federal financial participation in Louisiana's Medical Assistance Program.

Interested persons may submit written comments through February 7, 1983, at the following address: R. K. Banks, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804. He is the person responsible for responding to inquiries regarding this proposed Rule.

Roger P. Guissinger
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Maximum Allowable Cost (MAC)
for Doxepin HCl**

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

FY 82-83 - \$ 7,926.87

FY 83-84 - \$22,121.49

FY 84-85 - \$22,121.49

The above figures represent an increase in costs to the agency resulting from the proposed Rule increasing the federally established Maximum Allowable Costs (MAC) on one drug (Doxepin HCl) in four dosage forms.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There is no effect on revenue collections.

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

No costs or benefits to Title XIX recipients or providers are estimated.

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

No effect on competition and employment is anticipated.

R.K. Banks
Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer