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Executive Orders

Louisiana, at the Capitol, in the City of Baton Rouge on this 5th day of April, 1988.

Buddy Roemer
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 88-12

WHEREAS, Act No. 38 of 1914 (now R.S. 41:98) vested the governor of Louisiana with authority to withdraw from sale or entry any of the vacant and unappropriated public lands and lake beds or bottoms belonging to the state, whenever, in his opinion, they appear to be more valuable for mineral than any other purpose, and to restore to sale or entry all withdrawn lands, at his discretion; and

WHEREAS, acting under the said authority, Honorable Ruffin G. Pleasant, then governor of Louisiana, by executive order issued on March 20, 1917, withdrew from public sale and entry all state lands, except those adjudicated to the state for non-payment of taxes; and

WHEREAS, Section 4 of Article IX of the Constitution of Louisiana of 1974 provides that in all cases the mineral rights on any and all property sold by the state shall be reserved, except where the owner or other person having the right to redeem may buy or redeem property sold or adjudicated to the state for taxes; and

WHEREAS, The Register of the State Land Office has recommended that the hereinafter described property be restored to sale, since the obvious and apparent motive for the withdrawal from sale or entry of the public lands was for the protection of the state in its ownership of the minerals underlying said lands, and because the Constitution now requires the reservation in all cases of the mineral rights on any and all property sold by the state, there is no longer any particular necessity when the lands hereinafter described should not be restored to sale;

NOW THEREFORE, I, BUDDY ROEMER, governor of the state of Louisiana, do hereby issue this, my executive order, restoring to sale the following described land, and directing that the same shall be sold under the provisions of Act No. 215 of 1908, as amended, (now R.S. 41:131 et seq.). Excepting and reserving, however, to the state of Louisiana all minerals in the land so patented, and to it, or those authorized by it, the right to prospect for, mine and remove such deposits from the same in accordance with Section 4 of Article IX of the Constitution of 1974. Excepted from the lands hereinafter described and not included in this sale, are the waters and beds of all bayous, lagoons, lakes and other water bodies, whether navigable or non-such property to a public purpose; like exception and exclusion are made of the waters and beds of all inland navigable waters, as well as arms of the sea, pursuant to the statutory, codal or constitutional law of the state, viz

1. A certain tract or parcel of land being that portion of Lot 2, Section 17, Township 6 North, Range 13 West, Sabine Parish, Louisiana, lying above the mean high water mark on Toledo Bend Reservoir containing one (1) acre more or less.

2. A certain tract or parcel of land being that portion of Lot 4, Section 29, Township 1 North, Range 11 West, Vernon Parish, Louisiana, containing two and one-half acres (2-1/2) more or less.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of

EXECUTIVE ORDER BR 88-13

WHEREAS, under Public Law 97-300 (the Job Training Partnership Act), Public Law 94-482 (the Vocational Education Act), and the Wagner-Peyser Act of 1933, the state is responsible for designing a cost-efficient labor market and occupational supply and demand and educational training support needs of the state; and

WHEREAS, the above-mentioned federal law governing funding for vocational education and job training requires the establishment of a state occupational information coordinating committee to receive federal funds; and

WHEREAS, Section 125 (a) of Public Law 97-300, the Job Training Partnership Act, requires the governor to designate an organizational unit to oversee and manage a statewide comprehensive labor market and occupational supply and demand information system; and

WHEREAS, Public Law 98-524, The Carl D. Perkins Vocational Education Act of 1984, amending Public Law 94-482, above mentioned, restructures the membership of the Louisiana Occupational Information Coordinating Committee;

NOW THEREFORE I, BUDDY ROEMER, Governor of the State of Louisiana, do hereby order and direct as follows:

SECTION I: The Louisiana Occupational Information Coordinating Committee (LOICC) is hereby established in the office of the secretary of the Department of Labor.

A. The committee shall be composed of the following statutory members:

1. The director of the division of rehabilitation services within the Department of Health and Human Resources, or its successor.

2. A representative of the State Board of Elementary and Secondary Education.

3. The assistant secretary of the office of employment security within the Department of Labor (Administrator).

4. The director of the Job Training Partnership Act program, representing the Governor's State Job Training Coordinating Council.

5. A representative of the Louisiana Department of Commerce representing Economic Development interests.

The LOICC, however is not restricted to the above five members but may have additional associate membership within the framework of its own bylaws.

B. The committee shall be responsible for planning, development and management of a statewide occupational information system. The committee shall coordinate with and serve as liaison to the National Occupational Information Coordinating Council and shall be exclusively responsible for the coordination of occupational information.

SECTION II: A. The office of the secretary of the Department of Labor shall be the organizational unit and fiscal agent

responsible for oversight of the statewide comprehensive labor market and occupational supply and demand information system.

B. The statutory members of the LOICC and the secretary of the Department of Labor or her designee shall approve the LOICC Basic Assistance Grant proposal submitted to the National Occupational Information Coordinating Committee, shall approve the Louisiana Supply-Demand report prior to its distribution, and shall approve all major contracts for service and any changes in basic operating policy.

SECTION III. Each state department and agency is directed to cooperate with the LOICC.

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 19th day of April, 1988.

Buddy Roemer
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

Emergency Rules

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Veterinary Medicine

April 14, 1988, pursuant to R.S. 37:1518A(9) and R.S. 49:954B(2), the Louisiana Board of Veterinary Medicine hereby adopts the following Emergency Rule:

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LXXXV. Veterinarians

Chapter 1. Board of Veterinary Medicine

§103. Meetings (amend)

A. The annual meeting for the year 1988 shall be held on the third Friday in May at the permanent office of the Louisiana Board of Veterinary Medicine at 2844 Fellsway Drive, Baton Rouge, Louisiana.

§303. Examinations (amend)

A-G. . . .

H. The state examination shall be administered on the third Saturday of May for the year 1988 in Baton Rouge, Louisiana.

The above emergency rules shall remain in effect through the completion of the state examination testing procedure.

John K. Cooper, DVM
Secretary-Treasurer

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of Eligibility Determinations

The Department of Health and Hospitals, Office of Eligibility Determinations has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953-B to adopt the following rule in the Aid to Families With Dependent Children (AFDC) Program.

It was necessary to adopt this as an Emergency Rule as federal regulations published in the *Federal Register*, Vol. 52, No. 247, Thursday, December 24, 1987 pages 48687-48689 mandate an implementation date of December 24, 1987.

RULE

Effective December 24, 1987, an alien meets the alien status requirement if he is granted lawful temporary resident status under Section 201 or 302 of the Immigration Reform and Control Act of 1986, (Pub.L. 99-603), if the alien is a Cuban or Haitian entrant, as defined in Section 501(e) of Public L. 96-442, or other than a Cuban or Haitian entrant who was granted temporary resident status more than five years prior to certification. An alien other than a Cuban or Haitian entrant granted lawful temporary status is subject to a five-year disqualification period which begins the date the lawful temporary resident status is granted even if his status changes to permanent within the five year period.

When determining eligibility, income of an alien parent who is disqualified is considered available to the otherwise eligible child by applying the stepparent deeming formula. The needs and income of disqualified alien siblings are not considered in determining the eligibility of an otherwise eligible dependent child.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Findings by the Commissioner of Insurance regarding the Louisiana Insurance Guaranty Association are as follows:

LSA-RS 22:1383 provides that if, at any time after the original submission of the Plan of Operation for the Louisiana Insurance Guaranty Association, the association fails to submit suitable amendments to the plan, the commissioner shall, after notice and hearing, adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of the Insurance Code.

The commissioner has reviewed the legislative, financial, operational and management history of the association since its inception and the commissioner has found that the association is in an immediate fiscal and management crisis. Further, the commissioner, upon his review of the association, has found that the current Plan of Operation is not suitable or able to meet the current needs of the association or to meet the current crisis.

On April 6, 1988, the commissioner recommended to the Board of Directors of the association certain revisions to the Plan of Operation. The Board of Directors at that time was short several members due to recent vacancies. The remaining directors indicated that they lacked the power under the Plan of Operation to make the necessary revisions to the plan.

On April 21, 1988, the association conducted the first annual meeting which it had held in over 14 years. On the agenda was the revision of the plan as suggested by the board. At this first-ever annual meeting of the association, the membership was unable to revise the plan to effectuate the changes necessary to fulfill the mandate of the association as established by the Louisiana Legislature. (The annual meeting was unable to be conducted because the association lacked the requisite number of members present or represented by proxy to form a quorum in order to conduct the business of the association.)

Therefore, it is the finding of the Commissioner of Insurance that this inability of the Louisiana Insurance Guaranty Association to so conduct its business has created imminent peril to the welfare of the general public because of the association's inability to fulfill its legislative mandate. Further, it is the finding of the Commissioner of Insurance that this imminent peril is best and most efficiently resolved by the promulgation of emergency rules under LSA-RS 49:953(B), which is not contemplated to be the permanent rules for the association. It is additionally the finding of the Commissioner of Insurance that should the association fail to submit the necessary revisions to the plan within a reasonable time, the commissioner will be required by LSA-RS 22:1383 to promulgate rules establishing the revised plan in accordance with LSA-RS 49:953, the Louisiana Administrative Procedure Code, which provides for notice and hearing. However, in the interim, the necessary revisions to the plan will be temporarily implemented by rules promulgated under the emergency provisions of the Louisiana Administrative Procedure Code.

This emergency rule shall be effective on Friday, April 22, 1988, and shall continue in effect for 120 days or as provided above.

REASONS SUPPORTING FINDINGS

1. The Louisiana Insurance Guaranty Association (Association) is, as created and empowered by the Louisiana Legislature, the re-insurer of last resort for the general public in Louisiana. When a property and casualty insurer becomes insolvent, the association is responsible for that insolvent insurer's then outstanding claims and future claims under the policies issued by that insurer. LSA-RS 22:1382.

2. The association's legislative mandate, under LSA-RS 22:1387 is to aid in the detection and prevention of insurer insolvencies. The Office of the Commissioner of Insurance has undertaken a preliminary review of the status of insurers operating in Louisiana and is very concerned at this time that there is presently existing an enormous potential of insolvent insurers currently operating in this state. The association has failed in its mandate to provide any aid or assistance to the commissioner in this area of detection and prevention of insolvencies.

3. Under Article 7 of the association's Plan of Operation, the association shall hold an annual meeting. The association has not held any annual meetings of the membership for 18 years, since the inception of the association by the enactment of LSA-RS 22:1375 et seq. (Acts 1970, No. 81).

4. On April 21, 1988, the membership of the association attempted to hold its first annual meeting. This attempt to

conduct an annual meeting proved ineffective and non-productive.

5. The association is currently assessing its membership the maximum allowable assessment under LSA-RS 22:1382(1)(c)(1). This assessment is currently, and has been for several years, insufficient to meet the demand placed upon these resources as provided under LSA-RS 22:1382(1)(a) and (1)(c).

6. The attempted annual meeting was held contrary to the plan and the previously mailed notice of that meeting. The plan provides that the annual meeting shall be held on April 30 or at other times as noticed. The notice announced that the meeting would be held at 10 a.m. on April 21, 1988. In fact, the meeting was called to order at 9 a.m. of that date in a room which was locked.

7. The Board of Directors of the association, during the attempted annual meeting, was unable to arrive at its own determination of how it intended to define membership in the association and was therefore unable to clearly determine whether there was a quorum of its membership. The board was unable to determine or define membership in the association.

8. During this attempted annual meeting, the information provided to the members actually attending proved to be both inaccurate and internally inconsistent.

9. The last audit review of the association and its activities discovered several serious and long-standing problems in both the fiscal management of the association's affairs and the association's operational controls.

10. At the attempted annual meeting, the Board of Directors of the association was unable to form a quorum and therefore unable to conduct its business.

11. There is no direct oversight or accountability for the day-to-day operations and management of the affairs of the association by the association.

12. The individuals currently conducting the day-to-day affairs of the association are not, nor have they ever been, direct employees of the association. Those individuals are independent contractors with what appears to be long-term contracts.

REVISED PLAN OF OPERATION

Article 1. Plan of Operation

This is the plan of operation, hereinafter referred to as the plan, for the Louisiana Insurance Guaranty Association, hereinafter referred to as the association, as specified under Section 1383. All section references herein shall be to sections of the Louisiana Insurance Code.

Article 2. Board of Directors

A. There shall be a board of directors in accordance with the provisions of Section 1381.

1. The board of directors shall consist of five persons. The newly elected members shall be selected from those persons whose nominations have been previously submitted by member insurers.

2. Any member insurer may submit a nomination for membership to the board of directors 30 days in advance of such election. The existing board of directors shall establish procedures by which member insurers are notified of vacancies to the board of directors in order to encourage participation by all member insurers in the nomination process.

3. Upon receipt of nomination for membership to the board of directors, the association shall notify the Commissioner of Insurance of those nominations and request his written approval to fill the vacancies in the board of directors. Directors shall serve staggered three-year terms based on the original filling

of their seat, subject to the ongoing written approval of the Commissioner of Insurance. In approving selections to the board, the commissioner shall consider, among other qualifications, whether all member insurers are fairly represented.

4. Vacancies on the board of directors shall be filled by the Commissioner of Insurance for the remaining period of the term.

5. The board of directors shall elect a chairman and such other officers as may seem desirable from among its members, each to serve for a period of one year.

B. A majority of the board shall constitute a quorum for the transaction of business and the acts of a majority of this quorum shall be acts of the board. Each board member shall be entitled to one vote and shall be permitted to vote by proxy.

C. The board shall hold an annual meeting at the office of the Insurance commissioner on the last Thursday in April of each year, unless the board upon proper notice shall designate some other date or place. At each annual meeting the board shall:

1. Review the plan and submit any amendments it may deem appropriate to the membership for adoption by a majority of member insurers at the annual meeting of member insurers or at any special meeting called for said purpose. Each member insurer shall be entitled to one vote in adopting an amendment to the plan and shall be permitted to vote by proxy. Such amendments shall be effective upon written approval of the commissioner.

2. Review each outstanding contract with servicing facilities and make any necessary corrections, improvements or additions.

3. Review operating expenses and covered claim costs and determine if an assessment, or a refund of a prior assessment would be appropriate and, if so, the amount thereof. The board shall levy any such assessment or make any such refund in accordance with Section 1382 (1) (C) and 1382 (2) (F).

4. Review, consider and act on any other matters it may deem appropriate.

D. The board shall hold a meeting promptly after receiving notice from the commissioner of the insolvency of any member insurer. At such a meeting or at any subsequent meeting the board shall consider and decide:

1. What method or methods, as permitted under Section 1382 (1) (F) shall be adopted to pay and discharge covered claims of the insolvent insurer, but in no event shall an insolvent insurer be appointed as a servicing facility. If the board decides to contract, subject to the written approval of the Commissioner of Insurance, with a servicing facility, the board shall seek to secure the receiver's, liquidator's or statutory successor's participation in such contract to assist the association in the performance of its legally imposed duties. The association shall pursue all recoveries permitted to the insolvent insurer.

2. What immediate action, if any, should be taken to assure the proper retention of the records of the insolvent insurer necessary to the prompt, economical handling by the association of the covered claims. In this effort the board, or a designated servicing facility, shall work with the receiver, liquidator or statutory successor and seek his approval of having the board, or a designated servicing facility, take direct physical control of that portion of the insolvent insurer's records deemed by the board to be necessary for the discharge of its duties imposed by law.

3. To what extent and in what manner the board shall review and contest settlements and releases or judgments, orders, decisions, verdicts and findings to which the insolvent in-

surer or its insureds were parties in accordance with Sections 1382 (D) and 1392.

4. What assessment, if any, should be levied upon member insurers. If such assessment is determined to be necessary, the board shall levy such assessment in accordance with Section 1382 (1) (C).

5. What steps, permitted by law, are deemed necessary to protect the association's rights against the estate of the insolvent insurer.

6. Any other matters it may deem appropriate.

E. The board may schedule such other regular meetings as it may deem appropriate. Special meetings of the board may be called by the chairman, may be called at the request of any two board members, or may be called by the commissioner by so informing the secretary of the association. Not less than five days written notice shall be given to each board member of the time, place, and purpose or purposes of any special meeting. Any board member not present may consent in writing to any specific action taken by the board. Any action approved by a majority of board members at such special meeting at which a quorum is present, including those consenting in writing, shall be as valid a board action as though authorized at a regular meeting of the board. At such meeting the board may consider and decide any matter it may deem appropriate.

F. By a majority vote of the board of directors of the association, the board may adopt amendments to this plan of operation, but these amendments are subject to the approval of the commissioner prior to such amendments becoming effective.

G. Members of the board shall serve without compensation; but, they may be reimbursed for expenses incurred by them as members of the board of directors.

Article 3. Operations

A. The official address of the Association shall be: Box 94214, Capitol Station, Baton Rouge, LA 70804, unless otherwise designated by the board.

