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Executive Orders

EXECUTIVE ORDER NO. DCT 83-23

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

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

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

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

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

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

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

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

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

Four members by position:

a. Secretary of the Louisiana Department of Commerce

b. President of the International Trade Mart

c. Chairman of the Louisiana District Export Council

d. Commissioner of Agriculture

Twelve to be appointed by the Governor:

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

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

c. One representative of the agri-business sector.

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

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

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

David C. Treen
Governor

EXECUTIVE ORDER NO. DCT 83-24

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

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

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

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

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

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

David C. Treen
Governor

EXECUTIVE ORDER NO. DCT 83-25

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

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

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

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

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

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

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

David C. Treen
Governor

Emergency Rules

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

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

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

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

Veterans or Members of the United States Armed Forces

1. Definition

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

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

2. Service Credit

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

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

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

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

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

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

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

James V. Soileau
Executive Director

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

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

EMERGENCY RULE

The Office of Family Security, Medical Assistance Manual,

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

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

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

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

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

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

Roger P. Guissinger
Secretary

Rules

RULE

Department of Agriculture Seed Commission

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

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

Bob Odom
Commissioner

RULE

Department of Commerce Racing Commission

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

RULE LAC 11-6:14.9 CURRENTLY READS:

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

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

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

Gordon A. Burgess
Chairman

RULE

Department of Commerce Racing Commission

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

LAC 11-6:53.17

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

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

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

Gordon A. Burgess
Chairman

RULES

Board of Elementary and Secondary Education

Rule 3.01.70.u(9)a

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

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

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

James V. Soileau
Executive Director

RULE

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

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

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

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

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

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

Richard W. Petrie
Director

RULE

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

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

RULE

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

The standard deduction amounts are:

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

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

Roger P. Guissingier
Secretary

RULE

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

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

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

When the client appears to meet factors of social inad-

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

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

Roger P. Guissingier
Secretary

RULE

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

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

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

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

Roger P. Guissingier
Secretary

RULE

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

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

RULE

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

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

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

Roger P. Guissinger
Secretary

RULE

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

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

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

INTRODUCTION

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

DEFINITIONS

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

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

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

4. Hospital — an institution which is engaged in providing to inpatients or to inpatients and outpatients by or under the supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment and care of injured, disabled, sick or pregnant persons, or rehabilitation services for the rehabilitation of injured, disabled, sick or pregnant persons; such term does include chronic care hospitals, but does not include psychiatric and tuberculosis hospitals.

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

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

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

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

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

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

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

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

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

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

REVIEWING AGENCIES

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

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

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

RESPONSIBLE AGENCY

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

FACILITIES INCLUDED

For the purpose of Section 1122, "health care facility"

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

EXPENDITURES SUBJECT TO REVIEW

Capital expenditures covered are those which are not properly chargeable as expenses of operation and maintenance and which either (1) exceed \$600,000, (2) change the bed capacity of the facility or (3) substantially change the services of the facility.

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

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

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

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

EFFECTIVE DATE

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

EXCLUSIONS

1. A capital expenditure for which an obligation was incurred before January 1, 1973, is not subject to review requirements of Section 1122.

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

PRE-APPLICATION CONFERENCE

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

ELECTION NOT TO REVIEW

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

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

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

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

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

EXPEDITED REVIEW

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

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

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

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

REVIEW PROCEDURES

A. Notification Procedures

1. Any person, agency, organization or health care facility which proposes to make a capital expenditure subject to review under the provisions of Section 1122 of the Social Security Act should submit in writing to DPPE a request for such review. At any time during the review procedure should the contact person for the project change, it is incumbent upon the applicant to notify DPPE of such a change.

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

3. Upon receipt of the completed form(s), DPPE may make the following determinations:

- a. The project will require full review, or
- b. The project will require an expedited review, or
- c. The project is subject to elect not to review.

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

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

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

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

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

B. Review Procedures

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

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

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

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

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

6. Findings pursuant to Part B. 5 above shall be received

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

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

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

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

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

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

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

C. Expedited Review Procedures

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

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

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

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

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

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

RECONSIDERATION BY DPPE

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

c. The failure of the DPPE to provide any such notification within the time limitations set forth below, shall have an effect of a determination by the DPPE that the capital expenditure is in conformity. This step shall be completed not more than 30 days after the date DPPE has received the completed application unless at an applicant's request or concurrence, the review period may be for a longer period of time as agreed.

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

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

D. Appeal Procedures

In the case of a negative finding, a fair hearing will be offered to the applicant to determine whether the proposed expenditure is consistent with the standards, criteria and plans specified in the applicable statutes. The correctness, completeness, adequacy or appropriateness of the standards, criteria, and plans against which the proposed expenditure was measured are not appealable, although the question of DPPE's adherence to its procedures as outlined in the Federal Regulations and State Health Plan and these policies may be considered. The applicant may introduce evidence and argument on the issue of whether exclusion of expenses related to the proposed expenditure would discourage the operation or expansion of the facility or organization or would otherwise be inconsistent with the effective organization or delivery of health services or the effective administration of Titles XVIII and XIX. Whether a proposed capital expenditure is subject to review under Section 1122 will not be a question in the fair hearing. The applicant is encouraged to retain counsel for this process.

1. Should the applicant wish to appeal, he must respond in writing to DPPE not more than 30 days after the date of notification of disapproval requesting a fair hearing on his case or he forfeits his right of appeal. The hearing must begin within 30 days after receipt of the request or later at the option of the applicant. If the applicant requests an extension beyond the required 30 day time frame, the hearing must be finalized not later than six months after the date of the original request for a fair hearing or the decision of DPPE will be considered upheld.

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

3. DPPE will issue a news release of the hearing.

4. The applicant is required to notify the hearing officer in writing at least 10 days in advance of the hearing of those witnesses whom he wishes to be subpoenaed.

5. As soon as possible, but not later than 45 days after the conclusion of the hearing, the Hearing Officer will notify the applicant, DPPE and Regional Health Administrator ("DHHS") of the appeal decision. Notification in accordance with federal interpretation is deemed to be given upon the date of mailing of such notification by the hearing officer. The exclusive options available to the hearing officer are as follows:

a. Uphold the DPPE findings.

b. Overturn the DPPE findings.

c. Revise the DPPE findings.

d. Order further action by DPPE.

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

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

In any case in which the Secretary of the United States Department of Health and Human Services has determined pursuant to a finding by DPPE that a proposed capital expenditure is not in conformity with the standards, criteria or plans and that costs related to such capital expenditure shall not be included in determining Federal reimbursement, the health care facility shall be entitled upon its request to DPPE in the form of revised applications as required in original submission procedures, to a reconsideration by DPPE of such finding whenever:

a. There has been a substantial change (since the previous DPPE finding) in existing or proposed health facilities or services, of the type proposed, in the area served; or

b. There has been a substantial change (since the previous DPPE finding) in the need for health facilities or services, of the type proposed, in the area served, as reflected in the plans, criteria or standards (see Criteria for Section 1122 Reviews); or

c. At least three years have elapsed from the date of the most recent negative finding of DPPE.

If DPPE finds, after such reconsiderations, that the facilities or services provided by the capital expenditure involved are in conformity with the applicable standards, criteria, or plans, and so notifies the Secretary of DHHS, the Secretary will include, in determining future payments under Titles XVIII and XIX, expenses related to such capital expenditure. However, such expenses will be included only for payments following the date of notification to the Secretary of DHHS by DPPE of its reconsideration.

EVIDENCE OF OBLIGATION: TERMINATION OF APPROVAL

Evidence of obligation to make the capital expenditure must be received by DPPE within one year after approval of the project, or the approval will expire. As provided in the regulation, the one year approval period may be extended for up to six months at the discretion of DPPE upon showing one of the following conditions exist:

a. Delays caused by review bodies beyond control of the applicant. This includes delays caused in the process of obtaining financing due to excessive interest rates substantially greater than those projected in the application.

b. An extension may be granted at the discretion of the designated planning agency when refusal of an extension would be detrimental to the best interest of the community involved.

As provided in the regulations, an obligation to make a capital expenditure shall be incurred not more than one year following the date of approval, unless a six month extension has been granted. An obligation shall be deemed to have been incurred by or on behalf of health care facility.

a. When an enforceable contract is entered into by such facility or organization or by a person proposing such capital expenditure on behalf of such facility or organization for the construction, acquisition, lease or financing of a capital asset; or

b. Upon formal internal commitment of funds by such facility or organization for a force account expenditure which constitutes a capital expenditure; or

c. In the case of donated property as described in 45 CFR 100.103(b), the date on which the gift is completed in accordance with applicable Louisiana law.

It is the sole responsibility of the proponent to keep DPPE informed of its progress during the one year approval period and to submit documentary evidence as proof that at least one of the above conditions have been fulfilled. The following conditions have been established regarding the acceptance of certain documents as proof of an obligation.

a. In the case of a construction contract, such document

must be duly executed by the appropriate parties and filed with DPPE.

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

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

d. In the case of bonds, an obligation is deemed to have been incurred whenever the bonds have received final approval for sale or issuance by either an election or board action of an official public body acting on behalf of a health care facility.

EFFECT OF NEGATIVE RECOMMENDATION

If DPPE recommends that the capital expenditure not be made, the Secretary of DHHS shall, in determining the Federal payments to be made under Titles XVIII, and XIX of the Social Security Act to the health care facility, ordinarily exclude certain expenses related to such capital expenditure. However, if the Secretary, after submitting the matters involved to the National Advisory Council on Health Planning and Development and after taking into consideration the recommendations of DPPE and other reviewing agencies, determines that an exclusion of costs for a capital expenditure would discourage the operation or expansion of a health care facility (or any facility of such an organization) which was demonstrated capability to provide comprehensive health care services efficiently, effectively, and economically or would otherwise be inconsistent with the effective organization and delivery of health services or the effective administration of Titles XVIII, and XIX, he shall include such expenses in Federal payments under such titles.

EFFECT OF FAILURE TO GIVE TIMELY NOTICE OF PROPOSED EXPENDITURE

When DPPE has good cause to believe that an obligation for a capital expenditure has been incurred by or on behalf of a health care facility and that timely notice of at least 60 days was not provided, DPPE shall send written notification to such health care facility, the Secretary and all other agencies deemed appropriate by DPPE of a proposed finding that an obligation for a capital expenditure subject to review has been incurred and that timely notice was not provided. Procedures for processing such a finding shall be according to Section 100.108 (a) of the regulations, and the policy on lack of timely notice as published in the *Federal Register* on January 26, 1977, Vol. 42, No. 17, and on December 16, 1981, Vol. 46, No. 241.

CRITERIA FOR SECTION 1122 REVIEWS

In making recommendations concerning projects reviewed under Section 1122 of the Social Security Act, the review body or agency at each level designated in the review process shall consider, but not be limited to, the following criteria, as required under P.L. 93-641 and 96-79 and implementing Rules and Regulations:

I. The relationship of the health services being reviewed to the applicable Health Systems Plan, Annual Implementation Plan and the State Health Plan.

II. The relationship of services reviewed to the long range development plan (if any) of the person providing or proposing such services.

III. The need that the population served or to be served by such services has for such services.

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

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

In considering the need for a proposed project, DPPE will review, but not be limited to, the following information:

A. The availability of similar facilities, services and institutional beds within the service area, including but not limited to:

1. Number of similar facilities, services and beds in the service area.

2. Ratio of institutional beds to the population, as a whole and where appropriate, to age groups.

3. Comparison of service area bed ratio with other health service areas in the state and other relevant areas.

4. Distribution of institutional beds, services, and facilities within the area.

B. Accessibility of the target population of the proposed project to existing and proposed facilities and services. (This would include physical and financial accessibility.)

C. Measures of utilization of existing facilities and services:

1. Admission rates per 1,000 persons.

2. Occupancy rate: Average Daily Census

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

Annual Admission

4. Other appropriate utilization material.

D. Projections of utilization.

E. A delineation of the proposed service area.

F. Various projections of bed need.

G. The projected population growth or lack of growth of the proposed service area.

IV. The availability of alternative, less costly, or more effective methods of providing such services.

A. Potential availability of such services.

V. The immediate and long term financial feasibility of the proposal.

VI. The relationship of the services proposed to be provided to the existing health care system of the area in which such services are proposed to be provided.

The DPPE will review, but not be limited to, the following information:

A. Documentation of coordination and/or linkage agreements between the applicant and existing or planned health care institutions and/or providers within the service area.

VII. The availability of resources (including health manpower, management personnel, and funds for capital and operating needs) for the provision of the services proposed to be provided and the availability of alternative uses of such resources for the provision of other health services.

The DPPE will review, but not be limited to, the following information regarding health care staffing:

A. Physicians

a. Availability in the service area

b. Projected availability in the service area

B. Nursing Personnel

a. Availability in the service area

b. Projected availability in the service area

c. Adequacy of proposed staffing according to required standards

C. Management and Other Personnel

a. Availability in the service area

b. Projected availability for the proposal

VIII. The relationship, including the organizational relationship, of the health services proposed to be provided to ancillary or support services.

IX. The special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas. Such entities may include medical and other health professional schools, multi-disciplinary clinics, and specialty centers.

X. The special needs and circumstances of health maintenance organizations for which assistance may be provided under Title XIII of the Act.

XI. The special needs and circumstances of biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantage.

XII. In the case of a construction project —

A. The cost and methods of the proposed construction, including the costs and methods of energy provision; and

B. The probable impact of the construction project reviewed on the cost of providing health services by the person proposing such construction project.

XIII. In the case of a new facility the applicant must specify the specific site where the facility will be located in addition to a legal property description of the site and must present evidence of ownership or option to acquire such site.

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

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

XVI. Support of the project by the local community, including health related agencies and professional organizations.

The criteria adopted for reviews in accordance with the above may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed.

In the review of proposed expenditures for new facilities or services, the following general criteria also will be considered:

1. Need
2. Accessibility
3. Availability
4. Financial Feasibility
5. Cost

DATA SOURCES USED IN REVIEWS

Data sources to be used in considerations of full reviews, expedited reviews and election not to reviews shall include, but not be limited to, the following:

A. Information compiled by the DPPE Bureau of Research and Information as published on a quarterly basis.

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

PLEASE BE ADVISED: An approval issued in accordance with Section 1122 of the Social Security Act in no way relieves an applicant of responsibility for fulfilling other state and/or federal requirements.

Notification of intent to make a capital expenditure subject to Section 1122 review should be addressed to DPPE at the

address set forth below. Also, questions in regard to applicability of Section 1122 to proposed expenditures or in regard to statewide review policies and procedures should be directed to DPPE.

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

Roger P. Guissinger
Secretary

RULE

Department of Natural Resources Office of Environmental Affairs Environmental Control Commission

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

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

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

B. Jim Porter
Assistant Secretary

RULE

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

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

James D. McElveen
Executive Director

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

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

James D. McElveen
Executive Director

Notices of Intent

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

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

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

In accordance with regular procedures of the Commis-

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

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

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

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

Bob Odom
Commissioner

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

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

John Compton
Deputy Commissioner

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT
Department of State Civil Service
Civil Service Commission

The State Civil Service Commission will hold a public hearing on December 6, 1983 for the purpose of considering the amendment of Civil Service Rules 1.11, 1.32, and 5.3 and the adoption of Civil Service Rules 1.14.1(a), 5.8 and 13.10(m) as proposed below.

The hearing will begin at 9 a.m. and will be held at the Republic Tower Building, 5700 Florida Boulevard, Twelfth Floor Hearing Room, Baton Rouge, LA.

The proposal to be considered at the public hearing is as follows:

CHAPTER 1

1.11 'Demotion' means a change of a permanent or probationary employee from a position of one class to a position in another class for which a lower minimum rate of pay is prescribed other than when that change is the result of a downward reallocation.

1.14.1 . . .

(a) 'Downward Reallocation' means a change by the Director in the allocation of a position from one class to another class for which a lower minimum rate of pay is prescribed. If a position which is reallocated downward is incumbered, the personnel action affecting the incumbent shall also be called a 'downward reallocation.'

1.32 'Reallocation' means a change by the Director in the allocation of a position from one class to another class based upon an analysis of the duties of the position. If a position which is reallocated is incumbered, the personnel action affecting the incumbent shall also be called a 'reallocation.'

CHAPTER 5

5.3 Review of Allocations.

(a) An employee affected by the allocation or reallocation of a position other than as a result of a downward reallocation shall be afforded a reasonable opportunity to have his case reviewed by the Director or by a representative whom the Director designates. The Director's decision shall be final in these matters unless there is an allegation that his ruling has been discriminatory.

(b) Repealed, effective January 1, 1975.

5.8 Reallocation Downward.

(a) When the Director reallocates a position downward he shall attach to the position description upon which the downward reallocation is based a letter giving reasons for the action. Where the change in the allocation is the result of a change in duties, the duties that have been changed that effect the allocation shall be so specified. The Director shall set an effective date of the reallocation no earlier than 40 calendar days from the date that the decision to reallocate is made by the Director.

(b) The position description with the attached reasons shall be delivered to the proper appointing authority.

(c) On or before the effective date of the reallocation the appointing authority shall deliver to the employee whose position is the subject of the downward reallocation those documents received from the Director. Where the reasons specified by the Director were the result of action by the appointing authority, the appointing authority shall attach to that which is delivered to the effected employee written reasons for its action.

(d) In the letters provided to the employee pursuant to this Rule there shall be included the following provisions: "You may appeal this action to the Civil Service Commission within 30 days. The appeal must conform to the requirements of Chapter 5 and Chapter 13 of the Civil Service Rules."

(e) An employee aggrieved by a downward reallocation of his position may appeal directly to the State Civil Service Com-

mission within 30 calendar days from his receipt of the documents specified above if he alleges in accordance with the requirements of Chapter 13 that the action by the Director and/or the appointing authority is discriminatory, that the reasons given do not support the action taken, and/or that the action taken is for disciplinary reasons.

(f) An allegation that the action taken is for disciplinary reasons must contain at least a description of the events and actions that support the employee's belief that the action taken is for disciplinary reasons. That description must be sufficient to place the Director and/or the appointing authority on notice of the allegations against them such that the Director and/or the appointing authority can prepare a defense.

(g) The burden of proof shall be upon the employee regarding the allegations of discrimination, upon the employee regarding the allegation that the action taken is for disciplinary reasons, and the burden of proof shall be upon the Director and/or the appointing authority when it is alleged that the reasons given do not support the action taken. The action of the Director and/or the appointing authority shall be affirmed unless such action is found to be arbitrary and capricious, to constitute discrimination, or to have been taken for disciplinary reasons when it is found that the action taken was not done in accordance with the requirements of Chapter 12.

CHAPTER 13

13.10 Appeals to the Commission.

An appeal may be made to this Commission by

- (a) . . .
- (b) . . .
- (c) . . .
- (d) . . .
- (f) . . .
- (g) . . .
- (h) . . .
- (i) . . .
- (j) . . .
- (k) . . .
- (l) . . .

(m) Any person in the classified service who alleges that the reasons given for a downward reallocation do not support the action taken.

EXPLANATION

There is presently no specific procedure for notifying employees effected by a downward reallocation of the reasons for that downward reallocation and it appears to us that the giving of such reasons constitutes sound personnel management and is likely mandated by constitutional due process standards. For these reasons the Rules listed above have been formulated in order to provide a procedure for notifying employees of the reasons for a downward reallocation, for giving them a right of appeal to the State Civil Service Commission, and for setting standards of review of those reasons by the State Civil Service Commission.

Persons interested in making comments relative to these proposals may do so at the public hearing or in writing to the following address: Director, Department of State Civil Service, Box 44111, Baton Rouge, LA 70804.

Herbert L. Sumrall
Director

NOTICE OF INTENT

**Department of State Civil Service
Civil Service Commission**

The State Civil Service Commission will hold a public hearing on December 6, 1983 for the purpose of considering the amendments of Civil Service Rules 7.9 and 5.7.

The hearing will begin at 9 a.m. and will be held at the Republic Tower Building, 5700 Florida Boulevard, 12th Floor Commission Room, Baton Rouge, LA.

The proposal to be considered at the public hearing is as follows:

Chapter 7

7.9 (a) 2. (c) Whenever minimum qualification requirements are changed and incumbents of positions in affected classes do not meet the new requirements, such incumbents will be allowed to remain in the class of position occupied and to continue gaining qualifying experience for the higher levels that are in the normal career progression for that class.

(d) When incumbents referred to in (c) above acquire *the difference* (in experience) *between* the minimum qualification requirements of their present class and those of higher levels that are in the normal career progression for that class, they will then have met the qualification requirements for the higher level(s). However, incumbents herein referred to may not be eligible for advancement to the higher levels if there are legitimate barriers, such as licensure, certification, accreditation, restrictive funding requirements, etc., which exceed the credentials possessed by the incumbent.

Chapter 5 - Current Rule 5.7 would become 5.7 (a) and the proposal to be considered is as follows:

Current Rule 5.7 will become 5.7 (a).

5.7 (b) Whenever class titles are changed and incumbents of positions in affected classes do not meet the new requirements, such incumbents will be allowed to remain in the position occupied and to continue gaining qualifying experience for the higher levels that are in the normal career progression for that class.

(c) When incumbents referred to in (b) above acquire *the difference* (in experience) *between* the minimum qualification requirements of their present class and those of higher levels that are in the normal career progression for that class, they will then have met the qualification requirements for the higher level(s). However, incumbents herein referred to may not be *eligible* for advancement to the higher levels if there are legitimate barriers, such as licensure, certification, accreditation, restrictive funding requirements, etc., which exceed the credentials possessed by the incumbents.

EXPLANATION

These changes would enable incumbents to continue their career progressions when qualification requirements change or class titles change and the incumbents do not meet the new qualifications. This would enable the Department to upgrade qualifications to improve services without having to consider the adverse effect on the current workforce.

Persons interested in making comments relative to these proposals may do so at the public hearing or in writing to the following address: Director, Department of State Civil Service, Box 44111, Baton Rouge, LA 70804.

Herbert L. Sumrall
Director

NOTICE OF INTENT

**Department of State Civil Service
Civil Service Commission**

The State Civil Service Commission will hold a public hearing on December 6, 1983 for the purpose of considering the amendments of Civil Service Rules 8.18(a) and 17.24(d) as proposed below.

The hearing will begin at 9 a.m. and will be held in the twelfth floor hearing room of the Republic Tower Building, 5700 Florida Boulevard, Baton Rouge, LA.

The proposals to be considered at the public hearing are as follows:

PROPOSAL A

Chapter 8

8.18 Noncompetitive Reemployment Based on Prior State Service.

(a) Subject to the provisions of Subsection (d), (e), and (f) hereof and with the approval of the Director, a former permanent employee who has been separated from the classified service may, within five years from separation, be noncompetitively reemployed in any position for which he is qualified and which has the same or lower entrance salary as the current minimum for the class in which he had permanent status; however, if the classification of a position in which an employee or former employee held permanent status undergoes a title change or change in minimum qualification requirements, he shall not lose his reemployment eligibility for such position or lower positions in the same class series if such exists, except where the qualification lacking is one required by law.

- (b) . . .
- (c) . . .
- (d) . . .
- (e) . . .
- (f) . . .

EXPLANATION

Currently, if a permanent State employee resigns his position, and subsequently the position is title changed and/or new minimum qualification requirements are established for his former position, he cannot be reemployed in such position unless he meets the new minimum qualifications. This prohibition holds true even in cases where the former employee had previously performed satisfactorily in the position. This Rule change would allow the agency to reemploy someone who has performed a job in the past, but does not possess the new minimum qualifications. This Rule change does not authorize a waiver of qualifications required of an employee by law.

PROPOSAL B

Chapter 17

17.24 Department Preferred Reemployment Lists

- (a) . . .
- (b) . . .
- (c) . . .

(d) Subject to the provisions of Subsection (h) of this Rule, an employee may continue his eligibility on a department preferred reemployment list for succeeding periods of one year by making application to the Director in writing one month or less prior to the expiration of one year from the last date on which his name was entered or reentered on such list. Further, if a permanent employee was laid off or officially moved as a result of a layoff action from a position which was later title changed and/or for which new qualification requirements have been established, such employee shall be entitled, on proper request, to have his name placed on the preferred reemployment list for the newly

titled class and lower classes in the same class series if such exists, and be qualified for such positions, except where a lacking qualification is required by law or under a recognized accreditation program. The Director shall remove the name of an employee who does not make application to remain upon a department preferred reemployment lists as prescribed by Subsection (e) of this Rule.

EXPLANATION

Currently, the Rules do not provide that a permanent employee affected by an official layoff action may remain on the department preferred reemployment list for the position he held status in at the time of the layoff if the position undergoes a title change or change in qualification requirements. This Rule change would protect the rights of an employee to be appointed to a position he had previously performed satisfactorily and for which he had previously held department preferred reemployment rights. The Rule does not authorize a waiver of qualifications required by law or under a recognized accreditation program.

Persons interested in making comments relative to these proposals may do so at the public hearing or in writing to the following address: Director, Department of State Civil Service, Box 44111, Baton Rouge, LA 70804.

Herbert L. Sumrall
Director

NOTICE OF INTENT

**Department of State Civil Service
Civil Service Commission**

The State Civil Service Commission will hold a public hearing on December 6, 1983 for the purpose of considering the adoption of Civil Service Rule 6.4(g) as proposed below.

The hearing will begin at 9 a.m. and will be held at the Republic Tower Building, 5700 Florida Boulevard, Twelfth Floor Hearing Room, Baton Rouge, LA.

The proposal to be considered at the public hearing is as follows:

Chapter 6

Adoption of Rule 6.4(g) as follows:

6.4 Rate of Pay Upon Employment.

Employment in any position of a class shall be at the minimum rate for the class, except that

- (a) . . .
- (b) . . .
- (c) . . .
- (d) . . .
- (e) . . .
- (f) . . .

(g) The rate of pay of an employee who has had experience in other than the classified State Service above the minimum required for the position may, with the approval of the Director, be set above the minimum provided:

1. The appointing authority has determined that experience above the minimum required for the class of position would be essential to the efficient functioning of the agency.

2. The person to be employed has had such desired experience.

3. The experience is creditable under this Rule. For experience to be creditable, it must have been full-time, paid, above the minimum required, gained in other than the State Classified Service within the ten years immediately preceding the appoint-

ment, and in the same occupational field as the position to be occupied.

4. The creditable experience has been verified to the appointing authority in writing by the former employer(s).

5. The proposed rate of pay was calculated on the basis of no more than one additional step per each two years of creditable experience using as a starting point either the minimum rate for the class, an existing special entrance rate for the position, or the rate on reemployment as determined under Rule 6.4(c).

6. In those cases where there is an existing special entrance rate or a reemployment rate established under Rule 6.4(c), the proposed rate of pay does not exceed the larger of the fifth step in the range for the position or three steps above the authorized special entrance rate or the rate on reemployment.

7. The appointing authority has, in filling the position, given due consideration to the current workforce.

8. The information specified in items 1 through 7 of this Rule has been certified in writing and appropriate written explanations and copies of supporting documents provided to the Director by the appointing authority.

This Rule may be applied in establishing true rates of pay for employees being brought into the Classified State Service under Rule 8.27. Under no circumstances may any experience be used more than once in establishing pay eligibility. When a higher entry rate is authorized for a new appointment, an appointing authority may, provided that the prior written approval of the Director has been obtained, adjust the rates of current employees who are similarly situated in accordance with the provisions of this Rule. Upon submission of sufficient justification, the Commission may grant exceptions to the provisions of this part. Each application of this Rule shall be reported to the Commission at its next regular meeting. Authority for the use of this Rule may be withdrawn by the Director from any appointing authority.

EXPLANATION

Current Civil Service Rules permit employment of persons in the Classified State Service only at the minimum rate except in cases where there is a shortage of qualified applicants. The inability to negotiate entry rates of pay above the minimum for persons with substantial prior experience limits the ability of the State to employ such persons. Lack of experienced personnel can, in many situations, impair operations, create inefficiency, and lower productivity. The proposed Rule addresses those problems by permitting pay on entry to be established above the minimum rate when there is a need to do so.

