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Executive Orders

EXECUTIVE ORDER DCT 83-10

WHEREAS, Executive Order 82-9 created the Task Force on Municipal Civil Service Laws; and

WHEREAS, the task force has begun its work and needs additional time to properly complete its work;

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and applicable statutes of the State of Louisiana, do hereby extend the termination date to January 15, 1984, unless otherwise extended.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 9th day of June, A.D., 1983.

David C. Treen
Governor of Louisiana

Emergency Rules

DECLARATION OF EMERGENCY

Department of Commerce Racing Commission

The State Racing Commission, pursuant to the authority contained in R.S. 49:953 B, amended as an Emergency Rule LAC 11-6:53.17. The Commission at its meeting of June 24, 1983, by unanimous resolution, made a finding that the public welfare required the amendment of a Rule of racing to provide that the investigation and hearing concerning the alleged use of prohibited medication in a horse which has raced shall mean the stewards hearing following receipt of the report of the state chemist described herein and in Rule 53.15.

Pursuant to R.S. 4:141 et seq. and, particularly, R.S. 4:142 stating the legislative purpose of the racing statute, it is incumbent upon the Louisiana State Racing Commission to amend a Rule of racing so as to define the investigation and hearing referred to in the Rule.

LAC 11-6:53.17 currently reads:

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

In the event the horse is claimed in the race in which the

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

AMEND AND READOPT LAC 11-6:53.17 by adding the following sentence: "For the purposes of this Rule 'the investigation and hearing' referred to herein shall mean the steward's hearing following receipt of the report of the state chemist described herein and in Rule 53.15."

Emergency Rule effective date June 24, 1983.

S. M. Delaney
Secretary

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953B, to amend the Title XIX State Plan, Method and Standards for Payment for Medical and Remedial Care and Services - Skilled Nursing and Intermediate Care Facilities. Effective July 20, 1983, Attachment 4.19-D pages 103 and 104, beginning with paragraph number 4 will be revised as follows:

EMERGENCY RULE

4. Per diem rates will be recomputed annually to be effective with the August payment for July services based on cost adjusted reports received by March 31. If the rate calculation is delayed as a result of disallowance appeals, the rate, when set, will be retroactive to payment for July services. The rate in effect will continue to be paid until the new rate is set.

The intent of the regulations is to determine payment rates which recognize differences in costs and yet insure that luxury care and increased costs resulting from inefficient management or paper transactions to inflate costs are not reimbursed with public monies.

The state has chosen a payment procedure that does not include a year end settlement. Rates are determined prospectively with a provision for retroactive adjustment for overpayments and underpayments. Supplemental payments or recoupments will be made back to July based on the difference between the previous rate and the new rate.

This action is necessary to avoid an imminent peril to the health and welfare of recipients residing in long term care facilities as the current policy does not provide for the adequate reimbursement methodology to providers of long term care for their services in the event of an unavoidable delay in determining rates.

Roger P. Guissinger
Secretary

DECLARATION OF EMERGENCY

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

The Department of Health and Human Resources, Office of Family Security, has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953B, to amend the Title XIX reimbursement methodology for inpatient hospital services effective July 1, 1983 to clarify that Medicare's cost limits (223 limits) are not included as a part of the methodology. This methodology was published as a final Rule in the June 20, 1983 *Louisiana Register* (Volume 9, Number 6, pages 414-415).

This amendment is being published in accordance with the recommendations of the Joint Legislative Subcommittee for Oversight on Health and Welfare in their meeting of June 14, 1983.

This Emergency Rule is necessary to clarify to hospital providers the reimbursement methodology and thereby ensure continued participation. This will prevent imminent peril to the health and welfare of Medicaid recipients by ensuring the continued availability of hospital services.

Roger P. Guissinger
Secretary

DECLARATION OF EMERGENCY

**Department of Urban and Community Affairs
Office of Planning and Technical Assistance**

**EMERGENCY RULE AMENDMENT TO
(JOBS BILL PUBLIC LAW 98-8)
LOUISIANA COMMUNITY DEVELOPMENT BLOCK GRANT
(LCDBG) PROGRAM FINAL STATEMENT**

The Jobs Bill Public Law 98-8 Louisiana Community Development Block Grant Program Final Statement which published in the June 20, 1983, *Louisiana Register* is being amended to include Economic Development (ED) as an eligible type of grant. ED applicants will be rated and ranked in the following manner.

(1) Selection System for Single Purpose Grants. All single purpose applications will be rated and scored in three major categories: General Indicators of Distress (maximum 50 possible points), the Specific Program Category (maximum of 150 possible points), and Indicators of Unemployment (maximum 200 possible points). The total possible points for a single purpose grant is 400 points.

(a) General Indicators of Distress. (50 Points) Each applicant will be rated against all other applicants in each of the following categories:

	Maximum Possible Points
1. Fiscal Distress Indicator	
<u>per capita taxes</u>	
per capita income	20
2. Percentage of Poverty Persons	15
3. Number of Poverty Persons	<u>15</u>
TOTAL POSSIBLE POINTS	50

(2) Fiscal Distress Indicator - per capita taxes/per capita income - 20 points. All applicants are compared in terms of ratio of per capita taxes to per capita income. Individual scores are obtained by dividing each applicant's ratio, by the highest ratio obtained by any applicant and multiplying by 20.

(3) Percentage of Poverty Persons - 15 points. All appli-

cants are compared in terms of the percentage of their population below the poverty level. Individual scores are obtained by dividing each applicant's percentage of persons in poverty by the highest percentage of persons in poverty of any applicant and multiplying by 15.

(4) Number of Poverty Persons - 15 points. All applicants are compared in terms of the number of persons whose incomes are below the poverty level. Individual scores are obtained by dividing each applicant's absolute number of persons in poverty by the greatest number of persons in poverty of any applicant and multiplying by 15.

(b) Each applicant will be rated against all other applicants in each of the following categories:

INDICATORS OF UNEMPLOYMENT		
Indicators	Percent of Unemployed	Number of Unemployed
Short Term	March 1983 *	March 1983 *
Long Term	Average for 1982	Average for 1982

*March, 1983, is the latest finalized month showing unemployment which is available from the Louisiana Department of Labor (DOL).