B. The board shall employ a person to act as executive director of the board. The executive director shall have an office, a secretary and may have other staff as necessary for the performance of his duties. The board of directors shall retain the executive director subject to the approval of the Commissioner of Insurance, who may remove him at his pleasure. The powers of the executive director shall be as follows:

1. Act for the board of directors, oversee and manage the day-to-day affairs of the association.

2. Act as secretary to the board and keep true and faithful minutes of the meetings of the board of directors of the association.

3. Prepare reports as to the operation of the association for review and comment by the board and further dissemination to the membership at the direction of the board.

4. Retain such counsel and other professionals required for the purposes of advising him in regards to the business of the association and/or the defense of the associations' assets or the prosecution of any claims that the association may have arising out of its normal activities and/or insolvencies of its members or to defend any claims against the association of its assets.

5. To settle claims made against the assets of the association that do not exceed the amount of \$10,000 and authorize the expenditure of funds of the association for the purposes of such settlements.

6. Gather all information and receive all reports and information from any servicing facility retained by the association, to

review same and report to the board on a regular basis in regards to the activities of such servicing facility and further to advise the board on the continued necessity of any such servicing facility.

7. To monitor the investments of the assets of the association and to manage same in a fashion that benefits the association and to report to the board of directors on a regular basis in regards to the condition of the association's assets and the investments of same.

8. To execute and/or endorse checks, drafts, etc. for the purposes of exercising his duties enumerated herein.

9. To direct the day-to-day activities of his staff and/or any other staff retained by the association, as well as the activities of any counsel, accountant or other professional, or the members of any servicing facility in the performance as they relate to the business of the association.

C. The board of directors shall determine the annual salary of the executive director and supporting staff. The board shall further adopt policies for the annual review of the performance of the executive director and staff members.

D. Should the position of executive director be unfilled, because of the board's inability or unwillingness to do so, or become vacant thereafter, the Commissioner of Insurance shall appoint an interim executive director until the board names a new executive director in accordance with this Article.

E. The board may open one or more bank accounts for use in association business. Reasonable delegation of deposit and withdrawal authority to such accounts for association business may be made consistent with prudent fiscal policy. The board may borrow money from any person or organization including a member insurer, or from an appointed servicing facility as the board may deem appropriate.

F. The board may levy an assessment to cover the reasonable costs of administering the association.

G. The board may contract with one or more persons, firms or corporations to act as servicing facilities should the board receive notice from the commissioner of the insolvency of a member insurer. The designation of a servicing facility is subject to the approval of the commissioner, but such designation may be declined by a member insurer. Such contract terms may include:

1. terms of payment to the servicing facility;
2. extent of authority delegated to the servicing facility;
3. procedures for giving the receiver, liquidator or statutory successor timely notice, sufficient to protect the association's right of subrogation against him, of each and every covered claim not otherwise reported to him;
4. procedures contemplated for the handling of covered claims as defined in the Louisiana Insurance Guaranty Association Act. These procedures shall include the right to request from or offer to any person arbitration of his covered claim;
5. procedures for the printing or preparation of forms necessary for the proper handling of covered claims;
6. requirement of bond for faithful performance;
7. any other provisions deemed appropriate by the board of directors.

H. The board shall review and approve by majority vote claim settlements to be made by the association or its agents of \$10,000 or more.

I. In order to effectuate the purposes set forth in Section 1387 of the Act, prevention of insolvencies, the board shall develop procedures for discovering and reporting any member that may be insolvent or in a financial condition hazardous to the

policyholder's interests or the public interest. No such reports shall be considered public documents. The board of directors, at its annual meeting, or at any other meeting called for this purpose, shall review the insurance code and regulations with a view toward making recommendations to the commissioner for the detection and prevention of insurer insolvency. The association shall develop forms for reporting and shall report the history and cause of each insolvency processed and shall maintain a continuing file of such reports.

J. On a periodic basis as determined by the commissioner, the association shall be examined by the commissioner or his authorized agents in the manner required by the commissioner. Should the association undertake a self-examination, prior to the acceptance and publication of that self-examination, the draft report shall be submitted to the commissioner for approval.

Article 4. Records and Reports

A. A written record of the proceedings of each board meeting shall be made. The original of this record shall be retained by the executive director with copies being furnished to each board member and the commissioner.

B. The board shall make an annual report to the commissioner and to the member insurers not later than March 30 of each year. Such report shall include a review of the association's activities and an accounting of its income and disbursements for the past year in a form approved by the commissioner.

C. After the appointment of a receiver, liquidator or statutory successor and the levy of an assessment by the association, the board shall, once every year, appoint the three member insurers having the largest premium volume in the state of Louisiana who are not members of the board to serve as audit committee. An alternate member insurer may be appointed by the board should any of the aforementioned three member insurers be unable to serve. Such committee shall see to the proper auditing of all of the books and records of the association and shall report its findings to the board and to the commissioner.

Article 5. Membership

A. Insurers which were admitted as of September 1, 1970 to transact the kinds of insurance covered by the Louisiana Insurance Guaranty Association Act in the state of Louisiana shall be members of the association. Each insurer admitted after September 1, 1970 to transact the kinds of insurance covered by the Louisiana Insurance Guaranty Association Act shall automatically become, effective on the date of its admission, a member of this association. An insurer which ceases to be admitted after September 1, 1970 automatically ceases to be a member effective on the day following the termination or expiration of its license to transact the kinds of insurance covered by the Louisiana Insurance Guaranty Association Act; provided that such insurer shall remain liable for any assessments based on insolvencies occurring prior to the termination of its license.

B. Any member insurer aggrieved by any final action or decision of the association may appeal to the commissioner within 30 days after said action or decision.

Article 6. Indemnification

A. Any person described in Section 1391 shall be indemnified by the association against all expenses incurred in the defense of any action taken or not taken by him in the performance of his powers and duties under the Louisiana Insurance Guaranty Association Act, unless such person shall be finally adjudged to have committed a breach of duty involving gross

negligence, bad faith, dishonesty, willful misfeasance or reckless disregard of the responsibilities of his office. In the event of settlement before final adjudication, such indemnity shall be provided only if the association is advised by independent counsel that such person did not, in counsel's opinion, commit such a breach of duty.

B. The expenses of such indemnification shall be prorated and paid for by the members in the proportion that the Louisiana net direct written premiums of each member insurer for the calendar year preceding commencement of such action, suit or proceeding bears to the Louisiana net direct written premiums of all member insurers for the preceding calendar year.

C. This article is intended to operate as supplement and additional safeguard to, and not in place of, the immunity granted by Section 1391.

Article 7. Annual and Special Meetings of Member Insurers

A. An annual meeting of member insurers shall be held on the last Thursday of April of each year at the Office of the Insurance Commissioner, unless the board upon proper notice shall delegate some other date or place.

B. Special meetings of member insurers shall be called by the secretary, pursuant to direction of the chairman of the board or a resolution of the board of directors. Calls for special meetings shall specify the time, place, object or objects thereof.

C. The commissioner shall maintain and provide to the secretary of the association upon request the official listing of the current member insurers of the association.

D. The commissioner may call special meetings of the membership of the association by so notifying the secretary who shall immediately provide the required notice to all members.

E. A written or printed notice of the annual or any special meetings of member insurers stating the time and place, and in the case of special meetings, the objects thereof, shall be given to each member insurer by mailing same to its address as it appears on the records of the association, at least ten and not more than 60 days before any such meetings provided, however, that no failure or irregularity of notice of any annual meeting shall invalidate the same or any proceedings thereat.

F. A majority in number of the combined voting power of the association, in person or by proxy, shall be requisite to constitute a quorum at any meeting of the member insurers.

G. Any member insurer entitled to vote at a meeting of member insurers may be represented and vote thereat by proxy.

Article 8. Conformity to Statute

The Insurance Guaranty Association Act as written, and as may be amended, is incorporated as part of this plan.

Douglas Green
Commissioner of Insurance

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of Juvenile Services

The Department of Public Safety and Corrections, pursuant to the authority contained in R.S. 49:950 et seq., adopted permanent rules relative to the custody, classification and assignment of juveniles on January 20, 1988. The adoption of those rules was necessitated by Act 57 of the 1987 Regular Legislative

Session which amended the Code of Juvenile Procedure Art. 86(F) and R.S. 15:901(C), (D) and (E).

Act 57 provides that the Department of Public Safety and Corrections has sole custody of a child committed to the department and has full responsibility and authority to assign and reassign offenders in its custody to the program best suited to meet the offender's needs. The rules adopted on January 20, 1988, established procedures for the assignment and reassignment of juvenile offenders disposed by the juvenile court to the custody of the Department of Public Safety and Corrections.

The Department of Public Safety and Corrections has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953B, to revise the rules promulgated on January 20, 1988, to provide for a more efficient and effective means of assigning and reassigning juveniles committed to the custody of the department. The Department of Public Safety and Corrections finds that revision of these rules is necessary to avoid an imminent peril to public health, safety and welfare. Permanent revisions of these rules will be promulgated by the Department of Public Safety and Corrections at a later date with opportunity for public comment.

This emergency rule provides for revision of the procedures for the assignment and reassignment of juvenile offenders disposed by the juvenile court to the custody of the Department of Public Safety and Corrections, and is effective immediately upon publication.

The rules adopted on January 20, 1988, are amended as follows:

Title 22 CORRECTIONS, CRIMINAL, JUSTICE AND LAW ENFORCEMENT

Part 1. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter A. General

§308. Juvenile Offender Custody, Classification and Assignment

A. Purpose

To establish procedures for the assignment and reassignment of juvenile offenders disposed by the juvenile court to the custody of the Department of Public Safety and Corrections.

B. General

1. The assignment of juvenile offenders in the custody of the Department of Public Safety and Corrections shall be based upon a classification of the risks and needs presented by the offender. This classification shall be based upon ascertainable events and behaviors and shall be provided for all juvenile offenders in the custody of or supervised by the Department of Public Safety and Corrections, Office of Juvenile Services.

2. The reassignment of offenders in agency custody shall be clearly based upon the documented needs of the offender and the risks presented and not solely upon the established duration of the treatment program.

3. The offenders and the offenders' family or guardian shall be informed of the alternatives and outcomes of the assignment or reassignment and be included in the treatment/service plan.

4. At all times the services provided the offender shall be part of a written treatment/service plan. Each offender's treatment/service plan shall be regularly reviewed as per OJS policy, to assure that the most appropriate services are being provided, within the least restrictive setting available.

C. Definitions

The following definitions apply within the context of this document.

1. *Appeal* - the process by which offenders may initiate a further review of the assignment decision to secure custody.
2. *Assessment* - the process of gathering the necessary social, legal, psychological, behavioral, and educational information about the juvenile offender to indicate the appropriate level of care and custody.
3. *Assignment* - the process of placing the custody of offender in the available treatment program most appropriate to his/her indicated needs and risks.
4. *Classification* - the process by which the juvenile offender is assessed relative to needs and risks presented.
5. *Non-Secure Custody* - includes services and programs available to custody offenders which are less restrictive than those provided in a secure custody setting.
6. *Reassignment* - the authorized move of a custody offender from one treatment program to another.
7. *Reclassification* - the process by which juvenile offenders have their needs and risk assessments reviewed and rescored based upon observable events and behavior.
8. *Release* - the termination, either by court order or expiration of a court order, of Department of Public Safety and Corrections' custody of a juvenile offender.
9. *Secure Custody* - the highest level of custody indicating a maximum (within law) restriction of a juvenile offender's rights, or freedoms.
10. *Staffing* - the process by which a team of professionals reviews, discusses, and plans, along with the offender, for best meeting the offender's identified needs.
11. *State Level Review Panel* - a multi-disciplinary team charged with the responsibility of reviewing referrals for an offender's discharge from a juvenile correctional institution to a less restrictive placement or early release.

D. Minimal Procedural Requirements

1. Predispositional or disposition modification recommendations to the court concerning Department of Public Safety and Corrections custody of offenders.

In all cases, Office of Juvenile Services staff recommendations to the court for an offender to be placed in the custody of the Department of Public Safety and Corrections shall be preceded by a case staffing. Documentation of the staffing proceedings and final recommendations shall be maintained in the offender's case record. Recommendations for Department of Public Safety and Corrections custody of offenders not currently or previously having received services in the community shall be supported only by the most stringent circumstances of risk and/or need. The final committee recommendations shall be fully supported by information presented at the staffing and be included in the report to the court.

2. Offender Classification and Assessment

a. If the initial case staffing supports a recommendation for Department of Public Safety and Corrections custody, then the committee shall also conduct a classification staffing in order to determine the appropriate level of custody necessary to conduct a full assessment of the offender's risks and needs. The level of custody may be secure or non-secure. This custody level decision shall be supported by the offender's risks and needs classification, by the available social and behavioral history, as well as by any previous history of treatment or supervision. Results of the classification staffing should be submitted to the court along with the earlier recommendation for custody.

b. For those offenders disposed to Department of Public Safety and Corrections custody without prior study and recommendation by Office of Juvenile Services staff, the classification staffing shall be held within 15 working days of disposition and receipt of all available information from the court, and except in cases of emergency before assignment of the offender to a program of treatment/services.

c. Upon completion of assessment an assignment staffing is held in order to determine the need for a secure or non-secure, setting for treatment.

3. Offender Assignment

a. Offenders in the custody of Department of Public Safety and Correction whose classification and assessment indicate need for treatment services in a non-secure custody setting shall be referred for placement at treatment facilities and programs ranging from in-home services to residential care and to hospitalization as treatment needs indicate. In all cases, assignment will be made to the least restrictive environment available and appropriate to address offender needs and risks as determined by a case staffing.

b. Following assessment in a secure setting, the offender may be assigned to the secure custody facility most appropriate to meet the offender's needs and risks or if a secure custody setting is not able to address the offender's needs, a referral may be made to the director of the Division of Evaluation and Placement for placement in an alternate setting.

c. An appeal of a secure custody assignment is available as per procedures that follow this rule.

4. Case Review and Reclassification

a. All offenders disposed to Department of Public Safety and Corrections custody shall as a function of the case management process have developed an individual case plan. This case plan is developed in conjunction with the offender, his family and other resources to address those needs identified in the classification staffing. Periodic review of the case plan shall be provided as per OJS policy and procedure. As a function of this case review, the offender shall be reclassified. As a result of reclassification and staffing, the current assignment to a program for services may be changed. The offender could also be determined to be eligible for a recommendation for release from custody.

b. Case review and reclassification of custody offenders shall be accompanied in all instances by a staffing. Offenders being provided supervision by OJS staff and for whom reclassification indicates that agency custody should be pursued must be staffed and, if indicated, brought to court for action on this recommendation. Only the court can assign an offender to agency and custody. Case review and reclassification of offenders in custody and assigned to non-secure programs may result in a recommendation for release from custody. Such recommendation shall be made to the court for consideration and disposition. No offender shall be released from agency custody except by court order.

c. Offenders in agency custody and assigned to secure custody facilities may also be recommended for release following reclassification and staffing and as per OJS policy.

d. Custody offender reassignments to higher or lower levels of custody and care may be undertaken by the agency following reclassification and staffing. The offender, family, court and other involved parties shall be notified of the reassignment within five working days of the reassignment. Such transfers shall be fully supported by information included in the reclassification and staffing and be documented in the case record. Reassign-

ment of offenders in agency custody to a higher level of care in non-secure custody settings may be effected by the agency upon the final staffing recommendations.

e. Delinquent offenders in agency custody may be reassigned from non-secure to secure custody settings based upon documented findings of reclassification and staffing.

E. Appeal of Secure Custody Assignment

a. available to offenders assigned to secure custody following assessment;

b. offender must notify the superintendent of the request for appeal in writing, within five working days of notice of custody assignment;

c. superintendent notifies OJS Headquarters of the appeal request and schedules an appeal hearing;

d. a hearing officer assigned by OJS conducts an appeal hearing at the facility;

e. the offender is allowed to present information in his behalf and may be represented by someone of his choice; or will have a representative appointed by the superintendent;

f. the hearing officer considers the offender's statements and information as well as the information presented in the offender's case record and classification documents;

g. the hearing officer's decision is issued to the offender, his representative and the superintendent within five working days of the appeal hearing and is final.

Bruce Lynn
Secretary

DECLARATION OF EMERGENCY

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

Pursuant to R.S. 49:953(B) and Act 6 of the First Extraordinary Session of the 1988 Legislature and the governor having made a declaration of emergency, the Department of Public Safety and Corrections, Office of Motor Vehicles, has exercised the emergency provisions of Act 6 and the legislative authority of LSA 47:503 to adopt the following rule for the renewal of registration of motor vehicles.

In addition to the registration or license tax on motor vehicles, there shall be a fee of \$5.33 to cover the costs of the operation of processing of renewals. This rule becomes effective April 30, 1988 and shall remain in effect until June 30, 1988.

The above handling fee will offset the total operational costs for vehicle registration renewals of \$1,384,126 by generating anticipated revenues of \$1,384,201.