Herbert L. Sumrall
Director

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. The Board approved an amendment to Bulletin 746 to allow an additional two year extension for speech, language and hearing specialists Type C certificates.

2. The Board approved an amendment to Bulletin 741, page 41 regarding credit for National Guard Services as recommended by the State Department of Education. (See Emergency Rule of this issue for context of amendment.)

3. The Board amended Board policy 4.03.40h(1) to read as follows:

“The Board granted the authority to vocational technical

school directors when recommending termination of an employee's service to suspend the employee without pay for up to 90 days pending the Board's action on the recommendation for termination."

4. The Board approved an amendment to Bulletin 746 and approved the certification standards for teachers of the Talented as recommended by the State Department of Education as follows:

TALENTED

Grades 1-12 (Must meet requirements 1 or 2 and 3 and 4.)

1. Liberal Arts Undergraduate Degree and Master's Degree in Arts Area or Arts Education Degree plus Master's Degree in Arts Area

or

2. Evidence of achievement in the arts demonstrated as follows:

a. There must be substantive evidence of artistic and/or creative accomplishment over an extended period of time.

3. There must be a written request from the employing authority indicating that the person will be employed as a Talent teacher once the certification is granted.

4. A minimum of one year successful experience working with students in the specific arts area and at the level for which employment is being sought.

NOTE: (a) Certification is granted only in the specific arts area requested and is valid only for the period and place of employment.

(b) Persons holding talent certification are not eligible for tenure.

(c) Written requests and documentation of evidence and experience must be submitted to the Louisiana Department of Education, Office of Teacher Certification.

5. The Board approved the addition of Computer Literacy and Technology Education to the textbook adoption cycle for 1983-84. (Also adopted as an Emergency Rule)

6. The Board approved an Annual Leave policy for vocational technical school directors and superintendents of BESE's special schools as follows:

Annual leave shall be applied for in advance by an employee and may be taken only when approved by the appointing authority. The administrative procedure for the implementation of this policy shall be as follows:

1. The vocational technical school director shall have the authority to approve or disapprove annual leave requests of all employees other than the director.

The special school superintendent shall have the authority to approve or disapprove annual leave requests for all employees of BESE's special schools other than the superintendent.

2. When the vocational technical school director is away from his/her work station for more than five consecutive school calendar days, his/her leave shall be approved in advance by the Director of Trade and Industrial Education, State Department of Education. In case of leave of five days or less, the director shall initiate and approve his/her own leave.

When the special school superintendent is away from his/her work station for more than five consecutive school calendar days, his/her leave shall be approved in advanced by the Assistant Superintendent of Special Education, State Department of Education. In case of leave of five days or less, the superintendent shall initiate and approve his/her own leave.

3. When the vocational technical school director is absent from school for more than two consecutive days, he/she shall notify the Director of Trade and Industrial Education, State Department of Education.

When the special school superintendent is absent from

school for more than two consecutive days, he/she shall notify the Assistant Superintendent of Special Education, State Department of Education.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., January 9, 1984 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: Type C Certificates

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

The adoption of this policy will not be of any savings to this agency.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

We estimate revenue collections from certification fees to be about \$100 from individuals requesting extensions.

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

Adoption of this policy allows those person two additional years to earn a master's degree or the equivalent in speech therapy and meet the requirements for a Type B certificate.

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

If this action was not taken by BESE, Type C certificates for Speech, Language and Hearing Specialists would become invalid and individuals holding this certificate would be ineligible for employment. Since this is already a shortage area, failure to adopt this policy would aggravate the shortage in speech therapy.

George B. Benton, Jr.
Deputy Superintendent

Mark C. Drennen
Legislative Fiscal Officer

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

Rule Title: Definition of member of the armed forces and H.S. credit

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

This change would cost about \$1,300 for printing and postage to notify the schools and school systems which will be absorbed in the operating budget of the agency.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There would be no effect on revenue.

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

There would be no effect on costs and benefits.

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

There would 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: Policy on termination of employee

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)
There are no implementation costs or savings to state or local agencies.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)
There is no effect on revenue collections.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)
The vo tech school directors would be given a more direct authority over personnel matters and the employees would have a clearer understanding of his/her status.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
There would be no effect on competition and employment.

James Soileau
Executive Director

Mark C. Drennen
Legislative Fiscal Officer

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

Rule Title: Talented Certification

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)
The cost for printing to change one page of Bulletin 746 and postage to disseminate the change is estimated to be \$50 in 1983-84 which will be absorbed in the operating budget of the agency.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)
There is no estimated effect on revenue collections as a result of this Rule change.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)
There are approximately 52 teachers of the talented in the 13 parishes with Talented Programs. Approximately one-half of these teachers are currently under pending certification. Certification as a teacher of the talented is an ancillary certificate which must be renewed each year. Therefore, it is possible, though unlikely, that some of the teachers currently employed in Talent Programs may be replaced in the next school year by other personnel qualifying under the new certification criteria.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
The overall number of teaching positions for Talent Programs will not be affected by this Rule change; however, employment of individual teachers who do not qualify under the new certification criteria could be affected.

George B. Benton, Jr.
Deputy Superintendent

Mark C. Drennen
Legislative Fiscal Officer

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

Rule Title: Textbook Adoption

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)
The cost to the Department of Education for formulation of an addition adoption committee is estimated to be \$2,000 in 1983-84 which will be absorbed in the operating budget of the agency. Implementation at the local level would not occur until 1984-85. Local adoption is required within 12 months of state adoption; however, because local systems and nonpublic schools are not required to purchase textbooks when adopted, the actual cost cannot be determined. If it is assumed that each of the approximately 1,700 schools eligible for state assistance establishes one class of 30 pupils with a cost of \$10 per textbook, the total cost could reach \$510,000. This cost would be borne by the local school systems and nonpublic schools. The participating students may be required to bear some of the cost. Some systems may choose to incorporate computer literacy and technology education textbooks into their existing budgets by adjusting the priority of textbook purchases.
State aid for textbook purchases is not distributed according to the academic disciplines adopted each year. The textbook allotment is determined by the appropriation made for that purpose and distributed by the Dept. of Education on a per pupil basis according to parish registration figures for grades K-12 (public and nonpublic). An increased request by the Department for the textbook allotment is anticipated for 1984-85; however, this request will not be directly related to the addition of computer literacy and technology education.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)
There is no estimated effect on revenue collections as a result of this Rule change.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)
It is possible that if the local school systems and nonpublic schools do not absorb the increased costs associated with textbooks for any computer literacy and technology classes established in 1984-85, the students participating in these classes may ultimately bear at least a portion of that cost, the extent of which cannot be accurately determined.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
The incorporation of computer literacy and technology education at the local level will enable those school children to become more competitive and employable.

George B. Benton, Jr.
Deputy Superintendent

Mark C. Drennen
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Annual Leave**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)
There are no costs or savings to any state or local agency.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There is no effect on revenue collection.

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

Vo tech school directors and special school superintendents would have more direction as to the policies and procedures relating to their use of annual leave.

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

There are no effects on competition and employment.

James Soileau
Executive Director

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Telecommunications Management**

Notice is hereby given that the Office of Telecommunications Management intends to amend the Administrative Rules and Regulations of the Office of Telecommunications Management.

The proposed revisions will implement the changes mandated by Acts 152 and 153 of the 1982 Regular Session of the Legislature with respect to competitive procurement of telecommunications equipment, systems and related services; collection procedures and billing and payment procedures.

Interested persons may request copies of the proposed Rules and direct inquiries to Ms. Danya Lefebvre, Informational Services Manager, Office of Telecommunications Management, Box 44280, Baton Rouge, LA 70804, (504) 925-7075. Written comments on the proposed amendments will be received through December 31, 1983, at the above address.

Richard C. McDonald
Assistant Director of Support Services

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Rules and Regulations of the
Office of Telecommunications Management**

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

No implementation costs are anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

Revenue collections are not expected to be affected.

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

The State is moving from a sole source environment to one centered on a competitive marketplace. It is estimated that by doing this the State will position itself for the opportunity to obtain the best cost performance for telecommunication products and services. This will work to offset anticipated overall rising costs in the telecommunications industry.

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

A significant increase in competitive opportunities in

the private sector should be realized by the move of the telecommunications procurement to a competitive procurement environment. Overall employment in the private sector is expected to remain constant with no change anticipated in the public sector.

Richard C. McDonald
Assistant Director, Support Services

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Human Resources
Board of Examiners of Psychologists**

PROPOSED RULES ON TRAINING AND CREDENTIALS

I. A "school" or "college" approved by the Board is a university or other institution of higher learning which at the time of the granting of the doctorate has met IA, IB, and IC of this section.

A. Is accredited by one of the six regional bodies recognized by the Council on Postsecondary Accreditation.

B. Has achieved the highest level of accreditation or approval awarded by statutory authorities of the state in which the school or college is located.

C. Offers a full-time graduate course of study in psychology as defined in the regulations.

II. A "full-time graduate course of study in psychology" means a doctoral program of psychology which at the time of the granting of the doctorate meets either criterion A or B of this section.

A. Doctoral programs that are accredited by the American Psychological Association are recognized as meeting the definition of a psychology program. Psychology programs which do not meet criteria IA must meet the following standards.

B. Programs not approved by the American Psychological Association must meet the following standards.

1. The program shall be clearly identified and labeled as a psychology program. Such a program shall specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists.

2. The psychology program shall stand as a recognizable, coherent organizational entity within the institution wherever it may be administratively housed.

3. There shall be a clear authority and primary responsibility for training in the core and specialty areas of psychology whether or not the program cuts across administrative lines.

4. The program shall be an organized sequence of study planned by those responsible for the training program to provide an integrated educational experience.

5. There shall be an identifiable psychology faculty and a licensed or qualified psychologist responsible for the program.

6. The program shall have an identifiable body of students who are matriculated in that program for a degree.

7. The program shall include appropriate practicum, internship, field, or laboratory training.

8. The curriculum of the program shall encompass a minimum of three academic years of full-time graduate study.

9. The doctoral program shall involve at least one continuous academic year of full-time residency on the campus of the Institution at which the degree is granted.

10. The doctoral program shall include examination and grading procedures designed to evaluate the degree of mastery of the subject matter by the student.

11. The program shall be an internal degree program (as

opposed to an external degree program) unless it is approved by the American Psychological Association.

C. Programs of institutions outside of the United States must meet criteria specified in IIA or IIB.

III. A "major in psychology" is one offered by an approved doctoral program as specified in II and which meets the following standards.

A. Scientific Area. The major in psychology shall require each student to obtain instruction in the areas of scientific and professional ethics and standards, history and systems, research design and methodology, statistics and psychometrics.

B. Substantive Content Areas. The Major in psychology shall require each student to demonstrate competence in each of the following substantive content areas. Competence shall be demonstrated by successful completion of at least twenty-four or more graduate semester hours (or equivalent quarter hours) with at least six semester hours in each of the four areas, or by documentation of comprehensive examination in each of the four substantive content areas. Graduates who cannot document competence in one substantive content area (1-4 below) may demonstrate competence by additional course work or examination, not to exceed six credit hours or one substantive content area by comprehensive examination. Graduates who are deficient in more than one substantive content area will be considered as not having a "major in psychology."

1. Biological Bases of Behavior, e.g., physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology.

2. Cognitive-Affective Bases of Behavior, e.g., learning, thinking, motivation, emotion.

3. Social Bases of Behavior, e.g., social psychology, group processes, organizational and systems theory.

4. Individual Differences, e.g., personality theory, human development, abnormal psychology.

C. Speciality Areas. If the emphasis of the major in psychology is in an applied area such as clinical psychology, counseling psychology, school psychology, or industrial-organizational psychology, the training normally shall include a set of coordinated practicum and internship training experiences.

1. In applied areas such as counseling, clinical, and school psychology preparation shall involve early and continuing involvement of students in applied settings. Such experience should occur at two levels, practicum and internship.

a. The practicum level is an earlier, pre-requisite phase of involvement, usually for academic credit, often on campus, with a typical time commitment of eight to 16 hours per week. Practicum settings should provide supervised training in interviewing, appraisal, modes of intervention, and research skills or other skills appropriate to the student's level of experience and area of specialization. A minimum of 300 hours of practicum experience should precede the internship. This should include at least 100 hours of direct client contact and at least 50 hours of scheduled individual supervision.

b. The typical minimal internship experience is a program of one continuous year or its equivalent, such as a one half-time program of two years duration. The internship setting should provide the trainee with the opportunity to take substantial responsibility for carrying out major professional functions in the context of appropriate supervision which is conducted in accordance with the Rules of the Board for supervision of unlicensed assistants.

2. In applied areas such as industrial-organization, engineering, and environmental psychology, internship training may take the form of post-doctoral supervised experience as defined in the regulations of the Board.

This institutes the following changes in the present Rules on

training and credentials.

1A. A deletion of the statement "A school or college which has been admitted to candidacy status by a regional accrediting body shall be accepted as having met this requirement if it has maintained candidacy status for a minimum of three years."

IIA. Underscore the words "either"....and "or."

Deletion of "or by the National Council of Accreditation of Teacher Education according to the standards of the National Association of School Psychologists."

IIIB. Change wording "Programs not approved by the American Psychological Association must meet the following standards."

B11. Add "11. The program shall be an internal degree program (as opposed to an external degree program) unless it is approved by the American Psychological Association."

IIIA. Add heading "Scientific Areas." and change wording "each student to obtain instruction in the areas....."

IIIB. Add heading "Substantive Content Areas."... add "Competence shall be demonstrated by successful completion of at least 24 or more graduate semester hours (or equivalent quarter hours) with at least six semester hours in each of the four areas, or by documentation of comprehensive examination in each of the four substantive content areas. Graduates who cannot document competence in one substantive content area (1-4 below) may demonstrate competence by additional course work or examination, not to exceed six credit hours or one substantive content area by comprehensive examination. Graduates who are deficient in more than one substantive content area will be considered as not having a "major in psychology."

IIIB. Delete paragraph "Competence may be demonstrated by passing comprehensive examinations in each of the areas or by successful completion of at least 24 or more graduate semester hours (or equivalent quarter hours) with at least three semester hours in each of the four areas, or by other means acceptable by the Board."

IIIC. Add heading "Specialty Areas."

CI. Omit word "normally."

CII. Substitute word "psychologists" with "assistants."

IV. Delete

The Board of Examiners of Psychologists shall accept oral or written comments on the proposed Rule at the following address: June M. Tuma, PH.D., Chair, Box 14782, Baton Rouge LA 70898, Phone 343-1356.

June M. Tuma, PH.D.
Chair

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Training and Credentials

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

There will be no implementation costs to the agency.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There will be no effect on revenue collections.

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

The proposed changes will result in more stringent criteria to be used in determining whether future applicants will be granted licensure. Applicants admitted to candidacy must hold a doctoral degree with a major in psychology from a

university offering a full-time graduate course of study in psychology that is approved by the Board. Except for doctoral programs accredited by the American Psychological Association, all courses of study must now meet the 11 criteria found in Section II B of the Rules.

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

There will be no effect on competition and employment.

June M. Tuma, Ph.D.
Chair

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 Rule in the AFDC and Refugee Programs in accordance with 45 CFR 233.20(a)(ix) as published in the *Federal Register* of Friday, February 5, 1982, Volume 47, Number 25, Page 5676.

PROPOSED RULE

AFDC and Refugee recipients who are determined to be potentially eligible for the Earned Income Tax Credit (EITC) will be allowed 14 days to apply for and receive advance EITC payments. If after the 14 day period the recipient has not provided verification of ineligibility for EITC or of their employer's refusal to cooperate in paying EITC, the amount of EITC which the recipient is eligible to receive as determined from tables provided by the Secretary of the Treasury shall be budgeted as income in determining eligibility and grant amount.

A copy of this proposed Rule and its Fiscal and Economic Impact Statement is available for review in each parish in the local Office of Family Security.

A public hearing will be held on this proposed Rule change on Thursday, December 1, 1983 at 9:30 a.m. in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Interested persons may submit written comments 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. Guissingier
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Earned Income Tax Credit**

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

	FY 83-84	FY 84-85	FY 85-86
STATE	63.00	0	0
FEDERAL	63.00	0	0
TOTAL	126.00	0	0

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

FY 83-84	FY 84-85	FY 85-86
63.00	0	0

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

At present, 2,715 AFDC or Refugee recipients have earned income. Those determined to be eligible for EITC will be required to comply with this policy.

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

None.

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 amend Title XIX State Plan, Attachment 4.19 B, Item 18 a. entitled Transportation Services, to limit the amount reimbursed to providers of non-emergency medical transportation for the transport of an attendant needed to accompany a Title XIX recipient.

PROPOSED RULE

Effective February 1, 1984, Attachment 4.19 B, Item 18 a.

I. B. 1. (b) shall read as follows:

(b) \$5 per one-way pick up for each additional person and for an Attendant;

Effective February 1, 1984, Attachment 4.19 B, Item 18 a.

I. B. 3. first sentence shall read as follows:

3. Non-Profit organization - all non-profit organizations may be reimbursed for providing transportation for a recipient and an Attendant to accompany him at a rate equal to the amount currently paid State employees for mileage traveled on official business, except that the maximum to be paid for the Attendant shall not exceed \$5 for a one-way pickup.

This action is being taken to comply with recommendations made by the United States Department of Health and Human Services in their 1983 State Assessment of the Medical Assistance Program.

Interested persons may submit written comments 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. A copy of this proposed Rule and fiscal and economic impact statement is available for review in each parish in the local Office of Family Security.

A public hearing on the proposed Rule will be held December 1, 1983, in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge, LA, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Roger P. Guissingier
Secretary

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

**Rule Title: Limit Reimbursement to non-profit providers
of Non-Emergency Transportation**

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

It is estimated that the implementation of this change will generate a savings to the agency as follows:

	FY 83-84	FY 84-85	FY 85-86
State	\$1,890	\$ 3,845	\$ 3,845
Federal	\$3,110	\$ 6,155	\$ 6,155
Total	\$5,000	\$10,000	\$10,000

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS -
(Summary)**

Federal Revenues will decrease as follows:

FY 83-84 - \$3,845; FY 84-85 - \$6,155; FY 85-86 - \$6,155.

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

Non-profit organizations which provide Title XIX Non-Emergency Transportation will have a reduction in income.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOY-
MENT - (Summary)**

There will be no effect on competition or 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 amend the Title XIX State Plan, Methods and Standards for Payment for Medical and Remedial Care and Services - Skilled Nursing and Intermediate Care Facilities.

PROPOSED RULE

Effective February 1, 1983, the Title XIX State Plan, Attachment 4.19-D, paragraph E.1 page 16 and 17; page 103, paragraph 2; and page 114 after paragraph E will be amended as follows:

Page 16 and 17 of Paragraph E.1. will include the following sentence:

Failure to do so will result in withholding of Title XIX reimbursement for the number of beds which have not been approved in accordance with the Social Security Act (42 USC Section 1320 a - 1 et. sec.).

Page 103, Paragraph 2. will include the following wording:

2. . . . and shall not include expenditures made without required Section 1122 of P.L. 92-603 approval.

Page 114, After Paragraph E. new paragraph F. shall read as follows:

4. F. Payment will be made in an amount not to exceed the total number of beds which have been approved in accordance with the Social Security Act (42 USC Section 1320 a - 1 et. sec.) times the number of days in the month. Such payment will be considered the total agency payment for all Title XIX recipients in the facility. The number of beds reflected in current provider agreements shall be considered to be approved beds. The capital expenditures allowable in cost reports shall be based on approvals in accordance with the Social Security Act (42 USC Section 1320 a - 1 et. sec.).

The intent of the proposed Rule change is to ensure that payment is not made to facilities for any beds which have not been approved in accordance with the Social Security Act (42 USC Section 1320 a - 1 et. sec.) and to delete such capital expenditures in determining allowable costs for rate setting purposes.

Interested persons may submit written comments 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. A copy of this proposed Rule and its fiscal and economic impact statement is available for review in each parish in the local Office of Family Security.

A public hearing on the proposed Rule will be held December 1, 1983, in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge, Louisiana, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments orally or in writing at said hearing.

Roger P. Guissinger
Secretary

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

Rule Title: Payment for Nursing Home Beds

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

The implementation of this proposed Rule will have no fiscal impact at this time. It is a cost containment measure which will prohibit payment for nursing home beds built without required approval in accordance with the State Health Plan. Under current OFS policy, nursing home beds which do not have Section 1122 approval are reimbursed at standard per diem rates. These rates are based on the sixtieth percentile of allowable costs for all participating long-term care facilities throughout the state as determined by OFS from each provider's annual cost report. The costs of interest and depreciation and a return on equity capital which are associated with non-approved beds are currently viewed as non-allowable costs. A provision in the proposed Rule would approve for reimbursement purposes all beds currently operated by participating providers, whether such beds have Section 1122 approval or not. Although rates are currently frozen at the 1982-83 level, the inclusion of these additional beds as allowable costs could have a significant impact on the determination of future rate increases. OFS and the Division of Health Planning and Development are in the process of trying to determine the number of existing beds which do not have Section 1122 approval.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS -
(Summary)**

There is no effect on revenue collections.

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

None.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOY-
MENT - (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 implement the following Rule in the AFDC Program. The proposed Rule is authorized by 45 CFR 206.10 as published in the *Federal Register* of Tuesday, June 21, 1983, Volume 48, Number 120, pages 28407 and 28408.

PROPOSED RULE

All individuals applying for inclusion in an existing Aid to Families with Dependent Children or Refugee certification shall be considered applicants for assistance and file an application form. The date the application form is received in the parish office shall be considered their filing date and if found eligible during that initial month of application, the initial month's benefits shall be prorated from the date of application to the end of the month.

Interested persons may submit written comments to R.K. Banks, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, LA 70804. He is the person responsible for inquiries regarding the proposed Rule. A copy of this notice is available for review in each parish Office of Family Security.

A public hearing on the proposed Rule will be held Thursday, December 1, 1983, in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge, LA, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Roger P. Guissinger
Secretary

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

Rule Title: Prorated Benefits for Individuals Added to Existing Certifications

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

	FY 83/84	FY 84/85	FY 85/86
State	(\$12,616.83)	(\$30,392.14)	(\$30,392.14)
Federal	(\$22,934.12)	(\$55,153.66)	(\$55,153.66)
Total	(\$35,550.95)	(\$85,545.80)	(\$85,545.80)

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

The implementation of the proposed policy would result in a decrease in Federal funds. FY 83/84 - \$22,934.12; FY 84/85 - \$55,153.66; FY 85/86 - \$55,153.66

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

Approximately 255 individuals per month would receive reduced benefits in their initial month of certification.

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 the following Rule in the Medical Assistance Program:

PROPOSED RULE

Effective February 1, 1984, Title XIX reimbursement will be reinstated for the following drug:

TRADE NAME	ACTIVE INGREDIENT	DOSAGE FORM/ROUTE	
		FIRM	
ISOSORBIDE	ISOSORBIDE	TAB/subl	
DINITRATE	DINITRATE	TAB/oral	Bolar
		SRT/oral	

Reimbursement for this drug was discontinued in a Final Rule, effective August 20, 1983, as published in the *Louisiana Register*, Vol. 9, No. 8, page 552, because it was determined to be "less than effective" by the Food and Drug Administration (FDA). However, the Medical Assistance Program was advised by the United States, Department of Health and Human Services, Health Care Financing Administration by Transmittal No. 8, Part 4, of the State Medicaid Manual, dated September, 1983, that the above stated drug, Isosorbide Dinitrate, manufactured by Bolar, has been determined to be effective by the FDA, and therefor payment may be made for this drug.

Interested persons may submit written comments 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. A copy of this proposed Rule and its fiscal and economic impact statement is available for review in each parish in the local Office of Family Security.

A public hearing on the proposed Rule will be held December 1, 1983, in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge, LA, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Roger P. Guissinger
Secretary

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

Rule Title: Reinstatement of Isosorbide Dinitrate

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

The amount of costs or savings resulting from this proposed Rule cannot be determined because it is not known whether physicians will, with implementation of this Rule, commence prescribing this drug, or will continue to prescribe those drugs that were substituted when the drug was deleted from the Title XIX Medical Assistance Program. The drug(s) which has been prescribed instead of Isosorbide Dinitrate (BOLAR) may or may not be covered by the Program and may or may not be more expensive than Isosorbide Dinitrate.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

The effect on collections of federal Title XIX (Medi-

V 1309 Common Street VII Allen Memorial State Office Bldg.
 Lake Charles, LA 5th Floor
 VI 2001 MacArthur Drive 1525 Fairfield Ave.
 Building #3 Shreveport, LA
 Alexandria, LA VIII 2913 Betin Street
 Monroe, LA

* In Region I the Code will be placed in Central Office.

In accordance with the provisions of LSA-R.S. 49:950 et seq., DHHR/OHSEQ will hold a public hearing on December 2, 1983 from 2 p.m. - 4 p.m. at the State Office Building, 325 Loyola Ave., Room 515, New Orleans, LA. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing at said hearing.

Dr. Sarah M. Braud, Acting Assistant Secretary of the Office of Health Services and Environmental Quality is the person responsible for inquiries regarding the Rule. Address comments to her at the Office of Health Services and Environmental Quality, Box 60630, Room 513, New Orleans, LA 70160, or call (504) 568-5050 or LINC 621-5050.

Dr. Sarah M. Braud
 Acting Assistant Secretary

**Fiscal and Economic Impact Statement
 For Administrative Rules
 Rule Title: Sanitary Code**

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

It is anticipated that \$20,000 will be spent on printing of the Code. No additional funds will be required to implement the revised Sanitary Code at the current level of effort.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

There will be no effect on revenue collections.

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

There will be no anticipated costs to affected groups. Users of the Code will benefit from the clarifications that have been made since they will be able to better understand the requirements.

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

There will be no effect on competition and employment as this revised Code does not affect the job market.

Sarah M. Braud, M.D. Mark C. Drennen
 Acting Assistant Secretary Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Human Resources
 Office of Health Services and Environmental Quality**

Effective November 20, 1983, the Department of Health and Human Resources, Office of Health Services and Environmental Quality, Food and Drug Control Unit, in order to implement the provisions of LSA R.S. 40:661 through LSA R.S. 40:661.5, proposes to adopt regulations for vending machines designed to dispense water intended for human consumption. This is done to assure that consumers using such machines are given appropriate information as to the nature of the vended water and to assure that the quality of the water vended meets an acceptable standard for potability and that the vending equipment is installed, operated and maintained so as to protect the health, safety and welfare of the consuming public. These regulations are codified in accordance with the codification system in the "State of Louisiana Food, Drug and Cosmetic Laws and Regulations",

dated September, 1968 (the 'Red Book'); as follows:

2.120 Definitions.

(A) "Water vending machine" shall mean any self-service device which, upon insertion of money or tokens or upon receipt of payment by other means, dispenses unit servings of water in bulk into a container, without the necessity of refilling the machine between each operation.

(B) "Permit" shall mean and be limited to a permit issued under and pursuant to the provisions of these regulations.

(C) "Vended water" shall mean that water dispensed by means of a water vending machine.

(D) "Person" shall mean any individual, public or private corporation, company, association, partnership, municipality or any other legal entity or its legal representative, agent or assigns.

(E) "Operator" shall mean any person who owns or operates a water vending machine.

(F) "Potable water" shall mean water which meets the requirements of Chapter VIII of the Louisiana State Sanitary Code of January 1, 1977 and any subsequent revisions.

(G) "Spring water" shall mean water obtained from a water source which flows naturally from an underground spring or is obtained from such spring by means of drilling and/or pumps.

(H) "United States Pharmacopeia" shall mean "the Pharmacopeia of the United States of America prepared under authority of the United States Pharmacopeial Convention"; a book of standards for drugs, tests, waters and reagents.

(I) "Purified water" shall mean water produced by distillation, deionization, reverse osmosis or other methods as defined in the current edition of the "United States Pharmacopeia."

(J) "Non-toxic materials" shall mean materials which are free of substances which may render the water injurious to health or which may adversely affect the flavor, color, odor or microbiological quality of the water.

(K) "Approved" means approved in writing by the designated representative of the State Health Officer.