ASSIGNMENT OF POINTS			
Indicators	Percent of Unemployed	Number of Unemployed	Total
Short Term	70	30	100
Long Term	<u>70</u>	<u>30</u>	<u>100</u>
Totals	140	60	200

***NOTE ON METHODOLOGY**

Since the Louisiana Department of Labor (DOL) does not record unemployment statistics at the municipal level, unemployment data for municipal applicants will therefore have to be estimated.

This will be done by taking the number of employed and unemployed, as determined by 1980 U.S. Census, for each municipality and the Parish in which it is located. Then the assumption was made that the same percentage relationship existed in 1982 and March, 1983, between the municipality's and parish's share of the total figure.

It should be noted that this methodology is the same as that required by the federal government in allocating employment and unemployment figures to the parishes included within an SMSA or Labor Market Area.

(c) Specific Program Criteria. (150 Points) There will be three specific program categories: 1) Economic Development; 2) Public Facilities; and 3) Housing. Each applicant will be rated against all other applicants proposing projects in the same Specific Program Category. The criteria for rating each of the specific programs are as follows:

- 1) ECONOMIC DEVELOPMENT
 - i. PROGRAM IMPACT (Maximum Possible Points - 75)
 - 1) Number of permanent jobs created or retained 30 pts.
 - 2) Private/Public ratio: Firm Private sector 25 pts.
financial commitments/LCDBG funds
 - 3) Percent of funds recaptured by unit of
local government 20 pts.

A firm financial commitment from the private sector investor will be required upon submission of the application. Any

application lacking a firm financial commitment will not be considered for funding. Each application will be given preliminary points for each of the above items, relative to other applicants' performance for that specific item. Once the preliminary points for all four categories are determined and summed for all applicants, the applicants will again be ranked from highest to lowest number of total preliminary points. The top ranked application will receive 75 points. All other applicants will receive points based on how they score relative to that highest score:

$$\text{Program Impact Points} = \frac{\text{applicant score}}{\text{highest score}} \times 75 \quad (\text{total possible points})$$

If a project creates or retains fewer than 10 permanent jobs, or has a private funds/public funds ratio of less than 2:1, the application will not be considered for funding.

ii. **COST EFFECTIVENESS** (Maximum Possible Points - 25)

This will be calculated by dividing total LCDBG funds used by the number of permanent jobs created or retained to determine LCDBG cost per permanent job created or retained. Raw scores will be arrayed and the top ranked application will receive 25 points. All other applicants will receive points based on how they score relative to the lowest cost per job created:

$$\text{Cost Effective Points} = \frac{\text{lowest cost per job} \times 25}{\text{applicant's cost per job}}$$

If cost per job created or retained exceeds \$20,000, applications will not be considered for funding.

iii. **BENEFIT TO LOW-MODERATE INCOME PERSONS** (Maximum Possible Points - 50)

This will be calculated by determining the number of permanent jobs created or retained that are or will be held by low-moderate income persons (as defined by the State) and dividing that number by the total number of permanent jobs created or retained. The resulting raw scores will be arrayed and the top ranked applicant will receive 50 points. All other applicants will receive points based on how they score relative to that highest score:

$$\text{Low/Mod Benefit Points} = \frac{\text{applicant's score}}{\text{highest score}} \times 50$$

Linton Ardoin
Secretary

Rules

RULE

Department of Agriculture Agricultural Commodities Commission

The Louisiana Department of Agriculture, Louisiana Agricultural Commodities Commission, pursuant to Notice of Intent published on January 20, 1983, and in accordance with the authority granted under R.S. 3:3405 (A) (1) and in Rule 14.6 of the Commission's Rules and Regulations, adopted the following

rates of assessments to be levied at the first point of sale of agricultural commodities:

Rough Rice	\$.005 per hundredweight
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, first 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

All assessments collected by licensees of the Commission must be remitted to the Commissioner of Agriculture, together with the report form required by the Commission, no later than the fifteenth day of the month following the month in which the assessments are collected.

The above assessments shall remain in effect until changed by the Commission.

Bob Odom
Commissioner

RULE

Department of State Civil Service Board of Ethics for Elected Officials

AMENDMENTS TO ADMINISTRATIVE RULES CHAPTER 4A ADVISORY OPINIONS

4A.1 The Board shall consider requests for advisory opinions filed with it by elected officials and affected persons as provided by Rule 2.2(j). Requests for advisory opinions shall be in writing, state the name and address of the person requesting the advisory opinion, disclose his interest in the question presented, and be signed by the person making the request. Requests also shall state sufficient facts to enable the Board to respond.

4A.2 The Executive Secretary shall cause the date of the receipt to be noted on each request for an advisory opinion. A docket shall be maintained upon which each complaint shall be given an appropriate title and docketed in the order filed.

4A.3 All requests for advisory opinions shall be placed for consideration on the agenda as soon as practicable.

4A.4 All requests for advisory opinions shall be presented by the staff of the Board. Following the presentation, the Board shall decline the request, defer action thereon pending further fact-finding, declare its opinion, or take the request under advisement.

5.1 Any qualified elector of Louisiana may file a written complaint with the Board. The complaint shall be signed under oath by the person filing it. The complaint shall be based on firsthand knowledge or on information and belief. In either event,

such person must be willing to appear before the Board in public hearings to testify in support of his complaint. If the complainant has no firsthand knowledge of the facts, at the outset of the investigation, he must be willing to supply the names of witnesses who have personal knowledge of the facts alleged in the complaint.

6.5 (b) Notice to the public shall be posted in the lobby of the Contractor's Licensing Board Building, 7434 Perkins Road, Baton Rouge, LA.

6.7 (m) When, during the course of a hearing, a ruling by the Board is to be made, the presiding member may rule and his ruling shall constitute that of the Board; provided, that should an objection be made to such ruling, said ruling shall be immediately resolved by a majority vote of those members of the Board present.

6.8 Summary Disposition of Charges

(a) At any time after the filing of charges, any respondent may file with the Board a written request for summary disposition thereof on any of the following grounds:

1. That the Board lacks jurisdiction of the subject matter, or of the respondent.
2. That the charges have not been initiated in the manner prescribed by the Rules.
3. That the charges have become moot.
4. That the charges, if true, would not constitute a violation of the Code.