Jim Morris
Secretary

DECLARATION OF EMERGENCY

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

Pursuant to R.S. 49:953(B) and Act 13 of the First Ex-

traordinary Session of the 1988 Louisiana Legislature, enacting R.S. 39:55.2 relative to imposing or increasing fees or charges by rule, the governor having declared a fiscal emergency, the commissioner of administration having given his written approval on April 18, 1988, the following fee increases, or handling fee charges, are hereby published:

Effective July 1, 1988, and permanently thereafter, the handling fee of \$5.33 each will be charged on each of the following transactions of the Department of Public Safety and Corrections, Office of Motor Vehicles.

**HANDLING FEES ON
OFFICE OF MOTOR VEHICLES TRANSACTIONS**

Driver's Licenses

New Applications
Renewals
Duplicates

Identification Cards

New Applications
Renewals
Duplicates

Vehicle Registration

New vehicle or out-of-state (tax, title and license)
Permit to sell
Transfer of Ownership (multiples included) (tax, title and license)
Record and cancel mortgage (\$18.50 title - \$5 mortgage)
(Currently no title fee is charged)
Lost plate and sticker
Conversion of license plate
Renewals
Duplicate title

The above handling fee will offset the total operational costs of \$15,659,680 for the above transactions by generating anticipated revenues of \$15,670,200.

Jim Morris
Secretary

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

In accordance with the emergency provisions of R.S. 49:953(b), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497, the Louisiana Wildlife and Fisheries Commission does:

1. Hereby set the 1988 Spring Inshore Shrimp Season to open in Shrimp Management Zone 1 (from South Pass of the Mississippi River to the Louisiana-Mississippi State Line) at 6 a.m. on May 16, 1988.

2. Hereby set the 1988 Spring Inshore Shrimp Season to open in Shrimp Management Zone 2 (from South Pass of the Mississippi River to the Western Shore of Vermilion Bay and Southwest Pass at Marsh Island) at 6 a.m. on May 16, 1988.

3. Hereby set the 1988 Spring Inshore Shrimp Season to open in Shrimp Management Zone 3 (from the Western Shore of Vermilion Bay and Southwest Pass at Marsh Island to the Louisiana-Texas State Line) at 6 a.m. on May 16, 1988.

4. Authorize and empower the secretary of the Depart-

ment of Wildlife and Fisheries to close the 1987 Inshore Shrimp Season in any area where the season needs to be closed to protect forthcoming white shrimp crop as defined in R.S. 56:497.

5. Provide that the secretary of the Department of Wildlife and Fisheries give a minimum of 72 hours notice prior to the closing of the 1987 Spring Shrimp Season or the opening of any special season.

Virginia Van Sickle
Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with the emergency provisions of R.S. 49:953(b), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:325.4, the Louisiana Wildlife and Fisheries Commission does:

1. Hereby declare the red drum commercial fishery closed until midnight, August 31, 1988, effective at midnight May 14, 1988.

2. Prohibit the commercial harvest, purchase, barter, trade and sale of red drum taken from Louisiana waters after the effective date of this closure.

3. Hereby declare that all commercial dealers possessing red drum taken legally prior to the date of closure shall maintain appropriate records in accordance with LSA R.S. 56:306.4, with said closure remaining in effect until midnight, August 31, 1988.

Virginia Van Sickle
Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with the emergency provisions of R.S. 49:953(b), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons and R.S. 56:325.3, the secretary of the Department of Wildlife and Fisheries pursuant to a resolution passed by the Louisiana Wildlife and Fisheries Commission on April 29, 1988 in New Orleans, Louisiana does:

1. Hereby declare the spotted seatrout commercial fishery closed until midnight, August 31, 1988, effective at midnight May 6, 1988.

2. Prohibit the commercial harvest, purchase, barter, trade and sale of spotted seatrout taken from Louisiana waters after the effective date of this closure.

3. Hereby declare that all commercial dealers possessing spotted seatrout taken legally prior to the date of closure shall maintain appropriate records in accordance with LSA R.S.

56:306.4, with said closure remaining in effect until midnight, August 31, 1988.

Virginia Van Sickle
Secretary

Rules

RULE

Department of Commerce Racing Commission

The Louisiana State Racing Commission hereby adopts rule LAC 35:XV.12336 "Off-Track Breakage" as follows:

Title 35

HORSE RACING

Part XV: Off-Track Wagering

Chapter 123. General Rules

§12336. Off-Track Breakage

When actual statistics are unavailable to determine breakage from wagering at an off-track wagering facility, the breakage to which an off-track wagering facility is entitled by law shall be in an amount proportionate to the amount wagered at such off-track wagering facility to the total handle at the host track, including the amount wagered at such off-track wagering facility. When statistics are available, the amount of such breakage shall be as provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission, LR 14 (May, 1988).

Albert M. Stall
Chairman

RULE

Department of Commerce Racing Commission

The Louisiana State Racing Commission hereby adopts Part XV: Off-Track Wagering of Title 35: Horse Racing, §12101 through §12519 as follows:

Title 35

HORSE RACING

Part XV. Off-Track Wagering (New Part)

Chapter 121. Definitions

§12101. Definitions

Decoder: means a device and/or means to convert en-

rypted audio-visual signals and/or data into a form recognizable as the original content of the signals.

Employee of an off-track wagering facility: means an employee, agent and/or other person(s) acting for and on behalf of the licensee when present on or about or in furtherance of the operation of the off-track wagering facility.

Encryption, encrypted, encoded: means the scrambling or other manipulation of the audio-visual signals to mask the original video content of the signal and so cause such signals to be indecipherable and unrecognizable to any person receiving such signal.

Host or host association: the racing association that actually conducts horse racing, and from whose premises simulcast races originate.

Licensee of an off-track wagering facility: means the entity or racing association owning and/or conducting an off-track wagering facility, including its officers.

Off-track wagering facility: the physical premises and/or business which conducts and offers pari-mutuel wagering to the public on live televised horse races which are held at any premises of a racing association licensed by the commission.

Simulcast or simulcasting: when used with this Part, means the transmission of broadcast-quality television audio and visual signals from a pari-mutuel facility to a licensed and authorized off-track wagering facility simultaneously with the running or transmitting of horse racing events at the pari-mutuel facility, and includes the transmission of pari-mutuel wagering odds and other information and programming as is customarily displayed to patrons at the host association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

Chapter 123. General Rules

§12301. Authority of Commission

The licensee and the employees of an off-track wagering facility must be licensed by the commission, and shall be subject to the laws of Louisiana and the rules of racing as promulgated by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12303. Proprietary Rights

Except as otherwise provided and/or as expressly provided herein, nothing contained in the rules governing off-track wagering shall in any way affect or be construed to expand, reduce, limit or modify the proprietary rights of a licensee of an off-track wagering facility authorized to operate and/or conduct off-track wagering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12305. Impermissible Conduct

At any off-track wagering facility, no person shall:

A. use improper, profane or indecent language to any racing official;

B. in any manner or at any time, disturb the peace or make himself or herself obnoxious to others;

C. make a handbook or foreign book, or solicit for or bet with a handbook or foreign book.

If any licensee or employee of an off-track wagering facility shall solicit bets or wagers from a customer, invitee or other member of the public other than through the pari-mutuel wager-

ing system, any or all of them may have their license(s) suspended or revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12307. Complaints Against Officials

Complaints against a racing official at an off-track wagering facility shall be made to the commission in writing, at its offices, and be signed by the complainant. Complaints against a steward or such other person designated by the commission shall be made in writing to the commission and signed by the complainant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12309. Strikes

Any person, licensed by the commission, causing, creating or lending to the incitement of a strike, or who, through compulsion, harasses or embarrasses the commission, off-track wagering facility licensee or any agency connected with racing shall be cited to appear before the commission to show cause why his or her license should not be suspended or revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12311. Minors

No person under the age of 18 shall be admitted to any off-track wagering facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:214(H) and R.S. 4:211-222.

§12313. Ejections

Any person may be excluded or ejected from an off-track wagering facility by the licensee if he or she is included in any category of persons provided in LAC 35:1801, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:191-197 and R.S. 4:211-222.

§12315. Employee List; Identification Badges

A licensee of an off-track wagering facility shall furnish to and keep current with the commission, a list of the names of employees at its off-track wagering facility and their specific duties. Each employee of an off-track wagering facility shall possess and display an identification badge on his or her outer garments during the entire period of his or her daily employment at the off-track wagering facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12317. Facility Racing Officials

The following racing officials employed by an off-track wagering facility shall be approved in writing by the commission: private police or security agencies; mutuel managers, calculators and supervisors; and any such other persons as the commission may designate. Should any change of these officials occur or be anticipated, the off-track wagering facility must get prior approval from the commission at least ten days before such change, except as provided in LAC 35:1907. The off-track wagering facility must submit in writing the time and reason for the change and furnish a resume of the replacement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12319. Minors as Employees

No person under the age of 18 years shall be employed in or on any off-track wagering facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:214(H) and R.S. 4:211-222.

§12321. Access by Commissioners

Members of the commission and its designated representatives shall have the right to full and complete entry to any and all areas of an off-track wagering facility. All off-track wagering facilities shall recognize buttons of the National Association of State Racing Commissioners and commission parking permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12323. Non-Pari-Mutuel Wagering

Wagering within the confines of an off-track wagering facility other than through pari-mutuel machines is strictly prohibited. Any person making a handbook or wagering with a handbook, or soliciting bets to be made on races received at the off-track wagering facilities or on races elsewhere, shall be ejected from an off-track wagering facility and denied any further admission. No gaming device, other than that permitted by law, shall be allowed within an off-track wagering facility. Cards, dice and petty games of chance are prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12325. Telephones and Telegraphs

Off-track wagering facilities may be allowed telephones for the transaction of ordinary business, and may also allow telegraph wires for the benefit of the press. However, no information regarding the results of any race shall be transmitted until such race results are official, nor shall any message transmitting money, or other things of value, or directing the placing of any wager, be sent over the telegraph wires. Nor shall any message be sent in any type of code or any form other than in plain and intelligible English, under penalty of license revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12327. Prohibited Transmission Equipment

Possession or control by any person on the premises of any off-track wagering facility of electronic or communications equipment or device capable of transmitting or communicating 1) the results of any race, 2) any information with respect to odds and/or track conditions in connection with a race, 3) any information about jockeys or equipment to be used in a race, and/or any other information concerning a race, to another person, firm or corporation located outside of the licensed area of an off-track wagering facility is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12329. Simulcast Video Transmission

A. Every simulcast shall be encrypted using a time displacement decoding algorithm encryption system.

B. Not less than 30 minutes prior to the commencement of the transmission of each racing program, the host association shall initiate a test program of its transmitter, encryption, decoding and data communication to assure proper operation of the system.

C. Every simulcast shall contain a digital display of the actual time of day, the name of the race track from where it emanates, the number of the race being displayed, and the sequential fractional time of the race as the race is being run.

D. The host association shall retain a video record of all simulcasts, in decoded form, and shall provide a copy of such record on girth a 1/2" or 3/4" video cassette when requested by the commission.

E. Each host association is responsible for the contents of its simulcast and shall use all responsible efforts to present a simulcast which offers viewers an exemplary depiction of its racing program, a periodic display of wagering information and continuity programming between horse racing events.

F. The transmission of data between the totalizator system at the host association and the remote terminals at the off-track wagering facility shall be independent of the simulcast transmission. A separate point-to-point leased data communications line, using either analog or digital transmission methods, shall be required between the host association and each off-track wagering facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12331. Simulcast Audio Transmission

Each off-track wagering facility shall have the capability to deliver the simultaneous audio transmission of a race to the facility in the event that the simulcast of the racing program is interrupted. The transmission of only the audio description of the racing program to the off-track wagering facility must be approved by the commission or its designee, except when prior approval is not possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12333. Security Controls

Each host association and off-track wagering facility shall maintain such security controls over video and audio simulcasts as directed by the commission or its authorized agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12334. Licensee's Authority to Make Rules

Consistent with law and this Part, a licensee shall have the authority to adopt rules and regulations governing its methods of paying pari-mutuel ticket holders at its off-track wagering facility. Rules and regulations adopted by a licensee of an off-track wagering facility shall be prominently displayed in such facility after approval thereof by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12335. Wagering Pools

The wagering pools offered by an off-track wagering facility licensee shall be combined with those wagers placed at the facility of the host association providing the racing program so as to produce common pari-mutuel betting pools for the calculation of odds and the determination of payout from such pools, which payout shall be the same for all winning tickets irrespective of where the wager is placed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12337. Totalizator Equipment

Each off-track wagering facility shall use electronic totalizator equipment. The totalizator shall calculate and display the total amounts wagered on each betting interest each 60 seconds prior to the start of the race. The totalizator shall be designed so that the ticket issuing machine shall be automatically locked at a time prior to the start of the race to be determined by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12339. Close of Wagering

The locking of all ticket issuing machines shall be noted by the ringing of the off-bell at the off-track wagering facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12341. Pari-Mutuel Tickets

Pari-mutuel tickets utilized at an off-track wagering facility shall use a numerical designation for each betting interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12343. Concessionaires and Caterers

Each licensee of an off-track wagering facility shall submit in writing to the commission for approval, the names of persons, corporations or other legal entities who will operate the concessionaires and/or catering facilities (as defined in LAC 35:5743) within the confines of the off-track wagering facility for the duration of its operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12345. Concession Services

The concession and catering operations shall be conducted so that all persons attending off-track wagering facilities shall be satisfactorily served. Food, beverages (both alcoholic and non-alcoholic), tobacco and other generally related items may be available for sale to the patrons of the various facilities on each day that racing is televised. Concessionaires serving liquid refreshments shall not permit the surrender of glass containers to patrons except in designated areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12347. Cleanliness and Inspection

Off-track wagering facility premises shall be kept in clean condition, in good repair, well lighted, ventilated, heated and/or air conditioned (as the case may be). The quality, quantity and price of all items of food, liquor, beer and other items sold shall be subject to inspection by the commission or any person designated by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12349. Sanitation and Health Rules

All off-track wagering facilities are subject to sanitation and health rules as provided by law and in LAC 35:5757 and 5759.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12351. Method of Accounting

Each off-track wagering facility shall use generally accepted accounting principles or procedures determined by the commission so as to record and summarize financial information in order to produce financial statements and reports and to provide adequate internal fiscal controls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12353. Wagering Distribution Report

Each licensee of an off-track wagering facility shall furnish to the commission a report of its wagering distributions within 45 days of the end of each fiscal quarter of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12355. Race Meeting Report

Each licensee of an off-track wagering facility shall, in conjunction with the host association, provide the commission with an audited report of its pari-mutuel operations not more than 90 days following the conclusion of each race meeting conducted by a host association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12357. Other Reports

The licensee of an off-track wagering facility shall provide to the commission written reports as may be required by or requested by the commission from time to time and may include, by way of illustration and without limitation, the following:

A. copies of all written contracts;

B. a list of directors and officers, compensation paid to each, and/or a report of any changes thereof;

C. a statement listing all unclaimed ticket fund accruals for the preceding month and/or to date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12359. Books and Records

The commission may conduct such investigations it deems necessary in order to effectively carry out the purposes and objectives of off-track wagering as provided by law. Books and records of an off-track wagering facility shall be maintained by the licensee of an off-track wagering facility as ordered by the commission and they shall not be destroyed, cause to be destroyed, or abandoned by the licensee of an off-track wagering facility without the prior approval of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12361. Inspection and Delivery

The commission may inspect the records of a licensee and its off-track wagering facility at any time at the offices of the off-track wagering facility. The licensee off-track wagering facility shall, upon written notice, deliver promptly to the commission any books, records, papers, etc. which the commission shall request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12363. Remedies

A person aggrieved by any action taken against him by a

licensee of an off-track wagering facility or its employees shall exhaust all administrative remedies provided him before the commission prior to instituting any legal proceedings seeking judicial relief, as provided in R.S. 4:191-197.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:191-197 and R.S. 4:211-222.

Chapter 125. Licensing

§12501. Licensing

Licensing of off-track wagering facilities in parishes with its parish seat within 55 miles of an existing pari-mutuel facility shall be governed by LAC 35:12503-12507.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12503. Applications

License applications authorized by this Part shall be submitted by eligible applicants and shall not be considered by the commission unless filed no later than 20 days before the next regular or special meeting of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12505. Application Submission

The commission shall review and consider such applications during a regular or special meeting and shall consider each application separately based on its completeness of information and its compliance with the provisions of R.S. 4:214.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12507. License Application Stages

License applications shall be in two stages.

A. Preliminary Application

1. A preliminary application for authorization to establish an off-track wagering facility (preliminary application) in a parish shall include the names and addresses of all eligible applicants for a license in the parish, if known, or a certified letter from such other eligible applicant(s) not wishing to make an application to establish an off-track wagering facility.

2. The preliminary application shall not include the requirements of R.W. 4:214(A)(3-7), (B), (C), (E), (F), (G) and R.S. 4:215(B)(2).

3. Upon approval of the preliminary application, the commission shall immediately request the governing body of the parish where the off-track wagering facility will be located to authorize and include a referendum to be on the ballot of its next regularly scheduled election for the purpose of satisfying the requirements of R.S. 4:214(A)(2).