(L) "Sanitary" shall mean promoting or pertaining to health and, therefore, free of harmful or deleterious contaminants.

2.121 Operating Requirements.

Each water vending machine operator shall:

(A) Obtain a permit for each water vending machine operated.

(B) Install each water vending machine to a potable water supply in accordance with the State Sanitary Code and any applicable, local plumbing codes.

(C) Operate and maintain all water vending machines in a sanitary manner.

(D) Maintain adequate water quality monitoring by analyzing one sample every three months bacteriologically from each water vending machine.

(E) Take investigative or corrective action, in cooperation with the Food and Drug Control Unit, as necessary when a vending machine malfunctions to assure that a pure, wholesome and potable water supply is supplied to consumers.

2.122 Permits.

(A) Each person desiring to operate a water vending machine in Louisiana shall, prior to such operation, apply to the State Health Officer for a permit.

(B) Any application for a permit shall be on a form as prescribed by the State Health Officer and shall contain the following:

(1) Name and principal address of the applicant.

(2) Address of the proposed water vending machine location. A separate application for permit must be filed for each water vending machine location.

(3) Signature of a responsible officer of the firm and his/her title.

(4) Any additional information needed for the orderly maintenance of records and data processing requirements.

(5) The model number or name of the water vending machine.

(6) Evidence with respect to each model of machine intended to be used, that:

(a) Said model complies with the construction standards of the National Sanitation Foundation (NSF) and/or the National Automated Merchandising Association (NAMA). Such standards are available from the National Sanitation Foundation, 3475 Plymouth Rd., Ann Arbor, Michigan 48105 and/or the National Automated Merchandising Association, 7 S. Dearborn St., Chicago, Illinois 60603.

(b) All exterior and interior surfaces and component parts of said machine are designed and constructed to permit easy cleaning and maintenance.

(c) All parts and surfaces of said machine with which the water comes into contact are of non-toxic, corrosion resistant, non-absorbent material capable of withstanding repeated cleaning and sanitizing treatment.

(d) Said machine has a recessed or guarded corrosion resistant dispensing spout.

(e) All treatment of the vended water by distillation, ion-exchange filtration, ultraviolet light, reverse osmosis, mineral addition or any other process is done in a manner so as to accomplish its intended purpose of purifying water.

(f) All vending machines are located in an area that can be maintained in clean condition and in a manner that avoids insect and rodent harborage.

(g) The source of water supply is from a community water supply approved by the State Health Officer as defined in the State Sanitary Code, Sect. 8.1.

(h) All machines have a system of collection and handling of drip, spillage and overflow of water.

(i) All connections with the public water supply have a backflow prevention device approved by the State Health Officer.

(j) All vending machines display, in a position clearly visible to customers, the following information: the name, license number and address of the operator, the fact that the water is obtained from a public water supply, a statement describing the treatment process; if no treatment process is utilized, then a statement to that effect, chemical names and concentrations of any preservatives or additives and a local telephone number than may be called for further information, service or complaints.

(k) Prior to delivery into the customer's container, water vended by the machine is disinfected by ultraviolet light or other method approved by the State Health Officer.

(l) All water vending machines are equipped with monitoring devices designed to shut down operation of the machine when the disinfection unit fails to function.

(m) All vending machines are equipped with a self-closing, tight fitting door on the vending compartment.

(n) No vended water is described on a machine or elsewhere as "spring water" or "purified water" unless such water conforms to the definition contained in this Part.

(o) Activated carbon, if used, complies with the American Water Works Association (AWWA) specifications for granular, activated carbon used in the treatment of potable water (AWWA B604—74).

(p) All vending machines are maintained in a clean and sanitary condition, free from dirt and vermin.

(C) Evidence that the person applying for permit has:

(1) A competent and responsible staff approved by the State Health Officer for the local supervision of the operation of the machines. Competent staff shall be construed to mean a person or persons with at least one year's experience concerning the proper

operation of the type of water vending machine they will operate.

(2) An acceptable maintenance program for the routine servicing of water vending machines. The program shall include written servicing instructions for the operator, technical manuals of the machine and of the water treatment appurtenances involved and regularly scheduled service visits.

(D) Issuance of permit. The State Health Officer, after a reasonable period of time, shall either grant or deny an applicant a permit.

(E) Permit revocation and cancellation. Each permit issued in accordance with the provisions of this Part, shall be for a period of one year and shall remain in force and effect for that period unless terminated, revoked or cancelled upon due notice and hearing.

(F) Fees. Each person applying for a permit to operate a water vending machine within Louisiana shall pay an initial and an annual permit fee of \$50 (Reference - LSA R.S. 40:701, Act No. 510 of 1983).

(G) Each water vending machine permitted for use in Louisiana shall display, in the upper right hand corner of the front panel, a permit decal furnished by the State Health Officer.

2.123 Service, Sampling and Records.

(A) All parts and surfaces of the water vending machines shall be maintained in clean condition by the water vending operator. The vending chamber and vending nozzle of each machine shall be cleaned and sanitized each time the machine is serviced. A record of cleaning and maintenance operations shall be kept by the operator for each water vending machine.

(B) The vended water from each water vending machine shall be analyzed once every three months for total coliforms. The analysis shall be performed by a laboratory approved by the State Health Officer in accordance with the provisions of the EPA Manual #600/8-78-008 titled "Manual for the Interim Certification of Laboratories Involved in Analyzing Public Water Supplies' Criteria and Procedures, May, 1978". This manual is prepared by the United States EPA, 1201 Elm St., Dallas, Texas 75270.

(C) The vended water from each water vending machine utilizing silver-impregnated carbon filters in the treatment process shall be analyzed once every three months for silver. The analysis shall be performed by a laboratory approved by the State Health Officer in accordance with the provisions of the EPA Manual #600/8-78-008 titled "Manual for the Interim Certification of Laboratories Involved in Analyzing Public Water Supplies' Criteria and Procedures, May, 1978".

(D) A more frequent analysis of the above parameters, or additional analysis may be required by the State Health Officer if there is some presumption of unfitness of the vended water because of the presence of undesirable elements, compounds or materials caused by the passage of water through the machine.

Interested persons may submit written comments to the following address: Sarah M. Braud, M.D., Acting Assistant Secretary, Office of Health Services and Environmental Quality, Room 513, State Office Building, 325 Loyola Avenue, Box 60630, New Orleans, LA 70160, Phone: 504/568-5402 (LINC: 621-5402).

Roger P. Guissinger
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Water Vending Machine Regulations

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

For FY '83-'84, implementation costs are estimated at \$84,705 of which \$10,000 should be self-generated.

This Agency currently has no funds available to take

on any additional workload. The Food and Drug staff currently has more projects than we have people and are having to use a rotating system to cover all priorities and projects.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

Approximately \$10,000 would be collected in permit fees which would be allocated to enforcing the law and regulations.

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

To Consumers: These regulations will assure consumers of safe, potable water which meets and probably exceeds the minimum, primary drinking water standards at a reasonable cost.

To Industry: The regulations will assure fair competition by making all water vending equipment meet the same, minimum standards and will require a \$50 permit fee per annum per machine.

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

The regulations will assure fair competition amongst all firms in the water vending business by establishing minimum standards for compliance, but will have only a minimum, positive affect on employment.

Sarah M. Braud, M.D.

Acting Assistant Secretary

Mark C. Drennen

Legislative Fiscal Officer

NOTICE OF INTENT

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

Effective December 20, 1983, the Department of Health and Human Resources proposes to implement new, uniform (regardless of funding source) and minimum standards for client care providers in Louisiana.

Specifically excluded from the scope of these proposed standards are nursing homes and hospitals. Specifically, these standards apply to all providers offering one or more of the following services or types of care:

Case Management/Service Coordination

Family Support/Subsidy Services

Personal Care Attendant Services

Respite Care Services

Early Intervention Care Services

These standards are being proposed to secure a waiver by the Health Care Financing Administration of the Federal Department of Health and Human Services from the Title XIX State Plan for Louisiana. These standards have been submitted for certification of these services in Louisiana for federal funding. However, these standards apply to all clients receiving the above cited services or care whether Title XIX eligible or not.

These proposed uniform and minimum standards are new.

The proposed uniform and minimum standards are too bulky for publication but are available for review at the Division of Licensing and Certification, 333 Laurel Street, Room 620, in Baton Rouge, LA. Copies of the proposed standards may be obtained upon written request to Billy W. Brown, Director, Division of Licensing and Certification, Box 3767, Baton Rouge, LA 70821.

A public hearing on these proposed standards has been scheduled for December 6, 1983 at 1:30 p.m. in the State Police Training Academy (Library), 7901 Independence Boulevard, Baton Rouge, LA.

Interested persons may submit written comments on the proposed standards through December 2, 1983 to the attention of Billy Brown, Director, Division of Licensing and Certification, P.O. Box 3767, Baton Rouge, LA 70821.

The Notice of Intent published in the August 20, 1983

Louisiana Register (Volume 9, Number 8, Page 577) dealing with the same client care standards is hereby withdrawn. The final Rule will be published on this Notice of Intent.

Roger P. Guissinger

Secretary

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

Rule Title: New Client Care Provider Standards

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

The cost is minimal as all these providers who may offer these services or care are already surveyed. The savings to the agency is minimal because the surveys of the providers who may offer these services are already partially paid for by Title XIX.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

None.

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

The benefit to affected groups may be that some clients who otherwise would have to be served in more restrictive environments could be served at home or in the community.

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

None.

Billy W. Brown

Director

Mark C. Drennen

Legislative Fiscal Officer

NOTICE OF INTENT

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

In accordance with Act 197 of the 1982 Regular Session (R.S. 37:3081 et seq.), the Department of Health and Human Resources, Office of the Secretary proposes the following Rule pertaining to the requirements of dietitians and registered dietitians:

Proposed Rule

I. DEFINITIONS

A. Registered Dietitian - the designation of persons who have completed all requirements and satisfactorily completed the dietetic registration examination and have maintained the continuing education requirements.

B. Dietitian - designation of persons who have completed all requirements except satisfactorily completing the exam to become registered (i.e. Registration eligible).

C. Commission on Dietetic Registration (CDR) is the certifying component of the American Dietetic Association (ADA). This commission is charged to review, modify, and enforce standards for dietetic registration. This commission is autonomous in most aspects. It independently establishes registration eligibility criteria and independently administers the examination to determine if applicants meet those criteria.

D. Plan IV - is the designation for the minimum academic requirements (for ADA membership for dietitians) to become registration eligible.

II. For the purpose of La. R.S. 37:3081 (a) (b) (c) (d) and (e) the Secretary accepts and adopts all of the prescribed requirements of the ADA, CDR, as may be amended, and more particularly with regards to the establishment of academic requirements; prescribing a program of experience; the determination of an examination and establishment of continuing education requirements. The ADA, CDR standards are combined in Part III of these Rules. Any change in the ADA, CDR standards are automatically accepted and adopted by the Secretary.

THE AMERICAN DIETETIC ASSOCIATION

430 North Michigan Avenue, Chicago, Illinois 60611

REQUIREMENTS FOR MEMBERSHIP IN THE AMERICAN DIETETIC ASSOCIATION AND/OR ELIGIBILITY FOR THE REGISTRATION EXAMINATION FOR DIETITIANS EDUCATION*, EXPERIENCE, ENDORSEMENT AND SUPERVISION REQUIREMENTS

I. Introduction

- A. Applicants with a degree from an accredited college or university must present:
 - 1. A final official transcript with college seal indicating the degree and/or degrees.
 - †2. Verification Statement of Completion of Plan IV Academic Requirements For Membership And/Or Eligibility For The Dietetic Registration Examination signed by the Program Representative of a college or university approved for Plan IV by The American Dietetic Association or an ADA Plan IV transcript evaluation completed before November 1980. Approved Plan IV Programs are listed in annual DIRECTORY OF DIETETIC PROGRAMS.
 - 3. Verification of successful completion of qualifying experience in The United States.
 - 4. Qualifying Endorsement(s).

†Until December 31, 1984 approved Plan III transcript evaluations (done prior to January 1, 1980)

- B. The current issue of the annual directory "Accredited Institutions of Postsecondary Education", is accepted as a guide in determining whether an institution is "accredited." It is published by the American Council on Education, One Dupont Circle, Washington, D.C. 20036.

II. Experience and Endorsement Requirements

- A. Associate Degree#
 - 1. Qualifying experience and endorsement:
 - a. An American Dietetic Association approved Dietetic Technician program.
 - b. Endorsement by the director of the program.
- B. Baccalaureate Degree
 - 1. Qualifying experience and endorsement:
 - a. A coordinated undergraduate program accredited by ADA and endorsement by the director of the program.
 - b. A dietetic internship accredited by ADA and endorsement by the director of the internship.
 - c. Three years of full-time or equivalent of "pre-planned professional experience" preceded by Associate membership. (Associate members are not eligible for Active membership or the registration examination until the qualifying experience is completed.) A minimum of two endorsements is required.
 - 1. Sponsor
 - 2. Secondary endorser
- C. Master's Degree
 - 1. Qualifying experience:
 - a. Six months of full-time or 12 months half-time of successful experience in practice of dietetics within the last 5 years. This experience should follow completion of current ADA academic requirements. However, experience concurrent with the last course requirement will be considered. Teaching experience must be beyond high school level. Positions of less than six months will not be considered. Prior approval not required but recommended.
 - b. A master's degree with a graduate assistantship within the last 5 years is an alternate route to membership. Assistantships must be held for a minimum of one academic year on a half-time (20 hours per week) basis. The academic requirements must be completed by the time the master's degree is granted. Only assistantships in-

cluding a variety of experiences related to the practice of dietetics will be acceptable. Prior approval is required for each individual.

- 2. Endorsement and Supervision: Two Endorsements are required. One endorser must be involved in the academic or work experience for at least a six month, full-time, continuous period, on the premise with the individual. Preferably both endorsees will be Active members of ADA and registered. At least one of the two must be a Registered Active ADA member for the past three years.

- a. Endorsement by the person who has observed, directed, and evaluated the applicant as satisfactory in the academic program.
- b. A second endorsement is required from a person who has been in a position to supervise the applicant's work throughout the period of experience and is qualified to professionally assess the applicant's performance.

D. Doctoral Degree

- 1. Qualifying experience:
 - a. Six months' qualifying experience will be required in teaching, research or practice in dietetics.
- 2. Endorsements—same as for Master's degree.

III. Associate Membership#

- A. An interim category with a time limit of 8 years to satisfy requirements for Active Membership. Experience requirements as outlined with the Baccalaureate or a Master's degree must be completed. Recency of educational requirements may be completed concurrently with experience.

Should Associate membership lapse the work experience performed during the time of non-membership is not applicable to the three years of necessary experience. Individuals taking over five years to complete the necessary three years of experience will be subject to meeting the recency of education requirements prior to transfer of status.

- B. This category is available to any person who:
 - 1. Has a minimum of a baccalaureate degree
 - 2. Satisfies current academic requirements for Active membership.
 - 3. Plans to complete one of the approved experience options.

IV. Recency of Education Requirements

Additional coursework in dietetics or some related area is required to "update" degrees and/or academic requirements, which were completed five or more years prior to application. These courses must be upper division or graduate level. The semester hours required will vary as indicated below.

Effective January 1, 1979, the recency of education requirements are as follows with Baccalaureate, Masters or Doctoral Degree:

Up to 5 years	0 semester hours
5 to 10 years	6 semester hours
10 to 20 years	9 semester hours
20 years and over	12 semester hours

Or in quarter hours:

Up to 5 years	0 quarter hours
5 to 10 years	9 quarter hours
10 to 20 years	14 quarter hours
20 years and over	18 quarter hours

* Minimum academic requirements on reverse side. Refer to Plan IV.

Eligibility for the registration examination is established by completion of the requirements as outlined for Baccalaureate, M.S., Doctoral degrees. Note: R.D.® is The American Dietetic Association's trademark for Registered Dietitian.

The College or University's plan for meeting these academic requirements must be approved by the ADA before they can be applied to the individual student. See I. A.2. for documentation of completion of academic requirements.

Plan IV

MINIMUM ACADEMIC REQUIREMENTS FOR ADA MEMBERSHIP

A Baccalaureate Degree Including Basic Requirements Plus One Area of Specialization**

AREA OF SUBJECT MATTER	BASIC REQUIREMENTS	AREAS OF SPECIALIZATION IN DIETETICS			
		General	Management	Clinical	Community
Physical & Biological Sciences	Chemistry, inorganic and organic Human physiology Microbiology	Biochemistry		Biochemistry Biochemical analysis ^b Anatomy or ^b advanced physiology or ^b genetics	Biochemistry
Behavioral & Social Sciences	Sociology or psychology (principles) Economics	Cultural anthropology or sociology	Labor economics or relations	Cultural anthropology or sociology	Cultural anthropology or sociology ^c Psychology
Professional Sciences	Food (composition, physical and chemical changes, quality, acceptability, and aesthetics) Prerequisite: organic chemistry Nutrition Prerequisites: human physiology & organic chemistry Management theory and principles	Food service systems management Nutrition in disease Prerequisite: biochemistry	Food service systems management Principles of business organization (Management of personnel) Financial management	Additional nutrition course Prerequisite: biochemistry Nutrition in disease Prerequisite: biochemistry	Nutrition in disease Prerequisite: biochemistry Nutrition and community health Prerequisite: biochemistry Food service systems management (volume food service in the community)
Communication Sciences	Writing (creative, or technical) ^a Mathematics to intermediate algebra Learning theory or educational methods	^b Data processing (computer logic) or ^b Data evaluation (statistics)	Data processing (computer logic) or Data evaluation (statistics)	Data evaluation (statistics)	Data evaluation (statistics)

^aMay be acquired prior to college entrance

^bRecommended, not required

^cIf not completed in Basic Requirements

Adopted July 1, 1972

**Minimum Academic Requirements are expressed in terms of *basic competencies* rather than in specific credit hours. In *knowledge areas*, not in courses.

IV. The requirements for a registered dietitian and dietitian are found in La. R.S. 37:3081 A and B and Parts II and III of these Rules.

V. Louisiana Dietetic Association, Executive Board is hereby designated by the Secretary to:

(a) receive and investigate complaints regarding title violations of La. R.S. 37:3081 et seq., and make recommendations to the Secretary;

(b) monitor compliance with the provisions of La. R.S. 37:3081 et seq. and these Rules;

(c) advise, comment, propose, etc. to the Secretary on legislation pertaining to nutrition and dietetics; and

(d) make recommendations to the Secretary on the Rules necessary to implement the provisions of La. R.S. 37:3081 et seq.

VI. Enforcement

The Secretary may enforce these standards in accordance with the provisions of R.S. 37:3082.

Interested persons may submit comments at the following address: Roger P. Guissinger, Department of Health and Human Resources, Box 44065, 755 Riverside Mall, Baton Rouge, LA. He is the person responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on Friday, December 2, 1983, in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge, LA, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Roger P. Guissinger
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Standards for Registration of Dietitians

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)
No implementation costs or savings to the agency are anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)
No effect on revenue collections is anticipated.
- III. ESTIMATED COSTS AND BENEFITS TO AFFECTED GROUPS - (Summary)
A dietetic credentialing program will ultimately provide the public with assurance of the competency of the practitioner to provide safe, quality care.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT - (Summary)
No adverse effect is anticipated.

Roger P. Guissinger
Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Natural Resources Office of Environmental Affairs Environmental Control Commission

Pursuant to the provisions of L.R.S. 30:1066 (1) and 1084 A(3) and in accordance with L.R.S. 49:951 the Louisiana Environmental Control Commission (ECC) initiated rulemaking procedures on proposed revisions to the Louisiana Air Quality Regulations at its September 22, 1983 hearing.

Following the initiation of rulemaking procedures by the ECC in September the proposed amendments were forwarded on November 10, 1983 to the oversight subcommittees of the Joint Committees on Natural Resources for their consideration and approval.

Upon approval by the oversight subcommittee of the Joint Committees on Natural Resources, the ECC intends to consider adoption of the proposed amendments at its next regularly scheduled hearing at 9 a.m. in the State Land and Natural Resources Building, Mineral Board Hearing Room, 625 North Fourth Street, Baton Rouge, LA.

The proposed rulemaking revises Test Methods 106 and 107 of the Louisiana Emission Standards for Hazardous Air Pollutants (LESHAP's). Also proposed is establishment of Test Method 107A and deletion of Section 78.6 of the regulations. Section 6.1.7 is also being revised to improve the handling of confidential information received by the Air Quality Division.

The person within the agency responsible for responding to inquiries about the proposed revisions is Ms. Terrie deLorimier, Air Quality Division, Box 44066, Baton Rouge, LA 70804-4066; telephone (504) 342-1206. All documents relating to the actions of this notice are available for inspection at the following locations from 8:00 a.m. until 4:30 p.m.

Office of Environmental Affairs, 3945 North I-10 Service Road, Metairie, LA.

Office of Environmental Affairs, 8th floor, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA.

Office of Environmental Affairs, 804 31st Street, Monroe, LA.

State Office Building, 1525 Fairfield Avenue, Shreveport, LA.

Office of Environmental Affairs, 1155 Ryan Street, Lake Charles, LA.

Office of Environmental Affairs, 100 Eppler Road, Lafayette, LA.

B. Jim Porter
Assistant Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: LA Emission Standards for Hazardous Air Pollutants (LESHAP)

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO AGENCY - (Summary)
There will be no estimated additional implementation costs or savings to the agency because all expenses associated with the implementation of this Rule will be incurred with funds in the existing budget.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)
Being that the Division of Air Quality is simply up-

dating and "fine tuning" its regulations to conform with technical changes at the federal level, there will be no effect on revenue collections.

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

There will be no costs to affected groups because the industry is already aware of and implementing the Rule changes.

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

There will be no effect on competition and employment because these Rules reflect technical changes and do not require additional staff or funds to be implemented.

Jerry D. Hill
Undersecretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

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

Pursuant to the provisions of L.R.S. 30:1066 (1) and 1084 A(3) and in accordance with L.R.S. 49:951 the Louisiana Environmental Control Commission (ECC) initiated rulemaking procedures on proposed revisions to the Louisiana Rules and Regulations for the Fee System of the Air Quality Control Program Regulations at its September 22, 1983 hearing.

Following the initiation of rulemaking procedures by the ECC on September the proposed amendments were forwarded on November 10, 1983 to the oversight subcommittees of the Joint Committees on Natural Resources for their consideration and approval.

Upon approval by the oversight subcommittee of the Joint Committees on Natural Resources, the ECC intends to consider adoption of the proposed amendments at its next regularly scheduled hearing at 9 a.m. in the State Land and Natural Resources Building, Mineral Board Hearing Room, 625 North Fourth Street, Baton Rouge, LA.

The proposed revisions accomplish three major objectives: Reflection of the increased workload due to assumption of Federal programs; adjustment of the fee schedule to an equitable level; and, addition of new categories to meet future demands.

The person within the agency responsible for responding to inquiries about the proposed revisions is Ms. Terrie deLorimier, Air Quality Division, Box 44066, Baton Rouge, LA 70804-4066; telephone (504) 342-1206. All documents relating to the actions of this notice are available for inspection at the following locations from 8 a.m. until 4:30 p.m.

Office of Environmental Affairs, 3945 North I-10 Service Road, Metairie, LA.

Office of Environmental Affairs, 8th floor, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA.

Office of Environmental Affairs, 804 31st Street, Monroe, LA.

State Office Building, 1525 Fairfield Avenue, Shreveport, LA.

Office of Environmental Affairs, 1155 Ryan Street, Lake Charles, LA.

Office of Environmental Affairs, 100 Eppler Road, Lafayette, LA.

B. Jim Porter
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Rules and Regulations for Fee System**

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

There are no estimated additional implementation costs or savings to the agency because all expenses associated with the implementation of the fee system will be incurred via the existing budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

The Division of Air Quality basically collects compliance fees and/or application/permit fees. The fees collected under these Rule changes will be primarily related to the collection of compliance fees.

During FY 82-83 approximately \$803,000 was collected from the regulated industry. As a result of these Rule changes, the Division expects to collect an additional \$450,000 (or a total of \$1,396,826).

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

The estimated additional cost to the regulated industry is approximately \$450,000. The benefits derived from the proposed Rule change is threefold. The benefit to the regulated industry is more direct access to immediate data as collected by the State Air Quality Division. The benefit to the public is improvement of the Air Program through increased surveillance and monitoring and faster response to citizen inquiries. The Air Quality division benefits because the Division will be more self-sufficient and efficient as a result of the addition of more staff and because of the assumption and direct administration of (previous) federal functions.

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

There will be no effect on competition and employment for industry. However, the Air Quality Division intends to earmark much of the increase for new positions.

Jerry D. Hill
Undersecretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

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

Notice is hereby given that the Louisiana Department of Public Safety proposes to adopt the following Rules relative to the licensing of commercial driving schools and instructors.

FOREWORD

Pursuant to the authority contained in Act 665 of 1983, Revised Statutes, Section 1461 of Title 40, the Department of Public Safety through the Secretary, will promulgate and adopt the following Rules and Regulations controlling commercial driving schools and their instructors in the State of Louisiana.

These Rules and Regulations, together with various requirements set forth in this Act, establish the criteria which will be used by the Department of Public Safety in evaluating the qualifications of applicants for licenses or certificates, and periodically investigating the character, scope and condition of licensed schools and instructors.

The owners and officials of commercial driving schools are concerned with the procedures and policies used by the Department in administering the provisions of the Act and in enforcing the Rules and Regulations contained herein.

Inquiries and requests for information should be directed to: State of Louisiana, Department of Public Safety, Safety Enforcement Section, Box 64886, Baton Rouge, LA 70896.

PROPOSED RULES AND REGULATIONS

DEFINITIONS:

1. **MOTOR VEHICLES:** Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

2. **PERSON:** Every natural person, firm, co-partnership, association or corporation.

3. **OPERATOR:** Every person, other than a chauffeur, who is in actual physical control of a motor vehicle upon a highway.

4. **STREET OR HIGHWAY:** The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

5. **DEPARTMENT:** Any reference herein to the Department shall be construed as referring to the Louisiana Department of Public Safety, acting directly or through its duly authorized officers and agents.

6. **SECRETARY:** Department of Public Safety.

7. **COMMERCIAL DRIVING SCHOOLS OR COMMERCIAL DRIVER TRAINING SCHOOLS:** A school maintained, classes conducted or instruction offered by any individual, for a consideration, profit or tuition, the purpose of which is to educate or train an individual or individuals, either practically or theoretically or both to operate or drive a motor vehicle.

8. **AGENT:** Any person, whether employed by a commercial driving school or operating in his behalf, or whether acting in behalf of any school located within or outside of this state who shall personally solicit any individual within this state to enroll in a commercial driving school.

9. **SOLICITOR:** Any individual, firm or corporation who sells, offers for sale, or attempts to sell any product or service.

10. **SUSPENSION:** Licensee privilege to operate a commercial driving school or to instruct (as provided in these regulations) is temporarily withdrawn.

11. **REVOCATION:** Licensee privilege to operate a commercial driving school or to instruct (as provided in these regulations) is terminated for at least one year or indefinitely.

APPLICATION FOR ORIGINAL COMMERCIAL DRIVING SCHOOL LICENSE

1. **Application:** Before any license is issued, an application shall be made in writing to the Department on a form prepared and furnished by the Department, which shall include a statement showing:

2. **Contents:** (a) The title or name of the school or classes together with ownership and controlling officers and when originated.

(b) The specified course of instruction which will be offered.

(c) The place or places where such instruction will be given.

(d) The qualifications of instructors, agents and supervisors in each specific field together with their names, addresses and other information required on form.

3. **Other Data to Accompany Application:**

(a) Applicants or any officer or partner thereof shall be required to furnish with the application three sets of photographs taken within 30 days to date of filing and must be presented with the application. All pictures must be identical 1½" square and must show full face view of neck, shoulders and uncovered head.

(b) Two sets of fingerprints of each digit on the right and left hands accompanied by an affidavit from some parish or city enforcement officer (qualified to take prints) that the photographs and fingerprints are those of the applicant.