5. That the time in which to commence action as given in Section 1163 of the Code of Governmental Ethics has passed.

6. That the affidavits and other documents filed in connection with the charges show that there is no genuine issue of material fact, and that the respondent is entitled to summary dismissal as a matter of law.

(b) Any request for summary disposition, when made prior to the date fixed for the hearing, may be supported by sworn affidavits and shall be accompanied by written argument or brief. The Board may require that copies of the motion and affidavits be furnished to opposing parties, and may invite opposing motions and affidavits within a specified time.

* * * * *

9.3.4 The Executive Secretary shall, at the close of each date upon which Campaign Finance Disclosure reports are due, or as soon thereafter as may be practicable, make a determination of the names of those candidates and political committees and other persons required to file such report but who failed to do so, and shall mail to the candidate or committee, by certified mail, a notice of the delinquency of said report. The certified letter shall also contain a list of the date(s) upon which additional reports for the same election, if any, shall be due.

The Executive Secretary shall be required to send only one certified letter containing the notice of delinquency and a notice of subsequent dates upon which additional reports for the same election, if any, shall be due. Said letter shall constitute sufficient notice, and shall so state, for the institution of legal proceedings if at any time a subsequent report for the same election, the due date of which was included in the certified letter, is delinquent. Notwithstanding the above, prior to the institution of legal proceedings under La. R.S. 18:1491.6 D and E or 1495.4 D and E (annual and supplemental reports) the Executive Secretary shall be required to send, by certified mail, to the candidate or political committee a notice of the delinquency of said annual or supplemental report.

If the required report is not filed within ten days of the date of mailing of the certified letter or on the fourth day following the due date for any subsequent report for the same election, the Executive Secretary shall immediately institute legal proceedings in the appropriate court pursuant to the appropriate provisions of the Campaign Finance Disclosure Act. If the required annual or

supplemental report is not filed within ten days of the date of mailing of the certified notice of its delinquency, the Executive Secretary shall immediately institute legal proceedings in the appropriate court pursuant to the appropriate provisions of the Campaign Finance Disclosure Act.

9.3.5 Within 30 days of the receipt of a Campaign Finance Disclosure report, the Executive Secretary shall examine random reports, and upon discovering significant omissions, shall contact, by certified mail, the candidate or political committee filing such report and request an amendment thereto. When the requested amendment has not been received by the Executive Secretary within 10 days after the mailing of such request by certified mail, the Executive Secretary shall immediately institute enforcement proceedings in the appropriate court.

All of the notices referred to above in Rules 9.3.4 or 9.3.5 shall, to the extent postage funds are available, be sent by certified mail return receipt requested. Failure by the Supervisory Committee to notify a candidate, treasurer or chairman of a political committee, or other person required to report as required by the above Rules shall not bar or be a defense to any civil action or criminal prosecution brought against a candidate, treasurer or chairman of a political committee, or other person required to report under the provisions of La. R.S. 18:1481 et seq.

Peter G. Wright
For the Board

RULES

Board of Elementary and Secondary Education

Rule 6.01.13(1)

The Board adopted amendments to Bulletin 1525, *Personnel Evaluation Accountability*, Revised 1981 as submitted by the State Department of Education.

These revisions in their entirety may be seen at the Department of Education, 626 N. 4th St., Baton Rouge, LA 70804.

James V. Soileau
Executive Director

RULE

Office of the Governor

Governor's Special Commission on Education Services

The Governor's Special Commission on Education Services, pursuant to Notice of Intent published in the *Louisiana Register* on June 20, 1983, has adopted Part 177 of Title 45 of the Code of Federal Regulations as published in the *Federal Register* Volume 44, No. 181 dated September 17, 1979 pertaining to the Guaranteed Student Loan Program under provisions of Title IV Part B, of the Federal Higher Education Act of 1965, as amended (20 U.S.C. 1071-1087-4).

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

Richard W. Petrie
Director, Loan/Grant Division

RULE

Department of Health and Human Resources Board of Examiners for Nursing Home Administrators

(Exact Reading)

RULE 5, D (second sentence)

The secretary shall annually, in accordance with the directives of the State Office of the Legislative Auditor, submit the books to a Certified Public Accountant for audit.

RULE 18, A, 2 (first line)

Has willfully or repeatedly violated any of the provisions of the law, code, Rules, or Regulations of the licensing or supervising authority or agency of the State of political subdivision thereof having jurisdiction of the operations and licensing of nursing homes;

RULE 18, A, 9.

Shall have license revoked after a six-month suspension except that the Board may, at its discretion, extend the suspension period upon documentation of extenuating circumstances presented prior to the revocation.

RULE 18, A, 17.

Shall not directly or indirectly condone, direct, or allow actions by his/her subordinates which are in violation of the aforementioned Rules.

RULE 19, B, 1.

The Board, or any person or persons appointed by it for the said purpose, shall hold a preliminary hearing within 90 days of receipt of the written signed complaint. The Board shall receive the preliminary hearing report at the following regularly scheduled or special meeting.

RULE 19, B, 2.

Upon receipt of the preliminary report, the Board may dismiss the charges and take no action thereon, in which event the charges and the order dismissing the charges shall be filed with the Board and all parties involved so notified.

RULE 19, b, 3.

If the Board decides that the charges shall be heard, the Board shall designate a hearing officer to determine the charges and set a time and place for a formal hearing to take place within 60 days.

RULE 20, H.

The role of the hearing officer is to conduct an orderly hearing, take evidence, question witnesses, make finding of fact and conclusions of law and render an opinion to the Board within 10 days of said hearing. The hearing officer shall not be bound by the Rules of evidence in the conduct of a formal hearing, but the determination and recommendations of the hearing officer shall be founded upon sufficient legal evidence to sustain it.

RULE 20, I (first sentence)

Upon the conclusion of a formal hearing, the Board shall, within 10 days take action upon such written findings and determinations as it deems proper, and shall execute an order in writing involving such findings and determinations.

RULE 21, A, 4.

That such applicant for endorsement holds a current license, which is not under suspension or revocation, in at least one other state.

RULE 21, B.

The basic minimum standards for reciprocity are: a Louisiana passing score on the N.A.B. examination or an equivalent, 60 semester hours of academic training from an accredited college or university, and six months in an approved administrator-in-training program. In lieu of an approved A.I.T. program, one year of experience as a full-time practicing nursing home administrator will be considered.