B. Final Application

1. The final application for authorization to establish an off-track wagering facility (final application) may not be made until official notice is received from the parish in which the referendum election was held that the voters approved the establishment of an off-track wagering facility in the parish. The provisions of this Section requiring notice shall not apply to any facilities exempted from the referendum provisions contained in R.S. 4:214(D).

2. The final application shall be submitted in the same manner as a preliminary application and shall include:

a. The criteria required by R.S. 4:159 and required under R.S. 4:214(A).

b. The written consent of other primary licensee(s) whose facility(s) are within the 55-mile radius defined in R.S. 4:214(A)(3).

c. A certified copy of the final approval of the citing requirements of the off-track wagering facility from the local governing authority as required by R.S. 4:214(A)(5).

d. A description of the exact location including an architect's rendering a floor plan sufficient to determine compliance with R.S. 4:214(A)(7).

e. A certified check in the sum of \$1,000 as required by R.S. 4:214(C).

f. A confirmation and copy of any contracts entered into under the provisions of R.S. 4:214(F), together with identification of all parties to such contracts.

g. A certified copy of all contracts with host tracks as required by R.S. 4:214(G).

h. A certified copy of all contracts between all applicants for license to establish an off-track wagering facility, as required by R.S. 4:215(B)(2) or R.S. 4:215(C)(4), whichever is applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12509. License Procedures

Licensing procedures for off-track wagering facilities in parishes with its parish seat more than 55 miles from a presently existing pari-mutuel facility shall be governed by LAC 35:12511-12515.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12511. License for Facility Beyond 55-Mile Limit

Any eligible applicant under R.S. 4:215 making an application for a license to establish an off-track wagering facility in a parish whose parish seat is more than 55 miles from any presently existing pari-mutuel facility shall not be considered by the commission unless filed no later than 20 days before the next regularly scheduled commission meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12513. Hearing Notice

At least 15 days prior to the meeting at which the commission shall consider such application, the commission shall notify by certified mail, all other applicants eligible under the provisions of R.S. 4:215 of the filing of such application and the date on which it shall be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12515. Review and Completeness of Information

The commission shall review and consider such applications during a regular or special meeting and shall consider each application separately based upon its completeness of information and compliance with the provisions of R.S. 4:214.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12517. Notification of Requirements

Thirty days after the notification required by R.S. 4:215(C)(2), the commission shall notify each applicant of all the requirements of R.S. 4:215(C)(3) and such other requirements as it deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

§12519. Eligibility; Joint Application

The eligible applicants making an affirmative response to LAC 35:12511 with 30 days notice shall each then be responsible for filing a joint final application as required by R.S. 4:214.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-222.

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission, LR 14 (May, 1988).

Albert M. Stall
Chairman

RULE

**Department of Commerce
Racing Commission**

The Louisiana State Racing Commission hereby amends rule LAC 35:XI.9905 "Timing of Entering Next Claiming Race" as follows:

**Title 35
HORSE RACING**

Part XI: Claiming Rule and Engagements

Chapter 99. Claiming Rule

§9905. Timing of Entering Next Claiming Race

Except as otherwise provided herein, a claimed horse shall not enter in starter, optional or claiming races for 30 days after being claimed in a race in which the determining eligibility price is less than 25 percent more than the price at which the horse was claimed. The day claimed shall not count, but the following calendar day shall be the first day and the horse shall be entitled to enter whenever necessary so the horse may start on the thirty-first day following the claim for any claiming price. This provision shall not apply to starter handicaps in which the weight to be carried is assigned by the handicapper. A similar rule in other states will be recognized and enforced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, 142 and 148.

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission in 1971, amended LR 2:445 (December, 1976), repromulgated LR 3:41 (January, 1977), LR 4:285 (August, 1978).

Albert M. Stall
Chairman

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published January 20, 1988 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of

the 1979 Regular Session, adopted the rule listed below: Rule 3.01.51.rr

The board upheld the recommendation of the Department regarding the counting of parental conferences as co-curricular activities and adopted the following procedural blocks to be added under Standard 1.009.16 of Bulletin 741:

"Two or more partial days may be combined to meet the minimal school year requirement of 175 days of 330 minutes of instructional time."

— —

"The class schedule must be abbreviated in order to ensure that all classes are taught during partial days."

Em Tampke
Interim Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published January 20, 1988 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below: Rule 3.01.51.ss

The board adopted the following revisions to the summer school standards (Bulletin 741) as recommended by the Department:

Page 105 - change the wording of policies 1.113.00 and 2.113.00 to state the following:

"Schools may offer a summer school program to enable students who have failed in subjects to remove deficiencies and be considered for promotion to the next grade. Local systems which offer summer school for promotional purposes shall adhere to the following standards."

Page 106 - change standards 2.113.06 and 2.113.08 to state:

2.113.06

"The teaching load shall not exceed 20 students per teacher in a regular summer school.

Instruction

2.113.08

"A teacher shall be allowed to teach only one subject for removal of deficiencies during a single period."

Page 107 - change standard 2.113.15 to state:

Daily time requirements shall be as follows:

| | | |
|--------------|-------------|-------------|
| Program | 35 days | Total Hours |
| Removal of | 120 min. | 70 |
| Deficiencies | per subject | |

Page 108 - delete entire page.

Page 110 - reword standard 2.116.06 to state:

"Summer schools having both elementary and secondary students are required to follow elementary standards for elementary students and secondary standards for secondary students."

Em Tampke
Interim Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published January 20, 1988 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:
Rule 1.10.00.a

The board adopted the following amendment to the 8(g) Policy Manual:
Section 101 - Amend A-D to read:
"Chairman, or designated member of the committee"

Em Tampke
Interim Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published January 20, 1988 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:
Rule 1.11.00

The board adopted the 8(g) Program and Budget for Fiscal Year 1988-89. (See page 121 of February, 1988 issue of the *Louisiana Register* for complete text of budget.)

Em Tampke
Interim Executive Director

RULE

**Office of the Governor
Division of Administration**

The Division of Administration, under the authority granted by R.S. 39:231, and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq. and the notice of intent given in the March 20, 1988 *Louisiana Register* amends PPM No. 49, General Travel Regulations in the following respect:

Title 4

ADMINISTRATION

Part V. Policy and Procedure Memoranda

**Chapter 15. General Travel Regulations – PPM No. 49
Subchapter G. Reimbursement for Transportation,
Lodging, Meals and other Expenses**

§1537. Lodging and Meals

- A. . . .
- B. Travelers may be reimbursed for meals according to the following schedule:
 - 1. . . .
 - 2. Lunch: No reimbursement shall be made for lunch

when in-state travel does not extend over at least one night. If in-state travel extends overnight lunch may be reimbursed for those days where travel begins at/or before 10 a.m. on the first day of travel, or extends beyond 2 p.m. on the last day of travel, and for any intervening days.

- 3. . . .
- C. . . .

Brian E. Kendrick, CPA
Commissioner

RULE

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

In accordance with the provisions of R.S. 49:950, et seq., the Administrative Procedure Act, R.S. 39:7 and R.S. 39:1527, et seq., the Office of Risk Management hereby amends Policy and Procedure Memorandum 10 to read as follows:

Title 4

ADMINISTRATION

Part V. Policy and Procedure Memoranda

Chapter 5. Property Insurance Claims Recover Funds - PPM 10

§501. Purpose

It is the purpose and intent of this memorandum to establish procedures in handling reimbursement for losses, including automobile physical damages losses, incurred under property insurance policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:7 and R.S. 39:1527, et seq.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, October 1, 1966, promulgated LR 1:82 (February 1975), amended LR 14 (May 1988).

§503. Funds for Property Claims

A. Funds for all property claims payable to state agencies under property policies, commercially insured or self-insured by the Office of Risk Management, shall be held in the Self-Insurance Fund by the Office of Risk Management, Division of Administration, until the damaged property or equipment has been repaired, reconstructed or replaced.

B. Agency and state purchasing procedures and policies shall be followed and invoices submitted to the Office of Risk Management for payment to vendors. In the event an agency has paid for a covered loss, the Office of Risk Management shall reimburse the agency for its payments where paid invoices can be produced, and any agency receiving payments from the Office of Risk Management shall receive such as reimbursement of expenses or available income. Payment by Risk Management to agencies for purposes other than reimbursement of expenses or available income may be made upon an approved BA-7. Should the estimate of repairs or replacement represented on an executed Proof of Loss exceed the actual costs incurred, the excess shall remain with the Self-Insurance Fund within the Department of Treasury and shall not be reflected in the actual loss experience of the affected agency.

C. Commercial and self-insurance fund loss recoveries from policies purchased by the state shall be payable to the state treasury if payment is not otherwise made pursuant to other provisions of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:7 and R.S. 39:1527, et seq.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, October 1, 1966, promulgated LR 1:82 (February 1975), amended LR 14 (May 1988).

§505. Repair or Replacement of Property

A. Except for state-owned vehicles provided for in Paragraph B, infra, if repair or replacement of damaged, destroyed or stolen state-owned property, to include buildings and improvements, boiler and machinery equipment, contents, inventories (including mobile equipment and excluding licensed vehicles) and marine hulls 26 feet and under, is not commenced within 36 months of the loss date, or if a proof of loss is not submitted within 36 months of the date of loss, the claim file will be closed. No liability will remain to the insurance fund and the loss will not be charged to the loss experience of the affected agency.

B. If repair or replacement of damaged, destroyed or stolen state-owned vehicles is not completed within 18 months of the loss date, or if a proof of loss is not submitted within 18 months of the date of loss, the claim file will be closed. No liability will remain to the insurance fund and the loss will not be charged to the loss experience of the affected agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:7 and R.S. 39:1527, et seq.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, October 1, 1966, promulgated LR 1:82 (February 1975), amended LR 14 (May 1988).

Brian E. Kendrick
Commissioner of Administration

RULE

**Office of the Governor
Office of Elderly Affairs**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs has amended the FY 1988 - FY 1991 Louisiana State Plan on Aging, effective March 1, 1988.

**Title 4
ADMINISTRATION**

Part 7. Governor's Office

Chapter 13. State Plan on Aging

§1323. In-Home Services for Frail Older Individuals

The Governor's Office of Elderly Affairs assures that Title III, Part D funds will be utilized in accordance with criteria set forth in the Older Americans Act.

The Governor's Office of Elderly Affairs assures consultation and coordination in the planning and provision of in-home services under Section 341 of the Older Americans Act with state and local agencies and private nonprofit organizations relating to health, social services, rehabilitation, and mental health.

The Governor's Office of Elderly Affairs will develop state eligibility criteria for providing in-home services to frail older individuals which shall take into account:

- (1) age;
- (2) greatest economic need;
- (3) noneconomic factors contributing to the frail condition; and
- (4) noneconomic and nonhealth factors contributing to the need for such services.

The Governor's Office of Elderly Affairs assures that funds made available under Part D of the Older Americans Act shall be in addition to, and not used to supplant, any funds that are or would otherwise be expended under any federal, state, or local law by a state or unit of general purpose local government (including area agencies which have in their planning and service areas existing services which primarily serve older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and the families of such victims).

Section 1307 - Projected Expenditures for FY 1988, the Table of Contents, and the cover will also be revised accordingly.

Bobby Fontenot
Acting Director

RULE

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

The Medical Assistance Program is adopting the following rule which was published as a notice of intent in the *Louisiana Register* Vol. 14, No. 3, dated March 20, 1988.

Louisiana Maximum Allowable Cost Regulations (LMAC) for reimbursement under Title XIX are amended to include the following multiple source drugs:

- 1. Cephalexin 250 mg. Capsules
- 2. Cephalexin 500 mg. Capsules
- 3. Cephalexin 125 mg/5ml Solution
- 4. Cephalexin 250 mg/5ml Solution

David L. Ramsey
Secretary

RULE

**Department of Public Safety and Corrections
Office of State Police
Hazardous Substance Control Section**

The Department of Public Safety and Corrections adopted rules relating to alcohol and controlled dangerous substance use by persons operating transport vehicles, engines, or trains in accordance with R.S. 32:1504 and R.S. 30:1140 as follows:

Title 33
ENVIRONMENTAL QUALITY

Part V. Hazardous Materials and Hazardous Waste
Subpart 2. Department of Public Safety
and Corrections - Hazardous Materials

Chapter 107. Alcohol and Controlled Dangerous Substances

§10701. Purpose and Scope

A. The purpose of this Chapter is to establish rules which govern the use of alcohol and controlled dangerous substances by persons operating or taking part in the operation of transport vehicles, engines, or trains.

B. This Chapter prescribes minimum safety standards for alcohol and controlled dangerous substance use.

C. Only the Office of State Police may enforce the regulations adopted or enacted under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq. and R.S. 30:1140.

HISTORICAL NOTE: Repealed and readopted by the Department of Public Safety and Corrections, Office of State Police, LR 14.

§10703. Definitions

A. For the purposes of this Chapter, the following definitions will apply:

1. *Controlled Dangerous Substance* - any substance that is defined by the Uniform Controlled Dangerous Substances Law, R.S. 40:963.

2. *Hazardous Material* - any material that is defined as a hazardous material by R.S. 32:1502.

3. *Operator* - any person that can affect the speed, direction, or condition of a transport vehicle, engine, or train.

4. *Engine* - a locomotive propelled by any form of energy.

5. *Transport Vehicle* - as defined in R.S. 32:1502.

6. *Train* - an engine or an engine coupled with one or more rail freight cars.

7. *Hazardous Waste* - as defined in R.S. 30:1133.

8. *Freight* - as defined in R.S. 32:1502.

9. *Passenger* - a person who travels in a transport vehicle, engine or train, and who does not take part in its operation.

10. *Department* - Department of Public Safety and Corrections, Office of State Police.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq. and R.S. 30:1140.

HISTORICAL NOTE: Repealed and readopted by the Department of Public Safety and Corrections, Office of State Police, LR 14.

§10705. Application

A. The provisions in this Chapter shall apply to the transportation of hazardous materials, hazardous waste, freight, or passengers as provided in R.S. 32:1501-1520, or R.S. 30:1140 when carried by:

1. transport vehicle;
2. engine; or
3. train.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq. and R.S. 30:1140.

HISTORICAL NOTE: Repealed and readopted by the Department of Public Safety and Corrections, Office of State Police, LR 14.

§10707. Prohibitions

A. No operator or person who takes part in the operation

of a transport vehicle, engine, or train transporting hazardous materials, hazardous waste, freight, or passengers shall be impaired in any of the following ways:

1. by being under the influence of any controlled dangerous substance as defined by R.S. 40:963;

2. by having a blood alcohol concentration (BAC) of .04g percent or higher.

3. by being under the influence of any substance that tends to reduce alertness.

B. No operator or person who takes part in the operation of a transport vehicle, engine, or train that is transporting hazardous materials, hazardous waste, freight, or passengers may be in possession of beverages of any alcoholic content or of any controlled dangerous substance as defined by R.S. 40:963. This prohibition shall not apply to materials that are manifested and transported as part of a shipment.

C. The regulations of this Chapter shall not relieve any carrier from any other federal or state law or regulation.

D. The provisions of this Chapter do not apply to the possession or use of a substance administered to a person by a physician when the physician has advised this person that the substance will not affect his ability to operate or take part in the operation of a transport vehicle, engine, or train.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq. and R.S. 30:1140.

HISTORICAL NOTE: Repealed and readopted by the Department of Public Safety and Corrections, Office of State Police, LR 14.

§10709. Testing of Suspected Violators

A. Any operator or person who takes part in the operation of a transport vehicle, engine, or train that is transporting hazardous materials, hazardous waste, freight, or passengers within the state will be deemed to have given his consent to submit to a chemical test or tests for the presence of alcohol and controlled dangerous substances in the individual's bloodstream.

B. With reasonable suspicion, any officer of the Department, may direct an operator or a person who takes part in the operation of a transport vehicle, engine, or train that is transporting hazardous materials, hazardous waste, freight, or passengers to take a chemical test or tests for the presence of alcohol or controlled dangerous substances in the individual's bloodstream.

C. All chemical tests for the presence of alcohol must be performed in accordance with R.S. 32:661-669. This shall not prevent officers of the department from using preliminary breath testing devices approved by the department as part of a field sobriety test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq. and R.S. 30:1140.

HISTORICAL NOTE: Repealed and readopted by the Department of Public Safety and Corrections, Office of State Police, LR 14.

§10711. Penalties

A. Refusal to submit to a chemical test as required by this Chapter may result in the removal of the individual's privilege to operate or take part in the operation of a transport vehicle, engine, or train that is transporting hazardous materials, hazardous waste, freight, or passengers within the state for one year. The fact that an operator's license is not required will not alter this restriction.

B. When a person submits to a chemical test or tests for the presence of alcohol or controlled dangerous substances, and a blood alcohol content of .04g percent or higher is present or

any controlled dangerous substance is indicated, the individual's privilege to operate or take part in the operation of a transport vehicle, engine, or train that is transporting hazardous materials, hazardous waste, freight, or passengers within the state may be removed for one year.