(c) A statement from a physician certifying mental ability, visual acuity, and that applicant does not have any contractual diseases, hearing ailments, epilepsy, dizzy spells or fainting spells.

(d) Evidence must be furnished with application that each instructor or agent employed by the school is in possession of a valid instructor's certificate or agent's card issued by the Department on prescribed form only after proper inquiry has been made and all necessary information furnished.

(e) A certified copy of certificate of adopted business name in the event that the business is to be conducted under an adopted business name along with a copy of the advertisement placed in the newspaper.

(f) Samples of any and all contracts to be used by the school.

(g) Sample copies of all forms or receipts to be used by the school.

(h) Copies of all forms used by the school which will be furnished or delivered to students.

(i) If a driving school has agents or solicitors employed, a copy of the financial agreement between the school and the agent or solicitor must be attached to his application when forwarded to the Department.

4. **License Fees:** Every application for a license must be accompanied by an application fee of \$25 for the school and \$10 for each individual instructor. If the application is approved, a fee of \$25 will be charged each time the license is renewed. Licenses must be renewed by December 31 of each calendar year. **ALL LICENSE FEES SHALL BE PAID BY MONEY ORDER OR CERTIFIED CHECK, PAYABLE TO THE STATE DEPARTMENT OF PUBLIC SAFETY, BOX 64886, BATON ROUGE, LA 70896, AND ATTACHED TO THE APPLICATION FORM.**

5. **Effective Date:** Each original license, instructor's certificate or agent I.D. card shall be valid for a period of one year from January 1 to December 31.

6. **Non-transferability:** Licenses shall not be transferable. In the event of change of ownership, application for a new license shall be made and the old license must be surrendered to the Secretary before a license will be issued to the new owner. The fee for the new license is \$25 for each school and \$10 for each individual instructor payable as set forth above and shall accompany the application for the new license.

7. **Display:** The license must be conspicuously displayed in the licensee's principal place of business at all times.

8. **Loss, Mutilation or Destruction of License, Instructor's Certificate, Agent's I.D. Card or Vehicle Registration Card:** If one of the above licenses is lost or destroyed, a duplicate will be issued upon proof of the facts, and in case of mutilation upon surrender of such license. Such proof shall consist of an affidavit indicating:

(a) Date the license was lost, mutilated or destroyed.

(b) The circumstances involving the loss, mutilation or destruction.

(c) The name of the police department or police authority to which report was made, and date of such report.

CHANGES IN OFFICERS OR ADDRESSES

The State Department of Public Safety must be notified in writing immediately if there is any change in the address of the owner, partner, officer, or driving instructor of any commercial driving school.

The Department must be notified in writing within ten days of any changes in the officers, directors, or stockholders or any corporation in holding a license. In such cases, each new officer,

director or stockholder must supply the same information as would be required on an original application by the corporation.

Failure to inform the Department of the above changes shall be grounds for suspension or revocation of the driving school's license.

RENEWAL

Application for renewal of license shall be made on the prescribed form, accompanied by a fee of \$25 and \$10 for each individual instructor payable to the State Department of Public Safety by money order or certified check, which is returnable in the event the application for renewal is not approved.

Renewal application forms for school license, vehicle registration cards, instructor's certificate, and current physical examination on each license renewal must be submitted to the Department of Public Safety 30 days prior to the time the license expires. *Owners who permit their license to expire will not be able to operate their school.*

LOCATION

No commercial driving school shall be located within 300 feet of any building or a portion thereof used for the purpose of conducting Louisiana State driver's license examinations.

OFFICE REQUIREMENTS

All commercial driving schools operating in a location which requires the school to be located in an area designated for business shall operate from an office in the following manner:

1. The school's license must be placed in the business.
2. All records pertaining to the operation of the school shall be maintained in this office and available for inspection upon request (contracts, card files, etc.)
3. Sufficient indoor space to teach a student the theoretical instruction relating to the Rules and Regulations of the road and safe driving practices shall be provided. The room should be private (enclosed) so that there will be no interference from the public if sharing office with someone else. Approval of the office space will be determined after the inspection report is received at the Department of Public Safety, Safety Enforcement, Trailer 22, in Baton Rouge, LA.

COMMERCIAL DRIVING SCHOOL NAME

No commercial driving school shall use, adopt, or conduct any business under a name that is like or deceptively similar to a name used by another driving school without the approval of the Secretary of the Department of Public Safety. *The school shall not use the word "state" or "education" in any part of the school name.*

BRANCH OFFICES

1. A commercial driving school desiring to open a branch office in a different location or operating one at the present time shall make application on the usual form set forth in these Rules and Regulations prescribed by the Secretary, accompanied by the application fee of \$25 and an additional \$10 for each individual instructor, which shall not be refunded.

2. Where the owner of a branch office is conducting business under an adopted name and the branch office is to be located in a parish other than that in which the principal place of business is located, the owner must submit with his application, a copy of a certificate of adopted business name, certified by the clerk of the parish in which such branch office is to be located.

3. If a branch office is discontinued, the branch office license must be surrendered to the Secretary or his authorized representative. Each branch office must be equipped to and shall perform substantially the same services as apply to the principal place of business.

RECORDS AND CONTRACTS

Every licensee shall maintain the following records:

1. A permanently bound book or a card file, setting forth the name, address, contract number and terms of payment, with respect to every person giving lessons, lectures, tutoring, instructions of any kind, or any other services relating to instructions in the operation of a motor vehicle.

The book or card file shall also contain records showing the date, type, and duration of all lessons, lectures, tutoring and instructions including the name of the instructor giving such lessons and the tag number, make and model of vehicle used to conduct the road test.

2. A file containing a duplicate copy of every contract entered between the school and every person taking lessons, lectures, tutoring and instructions relating to the operation of a motor vehicle. The original contract must be given to the student taking instructions and a carbon duplicate thereof must be retained by the school.

3. All instructors are required to ascertain, before giving driving instruction, that the student possesses a learner's permit.

The receipt and the contract may be incorporated provided it contains paragraph 1, 2, 3, and 4 under "Contents of Contracts".

INSURANCE AND SAFETY REQUIREMENTS

No school vehicle certificate will be issued unless and until:

1. The licensee has filed with the Secretary, evidence of insurance in a company authorized to do business in this state in the amount of at least \$25,000 because of bodily injury to, or death of, any one person in any one accident and subject to said limit for one person, to a limit of at least \$50,000 because of bodily injury or death of two or more persons in any one accident, and to a limit of \$5,000 because of destruction of property of others in any one accident. The driving school shall furnish evidence of such insurance coverage in the form of a certificate from the insurance carrier, *which shall stipulate that the Secretary shall be notified when the policy expires or is cancelled, and shall include make, model, motor or serial number.*

2. Fleet Policies: If the driving school is covered under a fleet plan and desires to add another vehicle to its fleet, advise the insurance company to notify the Department of Public Safety that this unit (with make, model, motor or serial number) has been added; the insurance company need not furnish the Department a copy of the insurance policy with the addition of a vehicle.

3. Every motor vehicle used for practical driver training shall have a current Louisiana license plate with special equipment as follows: operable extra brake, extra clutch pedals where vehicle has conventional shift, rearview mirrors, one on each side of the vehicle, and cushions for the proper seating of students when necessary.

PROGRAM OF INSTRUCTION

Theoretical instruction shall include subject matter relating to Rules and Regulations of the road, safe driving practices, pedestrian safety, and the driver's responsibility.

Practical instruction shall include the demonstration of and actual instructions in stopping, starting, shifting, turning, backing, parallel parking, and steering in a dual controlled vehicle which meets the Department's requirements.

APPLICATION FOR INSTRUCTOR'S CERTIFICATE

All applications for an instructor's certificate must be accompanied by a notarized statement from the owner (unless the owner is making application) of the driving school listing the person's name in full, address, and that said person is or will be

employed by the school. *This applies to renewals and original applications. Applicant must be a Louisiana resident.*

CARRYING CERTIFICATES

The instructor's license certificate and student learner's permit must be carried in the vehicle at all times while driving instructions are being given.

An agent shall have in his or her possession his or her identification card while acting in behalf of the school he or she is licensed to represent.

INSTRUCTOR QUALIFICATIONS

1. Every instructor in a school shall be a citizen of the United States, at least 21 years of age, and a person of good moral character.

2. Every instructor shall have a valid Chauffeur's License issued by the State of Louisiana before making application for an instructor's certificate.

3. Every instructor must maintain during any consecutive three year period, a driving record which does not include more than one chargeable accident. Any violation resulting in suspension or revocation will automatically cause the cancellation of the instructor's certificate.

4. The visual acuity of an instructor cannot be worse than 20/40 in one eye and 20/50 in the other, or 20/30 in each eye separately with or without glasses. An instructor cannot be missing an eye, hand or foot.

5. No person shall perform any instructional duties as an owner or employee of any school or branch thereof unless such person shall meet the qualifications for instructors as herein provided and all instructional personnel must possess a valid instructor's permit issued by the State Department of Public Safety.

GENERAL REGULATIONS AND POLICIES

1. If the Department finds that the application and the school or classes or agent for which a license is sought complies with the provisions of this act and the Rules and Regulations of the Department promulgated under the provisions of this Act, the Department shall issue a license to the applicant.

2. The applicant or licensee must not have been convicted of a felony, or any crime involving violence, dishonesty, deceit, indecency or immoral conduct.

3. No parish official, his agent or employee whose duties relate in any way to the issuance of state drivers' licenses, nor any employee of the Department of Public Safety, or any member of his immediate family shall be connected with any commercial driving school.

4. The school shall agree to permit the Department and its representatives to inspect the school and shall make available to the Department, at any time, when requested to do so, full information pertaining to any or all items of information contained in the application form, and shall permit them to make photostatic copies of the school records required to be kept by the Department.

5. A school shall not use any name other than its licensed name for advertising or publicity purposes, nor shall a school advertise or imply that it is "supervised", "recommended", or "endorsed" by the State Department of Public Safety. *Nor shall the school use the word "state" or "education" in any part of the school name.* **NO COMMERCIAL DRIVING SCHOOL SHALL ADVERTISE IN ANY WAY UNTIL SUCH TIME AS THE SCHOOL IS PROPERLY LICENSED BY THE STATE OF LOUISIANA DEPARTMENT OF PUBLIC SAFETY.**

6. The driving school must exhibit on all motor vehicles licensed by the Department a sign identifying the name of the school. This identification may be painted on the front, side, or rear

of the motor vehicle in at least two-inch letters. If the identification is not painted on the rear of the motor vehicle, a portable sign must be attached securely to the rear bumper or on the top of the motor vehicle visible from the rear provided it conforms to the above requirements. If instructions are given at night, vehicle must have operable electrical signs.

7. An owner, instructor, agent or employee of a driving school shall not give the impression to a student that upon the completion of the course, the securing of a driver's license to operate a motor vehicle will be guaranteed.

8. No commercial driving school instructor, employee, or agent will be permitted to accompany any student into any examining office rented, leased, or owned by the Department of Public Safety for the purpose of assisting student taking a driver's license examination.

9. No commercial driving school instructor, employee or agent will be permitted to loiter in or on the premises rented, leased, or owned by the Department of Public Safety.

10. No commercial driving school instructor, employee, or agent shall be permitted to personally solicit any individual on the premises rented, leased, or owned by the Department of Public Safety or public or private school for the purpose of enrolling them in any commercial driving school.

11. No commercial driving school instructor, employee, or agent shall be permitted to use the space provided on the premises of any office rented, leased, or owned by the Department of Public Safety for parallel parking during the hours while driving tests are being conducted.

12. No agent shall solicit or act in behalf of any driving school without being properly licensed by the Department.

13. No license will be issued to applicants for Driving Schools, until such times, as the contract between the School and Student is approved by the Department of Public Safety.

REVOCATION OR SUSPENSION

Any license or certificate may be suspended or revoked by the Secretary for any of the following specific violations:

The Secretary may suspend or revoke any license or certificate mentioned in this law if he shall find:

a. The licensee has violated any provision of this act or any of the Rules and Regulations of the Department of Public Safety.

b. That the applicant or licensee has been convicted of a felony, or any crime involving violence, dishonesty, deceit, indecency, or immoral conduct. If it involves the owner of the school, the the owner's license will be revoked. If it involves the instructor, then the instructor's certificate will be revoked.

c. That the applicant or licensee has knowingly presented to the Department of Public Safety false or misleading information relating to licensure.

d. That the applicant, licensee, any instructor or agent is addicted to the use of alcoholic liquors, morphine, cocaine or other drugs having similar effect, or has become incompetent.

e. That the owner or licensee has failed or refused to permit the Department of Public Safety or its representatives to inspect the school or class, or motor vehicles which are used to teach its students or full information pertaining to any or all the items contained in an application form or to its program.

f. The applicant has failed or refused to submit to the Department of Public Safety an application for license in the manner prescribed by the Department.

g. That a licensed instructor, agent or owner has failed or refused to produce his license when requested to do so either by prospective students or officials of the Department of Public Safety.

h. That an applicant or licensee has failed to maintain adequate standards of instruction or qualified instructors or

equipment sufficient to maintain the school or classes.

i. That the licensee is employing instructors, persons, or agents who have not been properly licensed.

j. That there has been a change in ownership of the school without advising the Department of Public Safety immediately.

k. That instructor, agent, or owner has aided or assisted a person in obtaining a driver's license by fraudulent procedure; the license or certificate will be revoked permanently.

l. The licensee or instructor is instructing students contrary to the restrictions imposed on the student's driver's licenses.

m. Unauthorized possession of application forms or questionnaires used by the Department of Public Safety in conducting driver's license examinations.

PENALTIES

Any person who shall violate or fail to comply with any of the provisions of this Act or any of the Rules or Regulations promulgated thereunder, shall be punished by having his or her license revoked.

AMENDMENTS

The foregoing Rules and Regulations may be amended from time to time as conditions warrant.

CONTENTS OF CONTRACTS

1. Date contract signed.
2. Name and address of school.
3. Name and address of student.
4. Student's date of birth, description, etc.
5. Type of vehicle to be used in giving instructions.
6. If an additional charge is made for the use of school vehicle in taking actual driving test, or for picking up a student or taking him to his residence or destination, there must be a designation for such in the contract.
7. List of equipment in vehicle to be used for training.
8. Number of hours students will be trained.
9. Total fee for instructions.
10. Contract is to be signed by both parties and witnessed.
11. Contract must contain following statements:
 - a. It is agreed that an owner, instructor, agent or employee of this school shall not give the impression to a student that upon completion of their instruction, this school will guarantee the securing of a drivers' license to operate a motor vehicle.
 - b. This school will not refund (or will refund) any tuition or part of tuition if school is ready, willing and able to fulfill its part of the contract. The term "NO REFUND" is not permitted in contracts.
 - c. Appointments must be cancelled in writing 24 hours in advance to avoid forfeit of a lesson.
12. The contract may contain the following statements: It is understood that upon the signing of the contract all instruction must be completed within 60 days. (Optional)

Buster J. Guzzardo, Sr.
Assistant Administrator
Safety Enforcement Section

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Commercial Driving Schools

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

Implementation of this regulation will cause the agency to incur additional operating expenditures of

\$500.00, which will be funded with a like amount in self generated revenues.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

Implementation of this regulation will cause an increase in collections of self generated revenues by \$500.00.

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

Implementation of this regulation will not cause affected groups to incur any additional costs nor realize any additional benefits.

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

Implementation of this regulation will not have an effect on competition or employment.

B.J. Guzzardo, Sr.
Assistant Administrator

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Transportation and Development Materials Laboratory

Notice is hereby given that the Louisiana Department of Transportation and Development intends to adopt specifications establishing the method of sale of retail petroleum fuels, to provide, as follows:

METHOD OF SALE OF RETAIL PETROLEUM FUELS

(a) Retail petroleum fuel dispensers may use any one of the following three methods of sale of petroleum fuel products through the dispensers, namely, price per gallon, price per half-gallon, or price per liter.

(b) Retail outlets choosing to use the sales by full gallon units on gasoline pumps must in all instances comply with the specifications and tolerances established for those devices by the National Bureau of Standards Handbook 44. Advertisements, billboards, and signs advertising prices must be in terms of price per gallon and must comply with all other statutes and regulations concerning advertisements.

(c) Retail outlets choosing to use the sales by half-gallon units must do so in the following manner:

(1) Set the pump indicators to indicate the price per half-gallon. Attach an adhesive label of durable material over the existing wording to indicate that the price set on the pump computer is per one-half gallon.

(2) Attach an adhesive label of durable material on the face of the pump in proximity to the indicated price per half-gallon. This label will indicate the price per gallon. The size and characters of letters and numerals shall not be smaller than those placed thereon by the pump manufacturer.

(3) Attach an adhesive label of durable material over the manufacturer's statement of total sales price to indicate that the dollar and cent amount shown is one half the total sales price to be paid by the customer. The size and character of the letters shall not be smaller than those placed thereon by the pump manufacturer.

(4) Advertised prices on signs, billboards, or displays shall be in terms of price per gallon.

(d) Retail outlets choosing to use the sales by liter units must do so in the following manner:

(1) The value of the smallest unit of indicated delivered quantity shall not exceed 1/10 liter.

(2) Where applicable, the metric equivalent of tolerances and specifications for the retail fuel dispenser will be used to ascertain compliance with state standards of weights and measures.

(3) Equivalent or corresponding prices per gallon must be posted in a conspicuous location.

(4) Advertisements, billboards, or signs used for advertising the price of a petroleum fuel product must clearly indicate that the price posted, if only liter pricing is displayed, is a liter price. The price per gallon must be posted in bold letters on or near each pump outlet whether one-half gallon or liter.

(e) All pumps using the above three methods must attach an adhesive label of durable material on the face of the pump indicating the type of gasoline, octane of gasoline, and that gasoline is alcohol enriched when alcohol is added to gasoline. all as authorized by and in accordance with Louisiana R.S. 51:784. The Secretary will accept written comments regarding adoption of this Rule until 4:15 p.m., December 5, 1983, at the following address: Jim Pitts, Louisiana Department of Transportation and Development, Materials and Testing Lab, Box 44245, Capitol Station, Baton Rouge, LA 70804.

Paul J. Hardy
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Price and octane posting

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

It is estimated that implementation of this regulation will cause the agency to incur no additional expenditures nor realize any additional savings.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

It is estimated that implementation of this regulation will not affect revenue collections.

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

Certain costs will be incurred by gasoline retailers as they will be required to secure stickers for posting the necessary information. These costs should be minimal as the stickers are estimated to be priced at 3 - 5 cents each. The cost will depend upon the number of retailers, not now in compliance, who are required to purchase the stickers. That cost cannot be determined at this time.

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

Implementation of this regulation will not affect competition or employment.

Paul Hardy
Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Transportation and Development Office of Public Works

The Department of Transportation and Development, Office of Public Works (OPW) in cooperation with the Louisiana Geological Survey of the Department of Natural Resources, and the State Planning Office of the Office of the Governor, intends to adopt Rules for implementing guidelines and procedures for applications for state funding assistance under the Louisiana Statewide Flood Control Program as authorized by R.S. 38:90, established by Act 351 of 1982.

I. NOTICE OF INTENT

The first step in the process is the filing of a Notice of Intent letter by the prospective project sponsor. Notice of Intent letters will be accepted during the April 1 through May 1 period only. Notices of Intent will not be accepted after 4 p.m. on May 1. The Notice of Intent letter is intended to accomplish two things:

a. It alerts the Flood Control Project Evaluation Committee to the number of applications for funding which might be expected.

b. It alerts the OPW to the potential number of requests for assistance in preparation of application forms.

II. PRE-APPLICATION

The second step in the process requests the sponsoring authorities to complete a pre-application, and submit their completed pre-applications to the Flood Control Project Evaluation Committee after May 15 but not later than 4 p.m. on June 15.

Requests for financial assistance will be screened during the review of pre-applications by the Committee. The primary purpose of the review is to evaluate the requests for flood control assistance that also involve a request for OPW assistance in preparing the full application. Since Act 351 of the 1982 Regular Session of the Louisiana Legislature requires the OPW to assist sponsoring authorities with a population of less than 50,000 in preparing applications, it is necessary to review pre-applications in order to identify the projects that may be considered during the current year.

The committee review will also eliminate projects that have serious flaws (e.g., involve a scenic stream or archeological site or are technically infeasible) or that are ineligible for the Statewide Flood Control Program. These pre-applications will be returned with appropriate comments.

Projects that have no serious flaws and that may move on to the application stage include:

a. Pre-applications submitted by sponsoring authorities with a population of more than 50,000.

b. Acceptable pre-applications from sponsoring authorities eligible for assistance from OPW in the application stage.

c. Acceptable pre-applications that cannot be handled by OPW in time for the current funding year.

Some of the pre-applications in group c. may be processed in the application stage by OPW in time for next year's funding. Applications on which OPW initiates work will receive priority over other applications in the following funding years.

Requests for application assistance that cannot be fulfilled by OPW must compete with similar requests in the next funding cycle. The sponsoring authorities need not wait for OPW assistance, however. They may prepare and submit their own applications.

At the end of the two-week pre-application review period, applicants will be notified of the status of their pre-applications. The sponsoring authorities seeking OPW assistance in preparing an application will be informed by letter whether they:

a. Will receive OPW assistance in time for the current funding cycle.

b. Will receive OPW assistance in time for the next year's funding cycle.

c. Will not receive assistance at this time and must compete for assistance again the following year.

Authorities completing their own applications may automatically move into the application stage unless there are serious flaws in the project or the project is not eligible for the program.

III. APPLICATION

The third step in the process requires that applications be submitted anytime between July 1 and November 1, and be received by the Flood Control Project Evaluation Committee no later than 4 p.m. November 1, in order to be considered for

funding during the upcoming legislative session. Hold-over applications from the previous year may also be accepted during this period, provided all other procedures and deadlines have been met.

On request, the OPW will prepare applications for eligible sponsoring authorities in the various districts, to the extent possible.

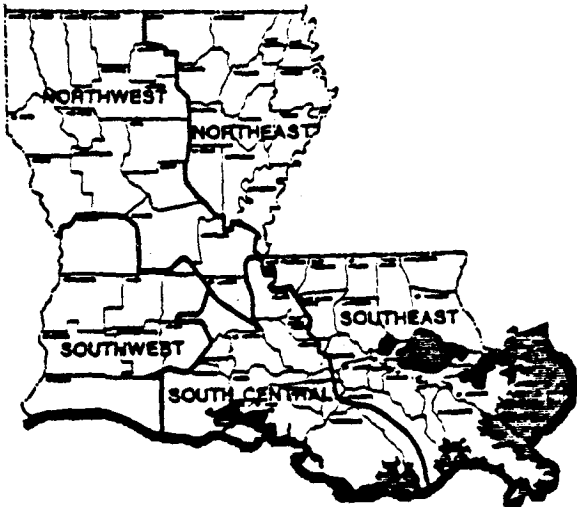
During this five-month period, November 1 - April 1, the Flood Control Project Evaluation Committee will review and evaluate all completed applications in order to recommend the appropriate number to the Joint Legislative Committee for funding. The applications will be grouped by region for the five engineering districts in the state, as shown in figure following. They will also be grouped by category (i.e., urban, transitional, rural). It is intended that rural projects compete only against rural projects, transitional against transitional, and urban against urban within each OPW engineering district.

Potential projects will be evaluated and ranked, based on criteria established by the Flood Control Project Evaluation Committee. Projects recommended to the Joint Legislative Committee on Transportation, Highways and Public Works will include a mix of urban, transitional, and rural projects within each OPW engineering district.

As part of the application review process, the Joint Legislative Committee will hold public hearings in each OPW engineering district between February 1 and March 1. The purpose of the hearings will be to receive and discuss comments from the public on the construction program in each district. After the public hearing, the Flood Control Project Evaluation Committee will incorporate the comments into its evaluation, complete the project evaluations, and submit a prioritized list of projects, by OPW engineering district, to the Joint Legislative Committee.

From the list of projects recommended by the Flood Control Project Evaluation Committee After March 1, the Joint Legislative Committee will recommend to the legislature a construction program to be funded during the regular session. Projects recommended by the Flood Control Project Evaluation Committee but not funded will remain active and will automatically be included in the construction program next year.

During the regular legislative session, the construction program recommended by the Joint Legislative Committee will be considered for appropriation of funds. If insufficient funding is appropriated for the program, then the recommended but unfunded projects will receive top priority for construction in the coming year. Projects recommended by the Joint Legislative Committee and for which funds were not appropriated will remain on the Evaluation Committee's recommended list for a period up to four years.



Inquiries concerning the proposed Rules for implementing the guidelines and procedures may be made in writing to Arthur R. Theis, Chief Engineer Office of Public Works, Department of Transportation and Development, Box 44155, Capitol Station, Baton Rouge, LA 70804, or in person at Two Maritime Plaza, 502 St. Philip Street, Baton Rouge, LA. A copy of the detailed text of the proposed Rules may be reviewed at this same address. Written comments will be accepted by Arthur R. Theis at his office until 4 p.m., December 12, 1983.

Darrell Williamson
Assistant Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Act 351 of 1982

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

Implementation of this regulation will not cause the agency to incur any additional costs or realize any additional cost savings as it merely provides, for informational purposes, the guidelines for grant applications under the state wide drainage program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

Implementation of this regulation will not affect revenue collections.

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

Implementation of this regulation will not cause affected groups to experience any additional costs or benefits.

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

Implementation of this regulation will not have an effect on competition or employment.

Darrell Williamson
Assistant Secretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Transportation and Development Office of the Secretary

Notice is hereby given that the Louisiana Department of Transportation and Development intends to adopt Rules establishing procedures for employment of consultants for construction and pre-construction engineering services, research, and planning activities, to provide, as follows:

SECRETARY'S POLICY AND PROCEDURE MEMORANDUM NO. 22

SUBJECT: Procedures for Employment of Consultants for Construction and Preconstruction Engineering Services, Research, and Planning Activities by; a Competitive Bidding Process, a Competitive Negotiation Process, and a Non-Negotiation Process.
EFFECTIVE DATE:

I. PURPOSE: To prescribe the policy of the Louisiana Department of Transportation and Development (LA DOTD) and other grantee agencies applicable to the retaining of consultants so that this policy is compatible with appropriate policies of the Federal Highway Administration (FHWA) of the U.S. Department of Transportation including FHPM 1-7-2. (*Federal Register* Volume 44, No. 246, dated December 20, 1979, pages 75552-75555).

II. POLICY:

a. Authorization for retaining consultants

There are three general conditions that make it desirable and/or necessary for the Department of Transportation and Development to retain the services of consultants to supplement its staff where services across office and division lines cannot accommodate the conditions.

Magnitude of the work involved on a project

The magnitude of the work involved in a particular project may so tax the Department's available manpower that it would be necessary to defer other essential work if the work were performed by the Department's own staff.

Complexity of the work involved in a project.

The work required in a project may be of such specialized nature that the Department must go outside its own staff for experts in the appropriate fields to accomplish the work.

Time required to perform the work on a project

The time frame within which the work must be accomplished may be such that the Department cannot undertake the work and maintain its program on schedule.

When it is determined by the Director of Preconstruction, Director of Construction and Services, or Director of Planning that consulting engineering services, research or planning activities will be required in their respective areas to meet the Department's authorized construction schedule or planning and research needs, the appropriate Director will submit a recommendation through the Assistant Secretary to the Secretary stating this need and the reasons therefor, including a description and estimated cost of the work to be performed. The Secretary will then decide whether there is need to use consultants for engineering, planning or research services for individual projects.

When it is determined by the Secretary that there is need for using consultants for these services, the selection of the firm will be made by the competitive bidding, competitive negotiation or non-negotiation process method as set forth in Sections 111b, 111c or 111d.

b. Selection Committee

A committee consisting of, but not limited to, the Director of Maintenance and Field Operations, Director of Preconstruction, Director of Construction and Services, Director of Traffic and Planning, the Deputy Undersecretary, and Office Representative, will comprise the selection committee. In addition, others as decided by the chairman may be called. Four members present shall constitute a quorum. The Secretary will designate the chairman by letter. For competitive bidding processes, the duties of the selection committee shall be to resolve any dispute between consultant firms and the Department concerning qualifications, disqualifications or other matters dealing with bidding on Department work.