Winborn E. Davis
Executive Secretary

RULE

Department of Health and Human Resources Board of Examiners of Psychologists

The Louisiana State Board of Examiners of Psychologists is adopting a procedure for due process for Ethics Violations. The nature of intent for this action was published in the February 20, 1982, issue of the *Louisiana Register*.

PROCEDURES FOR DUE PROCESS FOR ETHICS VIOLATIONS

I. Applicability.

A. Unethical conduct shall be determined on the basis of the provisions of the Rules and Regulations of the Louisiana State Board of Examiners of Psychologists, Ethical Standards of Psychologists, and other provisions included in the Louisiana Revised Statutes 37:2350 - 37:2368, specifically if a psychologist:

1. Has been convicted of a felony or any offense involving moral turpitude; or

2. Is using any narcotic or any alcoholic beverage to an extent or in a manner dangerous to himself, any other person or to the public, or to an extent that such use impairs his ability to perform the work of a professional psychologist with safety to the public; or

3. Has impersonated another person holding a license as a psychologist or allowed another person to use his/her license; or

4. Has used fraud or deception in applying for a license or in taking an examination provided for in the Act; or

5. Has accepted commissions or rebates or other forms of remuneration for referring clients to other persons; or

6. Has allowed his/her name or license issued under the Act to be used in connection with any person or persons who perform psychological services outside of the area of their training, experience or competence; or

7. Has willfully or negligently violated the Ethical Standards of Psychologists subscribed to by the State Board of Examiners; or

8. Has willfully or negligently violated any of the provisions of the Act.

B. These procedures shall apply only in the consideration of alleged violations by licensed psychologists.

NOTE: The Board will answer complaints regarding the ethical practices of non-licensed persons by making referrals elsewhere when appropriate; for example, to better business bureaus, professional associations, agencies, private legal counsel, or the district attorney of the appropriate judicial district.

C. Complaints may be initiated by any citizen of the state, another licensed psychologist, or by the Board on its own initiative.

II. Procedures for Processing Complaints and Inquiries

A. Upon receipt of complaints or inquiries, the Board will forward its complaint form, which must be satisfactorily completed before the Board takes further immediate action.

1. Anonymous letters of complaint against individuals shall not be recognized as a basis for formal action.

2. If a complaint form is not filed with the Board, no further action is taken unless sufficient information can be clearly determined from written material received by the Board.

3. If the information is insufficient, the Board may request further information by either written correspondence or an informal hearing.

B. All complaints received shall be assigned a sequentially ordered complaint code number which shall be utilized in all official references.

C. At its next regularly scheduled meeting, the Board shall officially receive and act upon all complaints and inquiries received.

D. Upon receipt of the complaint form, the Board shall

determine if the complaint refers to an ethical issue.

E. The identity of all parties to a complaint shall be revealed to the involved parties except if contrary to law.

F. The Board shall inform the complainant of the initial determination.

1. No Action.
2. Informal Inquiry.
3. Informal Hearing.
4. Formal Hearing.

III. Conduct of an Informal Inquiry/Hearing. This is a non-adversarial procedure.

A. Informal inquiry procedures.

1. The licensee shall be given adequate prior notice of the informal inquiry and possible hearing of the issues to be discussed.

Adequate notice includes:

a. Informing the licensee in writing that a complaint has been filed.

b. A short and plain statement of the nature of the complaint.

c. A reference to the particular sections of the statutes, rules, and/or ethical standards of the Board which appear to have been involved.

d. Copies of the law and the rules and regulations of the Board, and

e. A request for the licensee's cooperation in obtaining a full understanding of the circumstances which led to the allegation.

2. The licensee is requested to provide, within 30 days, a written statement giving the licensee's view of the situation which is the subject of the complaint so that the Board may be cognizant of all relevant aspects of the case.

3. Evaluating the findings of the informal inquiry. Upon receipt of a reply from the licensee, the Board shall review the information and determine if a violation may have occurred, and if so, what standard(s) have been violated.

a. If the determination of the Board is that the complaint has no basis in fact, the Board shall so indicate in its proceedings and the complainant and licensee shall be so notified.

b. If the determination of the Board is that the issues raised by the complainant would constitute a violation of standards, the Board shall then determine whether:

(1) Further investigation by correspondence is indicated.

(2) Further investigation by an informal hearing is indicated, or

(3) Institution of formal hearing procedures is indicated.

B. Informal hearing procedures.

The Board shall conduct informal hearings in executive session in accordance with the following:

1. It is expected that the licensee not have an attorney or other advisors present, although it is his right to do so.

2. Witnesses may be called, but are not placed under oath and no subpoenas are issued.

3. Statements made at the informal hearing may not be introduced at a formal hearing unless all parties consent.

4. No transcript of the informal hearing is made.

C. Evaluating the findings of the informal hearing.

1. If the Board decides that the subject of the complaint is a violation of the standards, and the disciplinary proceedings are warranted, the Board shall then determine whether:

a. The violation merits informal disposition or

b. A formal hearing will be held.

2. The Board, in determining for informal disposition, shall order actions such as:

a. A settlement between the person making the complaint and the licensee. This settlement shall be written, signed by the licensee and the complainant and submitted to the Board within 30 days of the informal hearing.

b. A consent order describing the disciplinary action which will be taken. A consent order shall be signed by the licensee, the chairman and the vice-chairman of the Board.

D. Refusal to respond or cooperate with the Board.

1. If the licensee does not respond to the original inquiry within 30 days a follow-up letter shall be sent to the licensee by registered or certified mail, return receipt requested.

2. If the licensee refuses to reply to the Board's inquiry or otherwise cooperate with the Board, the Board shall continue its investigation. The Board shall record the circumstances of the licensee's failure to cooperate and shall inform the licensee that the lack of cooperation may result in action which could eventually lead to suspension or revocation of license, or other appropriate legal action under the law.

E. Withdrawal of a complaint.

If the complainant wishes to withdraw the complaint, the inquiry is terminated, except in cases where the Board judges the issues to be of such importance as to warrant completing the investigation in its own right and in the interest of public welfare.

F. If, at any point in the informal proceedings described above, the Board finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, the Board is hereby given authority to obtain a restraining order from a judge of the appropriate court to suspend the license pending formal hearing proceedings for revocation of license or other disciplinary action. This formal hearing shall be promptly instituted.