C. When an individual's privilege to operate or take part in the operation of a transport vehicle, engine, or train that is transporting hazardous materials, hazardous waste, freight, or passengers is removed, the carrier that employs the individual will be informed of the restriction. The carrier will be responsible for the enforcement of the restriction. Failure to comply with the restriction may subject the carrier to a civil penalty as provided in R.S. 32:1512.

D. It will be the responsibility of any carrier to allow only qualified individuals to operate or take part in the operation of transport vehicles, engines, or trains that transport hazardous materials, hazardous waste, freight, or passengers. The department will maintain a list of individuals who are restricted from operating or taking part in the operation of transport vehicles, engines, or trains that are transporting hazardous materials, hazardous waste, freight, or passengers within the state.

E. The penalty provision found in R.S. 32:1512 shall apply to any violation of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq. and R.S. 30:1140.

HISTORICAL NOTE: Repealed and readopted by the Department of Public Safety and Corrections, Office of State Police, LR 14 (May 1988).

Marlin A. Flores, Colonel
Deputy Secretary

RULE

Department of Public Safety and Corrections Office of State Police Hazardous Substance Control Section

The Department of Public Safety and Corrections adopted rules relating to hazardous materials when carried by rail, air, or vessel in accordance with R.S. 32:1504 and R.S. 30:1140 as follows:

Title 33 ENVIRONMENTAL QUALITY

Part V. Hazardous Materials and Hazardous Waste Subpart 2. Department of Public Safety and Corrections - Hazardous Materials

Chapter 109. Hazardous Materials Regulations for Carriage by Rail, Air, and Vessel

§10901. General Provisions

A. Only the Office of State Police may enforce the regulations adopted or enacted under this Chapter.

B. Any term used in these rules is used in its commonly accepted meaning except where the term has been specifically defined herein or in R.S. 32:1502 or 49 CFR.

C. When used in this Chapter, a train is defined as an engine or an engine coupled with one or more rail freight cars.

D. All hazardous waste rules adopted pursuant to R.S. 30:1140 that relate to highway, rail, air, or vessel transportation

regulations and promulgated prior to the effective date of these rules are hereby repealed.

E. All authorizations for alternate means of compliance with prior hazardous waste regulations as provided in R.S. 32:1506, and all special permits and exemptions as provided in R.S. 32:1507 which relate to highway, rail, air, or vessel transportation and granted prior to the effective date of these rules, are hereby revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq. and R.S. 30:1140.

HISTORICAL NOTE: Repealed and readopted by the Department of Public Safety and Corrections, Office of State Police, LR 14.

§10903. Adopted Regulations

The following federal hazardous materials regulations promulgated by the United States Department of Transportation, revised as of October 1, 1987, and contained in the following parts of 49 CFR, as now in effect or as hereafter amended, are made a part of this Chapter.

HAZARDOUS MATERIALS REGULATIONS

Part 171 - General information, regulations, and definitions

Part 172 - Hazardous materials tables and hazardous materials communications regulations

Part 173 - Shippers - General requirements

Part 174 - Carriage by rail

Part 175 - Carriage by air

Part 176 - Carriage by vessel

Part 177 - Carriage by public highway

Part 178 - Shipping container specifications

Part 179 - Specifications for tank cars

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq. and R.S. 30:1140.

HISTORICAL NOTE: Repealed and readopted by the Department of Public Safety and Corrections, Office of State Police, LR 14.

§10905. Applicability of Regulations

A. For the purposes of this Chapter, the federal regulations, as adopted or amended herein, shall govern all shippers, carriers, drivers, operators, transport vehicles, engines, and trains -

1. to which the federal regulations apply;

2. engaged in the transportation of hazardous materials or hazardous waste within this state.

B. The adopted federal regulations applicable to shippers, carriers, drivers, operators, transport vehicles, engines, or trains set forth in Subsection A, shall be amended as follows:

1. When applicable, the words Louisiana Department of Public Safety and Corrections, Office of State Police, shall be added where department, director, U.S. Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety, Office of Motor Carrier Safety, FAA Civil Aviation Security Office, U.S. Coast Guard, Department of Transportation, or Captain of the Port appear.

2. Where special forms or procedures are required by 49 CFR, substitute the compatible Louisiana Department of Public Safety and Corrections, Office of State Police forms or procedures, if such are required by the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq. and R.S. 30:1140.

HISTORICAL NOTE: Repealed and readopted by the Department of Public Safety and Corrections, Office of State Police, LR 14 (May 1988).

Marlin A. Flores, Colonel
Deputy Secretary

RULE

**Department of Public Safety and Corrections
Office of State Police
Hazardous Substance Control Section**

The Department of Public Safety and Corrections adopted rules relating to hazardous waste for carriage by highway, rail, air, and vessel in accordance with R.S. 32:1504 and R.S. 30:1140 as follows:

Title 33

ENVIRONMENTAL QUALITY

**Part V. Hazardous Materials and Hazardous Waste
Subpart 2. Department of Public Safety and Corrections
- Hazardous Materials**

**Chapter 105. Hazardous Waste Regulations for Carriage
by Highway, Rail, Air, and Vessel**

§10501. General Provisions

A. Only the Office of State Police may enforce the regulations adopted or enacted under this Chapter.

B. Any term used in these rules is used in its commonly accepted meaning except where the term has been specifically defined herein or in R.S. 32:1502 or 49 CFR.

C. When used in this Chapter, a train is defined as an engine or an engine coupled with one or more rail freight cars.

D. All hazardous waste rules adopted pursuant to R.S. 30:1140 that relate to highway, rail, air, or vessel transportation regulations and promulgated prior to the effective date of these rules are hereby repealed.

E. All authorizations for alternate means of compliance with prior hazardous waste regulations as provided in R.S. 32:1506, and all special permits and exemptions as provided in R.S. 32:1507 which relate to highway, rail, air, or vessel transportation and granted prior to the effective date of these rules, are hereby revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq. and R.S. 30:1140.

HISTORICAL NOTE: Repealed and readopted by the Department of Public Safety and Corrections, Office of State Police, LR 14.

§10503. Adopted Regulations

The following federal hazardous materials regulations promulgated by the United States Department of Transportation, revised as of October 1, 1987, and contained in the following parts of 49 CFR, as now in effect or as hereafter amended, are made a part of this Chapter.

HAZARDOUS MATERIALS REGULATIONS

Part 171 - General information, regulations, and definitions

Part 172 - Hazardous materials tables and hazardous materials communications regulations

Part 173 - Shippers - General requirements

Part 174 - Carriage by rail

Part 175 - Carriage by air

Part 176 - Carriage by vessel

Part 177 - Carriage by public highway

Part 178 - Shipping container specifications

Part 179 - Specifications for tank cars

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq. and R.S. 30:1140.

HISTORICAL NOTE: Repealed and readopted by the Department of Public Safety and Corrections, Office of State Police, LR 14.

§10505. Applicability of Regulations

A. For the purposes of this Chapter, the federal regulations, as adopted or amended herein, shall govern all shippers, carriers, drivers, operators, transport vehicles, engines, and trains -

- 1. to which the federal regulations apply;
- 2. engaged in the transportation of hazardous materials or hazardous waste within this state.

B. The adopted federal regulations applicable to shippers, carriers, drivers, operators, transport vehicles, engines, or trains set forth in Subsection A, shall be amended as follows:

1. When applicable, the words Louisiana Department of Public Safety and Corrections, Office of State Police, shall be added where Department, Director, U.S. Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety, Office of Motor Carrier Safety, FAA Civil Aviation Security Office, U.S. Coast Guard, Department of Transportation, or Captain of the Port appear.

2. Where special forms or procedures are required by 49 CFR, substitute the compatible Louisiana Department of Public Safety and Corrections, Office of State Police forms or procedures, if such are required by the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq. and R.S. 30:1140.

HISTORICAL NOTE: Repealed and readopted by the Department of Public Safety and Corrections, Office of State Police, LR 14 (May 1988).

Marlin A. Flores, Colonel
Deputy Secretary

RULE

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

The Department of Public Safety in accordance with R.S. 49:950 et seq. and R.S. 32:1501 et seq. amends regulations in LAC 33:V. 10305. A, B and C. The revisions will not have an economic impact or benefit and refer to the rules published in Volume 14, No. 1 of the *Louisiana Register*.

Title 33

ENVIRONMENTAL QUALITY

**Part V. Hazardous Materials and Hazardous Waste
Subpart 2. Department of Public Safety and Corrections
- Hazardous Materials**

Chapter 103. Motor Carrier Safety and Hazardous Materials Regulations for Carriage by Public Highway

§10305. Applicability of Regulations

A. For the purpose of this Chapter, the federal regulations, as adopted or amended herein, shall govern all carriers, drivers, persons, or vehicles -
...

B. For the purpose of this Chapter, the federal motor carrier safety regulations, as adopted or amended herein, shall also govern all carriers, drivers, persons, or vehicles not subject to the federal regulations if the operated vehicle has a single or combined gross vehicle weight rating greater than 20,000 pounds and is used in commerce or industry.

C. The adopted federal regulations applicable to all carriers, drivers, persons, or vehicles set forth in Subsections A and B shall be amended as follows:
...

Marlin A. Flores, Colonel
Deputy Secretary

RULE

**Board of New Orleans - Baton Rouge
Steamship Pilot Commissioners
For The Mississippi River**

As per state law, in order to further enhance the safety and well being of the citizens of Louisiana, as well as prevent any possible imminent peril to the public health, safety, and welfare, the Board of New Orleans-Baton Rouge Steamship Pilot Commissioners for the Mississippi River from the Port of New Orleans to and including the Port of Baton Rouge and intermediate ports adopts the following actions pertaining to its rules and regulations:

1. Abolish the existing rules in order to clarify the purpose, authority and procedures of the Commission. This is accomplished via constructing new rules in lieu of the amendment process.

2. The new rules are formulated using existing Louisiana Statutes, the intent and procedural precedents of the prior rules as a foundation for effecting a clearer and more efficient system for oversight of the pilotage under the commission's jurisdiction.

In substance, the new rules differ from the old in that they clarify the method and guidelines for making recommendations to the governor, selecting new commissioners, as well as defining the commission's authority and funding. The new document updates the criteria for rulemaking and application, record keeping, notices and meetings. Further, the new regulations provide for higher standards and qualifications for applicants and associations, and clearly defines the commission's legal authority and duty in the investigative and disciplinary process.

Louisiana Revised Statutes Title 34, Navigation and Shipping Chapter 6, Pilots.

§1041. Definitions

As used in this Part, the following terms shall have the meaning described to them in this Section, unless the context clearly indicates otherwise:

1. *Board of Commissioners* means the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners for the Mississippi River, as designated in R.S. 34:1042.

2. *Pilot* means a New Orleans and Baton Rouge Steam-

ship Pilot, as designated in R.S. 34:1043.

§1042. Board of Steamship Pilot Commissioners: Members; Appointment; Oath of Office

The governor shall appoint, by and with the advice and consent of the Senate, three citizens who shall form the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners for the Mississippi River from the Port of New Orleans to and including the Port of Baton Rouge and intermediate ports. The commissioners so appointed shall serve for a term of two years from July 1, 1942, and their successors shall be appointed by the governor, and shall serve for terms of two years. The commissioners shall continue in office until their successors are appointed and qualified. The first commissioners shall be appointed from those pilots who have, for at least one year immediately preceding, exercised the functions of river pilots from the Port of New Orleans to and including the Port of Baton Rouge and intermediate ports upon sea going vessels; and thereafter the appointments shall be exclusively made from the pilots commissioned by virtue of this Part. The governor, in appointing the commissioners, shall designate the president of the board. The commissioners shall be removable by the governor for cause, and shall qualify by taking an oath of office.

Article I

Board of Steamship Pilot Commissioners

§1. When there is a need for new commissioners the Board of Commissioners shall make recommendations to the governor in accordance with the law and in compliance with the commission rules.

§2. When this need arises, the commissioners shall take into consideration the following in making their recommendations:

- A. ability to serve;
- B. qualifications;
- C. length of service as a commissioned pilot.

§3. Commissioners in the performance of their statutory duties have the exclusive and complete authority to determine their work schedule. Further, commissioners shall not suffer any loss of benefits or compensation while they are performing their duties.

§4. All ordinary and necessary operating and administrative costs and expenses, including, but not limited to, the cost of, administrative offices, furniture and fixtures, communications, transportation, office supplies and equipment, publications, travel, pilot commissioners compensation or any other expenses incurred by the commission while performing their duties shall be provided by the pilots and paid through their pilot association.

Article II

Rules, Records, Meetings, Application

§1. All commission rules must be adopted by a majority of the commissioners, further, they must be submitted for legal approval before they are submitted for final approval and adoption.

§2. The Board of Commissioners shall maintain records in accordance with R.S. 49:950 et seq., and/or pursuant to law and/or advisory opinions.

§3. The Board of Commissioners shall file an annual report of investigations, findings, actions and accident data in accordance with state laws.

§4. The Board of Commissioners shall conduct its meeting in accordance with R.S. 49:950 et seq., and any other state laws.

§5. The commissioners shall hold quarterly meetings on

the call of the president. The president has the prerogative of calling additional meetings as needed to conduct business on giving said notice to the members and the public.

§6. These rules shall apply to all New Orleans and Baton Rouge Steamship Pilots engaged in his calling within the operation territory defined in R.S. 34:1043.

§1045. Examination of Pilots; Qualifications

Whenever there exists a necessity for more pilots, the Board of Commissioners shall hold examinations, under such rules and regulations, and with such requirements as it may provide, with the governor's approval. No applicant shall be considered by said board unless he submits proper evidence of moral character and is a voter of this state, has a First Class Pilot's License issued by the United States Bureau of Marine Inspection and Navigation and served six months apprenticeship in his proposed calling. Upon the certificate of the board to the governor that the applicant has complied with the provisions of this part, the governor may, in his discretion, appoint the applicant or applicants to existing vacancies.

Article III

Minimum Requirements, Applicants,
Examination, Appointments

§1. All applications for commissions to serve as New Orleans and Baton Rouge Steamship Pilots must be in writing, must be signed by the applicant and presented to the president of the board. All applications must be accompanied by satisfactory evidence of compliance with the following prerequisite to examination of the applicant by the board:

A.1. Applicant must hold a First Class Pilot's License of "any" gross tons, (the word "any" as interpreted by the United States Coast Guard) for the Mississippi River from Chalmette, Louisiana, to Baton Rouge Railroad and Highway Bridge at Baton Rouge, Louisiana, issued to him by the United States Coast Guard, and also

2. licensed as a masters of rivers steam or motor vessels any gross tons, or licensed as master or mate of ocean steam or motor vessels any gross tons, or have acquired at least 24 months licensed service acting as master, mate, operator or pilot on vessels or towing vessels with tows, operating on the Mississippi River.

B. Applicant must have not reached his forty-fifth birthday.

C. Applicant must submit evidence of possessing a high school diploma or G.E.D.

D. Applicant must be a registered voter of the state of Louisiana for a minimum of one year.

E. Applicant must submit evidence of good moral character.

F. Applicant must submit a certificate from a competent physician certifying that he is in good health and physical condition. This examination shall take such form as the board in its discretion from time to time elects. Such examination criteria will change, as needed.

G. Applicant must sign an obligation to abide by the Charter by-laws, rules and regulations of the New Orleans and Baton Rouge Steamship Pilots Commission and the Pilot Association.

H. Applicant must have been duly elected an apprentice in the New Orleans and Baton Rouge Steamship Pilots Association by majority vote of all members of said Association entitled to vote.

I. Applicant must serve an orientation period over the route, as an apprenticeship pilot, for not less than six months as

determined by the Board of Pilot Commissioners.

J. Applicant must successfully complete an examination by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners for the Mississippi River.

§2. Those applicants who have complied with all the provisions of this Article shall be examined by the commissioners as to their knowledge of pilotage and their proficiency and capability to serve as a commissioned pilot between the Ports of New Orleans and Baton Rouge and intermediate ports. This examination shall be given in such manner and shall take such form as the board in its discretion from time to time elects.

§3. Those applicants who satisfactorily complete the examination given by the board shall be certified to the governor for his consideration in making appointments to commissions as New Orleans and Baton Rouge Steamship Pilots. Such certifications may be restrictive in job assignments, including, but not limited to, vessel size and/or draft for new appointments for a specified period of time.

§4. Commissioned pilots shall comply with all requirements to maintain their state commission and such other certifications as determined by the Board of Pilot Commissioners.

§1047. Association of Pilots

The pilots may form themselves into an association or associations, as to them may seem fit, not in conflict with law or the rules and regulations of the Board of Commissioners.

Article IV

Association of Pilots

§1. The formation of any association incorporated or non-incorporated which is for the purpose of providing pilotage service under the law, R.S. 34:1047, must be submitted to the commission for approval. Such applications must meet all legal requirements, provide for a stable pilotage system, serve the best interest of the majority of pilots and protect the life and property of the region.