For competitive negotiation duties of the selection committee, see Paragraph 111c.

c. General qualification requirements for firms

1. Construction and Preconstruction

(a) The engineering firms under consideration shall have at least one of their principals a registered professional engineer. At least one of the principals or other responsible members shall be registered in Louisiana as a professional civil engineer. In the case of a land surveying contract, one of the principals or responsible member shall be registered as a land surveyor in Louisiana.

(b) At least one principal or responsible member shall have had a minimum of five years experience in responsible charge of the engineering field or fields involved.

(c) Firms shall be disqualified from either bidding or being selected by competitive negotiation when such firm is: (a) more than twenty-five (25%) percent behind time schedule for com-

pletion of any phase of an existing contract; (b) has a record of unsatisfactory performance on previous Department projects.

(d) Except in rare cases and only after written justification, the Department shall not consider for selection firms with less than five (5) full-time technical employees on its payroll.

(e) Except in rare cases and only after written justification, the Department shall not consider the joint venture of firms for performing engineering services.

(f) The Department will consider false or misrepresented information furnished to the Department through its response form as grounds for rejection of any request for work.

2. Planning and Research

Principals and other responsible members

(a) The firms under consideration shall have at least one of their principals professionally competent in the field or fields of expertise required for the project.

(b) Experience: At least one principal or responsible member shall have had a minimum of five (5) years experience in responsible charge of or major expertise in the field or fields involved.

III. PROCEDURE:

a. Specific Qualifications

The Department shall require experience similar to that required for the project under consideration. In addition, the Department may set special criteria on a project by project basis as it may deem necessary for the efficient and orderly prosecution of the work and administration of the contract. The special criteria will be distributed to those firms on the Solicitation List (See 111c, first paragraph) at the same time as the advertisement for responses.

b. Competitive Bidding Process

A proposal for the required services will be prepared for the receipt of bids. After completion of the proposal, the project will be advertised in appropriate journal(s) after which, bids will be publicly opened at the announced time and place. The Department will maintain a subscription list of consultant firms, who for a fee determined by the Department, will receive copies of the advertisement for services.

As a minimum the proposal will contain the following:

1. A map showing project location.

2. For preconstruction, a written scope of services by phases as described in the *Manual of Instructions for the Preparation of Engineering Proposals* and referencing the Department's manuals which fix the work standards. For others, a written scope of services in accordance with appropriate procedures and manuals.

3. In the case of contract plans, an estimated number of sheets required will be furnished.

4. A list of required qualification requirements.

5. A copy of disqualification Rules.

6. Listing of manuals for purchase at the firm's option.

The consultant shall furnish a copy of the qualification and experience record of the individual engineers or principal investigators who will work on the project and an experience record of the firm.

The Department shall prepare an estimate of fees which shall not be made public.

Upon receipt of bids the firms submitting the low bid shall be examined to determine if the qualification requirements are met and if so, the contract will be awarded accordingly. Should the low bidder not qualify, then the next lowest qualifying bidder will be considered if the bid is within reasonable range of the estimate.

c. Competitive Negotiation Process

The Department will maintain a subscription list (solicitation list) of consultant firms who, for a fee determined by the Department, will receive copies of the notices for services.

When competitive negotiation is determined to be used as the method to select the consultant, the Department will mail notices to firms listed on the Department's solicitation list maintained by the Project Control Engineer. This notice will be for an intent to select a firm for performing services such as surveying, environmental work, preparation of plans, engineering studies, construction, administration, research, planning, etc., and request letters of interest. In the case of Planning and Research, notice of RFP's will also be sent to firms which the Department has knowledge of experience in the project area.

The notices shall be mailed a minimum of fifteen days prior to deadline for receipt of responses. All firms responding shall furnish the Department the following significant evaluation factors: (1) their qualifications for the particular project; (2) their total overhead figure expressed as a percentage of salary rates and (3) the location where the work will be performed. Failure to furnish the requested information will be considered as non-responsive.

Upon receipt of qualifications from all firms, the selection committee shall select a firm, which in their opinion, represents the best responsible offer. The significant evaluation factors considered will be qualifications, firm overhead, and location where the work is to be performed. Upon approval of the firm by the Secretary, all other responding firms will be notified of the selection. The selected firm will be requested to submit a proposal. If the selected firm intends to sub-contract any of the proposed work, the firm must furnish information that it has taken affirmative action with respect to minority firms as required.

Construction and Preconstruction proposals shall conform to the *Manual of Instructions for the Preparation of Engineering Proposals*. Research proposals shall conform to the Research and Development Manual. The proposal will be analyzed by the technical personnel of the involved divisions, while it is sent to the audit unit for audit. The technical review personnel will negotiate any differences between the Department's estimate and the consultant firm. Federal Highway Administration review, if required, will be obtained at this point for work effort.

d. Non-negotiation Process

This will be the normal process for fully state funded projects.

This process will require federal approval in each instance where participation of federal funds will be involved in the payment for services.

The Department will mail notices to those firms listed on the solicitation list maintained by the Project Control Engineer. This notice will contain the following:

1. Length of project.
2. Services required.
3. Estimated number of tracings.
4. Estimated number of sheets.
5. Engineering fees by phase of work.

Fees will be determined by using the latest six-month average of applicable wage rates and the latest six-month average overhead, together with a profit computed in accordance with the Department's standard procedure. These fees will not be subject to negotiation.

Selection will be made in accordance with section IIIc.

Upon notice of selection, the selected firm will have ten days from such notice to execute the contract. Should the firm fail to execute the contract, the Department will select another firm from the original respondees.

IV. FEE DETERMINATION FOR SECTION 111c AND 111d:

a. Definitions:

Principal: Those individuals in a firm who possess legal responsibility for its management. They may be owners, partners,

corporate officers, associates, administrators, etc.

Supervisor (Engineering): A licensed professional engineer with a minimum of five (5) years experience in responsible charge of, or major expertise in, the field or fields involved.

Engineer: A person who is licensed by a state licensing board for engineers.

Pre-Professionals: (1) A person who is a graduate of a recognized engineering school; (2) a person who holds an Engineer-in-Training certificate from a state licensing board; (3) a person who, in fields other than engineering, possesses equivalent qualifications for their respective field.

Technician: A non-licensed person who by experience and/or schooling has demonstrated ability to perform as a specialist in technical details for the particular subject involved.

Draftsman: A person whose primary duty is drawing plans.

Land Surveyor: A person licensed by a state board for land surveyors (boundry survey).

Computer: A non-licensed person whose primary duties involve analysis and computation work of a nature not requiring those abilities of licensed personnel.

Use of Classification and Rates in the Structure of a Proposal: A firm submitting an engineering proposal shall use the above definitions in setting forth the man-hour requirements to perform the required work.

In furnishing audit information to the DOTD, he shall designate the proper persons with their rates to the proper class. The auditors shall verify the licensed personnel classed by the firm to see that their rates are properly segregated.

b. The cost for engineering services for each phase of a contract will be determined by estimation of the hours of work by classification as defined herein. These hours will then be multiplied by appropriate wage rates determined by individual audit for Section 111c or by Departmental averages for Section 111d both being subject to maximum rates. The above are added to determine the total payroll cost. The cost of overhead to the firm is then determined by multiplying the payroll cost by the overhead percentage divided by one hundred. To the payroll cost is added the overhead cost and direct expenses to determine the total estimated cost to the firm to perform the work for the particular phase.

c. Determination of Fixed Fee (contingencies and profit) Portion of Engineering Fee:

1. Definitions:

Fixed Fee: That portion of the total engineering fee that is designated for contingencies and profit but not including any expansion factors.

Supervisory Hours: Those hours worked by all persons at the engineering supervisory level and above.

Engineering Hours: Those hours worked by engineers, pre-professionals and other professionals.

Other Hours: Those hours worked by anyone other than those listed above.

Total Hours: Summation of supervisory hours, engineering hours, and other hours.

2. Project Class Definitions:

Class 1 - Rural Highway (Two-Lane), Surveying, Airports: This class is composed of all reconstruction of existing two-lane facilities and any relocation or new location of existing two-lane highway facilities. Also included is the addition of two (2) lanes and a median to an existing two-lane facility. Specifically excluded from this class in the widening of an existing two-lane facility to either four (4) or five (5) lanes. With reference to surveying, all surveying is included in this class. With reference to airports, all airport work is included in this class. Should there be any unusual work involving a major airport, this will be handled as an individual matter.

Class 2 - Urban Highway: This project class is composed of all facilities that utilize an urban design. Urban design is defined as utilizing curb and swale ditch sections with subsurface drainage, channelized intersections, and with or without auxiliary lanes. Urban design further may include grade separations. Specifically excluded from this class are access control facilities.

Class 3 - Freeway Design (Rural with Simple Interchanges): This class is composed of rural, open-ditch sections complete with simple interchanges. These interchanges are defined as simple diamond or diamond with loops or modifications thereof. Specifically excluded in this type of interchange is a multiple level interchange. It is not intended that short sections of a facility having to utilize underground drainage to alleviate or minimize right-of-way or similar problems be defined other than rural freeway design.

Class 4 - Freeway Design (Urban): This class is composed of controlled access facilities within an urban area where interchange spacing is close and requires urban type interchange design, extensive traffic capacity and movement analysis, may or may not include viaduct section design, and will include all related component design within the control of access limits. Projects being designed separately from the freeway itself and not integrated in the actual design of the freeway will carry their own classification. A separate facility is further defined as a frontage road being designed adjacent to a freeway with no direct impact on the freeway design itself. Class 4 design may include open ditch, swale ditch, or subsurface drainage systems and is expected to include high level traffic engineering requirements.

Class 5 - Movable Bridges: This class is composed of lift spans, swing spans (girder or pontoon) and bascule spans.

Class 6 - Steel Truss Spans: This class is composed of steel truss spans and segmental concrete box girder spans.

Class 7 - Mississippi River Crossings: This class is composed of projects in the order of Mississippi River Bridge Crossings.

3. Computation of Basic Fixed Fee (Percentage X Total Cost):

Basic Percentage: A basic percentage for fee will be determined for each phase or part as follows:

$$\frac{\text{Supervisory Hours} \times 0.17}{\text{Total Hours}} = A$$

$$\frac{\text{Engineering Hours} \times 0.14}{\text{Total Hours}} = B$$

$$\frac{\text{Other Hours} \times 0.12}{\text{Total Hours}} = C$$

$$\text{Basic Percentage} = (A + B + C) \times 100$$

A, B, & C are to four decimal places

The basic percentage will be multiplied by a factor for complexity, overhead, and fee size to determine the final percentage (fixed fee percentage) to be used to determine the fixed fee (dollars). This dollar fee will be computed by multiplying this final percentage times the total cost.

Complexity Factor: Complexity factor will be determined from the following bench mark jobs.

PROJECT CLASS	COMPLEXITY FACTOR
1 - Rural Highway (Two-Lane), Surveying, Airports	1.00
2 - Urban Highway	1.09

3 - Freeway Design (Rural with Simple Interchanges)	1.14
4 - Freeway Design (Urban)	1.18
5 - Movable Bridges - Lift Spans, Swing Spans (Girder or Pontoon), and Bascule Spans	1.21
6 - Steel Truss Spans and Segmental Concrete Box Girder Spans	1.23
7 - Mississippi River Crossings	1.25

If the structure is determined to be a minor part of the project, then the structure would be included under the appropriate project class for roadway. If the structure is determined to be a major part of the project, the following classifications are to be used:

1 - All standard plan bridges in which the design and details are furnished by DOTD	1.00
2 - Slab spans requiring design and details rolled steel beam spans and prestressed concrete girder spans (stream crossings)	1.09
3 - Rolled steel beam spans, steel plate girder spans, and prestressed concrete girder spans, (overpass structures)	1.14
4 - Steel or concrete box girders, and horizontally curved steel girders	1.18

The determination of whether a structure is a minor or major portion of the project will be made by the DOTD prior to the submission of the engineering proposal. The classes shown above are general in nature and may be altered by the DOTD for special project conditions. The classes include all work required to design and detail substructures for the respective spans.

Complexity is defined basically as the relative engineering skill level required to perform the services required for the project level.

The overhead multiplier will be determined from curve number 1.

The fee size to be used in obtaining the factor from curve number 2 will be figured separately for each individual firm included in the proposal and will equal the totals of the expanded costs (not including the fixed fee).

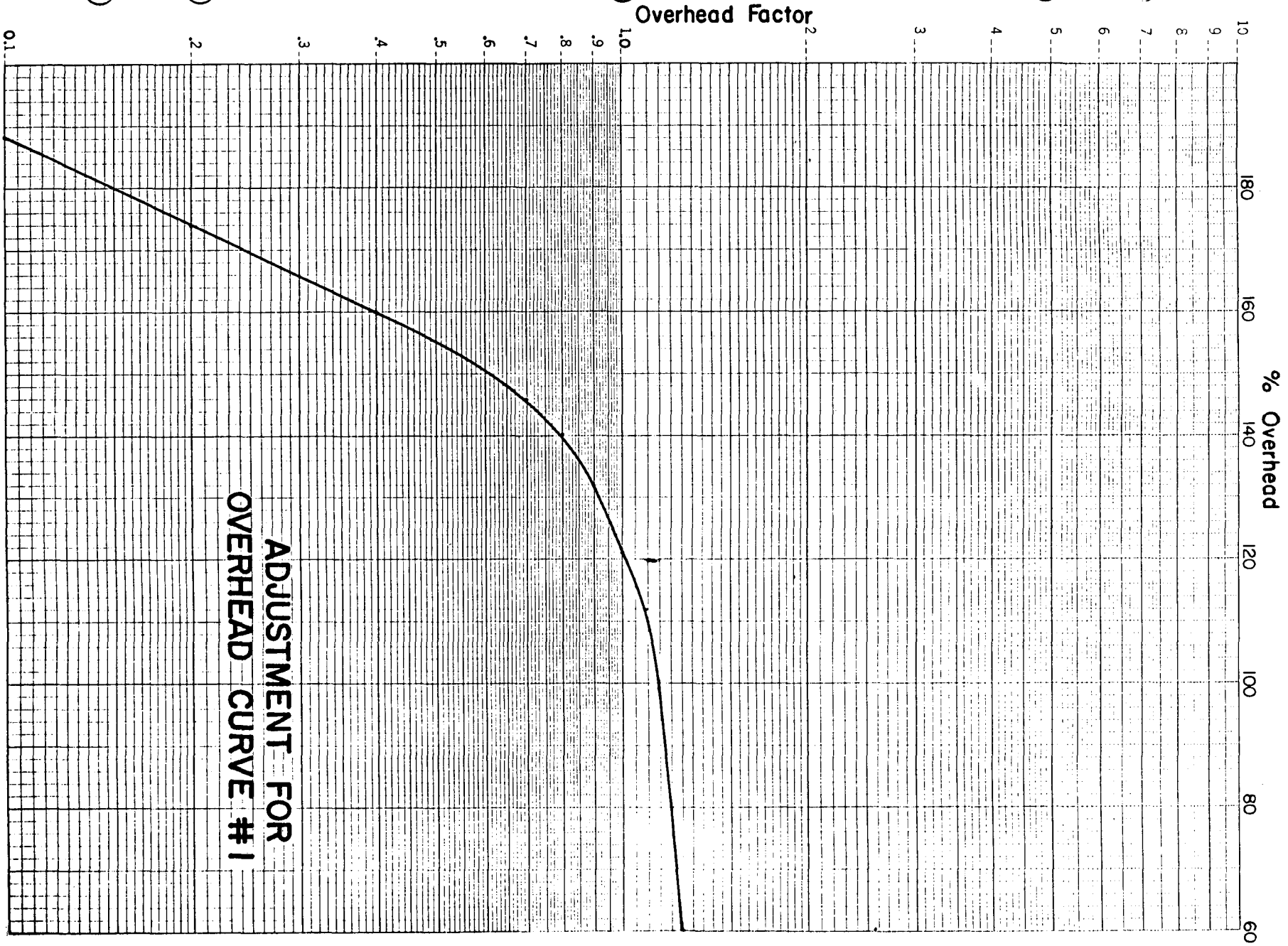
The basic and final percentage figures will be computed to the nearest two decimals of the percent (XX.XX%).

As a general Rule, studies will carry the same complexity factor as the facility or component being studied.

In cases where a prime consultant has subconsultants working for him, the respective firm's overhead will be used with respective hours indicated by each firm, to determine a fixed fee for each firm.

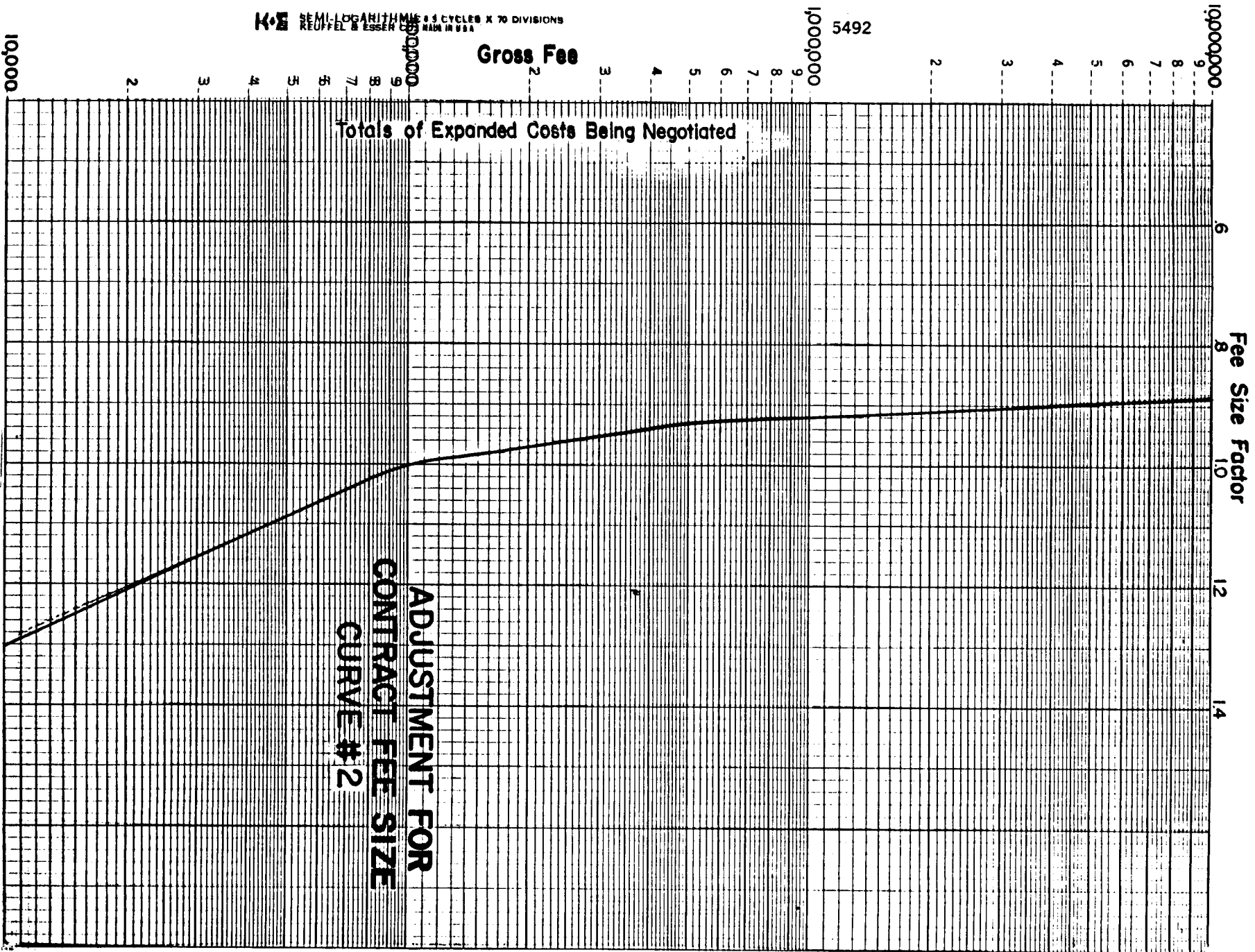
Generally, fee size factors for supplements will be determined by the total accumulated expanded cost for each individual firm. This Rule is intended to apply to actively working contracts. Specifically concerning survey work, if the firm is housing the crew in a location other than its home base and the crew has been moved from the job site, then the fee size factor will be determined as if a new fee.

The complexity factor for construction engineering will be based on the project class and the construction engineering phase will be treated as if it were a separate contract.



ADJUSTMENT FOR
OVERHEAD CURVE #1

K&E SEMI-LOGARITHMIC 3 CYCLES X 70 DIVISIONS
REUFEL & ESSER CO. MADE IN U.S.A.



1,000,000
5492

There will be no limit imposed as to the overhead of a firm unless an audit reveals the actual overhead is ten (10%) percent more than shown on the firm's response form. In such case the overhead will be limited to the firm's response plus a maximum of ten (10%) percent.

There will be no minimum limit to the computed fixed fee percentage.

In the event of a change in the method of computing fixed fees the change will not be retroactive for existing contracts. It will apply to supplements for new or additional work.

d. Contract Fees:

1. The contract fee for each phase of a contract where the fee is to be Lump Sum is determined by adding the total estimated cost and the fixed fee.

2. The contract fee for each phase of a contract where the fee is to be cost plus fixed fee is determined by multiplying the total estimated cost by an expansion factor, if it is determined to be appropriate, and adding the fixed fee. The resulting total is the maximum payable for the work as proposed.

V. OTHER ISSUANCES AFFECTED:

This memorandum supersedes all other memoranda and manuals in conflict herewith. all as authorized by and in accordance with Louisiana R.S. 36:504. The Secretary will accept written comments regarding adoption of this Rule until 4:15 p.m., December 5, 1983, at the following address: Jack R. Reid, Director of Pre-Construction, Louisiana Department of Transportation and Development, Box 44245, Capitol Station, Baton Rouge, LA 70804.

Paul J. Hardy
Secretary

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

Rule Title: Employment of Consultants, PPM 22

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

Implementation of this regulation will not cause the agency to incur any additional cost savings or additional expenditures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS - (Summary)

Implementation of this regulation will not have an effect on revenue collections.

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

Implementation of this regulation will not cause affected groups to incur any additional costs or benefits.

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

Implementation of this regulation will have no effect on competition or employment.

Tom Colten
Undersecretary

Mark C. Drennen
Legislative Fiscal Officer

NOTICE OF INTENT

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

In accordance with the provisions of R.S. 49:950, et. seq., the Administrative Procedure Act, notice is hereby given that the Board of Trustees intends to redesign the State Employees Group Benefits Program from a basic plan with supplemental major

medical to the following Comprehensive Medical Benefits Plan, effective July 1, 1984:

**BOARD OF TRUSTEES
STATE EMPLOYEES
GROUP BENEFITS PROGRAM
(Herein called the Program)**

GROUP COVERAGE: Self insured and self-funded-medical
GROUP CONTRACT HOLDER: Governmental agencies of the State of Louisiana (herein called the agencies and eligible political subdivisions)

GROUP CONTRACT ISSUER: The Board of Trustees, State Employees Group Benefits Program (herein called the board)

CONTRACT TO TAKE EFFECT: July 1, 1984

This contract is between the contract holder and the Board of Trustees and shall be construed in accordance with the law of State of Louisiana.

The board shall be entitled to rely upon the signatures of the designated representatives of each of the agencies as acting for the agency as to any and all matters pertaining to this contract.

In consideration of the payment of contributions by the contract holder in the amounts and at the times hereinafter provided, the Program hereby agrees with the contract holder, subject to the terms appearing on this and the following pages of this contract including, if any, the riders, endorsements and amendments to this contract which are signed by the board to pay benefits in accordance with the terms of this contract. The obligations and the rights of all persons under this contract shall be determined in accordance with the terms of this contract without regard to the terms of any prior agreement or of any instrument amending or supplementing or replacing any such agreement.

In witness whereof the board has approved this contract at Baton Rouge, Louisiana.

**SCHEDULE OF BENEFITS
COMPREHENSIVE MEDICAL BENEFITS**

Lifetime Maximum:

Active Employees and Dependents under age 70	\$500,000
Automatic restoration	4,000
Active Employees and Dependents age 70 and over	250,000
Automatic restoration	2,000
Retired Employees and eligible Dependents under age 65	500,000
Automatic restoration	4,000
Retired Employees and eligible Dependents age 65 and over	250,000
Automatic restoration	2,000
Sponsored Dependent Parents	250,000
Automatic Restoration	2,000

Deductibles:

Inpatient deductible per day, maximum of 5 days per admission (waived for accidental injury)	\$25
Professional and other eligible expenses Per person, per Calendar Year	200
Family Unit maximum (3 individual deductibles)	600

Percentage Payable after Satisfaction of Applicable Deductibles:

Eligible expenses up to \$5,000 per Calendar Year, per person	80%
Eligible expenses in excess of \$5,000 per Calendar Year, per person	100%
Outpatient alcoholism treatment	50%*

*Percentage payable for treatment of alcoholism while not hospital confined is limited to 50 percent. Outpatient alcoholism treatment is further limited to 50 visits per calendar year, one visit per day, with a maximum reimbursement of \$20 per visit.

Benefits Payable after Satisfaction of Applicable Deductibles:

Inpatient Hospital charges:	
Room and Board, not to exceed the Hospital's average semi-private rate	80%
Intensive care units, not to exceed twice the Hospital's average semi-private rate	80%
Miscellaneous charges	80%
Professional medical services, not to exceed customary and reasonable charges:	
Surgery and anesthesia	80%
Other eligible expenses	80%

OTHER MEDICAL BENEFITS

The following medical benefits are not subject to the Comprehensive Medical Benefits deductibles:

Second Surgical Opinion	80%
Supplemental Emergency Accident	\$500 maximum
Dental Surgery (per schedule)	\$270 maximum

CATASTROPHIC ILLNESS ENDORSEMENT (Optional)

All eligible expenses are payable at 100 percent following diagnosis of any covered disease.

Maximums for any one disease or combination thereof per lifetime:

\$10,000 Maximum

- a) Seventy percent, or \$7,000 for in patient Hospital expenses
- b) Thirty percent, or \$3,000 for out patient and professional expenses

\$5,000 Maximum

- a) Seventy percent, or \$3,500 for in patient Hospital expenses
- b) Thirty percent, or \$1,500 for out patient and professional expenses

ARTICLE 1
GENERAL PROVISIONS

I. DEFINITIONS

The following definitions shall apply to both the health and accident and the life insurance portions of the State Employees Group Benefits Program unless otherwise indicated.

A. The term *Program* as used herein shall mean the State Employees Group Benefits Program as administered by the Board of Trustees for the benefit of active and retired Employees and their eligible Dependents.

B. The term *Plan* as used herein shall mean Employee and/or Dependent coverage under Comprehensive Medical Benefits, Other Medical Benefits, and the Catastrophic Illness Endorsement. (health and accident only)

C. The term *Participant Employer* as used herein shall mean a State agency. Participant Employer shall also mean a political subdivision, if authorized by law to participate in the Program, or a school board (L.R.S. 17:1223) which has executed an adoption instrument, if required, or has otherwise agreed to participate in the Program on behalf of its Employees.

D. The term *Adoption Instrument* as used herein shall mean the agreement between a political subdivision or a school board and the Program for entrance into the Program.

E. The term *Employee* as used herein shall mean a full-time Employee of a Participant Employer, who normally works 30

hours or more a week; provided, however, that an Employee whose fulltime occupation normally requires less than 30 hours per week shall also be considered a full-time Employee. In no event shall any person appointed on a temporary basis be considered an Employee.

The term *Employee* shall also include medical residents, known as house officers, employed by Louisiana-owned medical facilities. The enrollment and continued participation of these medical residents will be governed by and inter-agency agreement between the Program and the appropriate state agency.

F. The term *Temporary Appointment* shall mean an appointment to any position for a period of 120 consecutive calendar days or less.