IV. Conduct of a Formal Hearing.

A. Initiating the Process.

1. The Board initiates a formal hearing by issuing full notice of the hearing. A formal hearing may be the result of a complaint made by any manner specified in the informal procedures.

2. Once full notice of the formal hearing has been served, no Board member or officially designated hearing officer may communicate with any party to a formal hearing or to that party's representative concerning any issue of fact or law involved in that formal hearing.

3. Full Notice.

The written notice shall recite specific acts which the licensee is alleged to have committed and shall assert that those acts violate a statute or rule of the Board.

a. The notice shall include:

(1) A statement of the date, time, place, and nature of the hearing.

(2) A statement of the legal authority and jurisdiction under which the hearing is to be held.

(3) A reference to the particular sections of the statutes, rules or ethical standards involved.

(4) A short and plain statement of the matters asserted which shall be the subject of the hearing.

(5) A statement of the rights of the parties.

b. Notice shall be given to all parties 30 days in advance of the proceedings to allow a reasonable opportunity for preparation.

c. The notice shall be delivered by registered or certified mail, return receipt requested. If the licensee cannot be found by this or other reasonable methods, the Board may hold a hearing in the licensee's absence.

NOTE: It is the licensee's obligation to keep the Board informed of his/her whereabouts.

d. The content of the notice limits the scope of the hearing and of the evidence which may be introduced.

e. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be

furnished.

4. Designation of Hearing Officer.

a. The hearing officer is responsible for ensuring that the hearing is orderly and fair and that it progresses in an expeditious manner. This officer is empowered to prepare written findings of fact and conclusions which shall be recommended to the Board.

b. The Board shall designate a hearing officer by affirmative vote of three of its members.

c. The hearing officer shall be unbiased and qualified to preside over the case. A designated hearing officer shall withdraw when that officer can not accord a fair and impartial hearing or consideration.

d. Any party may request the disqualification of a hearing officer on the ground of inability to give a fair and impartial hearing by filing an affidavit (which states the specific grounds) within three days of receipt of notice of the designation of the hearing officer. The issue shall be determined promptly by the Board.

e. The hearing officer shall not be a current member of the Board.

B. 1. Discovery.

a. Depositions and Interrogatories of witnesses may be taken and shall be admissible in the proceedings.

b. Evidence which was not made available to both parties at least five days in advance may be barred from introduction.

c. Evidence not within the scope of the notice may be excluded.

d. When the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

e. Documentary evidence in possession of the Board may be received in the form of copies or excerpts, or by incorporation by reference.

f. Official notice may be taken of generally recognized technical or scientific psychological facts. However, parties shall be afforded an opportunity to contest the material so noticed.

2. Subpoenas.

The Louisiana Department of Justice Disciplinary Action Manual for Occupational Licensing Boards by William J. Guste, Attorney General, Section 10.2 Subpoena Authority: Boards are empowered by statute to issue subpoenas, and in Louisiana, the statutes allow the Board to issue a subpoena when requested in writing by any party in a contested case.

Either side in a contested hearing may request that a subpoena be issued. It is generally required that the information called for by a subpoena must be reasonable in terms of the amount required and that it must relate to the matter under consideration. A subpoena *duces tecum* should be reasonable in scope and should be limited to documentary material that is relevant to the proceeding.

a. The Board, or its designated hearing officer, may sign and issue subpoenas when requested in writing by any party to a contested case.

b. The information called for by a subpoena shall be reasonable and shall relate to the matter under consideration.

c. Investigative subpoenas are issued at the discretion of the hearing officer.

d. If the person fails to comply with a subpoena, the Board may apply to the judge of the appropriate district court for an attachment as for a contempt.

3. Motions.

a. A request to the Board or the hearing officer by a party for a particular action should be made in the form of a motion.

b. A motion may be made before, during or after a hearing.

c. All motions must be made at an appropriate time.

d. Motions made before or after the hearing shall be made

in writing. Motions made during the course of the hearing may be made orally.

e. Motions are directed to the hearing officer who shall dispose of them appropriately.

f. A party may not submit written proposed findings of fact.

g. The hearing officer may refer a motion to the Board.

C. Formal Hearing Procedures.

1. Conduct of the Hearing.

a. The members of the Board shall be present for the hearing.

b. The hearing will be conducted in accordance with the Administrative Procedure Act, La. R.S. 49:955-966.

(1) Opportunity shall be afforded all parties to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(2) Objections to evidentiary offers may be made and shall be noted in the record.

c. The hearing will be open to the public.

2. Order of Proceedings

a. The hearing officer calls the session to order, identifies the case, subject of the case and cites the authority for holding the hearing.

b. The hearing officer asks the parties to identify themselves and their counsel.

c. All testimony shall be given under oath, such oath to be administered by the hearing officer.

d. Customary order of the proceedings should be followed at the discretion of the hearing officer.

3. Evidence.

a. In determining the admissibility of evidence, the hearing officer must follow the rules governing administrative hearings in Louisiana.

b. Constitutional guarantees of due process give the licensee a right to a decision based on evidence presented at the hearing. The hearing officer preparing the recommended decision, shall only consider evidence presented at the hearing or officially noted in the record.

D. The Final Decision of the Board.

1. The Board must determine whether the facts in the case support the charges brought against the licensee. It must determine whether the charges are a violation of La. R.S. 37:2350-68, the Ethical Standards of Psychologists or other rules and regulations of the Board.

2. The Board accepts a proposed order from the hearing officer setting forth the findings of facts and conclusions of the hearing. The Board may adopt such findings and conclusions in whole or in part. Any Board members not present at the hearing must review the record prior to such decision.

3. The decision must be accompanied by a statement of the reasons for the decision and must dispose individually of each issue of fact or law necessary from the hearing officer.

4. The Board's decision shall be based on the evidence and the proposed decision from the hearing officer.

5. The vote of the Board must be recorded and made a part of the decision. A majority vote must be obtained in order for an ethics violation to be judged to have occurred.

6. The Board determines the sanctions appropriate and consistent with law. The Board may decide rather than to revoke or suspend a license, to censure the licensee. The vote for censure is a majority vote.