§2. The Board of Pilot Commissioners hereby recognizes the fact that the New Orleans and Baton Rouge pilots have formed themselves into a legal registered corporation known as the New Orleans and Baton Rouge Steamship Pilots Association; further, let it be recognized by the Pilot Commissioners that the Pilot Association has operated and is now operating within all state laws and is not in conflict with the rules and regulations of the Board of Commissioners.

§3. No pilot association incorporated or non-incorporated has any authority to impose or legislate any rules, bylaws or charter provisions affecting the Pilot Commission, further, any attempt to exercise any authority over or affecting the commission is a violation of the rules.

§1049. Report of Incompetency, Carelessness, etc. of Pilots; Removal, Suspension or Reprimand; Attempt to Exercise Functions Without Commission

The Board of Commissioners shall report immediately to the governor all cases of incompetency, or carelessness, especially charges of incompetency or carelessness in connection with damages caused to or by the ship of which the pilot had charge, as well as all cases of neglect of duty, habitual drunkenness and gross violations of its rules. The governor shall, thereupon, refer the same for investigation to the Board of Commissioners, the members of which shall sit as investigators and report their findings to the governor, recommending, if justified, a penalty. Whereupon, the governor may remove, suspend, or reprimand in his discretion.

Article V

Report of Incompetency, Carelessness of Pilots, etc.

§1. In any case, where a vessel under pilotage shall go aground, or shall collide with any other object, or shall meet with any casualty, or be injured or damaged in any way, said commission shall conduct a preliminary investigation into the casualty to determine if there are any violations of the law or commission rules.

§2. When probable cause is found said commission shall report its findings to the governor. The governor shall, thereupon, refer the case to the Board of Commissioners for formal investigation. The board members shall sit as investigators and report their findings with recommendations to the governor, whereupon, the governor may take action in his discretion.

§3. All formal investigation shall be conducted in accordance with R.S. 49:950 et seq.

§4. In any case, where a vessel under pilotage shall go aground, or shall collide with any other object, or shall meet with any casualty, or be injured or damaged in any way, said pilot shall report such casualties as follows:

A. report the casualty by whatever means available to the Board of Commissioners as soon as practical;

B. be available for interview by the commission and furnish complete details of the casualty;

C. make a written report to the commission as soon as practical.

§5. Interviews and written reports to the board, which may thereupon, with or without complaint being made against said pilot, investigate the matter reported on.

§6. Any pilot who shall fail, neglect, or refuse to make a verbal or written report to the board as required by these rules, shall be reported to the governor for action pursuant to law.

§7. Any pilot requested, or summoned to testify before the board shall appear in accordance with said request or summons and shall make answers under oath to any question put to him touching on any matter connected with the pilot's service or the pilot's territory over which he is licensed to pilot.

§8. In any case, where the commission finds or suspects a violation of the law, or a violation of its rules, they may charge the pilot with misconduct and remove him from duty, however, this rule shall not abrogate any of his rights pursuant to all applicable laws.

§9. When an investigation uncovers dangerous and/or unsafe condition and/or conditions that may jeopardize the interests, safety, health or welfare of the pilots, vessels, cargo, property or individuals, the commission may make recommendations for corrective measures.

§10. Pilots shall not under any circumstances make any statement to anyone until such pilot or pilots have had legal counsel when they are involved in a casualty, or any other complaint.

§11. Any commissioner who with probable cause and/or has reason to believe, suspect, and/or knows that a pilot is or has been or may be under the influence of drugs, alcohol, or any other stimulant or depressant that may affect the performance of that pilot, or has been charged with misconduct, while subject to commission rules and/or state pilotage laws, that commissioner in his discretion may immediately relieve that pilot without the necessity of a formal notice and hearing from pilotage duty, in order to protect the interest, safety, health or welfare of fellow pilots, vessels, cargo, property or individuals. Further, at the earliest practical time the commission must request permission from

the governor, as in R.S. 34:1049, to conduct the appropriate formal hearing or hearings which satisfies and protects the due process and equal protection requirements as afforded that pilot by the state and federal constitutions.

§12. No person shall engage in any activities concerning the members of the New Orleans and Baton Rouge steamship pilots unless said person has been elected, or appointed to do so by one of the governing boards.

§13. No member of the Board of Pilot Commissioners, in the discharge of his duty or responsibility of his office will vote on a matter in which he is a party to or has a conflict of interest. In such cases he shall automatically be recused from participating in, or voting on such matters.

M.W. Gould
President

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 the January 1, 1988, Plan Document as follows:

Amend Article 3, Section I (G) (8), as follows: after the word "medication" insert the following phrase: ". . ., for whatever reason used or prescribed,"

Amend Article 3, Section VIII (W), as follows: after the word "devices" insert the following phrase: ". . ., for whatever reason used or prescribed,"

James D. McElveen
Executive Director

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Animal Health Services Livestock Sanitary Board

In accordance with the provisions of LSA 49:950, et seq., the Administrative Procedure Act, and LSA 3:2095, relative to the power of the Louisiana Livestock Sanitary Board to deal with diseases of animals, notice is hereby given that the Louisiana Livestock Sanitary Board advertises its intent to amend and/or add to the regulations of the board:

Louisiana Administrative Code, Title 7, Section 11765 to require the following:

All horses offered for sale at Louisiana auction markets to be accompanied by a record of a negative official test for Equine Infectious Anemia, conducted by an approved laboratory within 12 months of the sale.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., June 6, 1988, at the following address: William B. Fairchild, D.V.M., State Veterinarian, Louisiana Department of Agriculture and Forestry, Louisiana Livestock Sanitary Board, Box 1951, Baton Rouge, LA 70821.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board

Subchapter C. Horses, Mules and Asses

§11765. Governing Equine Infectious Anemia and Livestock Auction Market Requirements

A. Equine Required to be Tested

1. Equine moving into the state of Louisiana for any purpose other than immediate slaughter must be accompanied by record (original form VS 10-11 or Health Certificate) of negative test for equine infectious anemia (coggins test) conducted within the past 12 months. The test must be conducted at an approved laboratory, and the name of the laboratory, the case number, and date of test must appear on the health certificate, as required in LAC 7:XXI.11761.

2. Horses moving within the state to fairs, livestock shows, horse shows, breeders association sales, rodeos, race-tracks or other concentration points must be accompanied by record (original form VS 10-11) of negative test for equine infectious anemia (coggins test) conducted within the past 12 months. The test must be conducted at an approved laboratory and the name of the laboratory, the case number, and the date of test must appear on the official record.

3. Horses reacting to the coggins test within the state will be identified by regulatory personnel by hot brand, cold brand, freeze brand or tattoo "72 A". Positive horses will be rebled upon request, by state employed veterinarians and samples submitted to the laboratory for reconfirmation.

4. All out-of-state horses offered for sale at Louisiana livestock auction markets must be accompanied by record (original form VS 10-11) of negative test for equine infectious anemia (coggins test) conducted within the past 12 months. The test must be conducted at an approved laboratory and the case number must appear on the health certificate.

5. All Louisiana horses offered for sale at Louisiana auction markets must be accompanied by record (original form VS 10-11) of negative test for equine infectious anemia (coggins test) conducted by an approved laboratory within 12 months of date of sale.

Exceptions to this Subsection are:

A. Horses consigned and/or sold for slaughter shall be sold to authorized buyers only. Such animals shall be branded with the letter "S" on the left shoulder, prior to leaving the auction market and shall be accompanied by a VS Form 1-27, Permit for Movement of Restricted Animals.

B. Collection and Submission of Blood Samples

1. All blood samples for equine infectious anemia testing must be drawn and submitted to an approved laboratory by an accredited veterinarian.

2. Blood samples will be accompanied by Form VS 10-11 "Equine Infectious Anemia Laboratory Test Report" with completed information as to owner's name and address and identification of animal(s).

3. Only serum samples in sterile tubes will be accepted for testing.

C. Testing of Samples Collected

1. Only laboratories approved by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, shall be authorized to conduct the coggins test for equine infectious anemia in Louisiana.

2. Such laboratories must also receive approval by the Livestock Sanitary Board.

3. Approved laboratories must submit a copy of Form VS 10-11 at the end of each week to the Livestock Sanitary Board office. (Green copy on negative samples and white copy of positive samples.)

4. A fee shall be charged to the accredited veterinarian for conducting the coggins test at state laboratories. Invoices will be forwarded to the veterinarian monthly for these charges.

D. Identification and Quarantining of Animal(s) Positive to the Coggins Test

1. Animal(s) positive to the coggins test will be quarantined to the owner's premises and kept a minimum distance of 200 yards between the positive equidae and equidae owned by other individuals. If the positive animal(s) is sold, it must be sold for slaughter and a form VS 1-27 permit must be issued by state personnel to move the animal(s) from the premises to slaughter.

2. Confirmation test of positive animal(s) will be conducted by state employed veterinarians upon request of the owner prior to identification.

3. All animal(s) positive to the coggins test will be properly identified by state personnel with either a "72A" cold brand, hot iron brand, or freeze brand on the left shoulder; or be tattooed "72A".

E. Requirements for Permit for Operation of Quarantine Holding Area

1. Any buyer desiring to operate a quarantine holding area must file an application for approval of the facility on forms to be provided by the Livestock Sanitary Board.

2. The facility to be operated as a quarantine holding area must have an area where equine infectious anemia positive and/or "S" branded horses are kept and where such horses are separated by at least 440 yards from all other horses.

3. The facility must be approved by the Livestock Sanitary Board in an inspection of the premises prior to the issuance of the permit.

4. The buyer desiring to operate a quarantine holding area must agree in writing to comply with the rules and regulations of the Livestock Sanitary Board and to permit inspection of the premises at any reasonable time by the board.

5. No other horses except horses consigned for slaughter may be kept in a quarantine holding area.

6. No horses can be kept in the quarantine holding area longer than 60 days.

7. All permits must be renewed annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:615 (June 1985).

William B. Fairchild, D.V.M.
State Veterinarian

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Title 7 - Section 11765**

estry, Louisiana Livestock Sanitary Board, Box 1951, Baton Rouge, LA 70821.

**Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals
Chapter 117. Livestock Sanitary Board
Subchapter C. Horses, Mules and Asses
§11766. Equine Infectious Anemia Testing Laboratory Requirements**

A. No person shall operate an Equine Infectious Anemia testing laboratory without first obtaining approval from the Louisiana Livestock Sanitary Board.

B. Conditions for approving an Equine Infectious Anemia testing laboratory:

1. The person must submit an application for approval to the office of the state veterinarian.

2. An inspection of the facility must be made by someone representing the office of the state veterinarian and who shall submit a report to the Louisiana Livestock Sanitary Board indicating whether or not the person applying for an Equine Infectious Anemia testing laboratory approval has the facilities and equipment which are called for in Veterinary Service Memorandum 555.8.

3. The applicant must agree, in writing, to operate the laboratory in conformity with the requirements of the regulation and Veterinary Service Memorandum 555.8.

4. The applicant must show the board that there is a need for the laboratory.

5. If the application is approved by the Louisiana Livestock Sanitary Board, the applicant will proceed with training, examination, and United States Department of Agriculture laboratory visitation.

6. Laboratory check test results will be provided to the state veterinarian for final approval.

7. All Equine Infectious Anemia testing laboratories which have been approved by the United States Department of Agriculture prior to the adoption of this regulation will be automatically approved at the time this regulation goes into effect.

C. Conditions for maintaining Equine Infectious Anemia testing laboratory approval:

1. Laboratories must maintain a work log clearly identifying each individual sample and tests results, which must be available for inspection, for a period of 18 months from the date of the test.

2. Laboratories must maintain on file and make available for inspection, a copy of all submitting forms for a period of 18 months.

3. Laboratories must continually meet all the requirements of Veterinary Services Memorandum 555.8.

4. Samples will be periodically collected, without prior notification for spot check tests, to allow periodic laboratory inspection.

5. The state veterinarian will renew the approval in January of each year, as long as laboratories maintain the standards required by this regulation and Veterinary Services Memorandum 555.8.

D. Cancellation of Equine Infectious Anemia testing laboratory approval:

An Equine Infectious Anemia testing laboratory may have its approval cancelled if the Louisiana Livestock Sanitary Board finds, at a public hearing, that the laboratory has failed to meet

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs or savings to state or local governmental units or as a result of the proposed amendments.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed amendments would have no effect on revenue collection of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Horse owners who would sell their horses at Louisiana livestock auction markets, would have to incur the cost, approximately \$25, of having their horse tested for Equine Infectious Anemia, prior to selling and would have the opportunity to possibly receive a better price for the horse, or they could sell the horse for slaughter only at a reduced price.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
It is estimated that the proposed action would have very little, if any, impact on competition and employment.

Richard Allen
Assistant Commissioner

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Animal Health Services
Livestock Sanitary Board**

In accordance with the provisions of LSA 49:950, et seq., the Administrative Procedure Act, and LSA 3:2095, relative to the power of the Louisiana Livestock Sanitary Board to deal with diseases of animals, notice is hereby given that the Louisiana Livestock Sanitary Board advertises its intent to amend and/or add to the regulations of the board:

Louisiana Administrative Code, Title 7, Section 11766 to require the following:

1. Any new laboratory conducting official tests for Equine Infectious Anemia to receive approval from the Louisiana Livestock Sanitary Board before it can conduct such tests.
2. Approval to be renewed annually.
3. Establish specific guidelines for initiating and maintaining certain standards and procedures necessary to receive and maintain approved status.
4. To authorize unannounced inspections and collection of samples for confirmation tests.
5. Establish procedures for cancelling approval to conduct official tests for Equine Infectious Anemia.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., June 6, 1988, at the following address: William B. Fairchild, D.V.M., State Veterinarian, Louisiana Department of Agriculture and For-

the requirements of this regulation or has falsified its records or reports.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 14:

William B. Fairchild, D.V.M.
State Veterinarian

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Title 7 Section 11728**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no cost or savings to the state or to local governmental units to implement this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will have no effect on revenue collection by state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Directly affected persons or non-governmental groups, would not experience any costs or economic benefit as the proposed rule would not change what is concurrently required of them by the United States Department of Agriculture.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Competition and employment could be reduced in the future as the proposed action could prevent additional laboratories from being approved to conduct the official Equine Infectious Anemia tests, but this would be minimal as very few laboratories have expressed an interest in conducting official Equine Infectious Anemia tests in the past.

Richard Allen
Assistant Commissioner

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Animal Health Services
Livestock Sanitary Board**

In accordance with the provisions of LSA 49.950, et seq., the Administrative Procedure Act, and LSA 3:2095, relative to the power of the Louisiana Livestock Sanitary Board to deal with diseases of animals, notice is hereby given that the Louisiana Livestock Sanitary Board advertises its intent to amend and/or add to the regulations of the board:

1. Effective October 1, 1988, no calves may be moved from known infected herds except steers and spayed heifers or "S" branded animals to be moved or sold to slaughter or a quarantined feedlot.
2. Brucellosis vaccinated animals which are positive to the card test, but have a reaction less than the mid-range calibra-

tion spot on the CITE test, are to be considered suspect.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., June 6, 1988, at the following address: William B. Fairchild, D.V.M., State Veterinarian, Department of Agriculture and Forestry, Livestock Sanitary Board, Box 1951, Baton Rouge, LA 70821.

Title 7

**AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals**

**Chapter 117. Livestock Sanitary Board
Subchapter B. Cattle**

§11735. Livestock Auction Market Requirements

All cattle which are sold or offered for sale in livestock auction markets must meet the general requirements of LAC 7:XXI.11709 and the following specific requirements:

A. Brucellosis

1. Cattle from quarantined herds or from non-qualified herds from quarantined areas are not eligible for sale in the state of Louisiana except as provided in LAC 7:XXI.11749, which governs brucellosis quarantined herds.

2. All cattle that are offered for sale through Louisiana Livestock auction markets must be identified by a white official backtag; those animals two years of age and older shall have this official backtag placed immediately behind the shoulder of the animal. The market shall furnish the Livestock Sanitary Board's official representative a copy of each check-in slip, showing the name and address of each consignor, the official backtag numbers applied to the consignor's livestock, and the license plate of the vehicle used to haul the livestock to the auction market. The check-in slip shall be made available to the Livestock Sanitary Board's official representative before the animals can be tested for brucellosis.

It shall be a violation of this regulation for anyone to provide a name and address of anyone other than the owner of any livestock consigned to a Louisiana livestock auction market.

3. All cattle 12 months of age and over, that are offered for sale, are to be identified by an official metal eartag and are to be tested for brucellosis.

Exceptions to LAC 7:XXI.11735.A.3. are:

- a. steers and spayed heifers;
- b. cattle consigned from quarantined feedlots that are "S" branded and permitted prior to shipment to the auction barn;
- c. official calfhood vaccinates less than 24 months of age for beef breeds and 20 months of age for dairy breeds, that are not pre-parturient or post-parturient;
- d. bulls less than 18 months of age.