G. The term *Retiree* as used herein shall mean an Employee who:

- 1. was a covered Employee, as defined by the terms of this contract immediately prior to the date of retirement; and
- 2. upon retirement immediately received retirement benefits from an approved state or state governmental agency retirement plan; or, if not eligible for participation in such a plan, was employed prior to September 16, 1979, has 10 years of continuous service and has reached the age of 65, or if employed after September 16, 1979, has 10 years of state service and has reached the age of 70.

H. The term *Covered Person* as used herein shall mean an active or retired Employee, or his eligible Dependent, for whom the necessary application forms have been completed and for whom the required contribution is being made.

I. The term *Dependent* as used herein shall mean any of the following persons who are enrolled for coverage as Dependents, provided they are not also covered as an Employee (health and accident only):

- 1. the covered Employee's legal spouse;
- 2. any unmarried (never married) children from date of birth to 19 years of age, dependent upon the Employee for support;
- 3. any unmarried (never married) children 19 years of age, but under 24 years of age, who are enrolled and attending classes as full-time students and who depend upon the Employee for support. The term full-time student shall mean students who are enrolled at an accredited college or university, or at a vocational, technical, or vocational-technical or trade school or institute, or secondary school, for the number of hours or courses which is considered to be full-time attendance by the institution the student is attending.

It shall be the responsibility of the Plan Member to furnish proof acceptable to the Program documenting the full-time student status of a dependent child.

4. any dependent parent of an Employee or of an Employee's legal spouse, if living in the same household and if fully dependent upon the Employee or upon the Employee's legal spouse and who is, or will be, claimed as a Dependent on the Employee's federal income tax return in the current tax year, and who has resided with the covered Employee for the period of 12 consecutive months immediately prior to date of such enrollment. The Program will require an affidavit stating the covered Employee intends to include the parent as a Dependent on his federal income tax return for the current tax year. Only dependent parents enrolled prior to July 1, 1984 shall be eligible for coverage, and continuation of coverage shall be contingent upon the payment of a separate premium for this coverage.

J. The term *Children* as used herein shall mean (health and accident only):

- 1. any natural or legally adopted Children of the Employee and/or the Employee's legal spouse dependent upon the Employee for support;

2. such other Children for whom the Employee has legal custody, who live in the household of the Employee, and who are or will be included as a Dependent on the Employee's federal income tax return for the current or next tax year (if filing is required); and

3. grandchildren dependent on the Employee for support, living in the household of the Employee, and who are or will be included on the Employee's federal income tax return as a Dependent (if filing is required). The Program will require a copy of the tax form or an affidavit stating that the covered Employee intends to include the child as a Dependent on his federal income tax return for the current or next tax year.

K. The term *Date Acquired* as used herein shall mean the date a Dependent of a covered Employee is acquired in the following instances and on the following dates only:

1. Legal Spouse-date of marriage;

2. Children-

a. natural or legally adopted Children — the date of birth or the date of judgment granting adoption;

b. other Children living in the household of the covered Employee who are, or will be included as a Dependent on the Employee's federal income tax return — the date of the court order granting legal custody.

c. grandchildren dependent upon the Employee for support, living in the household of the Employee, and who are, or will be included as a Dependent on the Employee's federal income tax return, the earlier of:

(1) the date of the court order granting legal custody or

(2) the first date on which the grandchildren come to live with and become dependent on the covered Employee for support.

L. The term *Employee Coverage* as used herein shall mean benefits provided hereunder with respect to the Employee only.

M. The term *Dependent Coverage* as used herein shall mean benefits provided hereunder with respect to the Employee's Dependents only.

N. The term *Occupational Disease* as used herein shall mean a disease which arises from, is contributed to, caused by, or is a consequence of any disease which arises out of or in the course of any employment or occupation for compensation or profit.

However, if the Program is presented with satisfactory evidence proving that the individual concerned is covered as an Employee under any worker's compensation law, occupational disease law, or other legislation of similar purpose, but the disease involved is not covered under the applicable laws or doctrine, then such disease shall, for the purpose of this policy, be regraded as a non-occupational disease.

O. The term *Occupational Injury* as used herein shall mean an Accidental Bodily Injury which arises from, is contributed to, caused by, or is a consequence of any injury which arises out of or in the course of any employment or occupation for compensation or profit.

However, if the Program is presented with satisfactory evidence proving that the individual concerned is covered as an Employee under any worker's compensation law, occupational disease law, or other legislation of similar purpose, but the injury involved is not covered under the applicable laws or doctrine, then such injury shall, for the purposes of this policy, be regarded as a non-occupational injury.

P. The term *Accidental Bodily Injury* as used herein shall mean a localized abnormal condition of the body, internal or external, which was induced by trauma and which occurred through an event that was unforeseen and unexpected. (health and accident only)

Q. The term *Disability* as used herein shall mean that the

covered Person, if an Employee, is prevented, solely because of a non-occupational disease, illness, accident or injury from engaging in his regular or customary occupation and is performing no work of any kind for compensation or profit; or, if a Dependent, is prevented solely because of a non-occupational disease, illness, accident or injury, from engaging in substantially all the normal activities of a person of like age in good health. (health and accident only)

R. The term *Hospital* as used herein shall mean an institution which meets all the following requirements:

1. Holds a license as a Hospital (if licensing is required in the State), and is accredited by the Joint Commission for the Accreditation of Hospitals. If located outside the territorial United States, the Hospital must be licensed by the country in which it is located.

2. Operates primarily for the reception, care, and treatment of sick, ailing, or injured persons as in-patients;

3. Provides 24 hour nursing service by licensed nurses;

4. Has a staff of one or more licensed medical doctors available at all times;

5. Provides organized facilities for diagnosis;

6. Requires compensation from its patients for the services rendered; and

7. Is not primarily an institution for rest, the aged, drug addicts, the treatment of pulmonary tuberculosis, a nursing home, extended care facility or remedial training institution.

S. The term *Room and Board* as used herein shall mean, subject to the exclusionary provisions of this contract, a Hospital's daily charges for room and board and the per-diem rate charged by a Hospital owned and operated by one of the 50 states.

T. The term *Physician* as used herein shall mean the following persons, licensed without limitation to practice medicine and perform surgery:

1. doctor of medicine (M.D.)

2. doctor of dental surgery (D.D.S.)

3. doctor of dental medicine (D.D.M.)

The term *Physician* shall also mean the following persons, licensed to practice their respective professional skills by reason of statutory authority:

4. doctor of osteopathy (D.O.) (L.R.S. 37:1111, *et seq.*);

5. doctor of podiatric medicine (D.P.M.) (L.R.S. 37:611, *et seq.*);

6. doctor of chiropractic (D.C.) (L.R.S. 37:2801, *et seq.*) (See limitations, Article 3, Section G, 24);

7. doctor of optometry (O.D.) (L.R.S. 37:1041, *et seq.*);

8. licensed psychologist meeting the requirements of the National Register of Health Service Providers in Psychology (L.R.S. 37:2351, *et seq.*);

9. licensed board certified social worker who is a member of an approved clinical social work registry or is employed by the United States, the State of Louisiana, or a Louisiana parish or municipality, provided such person is performing professional services as a part of the duties for which he is employed (L.R.S. 37:3701, *et seq.*).

Such Physicians must engage in private practice and render a charge to the Covered Person for professional services.

The term *Physician* does not include any intern, resident, or fellow enrolled in a residency training program regardless of any other title by which he is designated or his position on the medical staff of a Hospital. A senior resident, for example, who is referred to as an assistant attending surgeon or an associate physician, is considered a resident since the senior year of the residency is essential to completion of the training program. Provided, however, that effective October 1, 1977, charges made by a Physician, as defined herein, who is on the faculty of a state medical school, or on the staff of a state Hospital, will be considered a covered

expense if such charges are made in connection with the treatment of a disease, illness, accident or injury covered under this Plan and further provided that such physician would have charged a fee for such services in the absence of this provision.

It is the specific intent and purpose of the Program to exclude reimbursement to the Covered Person for services rendered by an intern, resident, or fellow enrolled in a residency training program regardless of whether the intern, resident, or fellow was under the supervision of a Physician or regardless of the circumstances under which services were rendered.

The term Physician shall not include a practicing medical doctor in the capacity of supervising interns, residents, senior residents, or fellows enrolled in a training program, who does not personally perform a surgical procedure or provide medical Treatment to the Covered Person.

U. The term *Diagnostic X-ray and Laboratory* as used herein shall mean a procedure requiring a specimen or a procedure that produces a finished photoplate, tape or graph.

V. The term *Incurred Date* as used herein shall mean the date upon which a particular service or supply is rendered or obtained. In the absence of due proof to the contrary, when a single charge is made for a series of services, each service shall be deemed to bear a prorated share of the charge.

W. The term *Reasonable Expense* as used herein shall mean the Customary and Reasonable fee or charge for the services rendered or the supplies furnished in the area where such services are rendered or such supplies are furnished, provided such services or supplies are recommended and approved by a Physician other than the Covered Person.

X. The term *Customary and Reasonable* as used herein shall mean the following:

1. *Customary*: a charge is customary when it is the most consistent charge by an individual Physician for a given procedure and when it is the usual fee for a procedure charged by the majority of Physicians with similar training and experience within the same localities as used by the Program to develop statistics.

2. *Reasonable*: a charge is reasonable when it meets the above criterion or when, in the judgment of the Program, it merits special consideration based upon the complexity of Treatment.

Y. The term *Custodial Care* as used herein shall mean care designed essentially to assist an individual to meet his activities of daily living (i.e. services which constitute personal care such as help in walking, getting in and out of bed, assisting in bathing, dressing, feeding, using the toilet) and care which does not require admission to a Hospital or other institution for the Treatment of a disease, illness, accident or injury, or for the performance of surgery; or, care primarily to provide Room and Board (with or without routine nursing care, training in personal hygiene and other forms of self-care) and supervisory care by a doctor for a person who is mentally or physically incapacitated and who is not under specific medical, surgical or psychiatric Treatment to reduce the incapacity to the extent necessary to enable the patient to live outside an institution providing medical care, or when, despite such Treatment, there is no reasonable likelihood that the incapacity will be so reduced.

Z. The term *Durable Medical Equipment* as used herein shall mean medical equipment designed for repeated use and which is shown by the Plan member to the satisfaction of the Program to be Medically Necessary for the Treatment of a disease, illness, accident or injury, to improve the functioning of a malformed body member, or to prevent further deterioration of the patient's medical condition. Durable Medical Equipment shall include, but not be limited to, such items as standard model wheelchairs, hospital beds, respirators, braces, and other items that the Program may determine to be Durable Medical Equip-

ment, excluding transportation devices such as automobiles or vans.

AA. The term *Medically Necessary* as used herein shall mean a service or Treatment which, in the judgement of the Program:

1. is appropriate and consistent with the diagnosis and which in accordance with accepted medical standards could not have been omitted without adversely affecting the patient's condition or the quality of medical care rendered; and

2. is not primarily Custodial Care.

BB. The term *Physical Therapy* as used herein shall mean the evaluation of physical status as related to functional abilities and Treatment procedures as indicated by that evaluation. Such therapy is therapy provided by a registered physical therapist who is licensed to practice in the state where the service is rendered. Services provided must meet the following criteria: prescribed by a licensed medical doctor, require the skills of and performed by a registered physical therapist, restorative potential exists, meets the standards for medical practice, reasonable and necessary for Treatment of the disease, illness, accident, injury or post-operative condition.

CC. The term *Rehabilitation and Rehabilitative Therapy* as used herein shall mean care concerned with management of patients with impairments of function due to disease, illness, accident or injury. Impairments are the physical losses themselves; disabilities are the effects of impairments on overall function of the individual.

DD. The term *Rest Cure* as used herein shall mean care provided in a sanitarium, nursing home or other facility and designed to provide Custodial Care and provide for the mental and physical well being of an individual.

EE. The term *Treatment* as used herein shall mean all steps taken to effect the cure of a disease, illness, accident or injury and shall include, but not be limited to consultations, examinations, diagnoses, and any application of remedies.

FF. The term *Calendar Year* as used herein shall mean that period commencing at 12:01 a.m., January 1, standard time, at the address of the Employee, or the date the Covered Person first becomes covered under the Plan and continuing until 12:01 a.m., standard time, at the address of the Employee on the next following January 1. Each successive Calendar Year shall be the period from 12:01 a.m., January 1, standard time, at the address of the Employee to 12:01 a.m., the next following January 1.

GG. The term *Medicare* as used herein shall mean the health insurance available through any present or future laws enacted by the Congress of the United States, including but not limited to Public Law 89-97, known and described as Medicare, and including any amendments to such law.

II. EMPLOYEES TO BE COVERED

A. Employee Coverage

1. Employee — A person as defined in Article 1, Section I (E).

2. Husband and wife, both Employees

In the event the husband and wife are both eligible for coverage under the Plan as Employees, all eligible dependent Children will be enrolled as Dependents of the husband and the husband may also enroll his wife as a Dependent. IN NO EVENT MAY A PERSON BE ENROLLED SIMULTANEOUSLY AS AN EMPLOYEE AND AS A DEPENDENT UNDER THE PLAN. If a covered spouse chooses at a later date to be covered separately, and is eligible for coverage as an Employee, that person will be a covered Employee effective the first day of the month after such election. In no event shall this change in coverage increase the benefits to the Employee or Dependent.

3. Effective dates of coverage

Each Employee who makes a written request to his Participant Employer for Employee coverage by completing the applicable enrollment forms, and agrees to make the required payroll contributions to his Participant Employer is subject to the terms of Item (4) of Section II, A, and is to be effective for Employee coverage on the first day of the month coinciding with, or next following the completion of one calendar month's service, provided, however, that no Employee Coverage shall in any event become effective unless the Employee makes such request within thirty days after the date of employment. Any such request for coverage after thirty days of employment will be subject to the terms of Item (1) of Section II, E.

4. Employee Deferral rule

In any instance in which an Employee is confined at home, in a Hospital, nursing home, or elsewhere, by reason of disease, illness, accident, or injury on the date the Employee would otherwise become covered under this Plan, the effective date of the Employee's coverage under this Plan shall be deferred until the date such Employee returns to active work for one full day at his customary duties and place of employment.

Notwithstanding any provisions of the preceding paragraph to the contrary, the return to active work requirement shall not serve to defer an Employee's effective date of coverage in the event that the individual's normal place of employment is not open on the day he would otherwise have returned to work. If an Employee is on an approved leave of absence on the day he would normally have returned to work, coverage will become effective on the day he would normally have returned to active work.

5. New Enrollment/Previous Contract

The coverage of a terminated Employee of a Participant Employer who is reemployed by the same or another Participant Employer within 12 months of the effective date of termination shall be considered a New Enrollment/Previous Contract application. (In order to be considered under these provisions, the Employee must have been covered or have been eligible for coverage under the new Program at the effective date of termination.) As a New Enrollment/Previous Contract applicant, the Employee will be eligible for only that coverage in force at termination.

In the event that an additional Dependent was acquired during the period of termination, that Dependent may be covered provided he is added within 30 days of reemployment. The Dependent will be subject to any Pre-existing Condition limitations as defined in Article 1, Section II (E) which may be imposed on the covered Employee.

A New Enrollment/Previous Contract applicant who was enrolled with supplemental life insurance at the effective date of termination will be reinstated at an amount based upon the Employee's salary at the time of reemployment. A new Enrollment/Previous Contract applicant who was not enrolled for life insurance at the effective date of termination will be eligible for life insurance only through Evidence of Insurability acceptable to the life insurance carrier.

B. Retiree Coverage

1. Eligibility

Each Retiree, as defined in Article 1, Section I (F), of a Participant Employer shall be eligible for retiree coverage under this Plan.

2. Effective date of coverage

Retiree coverage will be effective on the first of the month following the date of retirement, provided the Employee and employer have agreed to make and are making the required contributions. **RETIREEES SHALL NOT BE ELIGIBLE FOR COVERAGE AS OVERDUE APPLICANTS.**

3. Active employment by a Participant Employer following retirement from a Participant Employer

An Employee retired from one Participant Employer may be covered as an active Employee of another Participant Employer or as a Retiree of the Agency from which he retired, but not both. In order to retain eligibility, upon termination of employment from the later Participant Employer, such Employee shall return to the retirement group of his original Participant Employer within 30 days. Life insurance benefits for the Employee shall be at a level no higher than that carried at the time of retirement from the original Participant Employer. In no event shall any person at any time be covered by more than one Participant Employer.

C. Dependent Coverage

1. Eligibility

A Dependent of an eligible Employee or Retiree shall be eligible for Dependent Coverage on the later of the following dates:

- a. the date the Employee becomes eligible as defined in Article 1, Section II, A (3);
- b. the date the Retiree becomes eligible as defined in Article 1, Section II, B (2);
- c. the date the covered Employee or covered Retiree acquires, as defined in Article 1, Section I (J), a Dependent.

2. Effective dates of coverage

a. Dependents of Employees

Dependents of an Employee who makes written application for Dependent Coverage and agrees to make the required contributions to his Participant Employer are to be covered for Dependent benefits on the date the Employee becomes eligible to carry Dependent Coverage or, if an overdue application, as provided for in Article 1, Section II, (E).

b. Dependents of Retirees

Coverage for Dependents of Retirees shall be effective on the first of the month following date of retirement if the Employee and his Dependents were covered immediately prior to retirement. Coverage for Dependents of Retirees first becoming eligible for Dependents Coverage following the date of retirement shall be effective on the date of marriage (for new spouses of Retirees), the date of birth (for newborn Children of Retirees), or the Date Acquired (for other classifications of Dependents), if application is made within 30 days of the date of eligibility. **DEPENDENTS OF RETIREES SHALL NOT BE ELIGIBLE FOR COVERAGE AS OVERDUE APPLICANTS.**

c. Dependent deferral rule

If a Dependent, other than a newborn child, is confined at home, in a nursing home, Hospital, or elsewhere, by reason of disease, illness, accident, or injury on the date he would otherwise become covered under this Plan, the effective date of that Dependent's coverage shall be deferred until the date confinement terminates or disability ends, whichever is later.

D. Members of Boards and Commissions

Except as otherwise provided by law, members of any boards or commissions are not eligible for participation in the Program.

This section shall not apply to members of school boards (L.R.S. 17:1223) or members of state boards or commissions who normally work 30 hours or more per week in that position, at their usual place of employment. The Program shall require documentation satisfactory to the Program that a board or commission member works 30 hours per week or more in that position.

E. Pre-Existing Condition

1. Overdue application

The terms of the following paragraphs shall apply to all eligible Employees who apply for coverage after 30 days from the date the Employee became eligible for coverage and to all eligible Dependents for whom the application for coverage was not completed within 30 days from the Date Acquired.

a. The effective date of coverage shall be:

(1). The first of the month following the date of the receipt by the State Employees Group Benefits Program of all required forms, if such forms are received by the State Employees Group Benefits Program prior to the fifteenth of the month.

(2). The first of the second month following the date of the receipt by the State Employees Group Benefits Program of all required forms, if such forms are received by the State Employees Group Benefits Program on or after the fifteenth of the month.

b. The Program will require that all overdue applicants complete a Statement of Physical Condition form and sign an Acknowledgement of Pre-existing Condition form.

c. Medical expenses incurred during the first 24 months that coverage for the Employee and/or Dependent is in force under this contract will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which the Covered Person received Treatment or services, or was prescribed drugs, during the 12 month period immediately prior to the effective date of such coverage.

2. Political subdivisions

The terms of the following paragraph shall apply to all new Employees and Dependents of new Employees of political subdivisions authorized by law to participate in the Program when application for coverage is made within 30 days of the date of employment.

Medical expenses incurred during the first 12 months that coverage for the Employee and/or Dependent is in force under this contract will not be considered as covered medical expenses if they are in connection with a disease, illness, accident, or injury for which the Covered Person received Treatment or services, or was prescribed drugs during the three month period immediately prior to the effective date of such coverage.

III. CONTINUED COVERAGE

A. Leave of Absence

If an Employee is allowed an approved leave of absence by his employer, he may retain his coverage for a period up to but not to exceed one year, provided the full premium is paid. Failure to do so shall result in cancellation of coverage.

B. Disability

Employees who have applied for and have been granted a waiver or premium for Basic or Supplemental Life Insurance prior to July 1, 1984, may continue health coverage for the duration of such waiver, provided, however, the Employee shall pay the total contribution to the employer unless he is receiving a disability retirement income from a state or political subdivision retirement plan. On or after July 1, 1984, initial applications for disability waiver of premium for Basic or Supplemental Life Insurances shall not entitle any person to continue health coverage under the Program.

In the event that a state agency or political subdivision withdraws from the Program, health and life coverage for all Employees, including but not limited to those persons then insured by virtue of being disabled, shall terminate as of the effective date of withdrawal by the state agency or political subdivision.

C. Surviving Dependents

Benefits under this contract for the covered Dependents of a deceased covered Employee shall terminate at the end of the calendar month in which the Employee's death occurred unless the surviving covered Dependents elect to continue coverage AT THEIR OWN EXPENSE. Application for such continued coverage must be made within 60 days following the covered Employee's death.

1. The surviving legal spouse of an active or retired Employee may continue coverage until the spouse is eligible for health insurance coverage through an employer-sponsored medical plan, or until remarriage, whichever occurs first; provided,

however, a surviving legal spouse who was effective as a surviving spouse prior to July 1, 1977, and had other group coverage at that time, will be allowed to remain as a Covered Person.

2. The surviving Children of an active or retired Employee may continue coverage until they are eligible for coverage by any employer-sponsored medical plan, or until attainment of the termination date for Children, whichever occurs first.

3. Any coverage provided by CHAMPUS (Civilian Health and Medical Program of the Uniform Services) shall not be sufficient to terminate the coverage of an otherwise eligible surviving legal spouse or dependent Children.

D. Overage Dependents

If an unmarried dependent child is incapable of self-sustaining employment by reason of mental retardation or physical incapacity, became incapable prior to the termination age for Children as defined in Article 1, Section I, H (2), and is dependent upon the covered Employee for support, the coverage for such dependent child may be continued under the Plan, provided, however, the Program receives satisfactory proof of mental retardation or physical incapacity, and only for so long as such incapacity continues.

For purposes of this Section III, D, mental illness shall not constitute mental retardation.

The Program shall require that the Plan Member submit current proof from a licensed medical doctor of such continued retardation or physical incapacity as often as it may deem necessary.

IV. CHANGE OF CLASSIFICATION

A. Change in Coverage

When, by reason of a change in family status (i.e., marriage, birth of child), the class of coverage is subject to change, such change shall take effect on the date of the change (i.e., marriage date or birth date), provided application for this change is made within 30 days of the date of the change.

In all cases, when a Plan Member acquires a new legal spouse, even when a change of classification will not result, application for coverage for this spouse must be made within 30 days of the date of marriage.

In the event a COVERED ACTIVE EMPLOYEE does not make application within 30 days of the date he becomes eligible for a changed class of coverage, such change in coverage will be subject to the terms of Article 1, Section II (E) of these provisions.

A COVERED RETIREE must make application for Dependent coverage within 30 days of the date he becomes eligible for this coverage or NO COVERAGE WILL BE PROVIDED.

Any change in the amount of benefits resulting from contract provisions regarding the Covered Person attaining any reduction age shall become effective on the July 1 coinciding with or next following the Covered Person's attainment of such age.

B. NOTIFICATION OF CHANGE OR ERROR

IT IS THE RESPONSIBILITY OF THE EMPLOYEE TO NOTIFY THE PROGRAM OF ANY CHANGE OR ERROR IN CLASSIFICATION OF COVERAGE OR ANY OTHER ERROR AFFECTING HIS CONTRIBUTION AMOUNT. ANY SUCH FAILURE LATER DETERMINED SHALL BE CORRECTED ON THE FIRST OF THE FOLLOWING MONTH. ALL REFUNDS OF CONTRIBUTIONS SHALL BE LIMITED TO SIX MONTHS FROM THE DATE NOTICE IS RECEIVED BY THE PROGRAM.

ARTICLE 2

TERMINATION OF BENEFITS

I. EMPLOYEE, RETIREE, AND DEPENDENT COVERAGE

All benefits of a Covered Person shall terminate under this contract on the earliest of the following dates:

A. On the date the Program terminates;

B. On the date the group or agency employing the

covered Employee terminates or withdraws from the Program;

C. On the contribution due date if the group or agency fails to pay the required contribution for the covered Employee, except when resulting from clerical or other inadvertent error on the part of the group or agency;

D. On the contribution due date if the covered Employee fails to make any contribution which is required for the continuation of his coverage;

E. On the last day of the month of the covered Employee's death unless otherwise specifically provided herein; or

F. On the last day of the month in which the covered Employee ceases to be eligible within the classes eligible for coverage under this contract.

II. DEPENDENT COVERAGE ONLY

Unless otherwise specifically provided herein, Dependent coverage shall terminate under this contract on the earliest of the following dates:

A. On the date the covered Employee ceases to be covered with respect to himself under this contract;

B. When the covered Employee's Dependent, other than a legal spouse, becomes eligible for coverage as an Employee under this contract;

C. On the last day of the month in which the Dependent ceases to be an eligible Dependent of the covered Employee as defined in this contract;

D. Upon discontinuance of all Dependent coverage under this contract.

ARTICLE 3 MEDICAL BENEFITS

I. COMPREHENSIVE MEDICAL BENEFITS

A. Definitions

The general definitions previously indicated in Article 1, Section I, of this document entitled "Definitions" are also applicable to this Comprehensive Medical Benefits Section. In addition, the following definitions shall apply only to this Article 3, Section I, Comprehensive Medical Benefits.

1. *Deductible Amount* as used herein shall mean those amounts indicated in the Schedule of Benefits.

2. *Family Unit* as used herein shall mean a covered Employee and all of his covered eligible Dependents.

3. The term *Out of Pocket Expenses* as used herein shall mean the sum of (a) any eligible medical expenses used toward the satisfaction of any deductibles for that year, not including expenses incurred for non-confined alcoholism, that satisfied all or part of the deductibles; (b) 20 percent of all such eligible medical expenses which exceed the deductibles for that Calendar Year and for which benefits were paid at 80 percent.

B. The comprehensive Deductible Amount shall apply with respect to each Covered Person, each Calendar Year, provided, however:

a. If a Covered Person incurs covered medical expenses during the last three months (October-December) of a Calendar Year and such expenses are not sufficient to meet the comprehensive Deductible Amount for that Covered Person for that Calendar Year, such covered expenses shall be applied to the comprehensive Deductible Amount for the next succeeding Calendar Year for the Covered Person.

b. In no event shall any Family Unit be required to satisfy more than three individual comprehensive Deductible Amounts during any one Calendar Year regardless of the number of individuals in the Family Unit.

c. In the event more than one Covered Person in a Family Unit is injured in a common accident, only one individual comprehensive Deductible Amount will be required to be satisfied during the Calendar Year in which the accident occurs with respect to the total eligible expenses incurred as a result of the same

accident by all such Covered Persons involved.

Any eligible medical expenses which are not related to injuries sustained in the accident will not be included with the combined eligible expenses resulting from the accident for the purpose of satisfying any Deductible Amount.

C. Benefits for eligible medical expenses (except non-confined alcoholism)

When disease, illness, accident or injury (other than non-confined alcoholism) requires the Covered Person to incur any of the eligible expenses defined herein, and such service or Treatment is performed or prescribed by a Physician while this coverage is in force with respect to such Covered Person, and after the Deductible Amounts as defined herein have been satisfied, the Program will pay:

1. Eighty percent of the first \$5,000 of eligible expenses;

2. One hundred percent of eligible expenses in excess of \$5,000 for the remainder of the Calendar Year subject to the maximum amount as specified in the Schedule of Benefits.

D. Non-confining alcoholism

If a Covered Person is treated for alcoholism while not confined in a Hospital as a resident patient, benefits shall be limited to 50 percent of the reasonable eligible expenses incurred, including prescription drugs, provided, however, the maximum reimbursement for psychotherapy by a Physician shall not exceed the maximum amount as specified in the Schedule of Benefits.

Treatment of a Covered Person for alcoholism while not confined in a Hospital as a resident patient must be rendered by a Physician.