7. The final decision shall be delivered to each party by registered or certified mail, return receipt requested.

8. The final decision shall be delivered within 30 days of the close of the hearing.

9. The final decision shall become effective 11 days after the receipt of notification of all parties, provided that there is no appeal. Publication shall be withheld until that date.

E. Appeal of Board Decision.

1. A petition by a party for reconsideration of hearing must be in writing and filed with the Board within 10 days after the receipt of the Board's final decision. The petition must set forth the grounds for the rehearing which must be one of the following:

a. The Board's decision is clearly contrary to the law and the evidence.

b. There is newly discovered evidence, which was not available to the licensee at the time of the hearing and which may be sufficient to reserve the Board's action.

c. There is a showing that issues not previously considered ought to be examined in order to dispose of the case properly, or

d. It would be in the public interest to further consider the issues and the evidence.

2. If a petition for reconsideration is denied, a party may proceed to seek judicial review of the decision.

3. Judicial review may be initiated by filing a petition in the appropriate district court within 30 days after mailing of notice of the final decision of the hearing or rehearing.

F. Case Record.

1. A complete case record must be maintained for each formal hearing.

2. The record must be retained until the time for any appeal has expired, or until the appeal has been concluded.

3. The case record shall be composed of all material officially noted.

4. A transcript of the record shall be maintained.

G. Notification of Final Actions.

Upon either completion of the final decision, expiration of the time for any appeal, or conclusion of appeals, the Board shall notify the following of its actions.

1. All licensed psychologists,

2. All affected parties; and all affected professional organizations.

Jimmie D. Cole, Ph.D
Chairman

RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security adopts the following Rule, in accordance with 45 CFR 224.51, in the Aid to Families with Dependent Children Program policy on Work/WIN participation. The Aid to Families with Dependent Children Program Manual (15-701, 15-785, 15-839A and 15-903 (1) and (2)) is amended to read as follows:

RULE

15-701 REQUIRED AGE FOR AFDC CHILD

C. Child 16 to 18 Not Attending School

A child 16 to 18, not attending school full-time who is a Mandatory Work or WIN Registrant, meets the condition of age for an AFDC child if he is registered for Work or WIN, participating in the WIN Program or co-operating with Employment Security, has not refused a job offer whether or not from Employment Security, and has not terminated employment or reduced earnings without good cause. (15-903)

15-785 FAILURE TO CO-OPERATE WITH EMPLOYMENT

SECURITY OR TERMINATION OF JOB OR REDUCTION OF EARNINGS WITHOUT GOOD CAUSE

A person who is mandatorily registered but who fails or refuses to appear for an interview requested by Employment Security or refuses a job offer whether or not from Employment Security, or terminates employment or reduces earnings without good cause shall have his needs removed from the certification for three months for the first occurrence and six months for subsequent occurrences.

15-839 COMPUTING COUNTABLE INCOME FOR EMPLOYMENT AND SELF-EMPLOYMENT

A. The Earned Income Disregards (30 and $\frac{1}{3}$, child care and standard deduction) shall not apply to the Earned Income of the individual for the month in which an individual has earned income and one of the following conditions applies:

(1) An individual who within 30 days terminated his employment or reduced his earned income without good cause. Persons who are exempt from Work or WIN registration shall be determined to have good cause.

(2) An individual who within 30 days refused without good cause (refer to 15-785) to accept a bonafide offer of employment in which he is able to engage. Persons who are exempt from Work or WIN Registration shall be determined to have good cause.

15-903 AFDC INCLUSION IN CERTIFICATION

Who shall be included in the AFDC certification

(1) The child

A child who meets all eligibility conditions for AFDC shall be certified for AFDC and have his flat grant amount included in the assistance payment budget, except that a child otherwise eligible for AFDC shall not be certified if:

(f) The child between 16 and 18 not attending school is determined to be a mandatory Work or WIN registrant, but without good cause refuses to register for employment.

OR

A child between 16 and 18 who has mandatorily registered for Work or WIN but who fails or refuses without good cause to participate in the program or terminates employment or refuses to accept employment or reduces earnings without good cause. This child cannot be included for a period of three payment months for the first failure or refusal without cause. For each subsequent occurrence, the child cannot be included for a period of six payment months.

(2) Parent(s)

The parent(s) with whom the child lives, whether or not he is the payee of the AFDC grant, shall be included in the AFDC assistance payments budget and have his flat grant amount considered in the AFDC budget plan, except when:

(b) The parent is the applicant or payee and he refuses to assign child support rights to the state, is determined to be a mandatory Work or WIN registrant but without good cause he refuses to register for employment, or refuses to be enumerated.

OR

(c) The parent who is mandatorily registered for Work or WIN but who fails or refuses without good cause to participate in the program or terminates employment or refuses to accept employment or reduces earnings without good cause. This parent cannot be included for a period of three payment months for the first failure or refusal without good cause. For each subsequent occurrence, the parent cannot be included for a period of six payment months.

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, implements a Rule in the Support Enforcement and Assistance Payments Programs to eliminate double support payments as required by Federal Register Vol. 48, No. 14, dated January 20, 1983, which amends 45 CFR Part 302.32.

RULE

The Support Enforcement Program shall require that any support payment used to determine a family ineligible for AFDC benefits shall also be used to reimburse the AFDC grant for assistance payments made to the family. Such support payments and any subsequent payment received by the Support Enforcement Program shall be used to reimburse the AFDC grant for each month a benefit is paid to the family until such time as AFDC benefits are terminated. Thereafter support payments shall be paid directly to the family through the Support Enforcement Program.

Roger P. Guissinger
Secretary

RULE

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

Effective July 20, 1983, the Department of Health and Human Resources, Office of Management and Finance, Division of Policy Planning and Evaluation shall implement the following Rule relative to policies and guidelines for capital expenditure reviews under Section 1122 of the Social Security Act.

INTRODUCTION

Section 1122 of the Social Security Act, as amended by Public Law 92-603, the Social Security Amendments of 1972, requires that a health facility which proposes to make a capital expenditure obtain prior approval by a designated planning agency in order to be reimbursed for costs related to the capital expenditure under the Medicare and Medicaid Programs. The purpose of this provision is to assure that Federal funds are not used to support unnecessary capital expenditures by health care facilities.