4. a. All non-vaccinated heifer calves, between 4 and 12 months of age, must be vaccinated with USDA Approved Brucellosis Strain 19 vaccine prior to being sold.

b. All heifers and cows, which were born after January 1, 1982 and are over 12 months of age, must be brucellosis tested and be official brucellosis vaccinates (calfhood or adult), or originate from a herd that has had a complete negative brucellosis herd test within the previous 12 months. A copy of the herd test record, which includes the animal(s) being tested, must accompany the animal(s) at the stockyard. All heifers and cows, older than 12 months of age, which were born after January 1, 1982, that are not official brucellosis vaccinates or have not been part of a complete negative brucellosis herd test, conducted within the previous 12 months, may be returned to the farm of origin or be brucellosis tested, "S" branded, and sold to a quarantine feedlot or an approved slaughter establishment and shall be ac-

accompanied by a VS Form 1-27. These non-vaccinated "S" branded animals must be delivered to an approved slaughter establishment, a Louisiana- or USDA-approved quarantined feedlot, or the premises of a Louisiana-permitted livestock dealer within 72 hours of purchase. The permitted livestock dealer may hold these animals up to seven days at his approved facilities. The animals must move from the permitted livestock dealer's premises directly to an approved slaughter establishment or to a Louisiana or USDA approved quarantined feedlot.

Exceptions to this Subparagraph are:

i. official brucellosis calfhood vaccinates under 20 months of age for dairy breeds and under 24 months of age for beef breeds, which are not pre-parturient (springers) or post-parturient;

ii. individually identified cattle, moving directly from a certified brucellosis free herd and accompanied by a copy of the last herd test record, which includes the animal(s) being offered for sale.

c. Effective January 1, 1989, all heifers and cows over 12 months of age, must be brucellosis tested and be official brucellosis vaccinates (calfhood or adult), or originate from a herd that has had a complete negative herd test within the previous 12 months. A copy of the herd test record, which includes the animal(s) being tested, must accompany the animal(s) to the stockyard. All heifers and cows older than 12 months, that are not official brucellosis vaccinates or have not been part of a complete negative brucellosis herd test conducted within the previous 12 months, may be returned to the farm of origin or may be brucellosis tested, "S" branded and sold to a quarantined feedlot or to an approved slaughter establishment and shall be accompanied by a VS Form 1-27. These non-vaccinated "S" branded animals must be delivered to an approved slaughter establishment or to a Louisiana-permitted livestock dealer within 72 hours of purchase. The permitted livestock dealer may hold the animals up to seven days at his approved facilities. The animals must move from the Louisiana-permitted livestock dealer's premises directly to an approved slaughter establishment or to a Louisiana- or USDA-approved quarantined feedlot.

Exceptions to this Subparagraph are:

i. official brucellosis calfhood vaccinates under 20 months of age for dairy breeds and under 24 months of age for beef breeds, which are not pre-parturient (springers) or post-parturient;

ii. individually identified cattle, moving directly from a certified brucellosis free herd and accompanied by a copy of the last herd test record, which includes the animal(s) being offered for sale.

5. Disposition of animals tested at an auction market:

a. Reactor animals vaccinated or non-vaccinated, disclosed must be branded with a three-inch hot brand on the left jaw, tagged and removed to slaughter with a properly executed VS Form 1-27.

b. Suspect animal(s), adult vaccinated or calfhood vaccinated animals, which are card test positive and rivanol test negative or have a CITE test reaction less than the reaction found at the mid-range calibration spot on the CITE test, can be "S" branded and sold for slaughter or, at the choice of the owner, returned to the farm of origin under quarantine for retest in no less than 30 days. Additional animals in the same consignment with the vaccinated suspect(s), which are negative on the brucellosis test, may move without restriction, provided they are in compliance with other appropriate regulations.

c. All exposed animals in a consignment must be "S"

branded for removal to slaughter or, at the choice of the owner, can be returned to the farm of origin under quarantine.

6. Cattle originating from brucellosis quarantined herds shall be identified by eartag and branded with a three-inch hot "S" brand on the left jaw and accompanied by a properly executed VS Form 1-27. The branding and the issuance of VS Form 1-27 will be completed on the farm of origin prior to movement. The VS Form 1-27 will be delivered to authorized representatives at the livestock auction market. In cases where it is impractical to have the exposed cattle branded on the farm of origin, the state veterinarian can authorize the movement of the cattle to the livestock auction market and the branding will be accomplished at this point.

a. Cattle from brucellosis quarantined areas may be moved to Louisiana livestock auction markets on a permit. These animals will be "S" branded after arrival at the Louisiana livestock auction market.

b. Cattle from quarantined areas and from brucellosis quarantined herds must be sold to approved slaughtering establishments or to approved quarantined feedlots.

Exceptions to LAC 7:XXI.11735.A.6.b. are:

i. steers and spayed heifers;

ii. heifer calves eight months of age or less, from brucellosis quarantined beef herds and heifer calves six months of age or less, from brucellosis quarantined dairy herds, provided the herd is participating in an approved herd plan to eliminate brucellosis from the herd.

iii. bull calves under six months of age, that are nursed by brucellosis reactor or exposed cows, may move from the quarantined premises under permit, provided they have been weaned for not less than 30 days immediately preceding movement.

iv. exceptions to ii. and iii. above, will not be applicable after October 1, 1988.

7. When brucellosis reactors are found in a consignment, all remaining negative cattle in the consignment are considered exposed and shall be handled by one of the following ways:

a. The exposed cattle shall be identified by a three-inch, hot brand on the left jaw with the letter "S" and sold directly to a recognized slaughter establishment for immediate slaughter or to a state-federal approved quarantined feedlot and shall be accompanied by a VS Form 1-27.

b. The exposed cattle may be identified by a yellow paint mark on the left ear and returned to the original owner's premises under quarantine. All such movements will be accompanied by a quarantine notice listing the eartag and auction tag identification numbers of the animals moving to Louisiana farms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985); amended LR 12:501 (August 1986); amended LR 12:598 (September 1986); amended LR 13: (October 1987); amended LR 14:.

William B. Fairchild, D.V.M.
State Veterinarian

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Section 11735

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation of cost or savings to state or local governmental units as a result of the proposed amendment.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendment would have no effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There would be no added costs of operation to those affected by the proposed amendment, but the receipts of those affected by the added restrictions would be reduced by approximately \$630,000. The use of the CITE test would increase the receipts and reduce the cost to those affected by approximately \$50,000.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

If the proposed amendments are not implemented, it could cost the Louisiana cattle industry approximately \$42 million dollars over a 12 month period as they could not market their approximate 280,000 heifer calves in interstate commerce without having severe restrictions placed on them.

Richard Allen
Assistant Commissioner

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Animal Health Services Livestock Sanitary Board

In accordance with the provisions of LSA 49:950, et seq., the Administrative Procedure Act, and LSA 3:2095, relative to the power of the Louisiana Livestock Sanitary Board to deal with diseases of animals, notice is hereby given that the Louisiana Livestock Sanitary Board advertises its intent to amend and/or add to the regulations of the board.

Louisiana Administrative Code, Title 7, Section 11749 to require the following:

1. all brucellosis infected herds to be brucellosis tested six to 12 months following their release from brucellosis quarantine;

2. all animals, except steers and spayed heifers, in brucellosis quarantined herds to be moved to or sold to slaughter or to a quarantine feedlot.

Interested persons may comment on the proposed policy change and/or additions, in writing, until 4:30 p.m., June 6, 1988, at the following address: William B. Fairchild, D.V.M., State Veterinarian, Louisiana Department of Agriculture and Forestry, Livestock Sanitary Board, Box 1951, Baton Rouge, LA 70821.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board

Subchapter B. Cattle

§11749. Governing the Testing and Vaccination of Cattle and the Movement of Cattle from Brucellosis Quarantined Herds

A. Testing of Cattle in Quarantined Herds

1. Within six months of the date the quarantine was issued, an exposed herd will be tested at a date agreed upon by the owner or his representative and an authorized agent of the Livestock Sanitary Board. If a date to test an exposed herd cannot be agreed upon, the state veterinarian will establish a date to test the exposed herd and notify the owner in writing 30 days prior to the date established. An exposed herd will remain under quarantine and be tested until it has passed one complete negative test. When more than one herd test is required to obtain a complete negative test, the test date will be established by the procedures used to establish the initial herd test.

2. a. An infected herd will be tested on a schedule established in an approved herd plan or be tested at intervals of 60 days or less. The adult herd will be tested and continue to be classified as infected and under quarantine until it has passed one complete negative herd test, not less than 30 days following the date the last reactor was removed from the herd, and, in addition, a second negative herd test, no less than 180 days from the date the last reactor was removed from the herd. In addition, all infected herds must be tested six to 12 months following their release from brucellosis quarantine.

b. Heifer calves weaned after eight months of age, from a known brucellosis infected herd, must be quarantined and held separate and apart from the known infected adult herd until they test negative for brucellosis following their first calving or:

c. If heifer calves remain in a brucellosis infected adult herd, the entire herd shall remain under quarantine until all the heifer calves have calved and the entire herd is tested negative for brucellosis.

3. Any brucellosis infected herd which has one or more reactors on more than one herd test, would be required to be adult vaccinated against brucellosis and will be tested on a schedule established in an approved herd plan or be tested at intervals of 180 days or less. The herd will be tested and continue to be classified as infected and under quarantine until it has passed one complete negative test, not less than 30 days following the date the last reactor was removed from the herd and, in addition, a second negative herd test, no less than 120 days from the date the last reactor was removed from the herd. In addition, the herd must be tested six to 12 months following its release from brucellosis quarantine.

B. Movement of Cattle from Quarantined Herds

1. Brucellosis reactors disclosed in a quarantined herd will be:

a. "B" branded on the left jaw;
b. identified with a reactor tag; and
c. removed from the herd and sold directly to slaughter or to an approved stockyard for sale to slaughter within 45 days from the date the animal is classified as a brucellosis reactor.

2. a. All cattle over 6 months of age in beef herds, will be "S" branded and identified prior to movement from the quarantined premises by an authorized agent of the Livestock Sanitary Board. In cases where it is impractical to have exposed cattle branded on the farm of origin, the state veterinarian can authorize the movement of cattle from quarantined herds to a livestock auction market for branding and identification.

Exceptions to this Subparagraph are:

i. steers and spayed heifers;

ii. official brucellosis calfhood vaccinated heifers, no more than eight months of age and in a herd participating in an approved herd plan to eliminate brucellosis from the herd.

b. All cattle over six months of age in dairy herds, will be "S" branded and identified prior to movement from the quarantined premises by an authorized agent of the Livestock Sanitary Board.

Exceptions to this Subparagraph are:

i. steers and spayed heifers;

ii. calves, no more than six months of age which were separated from the dam at no more than seven days of age, held separate and apart from the infected herd for at least 30 days, and be identified with an official eartag prior to movement from the premises. In addition, they must be from a herd participating in an approved herd plan to eliminate brucellosis.

3. Effective October 1, 1988, all cattle, regardless of age or vaccination status, will be "S" branded and identified prior to movement from any brucellosis quarantined premises by an authorized agent of the Louisiana Livestock Sanitary Board. In cases where it is impractical to have exposed cattle branded on the farm of origin, the state veterinarian can authorize the movement of cattle from quarantined herds to a livestock auction market for branding and identification. Exceptions are steers and spayed heifers.

C. All movement from brucellosis quarantined herds must be accompanied by a VS Form 1-27, listing the individual identification of each animal to be moved. This form must be delivered to an authorized representative at destination. These permits will be issued by an agent of the Louisiana Livestock Sanitary Board.

D. All intrastate and interstate movements from brucellosis quarantined herds are restricted to an approved slaughtering establishment for immediate slaughter, directly to an approved quarantined feedlot, or to an approved livestock auction market for sale to an approved slaughtering establishment or quarantined feedlot. (Brucellosis reactors must be sold for slaughter only, either directly to an approved slaughtering establishment or through an approved livestock auction market for sale to such establishment.)

Exceptions to LAC 7:XXI.11749.D are:

i. steers and spayed heifers over six months of age;

ii. heifer calves under 12 months of age that are official calfhood vaccinates, and they originate from herds participating in an approved herd plan to eliminate brucellosis from the herd.

3. Bull calves under six months of age that are nursed by brucellosis reactor or exposed cows, may move from the quarantined premises under permit, provided they have been weaned for not less than 30 days immediately preceding movement.

Exceptions to this Subparagraph are

i. steers and spayed heifers;

ii. heifer calves from beef herds that are no more than eight months of age and are in a herd participating in an approved herd plan to eliminate brucellosis from the herd;

iii. calves from dairy herds that are not more than six months of age which were separated from the dam at no more than seven days of age, held separate and apart from the infected herd for at least 30 days, and be identified with an official eartag prior to movement from the premises. In addition, they must be from a herd participating in an approved herd plan to eliminate brucellosis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2221.

HISTORICAL NOTE: Promulgated by the Department of

Agriculture, Livestock Sanitary Board, LR 11:615 (June 1985); Amended LR 12:289 (May 1986); Amended LR 13:559 (October 1987).

William B. Fairchild, D.V.M.
State Veterinarian

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Title 7, Section 11749

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units as a result of the proposed amendments.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendments would have no effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Owners of brucellosis quarantined herds would have to incur the cost of testing their herd at a cost of having it tested one more time.

The receipts of the approximately 260 cattle owners affected by the increased restrictions, will be reduced by approximately \$630,000.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

If the proposed amendments are not implemented, it could cost the Louisiana cattle industry approximately \$42 million dollars over a 12-month period, as they could not market their approximately 280,000 heifer calves in interstate commerce without having severe restrictions placed on them.

Richard Allen
Assistant Commissioner

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Civil Service Board of Ethics for Elected Officials

The Board of Ethics for Elected Officials, acting in its capacity as the Supervisory Committee on Campaign Finance Disclosure pursuant to R.S. 18:1511.A, proposes to adopt the following rules concerning the names used by political committees.

1. The name of a political committee shall not be the same as, nor deceptively similar to, the name of any other political committee.

2. The name of a political committee organized to support one candidate shall contain the name of that candidate.

3. The name of a political committee supporting or opposing more than one candidate shall not contain the name of an individual, unless the name of the committee in some way

clearly reflects that it is not a committee supporting or opposing only that individual.

4. When a political committee uses an acronym in addition to its complete name, each document filed with the Supervisory Committee shall contain the complete name of the political committee with the acronym in parentheses.

5. When the name of a political committee contains a number, the number shall be spelled out in the name and the numerical symbol(s) placed in parentheses.

Interested persons may submit written comments until 4:45 p.m. May 31, 1988, to R. Gray Sexton, Executive Secretary, Board of Ethics for Elected Officials, 7434 Perkins Road, Suite B, Baton Rouge, LA 70808-4379. Inquiries concerning this proposed action may be made to Maris LeBlanc McCrory at the same address or at (504) 765-2314.

R. Gray Sexton
Executive Secretary

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

Rule Title: Political Committee Names

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs/benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Maris LeBlanc McCrory
Staff Attorney

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Commerce
Board of Architectural Examiners**

Under the authority of La. R.S. 37:144 and in accordance with the provisions of La. R.S. 49:950 et seq., the Board of Architectural Examiners gives notice that rulemaking procedures have been initiated for the adoption of a new rule numbered §1109 relative to defining building construction costs referenced in La. R.S. 37:155(4)(c) for determining the maximum size of new buildings or projects or of existing buildings or projects involving additions, alterations or renovations which do not require the services of a licensed architect or a person exempt by La. R.S. 37:155 from the prohibition against practicing architecture by unlicensed persons.

PROPOSED RULE

§1109 Building Construction Cost Defined

In determining the maximum size of new buildings or projects or of existing buildings or projects involving additions, alterations or renovations which do not require the services of a licensed Architect, the following construction cost values shall be utilized in estimating the cost of construction referenced in R.S. 37:155(4)(C).

| Occupancy* | \$ Per Square Foot |
|--|--------------------|
| Storage | 20 |
| Factory - Industrial | 25 |
| Mercantile | 30 |
| Business, Residential (except single family residences) | 40 |
| Educational, Institutional | 50 |
| Assembly, hazardous | 80 |

*As defined in Standard Building Code

Interested persons may submit written comments on this proposed Rule to Ms. Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LAC §1109 - Building Construction
Costs Defined**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs/savings to the state or local governmental units since this new Rule merely clarifies an existing Louisiana statute, La. R.S. 37:155(4)(c).
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections since this new rule merely clarifies an existing Louisiana statute, La. R.S. 37:155(4)(c).
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition and employment is anticipated since this new Rule merely clarifies an existing Louisiana statute, La. R.S. 37:155(4)(c).

Mary "Teeny" Simmons
Executive Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amend Bulletin 741- Add Standard 2.076.07

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved an amendment to Bulletin 741 to add Standard 2.076.07 as follows:

Add Standard 2.076.07

Each school shall develop a written plan for community-/parental involvement.