Payment for non-confining Treatment of alcoholism shall be limited to one visit per day and not more than 50 visits per Calendar Year, and shall be further limited to a maximum payment of \$20 per visit.

E. Maximum Benefit

Benefits under this Article 3, Section I, Comprehensive Medical Benefits, for covered medical expenses incurred by any one Covered Person during such person's lifetime shall not exceed the maximum amount as specified in the Schedule of Benefits.

1. The maximum benefit payable shall be reduced on the July 1 coinciding with or next following the covered Retiree's or covered Retiree's Dependent's attainment of age 65 to 50 percent of the remaining lifetime maximum as of the date immediately preceding such July 1. Should the Covered Person be Hospital confined on such July 1, the reduction shall be deferred until the date such confinement terminates.

2. The lifetime maximum benefit for an active Employee shall be reduced on the July 1 following retirement or attainment of age 70, whichever is sooner, to 50 percent of the remaining lifetime maximum as of the date immediately preceding such July 1. Should the Covered Person be Hospital confined on such July 1, the reduction shall be deferred until the date such confinement terminates.

3. The maximum amount payable is subject to partial and full restoration as indicated in Article 3, Section I (F).

F. Restoration and Reinstatement of Lifetime Comprehensive Medical Benefits.

1. Restoration — if a covered Employee, covered Retiree, or covered Dependent receives Comprehensive Medical Benefits under this Article 3, Section I, during a Calendar Year, the amount of such benefits or the maximum amount as stated in the Schedule of Benefits, whichever is less, shall be restored by the Plan on each January 1.

2. Reinstatement — if a covered Employee, covered Retiree, or covered Dependent receives Comprehensive Medical Benefits under this Article 3, Section I, and such benefits exceed the amount eligible for annual restoration as specified in the

Schedule of Benefits, the entire Comprehensive Medical Benefit lifetime maximum payable with respect to such Covered Person may be reinstated upon receipt by the Program of evidence of insurability satisfactory to the Program, and furnished without cost to the Program.

G. Eligible Expenses

The following shall be considered eligible expenses under Comprehensive Medical Benefits when prescribed by a Physician and Medically Necessary for the Treatment of a Covered Person:

1. The Hospital's daily charge for Room and Board, not in excess of the maximum as specified in the Schedule of Benefits;
2. The Hospital's daily charge for intensive care units, not in excess of the maximum as specified in the Schedule of Benefits;
3. Anesthesia and the administration thereof;
4. Surgical dressings, plaster casts, and splints;
5. X-ray examinations and therapy, laboratory examinations, basal metabolism tests, electrocardiograms and electroencephalograms, and other diagnostic procedures;
6. Nuclear medicine and electroshock therapy;
7. Blood and blood plasma, blood derivatives and blood processing;
8. Drugs and medicines approved by the Food and Drug Administration or its successor, requiring a prescription and dispensed by a licensed pharmacist, except for birth control medication and dietary supplements;
9. Oxygen and equipment necessary for its administration;
10. Medical and surgical supplies;
11. Intravenous injections and solutions;
12. Services of a Physician, except for examinations for the prescription and/or fitting of eyeglasses or contact lenses, except as may be otherwise provided for herein, hearing aids, routine physical examinations, immunizations and routine well-baby care, and except for other services as are excluded herein;
13. Services of a physiotherapist duly licensed under the laws of the state where the services were rendered, and who is not related to the Covered Person by blood, marriage, or adoption;
14. Services of a registered nurse (R.N.) and of a licensed practical nurse (L.P.N.) duly licensed under the laws of the state where the services were rendered, when Medically Necessary and prescribed by a licensed medical doctor, provided the nurse(s) are not related to the Covered Person by blood, marriage, or adoption. Such services shall be payable only when rendered in a Hospital, as defined in Article 1, Section I (Q).
15. Services rendered by a doctor of dental surgery (D.D.S.) or doctor of dental medicine (D.D.M.) duly licensed under the laws of the state where the service is rendered for the Treatment of accidental injuries to a Covered Person's sound natural teeth, provided that:
 - a. coverage was in effect with respect to the individual at the time of the accident;
 - b. Treatment commences within 90 days from the date of the accident and is completed within two years from the date of the accident;
 - c. coverage remains continuously in effect with respect to the Covered Person during the course of the Treatment.

Eligible expenses shall be limited to the original estimated total cost of Treatment as estimated at the time of initial Treatment.

16. Durable Medical Equipment required for Treatment of a non-occupational disease, illness, accident or injury when certification is submitted in writing to the Program by a licensed medical doctor as to the medical necessity for the equipment and the anticipated length of time the equipment will be required for therapeutic use. The Program will pay for either the rental or the purchase of one standard model of the equipment not to exceed the costs of the equipment. The Program will not replace or repair

equipment that has been lost, stolen, damaged, worn out or outgrown, and certification may be required at least annually by the Program to determine the continued medical necessity of such equipment.

17. Initial prosthetic appliances required as a result of conditions caused only by a non-occupational disease, illness, accident or injury. Subsequent prosthetic appliances shall be eligible only when deemed Medically Necessary and when certification is furnished, acceptable to the Program, by the attending medical doctor.

18. Professional ambulance services, subject to the following provisions:

a. Ground transportation — Medically Necessary licensed professional ambulance service in a vehicle licensed for highway use to or from the nearest Hospital with facilities to treat an illness or injury. The Program will pay 80 percent of transportation charges incurred, said charges not to exceed \$100 per trip, plus 80 percent of charges for eligible medical expenses.

b. Air ambulance — charges for Medically Necessary professional medical services and eligible medical supplies rendered in connection with licensed air ambulance transportation. Payment for actual air transportation charges shall be limited to that provided for surface ambulance services.

19. The first pair of eyeglass or contact lenses required as a result of cataract surgery performed while coverage was in force with respect to a Covered Person. The Program will pay in addition 80 percent of charges for eyeglass frames, as a result of cataract surgery, said charges not to exceed \$50.

20. The first two pairs of surgical support hose if deemed by a Physician and the Program to be Medically Necessary for the Treatment of a physical condition, i.e., phlebitis or varicose veins. Additional surgical support hose may be considered an eligible expense at the rate of one pair per six month period, provided the attending Physician considers the continued use of such hose Medically Necessary for the Treatment of the Covered Person.

21. The first two ortho-mammary support brassieres if Medically Necessary and prescribed by a Physician for the Treatment of a physical condition, i.e., mastosis, simple or radical mastectomy. Additional ortho-mammary support brassieres may be considered an eligible expense at the rate of one per six month period, provided the attending Physician considers the continued use of such brassieres Medically Necessary for the Treatment of the Covered Person.

22. Orthopedic shoes prescribed by a Physician and custom built for a Covered Person;

23. Acupuncture when rendered by a medical doctor duly licensed under the laws of the state where the service is rendered;

24. Services of a doctor of chiropractic (D.C.), with the following limitation: the Program will pay 80 percent of eligible charges incurred, said charges not to exceed 1,000 for any Covered Person per Calendar Year. Eligible charges shall further be limited to \$100 for any Covered Person per calendar month.

H. Coverage After Termination of Comprehensive Medical Benefits

If coverage with respect to a Covered Person terminates while he is confined in a Hospital as an inpatient, and if confinement began prior to the effective date of the termination, the Program will continue to pay benefits provided under this Article 3, Section I, Comprehensive Medical Benefits, until the Covered Person is discharged from the Hospital.

If coverage with respect to a Covered Person terminates while he is totally disabled, any benefits provided under this Article 3, Section I, Comprehensive Medical Benefits, for the Covered Person, but for no other family member, will continue to be available for expenses incurred as a result of a disease, illness,

accident, or injury which occurred prior to the date of termination and during the uninterrupted continuance of such total, whole, and continuous Disability but not beyond the end of the Calendar Year in which the termination occurred. Evidence as to the continuance of such Disability must be furnished by the Covered Person to the satisfaction of the Program.

I. Treatment of Alcoholism as a Resident Patient

When alcoholism requires the Covered Person to incur expenses while confined as a resident patient at a facility which meets the definition of Hospital as defined in Article 1, Section I (Q) of this contract, the Program will pay benefits in accordance with the Schedule of Benefits. When alcoholism requires the Covered Person to be confined as a resident patient in a facility licensed by the Joint Commission on the Accreditation of Hospitals but which does not otherwise meet the definition of Hospital as defined in Article 1, Section I (Q), the Program will pay 50 percent of all eligible expenses, including those of a Physician, following the satisfaction by the Covered Person of a separate \$200 deductible. This deductible will be in addition to any Deductible Amounts required under any other provision of this contract. Eligible expenses shall not include:

1. Room and Board charges in excess of the maximum amount as specified under Comprehensive Medical Benefits in the Schedule of Benefits;
2. Transportation;
3. Education and rehabilitation material and supplies;
4. Services rendered by non-licensed paraprofessional personnel.

BENEFITS PROVIDED UNDER THIS SECTION I, TREATMENT OF ALCOHOLISM AS A RESIDENT PATIENT, SHALL BE IN LIEU OF ANY OTHER BENEFITS OF THIS CONTRACT AND SHALL BE FURTHER LIMITED TO TWO CONFINEMENTS IN A COVERED PERSON'S LIFETIME. IN ORDER FOR THE EXPENSES OF A COVERED PERSON TO BE ELIGIBLE FOR PAYMENT, THE PRIMARY DIAGNOSIS MUST BE FOR TREATMENT OF ALCOHOLISM. THE PROGRAM SHALL DENY BENEFITS FOR THE TREATMENT OF SUBSTANCE ABUSE OTHER THAN ALCOHOL AND FOR THE TREATMENT OF MULTIPLE SUBSTANCE ABUSE, AS PROVIDED FOR IN ARTICLE 3, SECTION VII (E).

II. SECOND SURGICAL OPINION

A. When an eligible surgical procedure is recommended to a Covered Person, the Program will provide benefits up to but not to exceed the amount specified in the Schedule of Benefits for the purpose of consulting a Physician, other than the surgeon who has recommended the surgical procedure, as to the necessity and prudence of such procedure. Diagnostic X-ray and Laboratory tests necessary for the second Physician to make a reasonable recommendation will be considered eligible expenses, and no Deductible Amount shall apply to benefits payable under this Section. To be considered an eligible expense under this benefit, the following criteria must be met:

1. The second Physician must not be associated with or in practice with the Physician or surgeon recommending surgery.
2. The second Physician must be a specialist in the field required by the surgery.
3. The second Physician must physically examine the Covered Person.
4. The second Physician must prepare and make available a written statement of advantages and disadvantages of the recommended surgery.
5. The second opinion must be obtained within 60 days following the initial recommendation for surgery.

B. The decision as to whether or not the recommended surgery is to be performed and who will perform the surgery shall be the decision of the Covered Person.

C. Exclusion — no payment shall be made under this provision for expenses incurred for the following:

1. Emergency surgical procedures necessitated by an Accidental Bodily Injury.
2. Second opinions regarding procedures not covered under the terms of this contract.

III. SUPPLEMENTAL EMERGENCY ACCIDENT BENEFITS

A. When non-occupational Accidental Bodily Injury requires the Covered Person to receive Treatment and incur an eligible expense within 72 hours of an accident, and services or Treatment as a result of such Accidental Bodily Injury are furnished by or at the direction of a Physician while this coverage is in force as to such person, the Program will pay the Reasonable Expense actually incurred, except as set forth below, and not to exceed the maximum amount payable as specified in the Schedule of Benefits for any one Accidental Bodily Injury.

The supplemental emergency accident benefits will be payable prior to benefits available under all other provisions of this contract, and no Deductible Amount shall apply to benefits payable under this Section.

B. Covered expenses shall include:

1. Room and Board charges, not to exceed the Hospital's average semi-private rate;
2. Intensive care unit charges, not to exceed twice the Hospital's semi-private rate;
3. Physician's charges for medical and surgical care;
4. Care by a registered nurse or licensed practical nurse, but only during confinement;
5. Anesthesia and the administration thereof;
6. Charges for Diagnostic X-ray and Laboratory tests, either as an in patient or out patient;
7. Treatment by a physiotherapist;
8. Drugs and medicines, approved by the Food and Drug Administration or its successor, requiring a prescription and dispensed by a licensed pharmacist;
9. Initial artificial limb(s) or eye(s);
10. Casts, splints, trusses, crutches, and braces (dental braces are not eligible);
11. Oxygen and rental of oxygen equipment;
12. Rental of standard model wheelchair or hospital type bed;
13. Local surface ambulance to the nearest Hospital.

C. Exclusions — no payment shall be made under supplemental emergency accident benefits with respect to:

1. Any loss resulting from the contraction of a disease or illness;
2. Any loss caused by or contributed to by war or any act of war, whether declared or not, or by any act of international armed conflict, or conflict involving the armed forces of any international authority; or
3. Expenses incurred for Treatment rendered or examination made after 90 days from the date of the accident. The date of the accident shall be considered day one.

4. Other exclusions and limitations applicable to these benefits are stated in Article 3, Section VII, captioned "Exceptions and Exclusions for all Medical Benefits" hereinafter set forth.

IV. DENTAL SURGICAL BENEFITS

A. When non-occupational disease, illness, accident or injury requires the Covered Person to undergo any oral surgical procedure listed in the Schedule of Dental Surgical Procedures as herein contained, and the procedure is performed by a doctor of dental surgery (D.D.S.) or doctor of dental medicine (D.D.M.) while this coverage is in force as to such person, the Program will pay the Reasonable Expense actually incurred for such surgical procedure, including the usual pre-operative and post-operative

care, not to exceed the maximum amount payable for the procedure as specified in such Schedule. No dental surgical benefits, except those procedures listed in the Schedule of Dental Surgical Procedures, will be considered eligible under this provision.

B. No Deductible Amount shall apply to benefits payable under this Section, and expenses in excess of the amounts shown in the Schedule of Dental Surgical Procedures shall not be considered eligible Out of Pocket Expenses as defined in Article 3, Section I, A (3).

C. Schedule of Dental Surgical Procedures

	Maximum Reimbursement
Incision and drainage of:	
Abscess, intraoral	\$42.00
Abscess, extraoral	180.00
Alveolectomy/Alveoloplasty, per quadrant	30.00
Removal of ankylosed tooth	60.00
Apicoectomy	90.00
Cysts of the jaw (mandible or maxilla) excision of:	
Involving area of one or two teeth . .	90.00
Involving area of three or four teeth	180.00
Involving area of five or more teeth	270.00
Fibroma, epulis, excision of	42.00
Excisional or incisional biopsy	80.00
Impacted tooth, excision of one	67.50
two	135.00
three	202.50
four	270.00
Mandibular tori (per quadrant)	112.50
Torus palatinus excision	127.50
Tuberosity reduction	
Soft tissue	54.00
Bony	72.00

V. CATASTROPHIC ILLNESS ENDORSEMENT

A. Optional at the Election of the Employee

The Definitions as set forth in Article 1, Section I, are also applicable to the Catastrophic Illness Endorsement. These Catastrophic Illness Endorsement benefits are paid prior to benefits available under all other provisions of this contract.

These benefits will be provided only to those persons who elect this coverage and agree to pay the additional premium therefor. Only those Employees and Dependents who are covered for Comprehensive Medical Benefits under Article 3 (except dependent parents as defined in Article 1, Section I), are eligible for enrollment. An Employee or Dependent may select coverage under this benefit within 30 days of the date of employment without evidence of good health. If this Endorsement is not elected within this 30 day period, the Employee or Dependent must furnish, without expense to the Program, satisfactory evidence of good health before the coverage will become effective. The effective date of such optional benefits will be determined by the Program following the receipt, by the Program, of a fully completed Statement of Health and any other medical records or statements deemed necessary by the Program.

Only Dependents of covered Employees who elect to participate in the Catastrophic Illness Endorsement shall be considered eligible Dependents for purposes of this Article 3, Section V.

B. Diseases Included

Benefits will be payable under this provision if, on or after the effective date of the Covered Person's coverage under the policy, such person contracts one of the following diseases:

1. Cancer
2. Poliomyelitis (polio)

3. Leukemia
 4. Diphtheria
 5. Smallpox
 6. Scarlet fever
 7. Tetanus (lockjaw)
 8. Spinal meningitis
 9. Encephalitis (sleeping sickness)
 10. Tularemia
 11. Hydrophobia (rabies)
 12. Sickle cell anemia
- C. Cancer Limitation

No benefits will be provided hereunder due to, or as a result of cancer:

1. If the Covered Person has ever had cancer before the effective date of his coverage under this provision; or
2. Until after initial pathological diagnosis thereof as cancer.

D. Maximum Amounts Payable and Benefit Periods

1. With respect to all diseases listed above, *except cancer*:
The maximum liability of the Program under Section V, E (1), below will be 70 percent of the applicable maximum amount payable as stated in the Schedule of Benefits for any one disease, and the maximum liability of the Program under Section V, E (2), below will be 30 percent of the applicable maximum amount payable as stated in the Schedule of Benefits for any one disease. Benefits shall be available for expenses incurred during the three year period immediately following the diagnosis of any of the named diseases, and not thereafter. In the event a Covered Person has received the Maximum amount payable described herein for any one disease, such person shall become eligible for benefits under the Comprehensive Medical Benefits section of the Plan, to the extent that such benefits remain unpaid.

2. With respect *only to cancer*:

The maximum liability of the Program under Section V, E (1), below will be 70 percent of the applicable maximum amount payable stated in the Schedule of Benefits during the LIFETIME of the Covered Person, and the maximum liability of the Program under Section V, E (2), below will be 30 percent of the applicable maximum amount payable stated in the Schedule of Benefits during the LIFETIME of the Covered Person. In the event a Covered Person has received the maximum amount payable described herein for cancer, such person shall become eligible for benefits under the Comprehensive Medical Benefits section of the Plan.

E. Benefits

1. In-Patient Benefits

When a Covered Person receives care and Treatment in a Hospital for any of the diseases indicated above, and such care and Treatment is rendered at the direction of a licensed medical doctor while this coverage is in force as to such person, the Program will pay the Reasonable Expense actually incurred for any of the following listed services, but not to exceed the maximum amount payable or benefit period specified in the Schedule of Benefits:

a. Hospital services, including Room and Board, care by regular Hospital attendants, and any Hospital apparatus used in the Treatment of such disease;

b. Services of a registered nurse (R.N.) and of a licensed practical nurse (L.P.N.) duly licensed under the laws of the state where the services were rendered, when Medically Necessary and prescribed by a licensed medical doctor, provided the nurse(s) are not related to the Covered Person by blood, marriage, or adoption. Such services shall be payable only when rendered in a Hospital, as defined in Article 1, Section I (Q).

c. Use of support and mechanical apparatus used in Treatment;

d. Blood transfusions — all charges for blood or plasma and transfusion services;

e. Drugs and medicines — all expenses incurred for medicines used in the Treatment of the disease, provided such drugs and medicines are approved by the Food and Drug Administration or its successor; and

f. X-ray and physiotherapy — all such services required for diagnosis and Treatment

1. Services of a physiotherapist duly licensed under the laws of the state where the services were rendered, and who is not related to the Covered Person by blood, marriage, or adoption;

2. X-ray — all charges for such services prescribed by a licensed medical doctor and required for diagnosis and Treatment.

2. Out Patient Benefits and Professional Services

When a Covered Person receives care and Treatment for any of the diseases indicated above, and such care and Treatment is rendered at the direction of a licensed medical doctor while this coverage is in force as to such person, the Program will pay the Reasonable Expense actually incurred for any of the following listed expenses, but not to exceed the maximum amount payable or benefit period specified in the Schedule of Benefits:

a. Professional fees of the attending Physician, consulting Physicians, and medical specialists;

b. Professional fees of anesthesiologists not employed by a Hospital;

c. Drugs and medicines — all expenses incurred for medicines requiring a prescription, approved by the Food and Drug Administration or its successor, used on an out patient basis for the Treatment of the disease;

d. Transportation — the fare for conveyance of the Covered Person and one medical attendant by ambulance, rail, air, or other public carrier directly to any Hospital, when the attending Physician considers such trip and mode of travel necessary to the proper Treatment of the Covered Person; and

e. Durable Medical Equipment, as defined in Article 1, Section I (Y).

VI. MEDICARE REDUCTION

Except as may otherwise be provided for by law, all benefits for services and supplies payable under all sections of this policy will be reduced when benefits are paid or payable through any present or future laws enacted by Congress of the United States including but not limited to Public Law 89-97, known and described as Medicare.

The charge for a service or supply will be reduced by whatever amounts are paid or payable by Medicare. The Program shall require written confirmation from the Social Security Administration or its successor that a Plan Member or his Dependent is not eligible for Medicare coverage. All provisions of this contract, including all limitations and exceptions, will be applied to the balance, and benefits will be paid accordingly.

VII. EXCEPTIONS AND EXCLUSIONS FOR ALL MEDICAL BENEFITS

No benefits are provided under this contract for:

A. Cases covered, in whole or in part, by a worker's compensation program, whether insured or self-funded, regardless of whether the Covered Person has filed a claim for benefits. This applies to compensation provided on an expense incurred basis or blanket settlements for past and future loss;

B. Services or supplies furnished by the Veterans Administration;

C. Services or supplies furnished under the laws of the United States or any state or political subdivision; provided, however, that benefits otherwise payable under the Plan will be payable if the Covered Person is rendered services, for which he is charged, in a publicly owned charity hospital;

D. Convalescent, sanitarium, or Custodial Care or Rest Cures;

E. Services rendered for the Treatment of abuse of any drug other than alcohol and/or conditions resulting therefrom;

F. Expenses for elective, nontherapeutic voluntary abortion, provided, however, that expenses for complications arising therefrom shall be considered as eligible expenses;

G. Intentionally self-inflicted injuries, injuries sustained while in an aggressor role, or any attempt at suicide;

H. Any medical expense incident with or caused by any Covered Person's attempt at a felony or misdemeanor;

I. Expenses incurred while a Covered Person in connection with cosmetic surgery, unless necessary for the immediate repair of a non-occupational disease, illness, accident or injury which occurs while coverage is in force;

J. Expenses incurred for orthopedic shoes and related items such as wedges, cookies, arch supports, or shoes purchased unless custom built for the Covered Person;

K. Any expense incurred by a member of a Health Maintenance Organization (HMO), Health Maintenance Plan (HMP), or other prepaid medical plan or medical services plan;

L. Dental braces, dentures, orthodontic appliances, Treatment of periodontal disease;

M. Any medical services, Treatment or prescription drugs provided without charge to the insured;

N. Maternity expenses incurred by any person other than the covered Employee or the covered Employee's legal spouse;

O. Private duty nursing services rendered in any places other than a Hospital, as defined in Article 1, Section I (Q);

P. Personal convenience items including, but not limited to, admit kits, bedside kits, telephone and television, guest meals and beds and similar items;

Q. Charges for services, supplies, or Treatment which are in excess of Reasonable Expenses, as defined in Article 1, Section I (V);

R. Services and supplies with are not Medically Necessary, as defined in Article 1, Section I (Z);

S. Services rendered for remedial reading and recreational, visual and occupational therapy, behavioral modification therapy and pain rehabilitation control, and dietary instruction for any disease, illness, or condition;

T. Services, supplies, or Treatment in connection with or related to: gender dysphoria or reverse sterilization, or any attempts of these procedures; any diagnostic or Treatment measures which are not recognized as generally accepted medical practice; surgery for excess fat in any area of the body; resection of excess skin or fat following weight loss or pregnancy;

U. Artificial organ implants, *in vitro* fertilization, and artificial insemination;

V. Air conditioners and/or filter, dehumidifiers, air purifiers, wigs or toupees, heating pads, home enema equipment, rubber gloves, swimming pools, saunas, whirlpool baths, home pregnancy tests, and any other items not normally considered medical supplies;

W. Administrative fees, interest, or penalties;

X. Marriage counseling and/or family relations counseling;

Y. Birth control medication or devices, appetite suppressant drugs, dietary supplements, vitamins;

Z. Charges for services rendered over the telephone from a Physician to a Covered Person;

AA. Radial keratotomy and similar procedures for the correction of refractive errors;

BB. Speech therapy, except when ordered by a Physician for the purpose of restoring partial or complete loss of speech resulting from stroke, surgery, cancer, radiation laryngitis, cerebral

palsy, accidental injuries or other similar structural or neurologic disease;

CC. Services, supplies, or Treatment in connection with or related to obesity, except for endogenous obesity or obesity resulting from external causes when it is certified by the attending Physician to the satisfaction of the Program that such obesity is associated with a serious or life-threatening disorder;

DD. Charges by a doctor of chiropractic (D.C.) for services, supplies, or Treatment rendered on behalf of a Covered Person in excess of \$100 per calendar month or \$1,200 in any Calendar Year.

VIII. COORDINATION OF BENEFITS

A. Definitions as applied to this provision

1. *Plan* means any Plan providing benefits or services for or by reasons of medical, dental, or vision care or Treatment under:

- a. Group insurance;
- b. Group practice, group Blue Cross, group Blue Shield individual practice offered on a group basis, or other group prepayment coverage;
- c. Labor management trustee Plans, union welfare Plans;

2. *Allowable Expense* means any Medically Necessary, Customary and Reasonable item of expense, at least a part of which is covered under one of the Plans covering the person for whom claim is made.

3. *Claim Determination Period* means a Calendar Year. However, if a person is not eligible for benefits under this Plan during all of the Calendar Year, then the combining period for such person, as to that Year, shall be the total period during which he was eligible for benefits.

4. *Program* means the State Employees Group Benefits Program.

B. Primary Plan and Secondary Plan

All benefits provided under this Article 3, Medical Benefits, are subject to coordination of benefits.

This provision is applicable when the total benefits that would be payable by this Plan in the absence of any coordination of benefits provision and the total benefits payable under all other group Plans insuring a Covered Person, exceed expenses incurred during a Claim Determination Period.

One of the two or more Plans involved is the primary Plan and the other Plan(s) are secondary Plan(s). The primary Plan Pays benefits first and without consideration of the other Plan(s). The secondary Plan(s) then provide the difference up to, but not in excess of, the total Allowable Expenses. No Plan will pay benefits greater than it would have paid in the absence of coordination of benefits.

Order of Benefit Determination

If an individual is covered by more than one group Plan, the order of benefit determination shall be in accordance with the coordination of benefit guidelines, as amended, established by the National Association of Insurance Commissioners.

C. Effect on Benefits

Benefits paid by the secondary carrier shall be reduced to the extent necessary to assure the payment of up to but not in excess of 100 percent of all Allowable Expenses. Each benefit of the contract will be reduced by the amount that would have been payable in the absence of this provision.

Benefits not paid due to the application may be accrued for a single Claim Determination Period. Such accrued amounts may be used, with respect to that Covered Person only, to provide additional benefits when the combined payment of the primary Plan and all secondary Plans does not provide 100 percent reimbursement for all Allowable Expenses. This accrued amount shall not carry over to the next Claim Determination Period.

ARTICLE 4 UNIFORM PROVISIONS

I. STATEMENT OF CONTRACTUAL AGREEMENT

This written contract as amended and any documents executed by or on behalf of the covered Employee constitute the entire contract between the parties.

II. DEADLINE FOR FILING CLAIMS

A properly submitted claim for benefits as a result of any disease, illness, accident or injury must be received by the State Employees Group Benefits Program by 4:30 p.m., close of business, on June 30 next following the end of the Calendar Year in which the medical expenses were incurred. When June 30 is a non-work day, the deadline is automatically extended to 4:30 p.m. of the next regular workday. Each expense shall constitute a separate claim.

Failure to furnish notice of proof of loss within the time period provided shall not invalidate nor reduce any claim if it shall be shown to the satisfaction of the Program that it was not reasonably possible to furnish such notice, and that such notice of proof was furnished as soon as was reasonably possible.

III. CLAIM FORMS

The program shall furnish all Participant Employers with claim forms. A PROPERLY COMPLETED CLAIM FORM, SIGNED BY THE PLAN MEMBER, IS REQUIRED TO BE SUBMITTED WITH EVERY CLAIM. If the Program receives a bill without a completed claim form, the Program has the right to require additional documentation in order to determine the extent of coverage, if any, under this Plan.