DEFINITIONS

1. Certificate of Need—Louisiana conducts certificate of need reviews in accordance with Section 1122 of the Social Security Act, as amended. This process is required of health care facilities in order to receive full reimbursement under the Medicare and Medicaid Programs. (This should not be confused with state legislated certificate of need programs which Louisiana, at present, does not have enacted.)

2. Division of Policy Planning and Evaluation DPPE—The state agency designated to carry out in Louisiana the provisions of Section 1122 and P.L. 93-641, as amended by P.L. 96-79.

3. Division of Licensing and Certification—That Division of the Department of Health and Human Resources charged with the responsibility of carrying out licensure and certification functions for the State of Louisiana.

4. Hospital—An institution which is engaged in providing to inpatients or to inpatients and outpatients by or under the supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment and care of injured,

disabled, sick or pregnant persons, or rehabilitation services for the rehabilitation of injured, disabled, sick or pregnant persons; such term does include chronic care hospitals, but does not include psychiatric and tuberculosis hospitals.

5. Person—An individual, a trust or estate, a partnership, a corporation (including associations, joint-stock companies, and insurance companies, a state, or a political subdivision or instrumentality (including a municipal corporation) of a state.

6. Psychiatric hospital—An institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons.

7. Tuberculosis hospital—An institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, medical services for the diagnosis and treatment of tuberculosis.

8. Nursing home—A licensed facility that provides nursing care, preventive health, maintenance services, rehabilitative services, and necessary ancillary and supportive social services to persons who, by reason of illness, or physical infirmity or age, are unable to properly care for themselves.

9. Ambulatory surgical facility—A freestanding facility which is not a part of a hospital, and which provides surgical treatment to patients not requiring hospitalization. Such term does not include the offices of private physicians or dentists, whether for individual or group practice.

10. Home Health Agency—A public or private organization, or subdivision thereof, which is primarily engaged in the provision of skilled nursing services and at least one additional therapeutic health service in the place of residence used as a patient's home.

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

12. Substantial Change in Service—A capital expenditure which results in the addition of a clinically related (i.e., diagnostic, curative, or rehabilitative) service not previously provided in the facility or the termination of such a service which had previously been provided in the facility.

13. Emergency—Means an unforeseen occurrence, condition or mischance or perplexing contingency or complication of circumstances bringing with it destruction or injury of life or property (moveable and immovable) or the imminent threat of such destruction or injury or as the result of an order from any judicial body having jurisdiction therein to take any immediate action which requires construction, repair or acquisition of property or equipment, where the unforeseen occurrence, condition or mischance or perplexing contingency or complication of circumstances or court order will not permit a health care facility in the time necessary for an application for full review under Section 1122.

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

REVIEWING AGENCIES

Division of Policy Planning and Evaluation, 333 Laurel Street, Suite 530, Baton Rouge, LA 70801.

Division of Licensing and Certification, 333 Laurel Street, Room 610, Baton Rouge, LA 70801.

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

RESPONSIBLE AGENCY

The state agency responsible for carrying out Section 1122 provisions in Louisiana is the Division of Policy Planning and Evaluation DPPE, which is the state agency organized under P.L. 93-641, as amended by P.L. 96-79.

FACILITIES INCLUDED

For the purpose of Section 1122, "health care facility" includes hospitals, psychiatric hospitals, tuberculosis hospitals, skilled nursing facilities, kidney disease treatment centers including freestanding hemodialysis units, intermediate care facilities, and ambulatory surgical facilities, but does not include Christian Science sanatoriums operated or listed and certified by the First Church of Christ, Scientists, Boston, Massachusetts. Offices of Physicians are also specifically excluded from such reviews.

EXPENDITURES SUBJECT TO REVIEW

Capital expenditures covered are those which are not properly chargeable as expenses of operation and maintenance and which either

- (1) exceed (\$600,000) OR
- (2) change the bed capacity of the facility OR
- (3) substantially change the services of the facility.

Any questions regarding applicability of expenditures to review should be directed solely to DPPE for an official determination.

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

Proposals for the acquisition of facilities or equipment by lease or comparable arrangement or through donation may be subject to review under Section 1122. DPPE should be contacted for a determination of applicability and assistance in computing amounts subject to Section 1122 review.

Section 1122 Certificate of Need approvals can neither be sold or transferred.

EFFECTIVE DATE

Any capital expenditure for which the obligation is incurred by or on behalf of a health care facility after December 31, 1972 is subject to review under these provisions.

EXCLUSIONS

1. A capital expenditure for which an obligation was incurred before January 1, 1973, is not subject to review requirements of Section 1122.
2. Section 1122 permits an exception to any health care facility providing services as of December 18, 1970, which as of that date was committed to a formal plan of expansion or replacement as approved by the facility's board of trustees. This can only occur if the facility spent \$100,000 or more during the three-year period ending December 17, 1970, for preliminary items on the plan including payments for studies, surveys, designs, plans, working drawings, specifications and site acquisition. In such a case, Section 1122 shall not apply to capital expenditures made in conformity with that plan. The exception shall, however, not apply to capital expenditures which are not included in the plan.

PRE-APPLICATION CONFERENCE

Anytime prior to submitting an application for review or a request for an election not to review individuals contemplating a Section 1122 expenditure may request a formal conference with DPPE to discuss the proposed project. A mutually acceptable meeting time and place will be established between the applicant and the agency. Pre-application conferences are encouraged.

ELECTION NOT TO REVIEW

The DPPE at its option, may elect not to review a proposed capital expenditure which has been determined subject to review under Section 1122 of the Social Security Act. The option of election not to review, as permitted by the applicable statute and regulation, is designed to exempt from review a few proposed capital expenditures for which a review is not necessary. In order to

be considered for a DPPE decision for an elect not to review, one of the following criteria must be met:

1. Renovations to meet Life Safety Codes.
2. Capital expenditures for emergency situations.

An applicant proposing a capital expenditure by or on behalf of a health care facility, which expenditure may qualify for election not to review according to the above criteria, must submit in writing to DPPE a request for an elect not to review. After examining the information contained in such request, and any additional information DPPE may request, a determination will be made by DPPE whether or not to elect not to review the proposed expenditure. If DPPE elects not to review the proposed project, all required notifications will contain written reasons for DPPE's determination of election not to review.