The Program, through its Physician, shall have the right and opportunity to examine the Covered Person, whose disease, illness, accident or injury is the basis of claim, when and as often as it may reasonably require during pendency of the claim under this contract.

IV. ANNUAL MEDICAL STATEMENT FOR RECURRING PRESCRIPTION DRUGS

The Program shall require a medical statement signed by a licensed Physician, at least once a year, for expenses incurred on a continuing basis for prescription drugs and/or medical supplies.

V. RIGHT TO SELECT PHYSICIAN OF CHOICE

Subject to any agreements for participation in a Health Maintenance Organization (HMO), Health Maintenance Plan (HMP), or other prepaid medical Plan, the Covered Person shall have the sole right to select his own Physician, surgeon, and Hospital; and the Physician-patient relationship shall be maintained.

VI. RIGHT TO RECEIVE AND RELEASE INFORMATION

The Program may release to, or obtain from any company, organization, or person, without consent of or notice to any person, any information regarding any person which the Program deems necessary to carry out this provision, or like terms of any Plan, or to determine how, or if, they apply. Any claimant under this Plan shall furnish to the Program such information as may be necessary to implement this provision.

VII. FACILITY OF BENEFIT PAYMENT

Whenever payments, which should have been made under this Plan in accordance with this provision, have been made under any other Plan, the Program shall have the right, exercisable alone and in its sole discretion, to pay over to any organization making such other payments any amounts it shall determine to be warranted in order to satisfy the intent of this provision and amounts so paid shall be deemed to be benefits paid under this Plan. To the extent of such payments, the Program shall be fully discharged from liability under this Plan.

VIII. COOPERATION OF EMPLOYEE

The Employee shall be required to furnish the Program, upon request, any information which the Program may require to

implement the provisions of the contract. Such requests for information shall include, but not be limited to, a verification of the student status of dependent Children between the ages of 19 and 24 and the dependency status of covered Dependents. Failure to furnish the requested information shall constitute reason for denial of benefits.

IX. INTERIM PAYMENT

The Program may, at its option, make interim payment for losses incurred on a continuing basis.

X. PAYMENTS TO BENEFICIARY OR ESTATE

Any benefits payable for expenses incurred prior to the death of a covered Employee shall require one of the following documents in order to pay benefits to the beneficiary or the estate:

A. A notarized copy of the will;

B. In the absence of a will, a certified copy of the court order appointing an administrator or executor of the estate; or

C. In the absence of a will or an order appointing an executor or administrator, a "Request to Pay Proceeds Form" completed in triplicate and notarized. This form can be obtained from the Group Benefits Program's Office.

XI. LEGAL LIMITATIONS

No legal action shall be brought against the Program to attempt to recover benefits allegedly due pursuant to this contract until the Plan Member has exhausted all administrative remedies through the appeal of the claim to the Claims Review Committee as provided in Article 5. Legal actions may be brought against the Program in accordance with and subject to the time limitations delineated in Article 5.

XII. RIGHT TO AND MEANS OF RECOVERY

A. The Program may recover overpayments from the Covered Person, provider of medical services, any insurance company or other organization, and from future claims of the covered Employee, covered Dependents, or any combination thereof.

B. Should legal action be required to recover overpayments made as a result of fraudulent statements or deliberate omissions on the application or claim form or any part thereof, the defendant will be responsible for attorney's fees of 25 percent of the overpayment or \$500 whichever is greater. The defendant will also be responsible for court costs and legal interest from date of judicial demand until paid.

XIII. SUBROGATION

Upon payment of any eligible benefits covered under this Plan, the Program shall succeed and be subrogated to all rights of recovery of the covered Employee, his Dependents or other Covered Persons, or their heirs or assigns, for whose benefit payment is made, and they shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights, and shall do nothing after loss to prejudice such rights.

The Program shall be entitled, to the extent of any payment made to a covered Employee, his Dependents or other Covered Persons, to the proceeds of any settlement or judgement that may result from the exercise of any rights of recovery of a covered Employee, his Dependents or other Covered Persons, against any person or entity legally responsible for the disease, illness, accident or injury for which said payment was made. To this end, covered Employees, their Dependents, or other Covered Persons agree to immediately notify the Program of any action taken to attempt to collect any sums against any person or entity responsible for the disease, illness, accident or injury.

XIV. EMPLOYER RESPONSIBILITY

It shall be the responsibility of the entity responsible for the reconciliation of the monthly invoices for an Employee or Retiree to submit enrollment and change forms and all other such necessary documentation to the Program in a professional and timely

manner. Employees of said entity shall not, by virtue of furnishing any documentation to the Program on behalf of a Plan Member, be considered agents of the Program, and no representation made by any such person at any time shall change the provisions of this contract.

It shall be the responsibility of said entity to remit the entire monthly premium, consisting of the Employee and the Participant Employer portions (if applicable), and a properly reconciled monthly invoice within 30 days after the date the payment and reconciled invoice are due. In the event complete payment and a properly reconciled invoice are not received within this 30 day period, in addition to other actions available to the Program through operation of law, the payment of claims on behalf of the Employees of the delinquent Participant Employer may, at the option of the Program, be suspended until such time as complete payment and a properly reconciled invoice are received by the Program.

XV. GROUP BENEFITS PROGRAM RESPONSIBILITY

It shall be the responsibility of the Program to adjudicate claims on behalf of Plan Members at all times using accepted industry standards, profiles, and techniques.

XVI. REINSTATEMENT TO POSITION FOLLOWING CIVIL SERVICE APPEAL

When coverage of a terminated Employee is reinstated by reason of a civil service appeal, coverage shall be reinstated to the same level retroactive to the date coverage terminated. The Employee and Participant Employer shall be responsible for the payment of all premiums for the period of time from the date of termination to the date of the final order reinstating the Employee to his position. The Program shall be responsible for the payment of all eligible benefits for charges incurred during this period. All claims for expenses incurred during this period must be filed with the Program within 60 days following the date of the final order of reinstatement.

ARTICLE 5

CLAIMS REVIEW AND APPEAL

This section establishes and explains the procedures for review of benefit and eligibility decisions by the Program.

I. *Definitions.* As used in this section, the following definitions apply:

A. The term *Plan Member* means a Covered Person other than a *Dependent*, i.e., a covered Employee (active or retired).

B. The term *Covered Person* is defined in Article 1, Section I (G).

C. The term *Appealing Party* means a Plan Member affected by an Initial Determination.

D. The term *Initial Determination* means a formal written decision by an Employee of the Board who has reviewed a claim for benefits under a provision of the Program.

E. The term *Appeal* means a request for and a formal review of an Initial Determination, in accordance with the procedures established and explained in this Section.

F. The term *Representative* means:

1. The authorized parent or tutor of an unemancipated minor; or

2. The curator of an interdict; or

3. An attorney who is a member in good standing of the Bar of the State of Louisiana.

G. The term *Director* means the Executive Director of the Program.

H. The term *Committee* means the Claims Review Committee of the Board.

I. The term *Referee* means a hearing officer employed by the Board, to whom an Appeal may be referred for hearing.

J. The term *Party to a Hearing* means the Appealing Party and the Program.

II. *Notice of Initial Determination.* Notice of an Initial Determination shall be mailed to the Plan Member at the last known address. Payment of a claim, along with an Explanation of Benefits (EOB) constitutes notification. In each instance when a claim is decided, an EOB is sent to the Plan Member. When an Initial Determination results in the disallowance of a claim, in whole or in part, the notice of determination shall inform the Plan Member of the right to review and appeal in accordance with this Section, and that a request for review must be received by the Director of the Program within 90 days of the date of the notice.

III. *Claims Review and Appeal Prerequisite to Legal Action.* The Initial Determination becomes final, and no legal action shall be brought against the Program to attempt to establish eligibility or to recover benefits allegedly payable under the Program, unless a request for review is made in accordance with the provisions of sub-section IV of this section.

IV. *Request for Review.* A plan Member, affected by an Initial Determination, may appeal the determination in the following manner:

A. The Appeal must (a) be in writing; (b) be signed by the Appealing Party or Representative; (c) give the name and address of the Appealing Party or Representative, if any; (d) contain a clear and concise statement of the matter in dispute and the basis of the Appeal; and (e) include a copy of the applicable determination.

B. The appeal must be filed with the Director, within 90 days of the date of the notice of Initial Determination. An Appeal shall be deemed filed on the date it is received in the office of the Director. The Director shall cause the date of filing to be noted on each Appeal.

V. *Claims Review Committee.* The chairman of the Board shall appoint a Claims Review Committee of five members of the Board.

A. The Committee shall have the authority to hear and decide all Appeals.

B. The Committee may appoint a Referee to take testimony in and to hear all Appeals.

VI. *Assignment of Appeals for Hearing.* The Director shall fix the time and the place for the hearing of Appeals by the committee. If a Referee has been appointed to hear an Appeal, the Referee shall fix the time and place for hearing the Appeal, with the Director's approval.

A. All Appeals before the Committee shall be heard in a convenient place in the City of Baton Rouge, selected by the Director. All Appeals before a Referee shall be heard in a convenient place, selected by the Referee, with the Director's approval.

B. Notice of the time and place fixed for the hearing shall be mailed to the Appealing Party at least 30 calendar days prior to the date of the hearing.

C. Appeals shall be heard as soon as reasonably possible. No continuance shall be granted except for compelling cause. An Appeal fixed for hearing may be continued, without prejudice to the Appealing Party, (a) by the Director, the committee, or the Referee in a referred case, upon a showing of compelling cause, at the request of any party; or (b) if it is not reached for hearing. An Appeal fixed for hearing and not reached shall be reassigned by preference over any Appeal continued for any other reason and any Appeal subsequently filed. Written notice of the time and place of the continued hearing shall be mailed to the Appealing Party; except when a continuance is ordered during a hearing, oral notice of the time and place of the continued hearing may be given to the Appealing Party present at the hearing.

VII. *Procedure for Hearing Appeals.*

A. Because of the personal and confidential nature of the matters to be considered, hearings shall be closed to the public. However, the Appealing Party or Representative may request an

open hearing. In that event, the hearing will be open except to the extent that other legitimate purposes can only be protected by closing portions of the hearing.

B. The Appealing Party shall have the right, but shall not be required, to be represented at the hearing by legal counsel who is a member in good standing of the Bar of the State of Louisiana.

C. The Committee or Referee shall control the hearing in a manner best suited to ascertain the facts and safeguard the rights of the Parties to the Hearing.

D. The basis of the Initial Determination which is the subject of review shall be presented to the Committee or Referee first. The Appealing Party, or Representative, will then be given the opportunity to demonstrate why this Determination should be held in error. The Program will then be given the opportunity to present the case in support of the Initial Determination.

E. Testimony shall be taken only on oath, affirmation, or penalty of perjury. The committee, the Director, and Referee shall have the power to administer oaths and affirmations as well as other powers granted in this section and by law.

F. Each Party to the Hearing shall have the right to call and examine all other Parties to the Hearing and their witnesses; to introduce exhibits; to question opposing witnesses and Parties to the Hearing on any matter relevant to the issue, even though the matter was not covered in the direct examinations; to impeach any witness regardless of which Party to the Hearing first called the witness to testify; and to rebut any evidence presented.

G. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any statutory or other rule of law which might make improper the admission of such evidence over objection in a civil or criminal proceeding.

H. The Committee or Referee may question any Party to the Hearing or witness and may admit any relevant and material evidence.

I. The Appealing Party has the burden of proving whatever facts are necessary to support the opposition to the Initial Determination.

J. If, after the hearing has begun, the Committee or Referee determines that additional evidence is necessary for the proper determination of the case, (a) the hearing may be continued to a later date and any Party to the Hearing ordered to produce additional evidence; or (b) the hearing may be closed, and the record held open in order to permit the introduction of additional documentary evidence. The Committee or Referee may order a further hearing if the nature of the additional evidence or the refutation thereof makes further hearing desirable.

K. At the request of any Party to the Hearing made prior to the close of the hearing, the Committee or Referee shall grant oral argument. If written argument is requested, it may be granted and, if granted, the Parties to the Hearing shall be advised as to the time and manner within which such argument is to be filed. The Committee or Referee may require any Party to the Hearing to submit written memorandum pertaining to any or all issues raised in the hearing.

L. A verbatim taped record will be made of the hearing and made a permanent part of the Committee's records. An actual typed transcript of the hearing will be made only when determined to be necessary at the hearing, or subsequently, if legal action results, at the cost of the party requesting the transcript.

VIII. *Subpoena of Witnesses; Production of Documents.*

A. The Committee, each member thereof, the Director, and Referee to whom an Appeal has been referred shall have the power to order the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence.

B. The Committee or Referee may order the production or inspection of any records or relevant portions of records in the possession of the Program when necessary to decide the issues in any Appeal or to assist an Appealing Party in preparing for the proceeding. A request by an Appealing Party, or Representative for an order to produce or inspect records of the Program shall be in writing and shall state clearly the information desired, the records desired to be produced or inspected, and the reason therefor.

C. No subpoena will be issued requiring the attendance and giving of testimony by witnesses unless a written request therefor is received in the office of the Director no later than 15 calendar days before the date fixed for the hearing. The request for subpoenas shall contain the names of the witnesses, the street addresses at which the witnesses can be served, and a brief statement of what is intended to be proved by each witness. No subpoenas will be issued until the party requesting the subpoenas deposits with the Director a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to L.R.S. 13:3661 and 3671.

D. No subpoena for the production of books, papers and other documentary evidence will be issued unless written request therefor is received in the office of the Director no later than 15 calendar days before the date fixed for the hearing. The request for subpoena for books, papers, and other documentary evidence shall contain a description of the items to be produced in sufficient detail for identification and shall contain the name and street address of the person who is to be required to produce the items and a brief statement of what is intended to be proved by each item.

EMPLOYEES GROUP LIFE
INSURANCE PROGRAM AND
ACCIDENTAL DEATH
AND DISMEMBERMENT BENEFITS
UNDERWRITTEN BY
CONTINENTAL ASSURANCE COMPANY
(Herein called the Company)

Underwriters for
THE STATE OF LOUISIANA BOARD
OF TRUSTEES STATE EMPLOYEES'
GROUP BENEFITS PROGRAM
Baton Rouge, Louisiana
(Herein called the Employer)

HEREBY CERTIFIED that the employee (herein individually called the Insured Employee), and his dependents, if any, (herein individually called the Insured Dependent), whose names are on file as being eligible for insurance with the Employer and for whom the required premium has been paid, as subject to all the exceptions, limitations and provisions of said policy for the benefits described in this Certificate of Insurance.

The term "Insured Person" wherever used in the certificate means either the insured employee or the Insured Dependent.

The term "Schedule of Benefits" wherever used in this certificate means the schedule appearing herein.

EFFECTIVE DATE OF INDIVIDUAL INSURANCE

On May 1, 1976, Employees and Retirees, and their eligible Dependents, enrolled on April 30, 1976, under the predecessor contracts and agreements became immediately eligible for the benefits described herein on May 1, 1976, provided, such Employee was actively at work on the date and such Retiree or Dependent was not hospital-confined or disabled on that date.

The Life Insurance provided hereunder shall not be applicable to any Insured Employee, employed on and after February 24, 1982, who is age 70 or over, or attains age 70 after becoming

employed. However, this does not apply to those employees or retirees who were employed prior to their 70th birthday.

Subsequent to May 1, 1976, all new and other full-time Employees and Retirees, other than temporary Employees, and their eligible Dependents will become eligible for coverage on the first day of the month coinciding with or next following the completion of one month service, provided, however that no employee coverage shall in any event become effective unless the employee makes such request within 30 days after the date of employment.

The effective date of coverage will be defined under the following circumstances; and the section entitled "Dependents" will not apply.

1. If an Employee is absent from active full-time work on account of accidental bodily injury or sickness when his insurance would otherwise take effect, it shall take effect on the date he returns to active full-time work; and

2. If a Retiree or Dependent is hospital confined on account of accidental bodily injury or sickness on the date his insurance would otherwise take effect, the insurance shall take effect on the date the hospital confinement terminates, (or disability ends), whichever is later.

CHANGE OF CLASSIFICATION

Any change in the amount of insurance, occasioned by a change in the Insured Employee's classification, shall become effective, provided the Insured Employee is then actively at work, on the first day of the insurance month following the date of such change and provided he makes the necessary contribution. If such employee is not then actively at work, such change shall become effective on the next following day on which he is actively at work. If the employee does not make the necessary contribution within 31 days of such date, and such change provides for an increase in benefits, the employee must furnish evidence of insurability without expense to the Company, which is satisfactory to it, before the increased benefits can go into effect, on a date to be designated by the Company.

Any change in the amount of insurance, occasioned by the employee's attainment of age 70 shall become effective on the next July 1 coinciding with or next following the date the employee attains age 70, whether or not he is actively at work.

If notice is not given to the Company within 31 days after the date of a change in classification increasing benefits, the Company may require evidence of insurability satisfactory to it before accepting such change.

INDIVIDUAL TERMINATIONS

The insurance of an Insured Employee shall terminate on the earliest of the following dates:

1. On the date the master policy is terminated;
2. On the premium due date if the Employer fails to pay the required premium for the Insured Employee, except when resulting from clerical mistake or inadvertent error; or
3. On the last day of the month in which the Insured Employee leaves or is dismissed from the employment of the Employer, provided, however, authorized retirement shall not be considered as a reason for termination of insurance.

Cessation of premium payment for an Insured Employee, termination of his membership in the class or classes eligible for insurance under the policy or termination of the policy shall not act to terminate his insurance hereunder if he is covered under the provision entitled, WAIVER OF PREMIUM DURING TOTAL DISABILITY.

Any Insured Employee's insurance will continue beyond the day it would otherwise terminate as provided above provided the following conditions are satisfied:

An Insured Employee's insurance will continue and employment will be deemed to continue, provided the Employer

continues to pay the applicable premium and follows an established plan which precludes individual selection under the following circumstances:

a. If the Insured Employee is absent from active full-time work because of temporary lay-off or because of leave of absence, for a period of up to twelve months following cessation of active full-time work, or

b. If the Insured Employee is absent from active full-time work or on a part-time employment basis because of accidental bodily injury or sickness.

Within the meaning of this provision, Total Disability is defined to be the disability of an Insured Employee which occurs as the result of an accidental bodily injury or sickness which causes the Insured Employee to be wholly and continuously prevented from performing his normal active duties and from engaging in his own or any other business or occupation for remuneration or profit.

The insurance of an Insured Dependent shall terminate on the earliest of the following dates:

1. The date of the Insured Employee's transfer to a class ineligible for dependent life insurance;
2. On the date that the Insured Dependent ceases to be a dependent as defined herein;
3. The date that the Insured Employee's insurance under the policy terminates;
4. On the date that the policy is amended to terminate the provision of Life Insurance for dependents;
5. On the date the Insured Dependent enters the armed forces of any state, province, country, or any international organization;
6. On the date that the Insured Dependent becomes covered hereunder for insurance as an Insured Employee; and,
7. On the July 1 coinciding with or next following the insured Dependent's attainment of age 65.

LIFE INSURANCE BENEFITS FOR EMPLOYEES

A. DEATH BENEFIT

Immediately upon receipt of due proof of death of any Insured Employee while insured under the policy, the Company will pay to his beneficiary, subject to the provisions of the policy, the amount of Life Insurance specified in the Schedule of Benefits.

The provisions of the policy principally affecting the Insured Employee's Insurance are described in this certificate. All benefits are governed by and are subject in every respect to the provisions of the policy, which alone constitutes the agreement under which payments are made.

B. MODES OF SETTLEMENT

An Insured Employee may elect, by written instructions for settlement delivered to the Company, to have the whole or any part of the benefit paid upon his death to his beneficiary, in a fixed number of monthly payments, as set forth below. If no written instructions for settlement are in effect upon the death of the Insured Employee, his beneficiary may make such election.

No. of Years of Payment	Mo. Payment for each \$1,000 Applied
1	\$84.28
2	42.66
3	28.79
4	21.86
5	17.70
6	14.93
7	12.95
8	11.47
9	10.32
10	9.39

No. of Years of Payment	Mo. Payment for each \$1,000 Applied
15	6.64
20	5.27

If the Death Benefit is payable in a lump sum, such payment shall be made immediately upon receipt of proof of death. If monthly payments are elected, the first payment will be made immediately upon receipt of proof of such death. In no event may a period of years resulting in monthly payments of less than \$20.00 be elected.

If any beneficiary dies while receiving monthly payments under the policy, payment of the remaining amount shall be made in a lump sum to the estate of the beneficiary unless otherwise specified by the Insured Employee in written instructions for settlement.

The amounts payable in accordance with the above table are based upon interest at the rate of 2½ percent per year.

The Company may change the above table on any policy anniversary or on any date the provisions of the policy are changed, but the new table shall not apply to any claim pending under the policy before the date of the change.

C. BENEFICIARY

The beneficiary of an Insured Employee shall be designated by the Insured Employee in writing and the death benefit shall be payable in accordance with such designation.

If more than one beneficiary is named by the Insured Employee and the respective interests of each beneficiary have not been specified, the beneficiaries shall share equally.

If any named beneficiary predeceases the Insured Employee, the interest of such beneficiary shall terminate and shall be shared equally by each of the beneficiaries as survive the Insured Employee, unless such Insured Employee has made written instructions otherwise. If, however, there be no surviving named beneficiary, the amount of the death benefits shall be paid in one lump sum to the estate of the Insured Employee.

The Company, at its option, may pay an amount not to exceed \$1,000 of the Insured Employee's insurance to any person appearing to the Company to be equitably entitled to the payment because of expense incurred in connection with the last illness, death or burial of the Insured Employee.

If the beneficiary of the Insured Employee is a minor or is otherwise incapable of executing a valid release for any payment due, the Company, at its option, and until claim is made by the duly appointed guardian, committee, or other legally authorized representative of the beneficiary, may make payment of the proceeds otherwise payable to the beneficiary, at a rate not exceeding \$50 per month per \$1,000 of insurance in force not to exceed \$200 per month per beneficiary to any relative by blood or connection by marriage of the beneficiary, or to any other person or institution appearing to the Company to have assured custody and principal support of the beneficiary.

D. CHANGE OF BENEFICIARY

An Insured Employee who has not named an irrevocable beneficiary may change his beneficiary at any time without the beneficiary's consent by filing written notice of the change with the Employer, but the change shall not become effective under the policy unless the notice is received by the Company at its Executive Offices or by the State of Louisiana, Board of Trustees, State Employees Group Benefits Program, acting on behalf of the Company. Upon receipt of the notice by the Company, the change will take effect as of the date the notice was signed, but without prejudice as to any payment made before such change is recorded by the Company.

E. WAIVER OF PREMIUM DURING TOTAL DISABILITY

“Total Disability,” as used herein, means any disability of an Insured Employee commencing while such Insured Employee is insured under the policy and prior to his 65th birthday, which results from bodily injury or disease and which wholly and continuously prevents the Insured Employee from engaging in any occupation for wage or profit. This waiver-of-premium benefit is self-insured by the Board of Trustees, State Employees Group Benefits Program, for disabilities commencing on or after February 1, 1976.

Upon condition that due proofs be submitted to the Company, as specified hereafter:

1. That termination of employment of the Insured Employee occurred (a) while said Insured Employee was insured hereunder, (b) prior to the Insured Employee’s attainment of age 65, and (c) as a result of total disability as defined above; and

2. That the aforesaid total disability continued without interruption from the date of termination of employment until the date of death, provided the Insured Employee is not covered under the Waiver of Premium Provision of the prior carrier’s policy.

Then, upon receipt by the Company of due proofs of the Insured Employee’s death, the amount of Life Insurance in force on the life of the Insured Employee at the date of his death shall be paid to his beneficiary, provided, however, if an individual policy has been issued in conversion of such Insured Employee’s insurance and a death claim shall have been paid under that policy, no payment shall be made by the Company under the foregoing provisions of this Section, nor under any other provisions of the policy.

Initial proof of such total disability must be submitted within a period of 12 months immediately following the date of termination of employment. Thereafter, subsequent proof of continuance of such total disability must be submitted within each three months’ period immediately preceding each following policy anniversary of the date of termination of employment.

All proofs must be submitted in writing to the Company at its Executive Offices in Chicago, Illinois, or to the Board of Trustees, State Employees Group Benefits Program, acting on behalf of the Company. The Company shall have the right to have the Insured Employee examined at any time or times during such period of disability. If such disabled employee fails to submit proofs in the manner specified or the time required, or refuses to be examined when requested by the Company, then from that date, he shall not be entitled to benefits under this provision or any other provisions of the policy.

F. CONVERSION PRIVILEGE

Upon Individual Termination

If the insurance, or any portion of it, of any Insured Employee ceases because of termination of employment, termination of membership in a class eligible for insurance under the policy, or if the amount of Life Insurance in force for such Insured Employee under the policy decreases due to age as specified in the Schedule of Benefits, such Insured Employee shall be entitled to have issued to him by the Company, without evidence of insurability, an individual policy of life insurance (except term insurance) without disability or any other supplementary benefits. The Insured Employee may select any form of individual policy, except term insurance as stated above, that is customarily issued by the Company for any amount not in excess of the amount which is being terminated.

The Insured Employee must make written application for the individual policy, and the first premium must be paid to the Company within the 31-day period following the Insured Employee’s termination of employment, termination of membership

in a class eligible for insurance, or decrease in the amount of insurance in force due to age. Premiums for such individual policy shall be at the then customary rate applicable to the form and amount of the individual policy, to the class of risk to which such Insured Employee belongs, and to his attained age on the effective date of the individual policy.

Upon Termination or Amendment of Policy:

If the insurance of an Insured Employee terminates because the policy terminated or is amended to exclude the class of which the Insured Employee is a member, and if the Insured Employee has been continuously insured under the policy for at least five years before the termination date, such Insured Employee shall be entitled to have issued to him an individual policy of life insurance subject to the same conditions and limitations as provided under “Upon Individual Termination” above, except that the amount of such individual policy shall not exceed the lesser of:

- 1. The amount of insurance ceasing because of the termination, less any amount of life insurance for which the Insured Employee is or becomes eligible under any group policy issued or reinstated by the Company or by another company within 31 days after such termination date; or
- 2. \$2,000

Death Within Conversion Period:

If the Insured Employee dies during the period within which he would have been entitled to have an individual policy issued to him in accordance with the provisions of this Conversion Privilege and before an individual policy becomes effective, the amount of life insurance which the Insured Employee would have been entitled to have issued to him under the individual policy shall be payable as a claim under the policy, whether or not application for such individual policy or payment of the first premium therefor has been made.

If an Insured Employee is on Waiver of Premium, as provided in Sub-Section E above, when the policy terminates and he subsequently recovers, he will have the right to convert his insurance according to the provisions of the paragraph entitled “Upon Termination or Amendment of Policy”, in Sub-Section F, within 31 days after his complete recovery.

This Policy shall be in lieu of all other benefits under the policy.

ACCIDENTAL DEATH AND DISMEMBERMENT BENEFITS

(Insured Active Employees under age 70 only)

Upon receipt of notice and due proof that an Insured Employee has sustained any of the losses listed in the following Table of Losses, as a result of injury as defined herein, and within 90 days after the date of the accident, the Company will pay, subject to the terms and conditions hereof, the amount of insurance specified for any one such loss in accordance with the Principal Sum applicable to such Insured Employee as set forth in the Schedule of Benefits.

A. TABLE OF LOSSES

For the Loss Of:	The Benefit Will Be:
Life	The Principal Sum
Both Hands or Both Feet	The Principal Sum
One Hand and One Foot	The Principal Sum
Sight of Both Eyes	The Principal Sum
One Hand and Sight of One Eye	The Principal Sum
One Foot and Sight of One Eye	The Principal Sum
One Hand	One-Half the Principal Sum
One Foot	One-Half the Principal Sum
Sight of One Eye	One Half the Principal Sum

The term “Loss,” as used herein, with respect to hands or feet, shall mean loss by complete and permanent severance at or above the wrist or ankle joint and with respect to eyes shall mean the entire and irrecoverable loss of the entire sight thereof.