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

EXPEDITED REVIEW

The DPPE at its option may elect to perform an expedited review of a proposed capital expenditure which has been determined subject to review under Section 1122 of the Social Security Act. In order to be considered for an expedited review, one of the following criteria must be met:

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

In order to qualify for an expedited review the project must not be a discrete portion of a larger capital expenditure or phased project.

An applicant proposing a capital expenditure which expenditure may be eligible for an expedited review must submit in writing to DPPE a request for an expedited review. After examination by DPPE a determination will be made whether to proceed with the expedited review process. If DPPE determines the expedited or full review process is applicable, the applicant shall be so notified in writing and provided with the necessary forms to begin the process.

REVIEW PROCEDURES

A. Notification Procedures

1. Any person, agency, organization or health care facility which proposes to make a capital expenditure subject to review under the provisions of Section 1122 of the Social Security Act should submit in writing to DPPE a request for such review. At any time during the review procedure should the contact person for the project change, it is incumbent upon the applicant to notify DPPE of such a change.
2. DPPE will promptly send to the applicant the necessary form(s) in addition to a copy of these policies and guidelines.
3. Upon receipt of the completed form(s), DPPE may make the following determinations:
 - a. The project will require full review, or
 - b. The project will require an expedited review, or
 - c. The project is subject to elect not to review.

4. In the case of a full review being required:

a. DPPE will forward to the proponent a questionnaire and a list of those documents which will be considered in the review;

b. The applicant shall submit the application in triplicate to Division of Policy Planning and Evaluation.

c. The staff of the DPPE shall review the application for completeness within 15 calendar days from date application is received by DPPE. If DPPE fails to mail within such period a written notice advising the applicant that the application is complete or additional information is needed, the application shall be deemed to be complete for the purpose of determining the period of review. Failure of the applicant to respond and provide the information requested within 90 days shall be considered withdrawal of the application; and

d. The applicant may not incur an obligation in less than 60 days from the date the application was considered complete by DPPE. Incumbering an obligation prior to this 60 day time frame may subject the applicant to a timely notice penalty should the project subsequently be approved. Should approval be granted at any time prior to the end of the review period, and obligation may be entered into at that point.

B. Review Procedures

1. When DPPE determines that an application is complete, DPPE shall notify the applicant in writing that the period for review has begun. The review period will not exceed 90 days from the date of receipt of the application if it is declared complete. Or, in the case of an incomplete application, the period for review will not exceed 90 days from the date of receipt of the additional information (if it is determined the additional information completes the application) unless the applicant agrees to a longer period of time.

2. If additional or new information is submitted to DPPE after the review process has begun, DPPE will again deem the application complete or incomplete. If the additional information is allowed, the timetable must be adjusted so that DPPE has 90 days for project review after the receipt of the additional or new information.

3. When the application is determined complete by the DPPE, the DPPE shall issue a press release of its receipt of the completed application through local newspapers, public information channels and professional organizations. Publications to be used in required press releases should include the state journal, the major urban newspaper in the affected service area, the local newspaper in the impacted service area of the projects as specified by the applicant.

4. In the case of applications being subjected to a full review as opposed to an election not to review or expedited review, on the third Wednesday of each month at 10 a.m., the Director of the Division of Policy Planning and Evaluation shall conduct a public hearing at division headquarters. The purpose of this hearing will be to receive written (in duplicate) and oral comments on applications having been declared complete by the Division 15 days prior to the hearing date. Oral presentations shall be limited to an amount of time to be specified by the individual in charge of the hearing at the time of the hearing. The same amount of time will be allowed to those in favor and those opposed to the application. Comments shall be accepted on only those applications which have not previously been reviewed at public hearing. Notice of applications to be considered at each hearing shall be provided to interested parties and professional organizations requesting such notice at least five calendar days prior to each public hearing.

5. DPPE shall send copies of the application to the Division of Licensing and Certification (LIC) solely for review and comments.

6. Findings pursuant to Part B. 5 above shall be received by DPPE within 60 days after start of the review period (or later if mutually agreed upon). In the case of an application which specifies that an obligation to make the capital expenditure will be incurred 60 days after start of the review period, DPPE shall coordinate with LIC to establish a date by which comments will be received by DPPE. Such date should allow sufficient time for LIC review, as well as a period for consideration of those comments. Applicants may request a meeting with DPPE to discuss their application at any time during the course of the review.

7. The DPPE, after having consulted with and taken into consideration written public comments and the comments of LIC shall provide written notification to the proponent that:

a. Such capital expenditure has been determined to be in conformity with the criteria, standards and plans; or

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

c. The failure of the DPPE to provide any such notification within the time limitations set forth below, shall have an effect of a determination by the DPPE that the capital expenditure is in conformity. This step shall be completed not more than 90 days after the date DPPE has received the completed application unless the applicant has indicated an earlier date for obligation of expenditure. (However, a minimum of 60 days from the date DPPE considers the application complete must be allotted for completion of the review. At an applicant's request or concurrence, the review period may be for a longer period of time as agreed.)

Notification in accordance with federal interpretation is deemed to be given upon the date of mailing of such notification by DPPE.

8. Copies of the findings of the DPPE shall also be sent to the other reviewing agencies, interested parties and professional organizations who request such notification and shall be publicized through local newspapers and public information channels in the form of a press release.

C. Expedited Review Procedures

1. In the case of a decision by DPPE to conduct an expedited review, DPPE shall notify the applicant of its decision and forward to the applicant an application which shall be completed and returned to DPPE in duplicate.

2. When DPPE determines that the application is complete, DPPE shall notify the applicant in writing that the period for review has begun. The review period shall not exceed 30 days from date of receipt of the application if it is declared complete. Or, in the case of an incomplete application, the period for review will not exceed 30 days from the date of receipt of the additional information (if it is determined the additional information completes the application) unless the applicant agrees to a longer period of time.

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

4. When the application is determined complete by the DPPE, the DPPE shall issue a press release of its receipt of the completed application through local newspapers and public information channels. Publications to be used in required press releases should include the state journal, the major urban newspaper in the affected area, the local newspaper in the impacted service area of the projects as specified by the applicant.

5. The DPPE, after having reviewed the application, shall provide written notification to the proponent that:

a. Such capital expenditures have been determined to be in conformity with the criteria, standards and plans;