Local plans shall be developed by September, 1989.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m. July 8, 1988 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Interim Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Amend Bulletin 741-Standard 2.076.07

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The revision and distribution of Bulletin 741 will cost approximately \$50. The written plan is to be developed at the school level and can be done at a regularly scheduled faculty meeting. The local cost will be for printing the local plan which should not exceed \$1 per school. The total estimated local cost is, therefore, approximately \$1450.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no costs to directly affected non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Graig Luscombe
Interim Deputy Superintendent
of Management and Finance

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Environmental Quality Air Quality Division

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:1051 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated as follows:

A rule is proposed whereby marine operations serving ships and/or barges, loading crude oil, gasoline and volatile organic compounds, with an uncontrolled emission of 100 tons per year or greater of volatile organic compounds (VOC's) shall be equipped with a vapor collection system. This collection system shall be designed to collect a minimum of 90 percent of organic compounds' vapors displaced from ships and/or barges during loading.

The proposed rule is to become effective on July 20, 1988 or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held at 10 a.m. on Thursday, June 2, 1988 in the Mineral Board Hearing Room of the State Land and Natural Resources Building in Baton Rouge. Interested persons are invited to attend and submit oral comments on the proposed rule.

All interested persons are invited to submit written comments concerning the rule. Such comments should be submitted, no later than June 2, 1988, to Earle Clayson, Technical Services Coordinator. He may be contacted at the Baton Rouge, LA address below, or by telephone (504) 342-5944. A copy of the regulations may be viewed at the Air Quality Division addresses provided, from 8 a.m. to 4:30 p.m. Monday through Friday, inclusive.

State Land and Natural Resources Building, 625 North Fourth Street, Eighth Floor, Baton Rouge, LA.

Department of Environmental Quality, 1155 Ryan Street, Second Floor, Lake Charles, LA.

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA.

Department of Environmental Quality, 3945 North I-10 Service Road, Metairie, LA.

Department of Environmental Quality, 804 31st Street, Monroe, LA.

Department of Environmental Quality, 100 Eppler Road, Lafayette, LA.

Paul H. Templet, Ph.D.
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Marine Vapor Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs (savings) to state or local governmental units. Existing staff will be utilized to implement the regulation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governmental units will not be affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The estimated costs to directly affected non-governmental groups will vary according to the size of the company. The costs will be \$3500 - \$5000 per ton of organic vapors recovered. There will be about 18-20 companies affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed regulation will have no effect on competition and employment as all facilities in Louisiana will be treated equally. It is not anticipated that the economic impact will be competitively disadvantageous to firms in Louisiana.

Paul H. Templet, Ph.D.
Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Environmental Quality Office of Solid and Hazardous Waste Hazardous Waste Division

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:1051 et seq., and in particular Sections R.S. 30:1139, R.S. 30:1140, R.S. 30:1141 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Rules of Procedure of the Secretary, LAC 33:V.4901.

These regulations are intended to add Chemical Abstract Service (CAS) registry numbers in an identification aid while several corrections are also being encompassed and an additional six compounds are being added in these amendments.

The proposed regulations are to become effective on July 20, 1988, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be at 10 a.m. on June 6, 1988, in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 N. Fourth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed regulations.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than June 20, 1988 to Glenn Miller, Administrator, Hazardous Waste Division, Department of Environmental Quality, Box 44307, Baton Rouge, LA 70804-4307. He may be contacted at the above address or telephone (504) 342-9072. A copy of the proposed regulations may be obtained from the Hazardous Waste Division at the address provided. In addition, copies of the proposed regulations are also available for inspection at the following locations from 8 a.m. until 4:30 p.m.

State Land and Natural Resources Building, Room 615, 6th floor, 625 North Fourth Street, Baton Rouge, LA.

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

Department of Environmental Quality, 1155 Ryan Street, Second Floor, Lake Charles, LA.

Department of Environmental Quality, 804 31st Street, Monroe, LA.

Department of Environmental Quality, 2945 North I-10 Service Road, Metairie, LA.

Department of Environmental Quality, 100 Eppler Road, Lafayette, LA.

Paul H. Templet, Ph.D.
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Identification of Listing of Hazardous Waste

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation cost or saving to the state or local governmental units because the identification listing was accomplished with existing resources.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The addition of some six new chemicals or compounds to state hazardous waste lists will subject these materials to the Hazardous Waste Tax of \$5 to \$10 per ton dry weight. There is no data available on these materials to indicate the tonnage that may be disposed of within Louisiana at this time. Therefore no estimate of additional collections can be made.

Addition of the chemical abstract numbers to the lists will have no impact on state revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The six new chemicals or compounds added to the state hazardous lists are already considered hazardous wastes by the federal government and are regulated by federal environmental authorities. Thus to the extent that Louisiana waste generators and disposers are in compliance with federal law, the economic impact of these additions should be minimal.

Waste generators and users will have a potential additional tax liability as described above and may incur additional administrative costs in meeting the reporting requirements associated with this tax.

Addition of chemical abstract numbers to the lists will have no impact on persons or businesses regulated by the Department of Environmental Quality.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition or employment as a result of the addition of the chemical abstract numbers or additional substances to the list of hazardous materials regulated by the state.

Paul H. Templet, Ph.D.
Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Office of the Governor Division of Administration Commissioner's Office

The Commissioner of Administration intends to adopt the following rule pursuant to the authority of R.S. 39:1572B.

Department of Education Procurement

The Department of Education shall conduct the procurement of all supplies, services, and major repairs, as defined by the Louisiana Procurement Code, LSA-R.S. 39:1551 et seq., through the central purchasing agency of the Division of Administration. This rule does not extend to those items exempted in LSA-R.S. 39:1572A(2).

Interested persons may submit comments on the proposed rule to Edgar Jordan, III, Assistant Commissioner, Division of Administration, Box 94095, Baton Rouge, LA 70804-9095.

Brian Kendrick
Commissioner

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Department of Education Procurement**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Division of Administration and the Department of Education will be reviewing the volume and types of procurements made by the department. This effort may result in the change of staffing requirements in the procurement area between the Department of Education and the State Central Purchasing Agency. There may also be savings associated with the lower prices on some state-wide contracts. This potential savings, if any, will depend on the volume and type of procurement made by the Department of Education.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on employment, if any, has been determined at this time. There is no effect on competition anticipated.

Brian Kendrick
Commissioner

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Division of Administration
Office of State Planning**

Louisiana Community Development Block
Grant (LCDBG) Program
FY 1988 Final Statement - Amended

The following section of the FY 1988 LCDBG Final Statement will be amended as follows:

Section III. METHOD OF SELECTING GRANTEES

D. DEMONSTRATED NEEDS FUND

A \$1.5 million reserve fund will be established to alleviate critical/urgent community needs.

An application cannot be submitted for consideration under the fund if the same application is currently under consideration for funding under any other LCDBG program category.

Subject to the availability of funds, projects that meet the

following criteria will be funded:

(a) General Eligibility

Proposed activities must be eligible under Section 105 (a) of the Housing and Community Development Act of 1974, as amended.

Each proposed activity must address one of the national objectives.

(b) Critical/Urgent Need - Project Severity

Each activity must address a critical/urgent need which can be verified by an appropriate authority, (cognizant state or federal agency) other than the applicant as having developed within six months prior to submittal of the application.

The project evaluation request will be submitted to the appropriate cognizant agency by the DOA. In addition to the stipulation that the critical/urgent need must have developed within six months prior to submittal, the cognizant agency will rate the severity or urgency of the project on a scale of 1 to 5, based on the following:

1 - Project is urgently needed and is of a health threatening potential.

2 - Project is worthwhile and needed, health risk is moderate, urgency is moderate.

3 - Most of project is worthwhile.

4 - Portions of project are worthwhile.

5 - Project is not worthwhile.

Only those projects receiving a 1 rating will be fundable.

(c) Application Requirements

All items and forms necessary for a regular public facilities application will also be required for demonstrated needs.

This amendment is to be effective on July 20, 1988 and is to remain in force until it is amended or rescinded. Anyone having comments should submit them in writing by June 15, 1988, to: Joan Wharton, Director of State Planning, Box 94095, Baton Rouge, LA 70804-9095.

Brian E. Kendrick
Commissioner

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LCDBG Program - FY 1988
Final Statement - Amendment**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed change to the FY 1988 LCDBG Final Statement will not result in any additional costs or savings to the state.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The amendment will have no effect on the amount of LCDBG funds the state will receive.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This rule change will not affect those persons who will benefit from the LCDBG program. The demonstrated needs funds will still basically benefit persons of low/moderate income throughout the state.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action will not affect competition or employment in the public and private sectors.

Joan Wharton
Director
Office of State Planning

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

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

The Division of Administration, Office of Telecommunications Management hereby gives notice in accordance with R.S. 49:950 et seq., and R.S. 39:140-143 that it intends to amend LAC 4:IX.901 relative to telecommunications use.

**Title 4
ADMINISTRATION**

Part IX. Telecommunications

Chapter 9. Telecommunications Use

§901. General

A. All state agencies and all entities approved by the commissioner of administration to utilize state telecommunications systems are responsible for devising, implementing, and enforcing controls related to telephone usage and informing employees of such policies to preclude unnecessary charges. To assist state agencies in monitoring the usage of state telephones, OTM shall provide each billing unit with a management report detailing the calls placed on the LINC network. This report will include the telephone number (10 digit) placing the call, the telephone number (10 digit) called, the time, day and month of the call and the duration (minutes) of the call. This report will be optional for elected officials and for law enforcement units where security is required and may not be provided in some instances where there are equipment limitations. Agency policy concerning telephone usage should be consistent with the following considerations and should be appropriate for the particular needs of each agency.

B. - F...

Interested persons may direct written inquiries until 5 p.m., June 8, 1988 to Nino Salvaggio, Office of Telecommunications Management, Box 94280, Baton Rouge, LA 70804-9280, (504) 925-7744 (LINC 427-7744).

J.A. Lanier
Acting Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LAC 4:IX.901 Telecommunications Use**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Since OTM has already been providing a report with the area code and first three numbers of the called to number, there will be no additional costs to provide all 10 digits on

the report. This additional information should give state agencies increased management of long distance calling and therefore potential cost savings.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is no direct economic effect on any person on non-governmental group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is expected.

J.A. Lanier
Acting Director

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Office of the Governor
Office of Elderly Affairs**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs is proposing to adopt a rule in the Job Training Partnership Act (JTPA), Title I, Part B, Section 124(d), Older Individual Program to establish a formula for distributing funds, effective July 20, 1988.

The rule shall read as follows: "The total amount of funding for each JTPA Older Individual Program service area equals the percentage of the state's economically disadvantaged 55+ population residing in that service area, multiplied by the total amount of funds available for program activity, statewide."

The Job Training Partnership Act, Title I, Part B, Section 124(d) states: "An individual shall be eligible to participate in a job training program under this section only if the individual is economically disadvantaged and has attained 55 years of age."

The Governor's Office of Elderly Affairs will conduct a public hearing to receive comments on the proposed rule on Tuesday, May 31, 1988 in the State Police Training Academy Auditorium, 7901 Independence Boulevard, 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. Additional written comments concerning the proposed rule must be forwarded to Rebecca Kautz, Employment Programs Manager, Governor's Office of Elderly Affairs, Box 80374, Baton Rouge, LA 70898-0374 by June 17, 1988.

Bobby Fontenot
Finance Manager

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: JTPA Title II-A 3 Percent
Distribution Formula**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule implements a formula to equitably distribute, by parish, federal Job Training Partnership Act funds, based on the 55 + population who are economically disadvantaged, in accordance with the Job Training Partnership Act, Title I, Part B, Section 124(d). The Governor's Office of Elderly Affairs currently contracts with 10 agencies to provide services to all 64 parishes. The formula change will reduce the allotment for Jefferson Parish from \$155,105 for FY '88 to \$80,842 for FY '89; and will reduce the allotment for Plaquemines, St. Bernard and St. Tammany Parishes from \$75,953 for FY'88 to \$57,326 for FY '89. All other service areas will receive funding for FY '89 at or above the FY '88 level.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Bobby Fontenot
Finance Manager

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Eligibility Determinations**

The Department of Health and Hospitals, Office of Eligibility Determinations, proposes to adopt the following rule in the Aid to Families With Dependent Children (AFDC) Program.

This revision is mandated by federal regulations published in the *Federal Register*, Vol. 52, No. 247, Thursday, December 24, 1987 pages 48687-48689. This was adopted as an Emergency Rule as federal regulations mandate an implementation date of December 24, 1987.

PROPOSED RULE

Effective December 24, 1987, an alien meets the alien status requirement if he is granted lawful temporary resident status under Section 201 or 302 of the Immigration Reform and Control Act of 1986, (Pub.L. 99-603), if the alien is a Cuban or Haitian entrant, as defined in Section 501(e) of Public L. 96-442, or other than a Cuban or Haitian entrant who was granted temporary resident status more than five years prior to certification. An alien other than a Cuban or Haitian entrant granted lawful temporary status is subject to a five-year disqualification period which begins the date the lawful temporary resident status is granted even if his status changes to permanent within the five-year period.

When determining eligibility, income of an alien parent who is disqualified is considered available to the otherwise eligible child by applying the stepparent deeming formula. The needs and income of disqualified alien siblings are not considered in determining the eligibility of an otherwise eligible dependent child.

Interested persons may submit written comments to the following address: Howard L. Prejean, Deputy Assistant Secretary, Box 94065, Baton Rouge, LA, 70804-4065. Mr. Prejean 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 from the local Office of Eligibility Determinations.

A public hearing on this proposed rule will be held on June 8, 1988, 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.

David L. Ramsey
Acting Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: AFDC – Alien Legislation**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The costs are \$23,712 (\$16,684 Federal and \$7,028 State) in FY 88-89 and \$23,712 (\$16,852 Federal and \$6,860 State) in FY 89-90 and FY 90-91.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections will increase by \$16,848 in FY 88-89 and \$16,852 in FY 89-90 and FY 90-91 representing the Federal share of the costs.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Approximately 150 Cuban or Haitian aliens granted lawful temporary status could now apply for Aid To Families With Dependent children.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Howard L. Prejean
Deputy Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Eligibility Determinations**

The Department of Health and Hospitals, Office of Eligibility Determinations, proposes to adopt the following rule in the Aid to Families With Dependent Children.

The Budget Reconciliation Act of 1987 amended Title IV-A of the Social Security Act to allow a state to establish and operate a fraud control program. The Office of Eligibility Determinations elects to implement a fraud control program as set forth in Sec.9102 of the Social Security Act.

PROPOSED RULE

Effective August 1, 1988, the Office of Eligibility Determinations will implement a fraud control program in the Aid to

Families With Dependent Children (AFDC) Program.

Under this program, the Office of Eligibility Determinations may:

1. Claim 75 percent Federal match for its costs related to the investigation, prosecution, administrative (fraud) hearing and collection of AFDC fraud cases,

2. implement an administrative hearing procedure for AFDC fraud cases, and

3. disqualify the adult found guilty of AFDC fraud by a court or in an administrative hearing.

If an individual who is a member of a family applying for or receiving AFDC is found by a federal or state court or by an administrative hearing to have intentionally made a false or misleading statement or misrepresented, concealed, or withheld facts, or committed any act intended to mislead, misrepresent, conceal or withhold facts or propound a falsity, for the purpose of establishing or maintaining the family's eligibility for aid or of increasing or preventing a reduction in benefits, then that individual's needs shall not be taken into account in making the eligibility or benefit determination. That individual shall be disqualified for a period of six months for the first offense, 12 months for the second offense, and permanently for the third or any subsequent occasion of any such offense.

Each applicant shall be provided with a written notice of the penalties for fraud at the time of their AFDC application.

Interested persons may submit written comments to the following address: Howard L. Prejean, Deputy Assistant Secretary, Box 94065, Baton Rouge, LA 70804-4065. Mr. Prejean 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 from the local Office of Eligibility Determinations.

A public hearing on this proposed rule will be held on June 8, 1988, 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.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: AFDC Fraud Control**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated net savings in FY 88/89 are \$51,324 and in FY 89/90 and FY 90/91 are \$139,308.

No additional staff is anticipated to implement this policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be a net increase in federal funds of \$20,374 in FY 88/89 and \$28,357 in FY 89/90 and FY 90/91.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

AFDC household members who have been found to have fraudulently received benefits would be disqualified from the program for certain time periods.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Howard L. Prejean
Deputy Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

In accordance with the laws of the State of Louisiana, R.S. 40:4, 40:5, and the provisions of Chapter XIII of the State Sanitary Code, the State Health Officer is proposing that the following amendments to the listing entitled "Mechanical Wastewater Treatment Plants for Individual Homes—Acceptable Units" be made:

1. Amend the listing to include an additional manufacturer and associated plant model, specified as follows:

| MANUFACTURER | PLANT DESIGNATION | RATED CAPACITY |
|--|---------------------------|----------------|
| MCC, Inc. 9584 Wallace Lake Road Shreveport, LA 71106 (318) 688-4737 1-800-367-0859 | "CAJUN AIRE" Model 500 | 500 GPD |

2. Amend the listing to include two (2) additional series models for a currently listed manufacturer/plant, specified as follows:

| MANUFACTURER | PLANT DESIGNATION | RATED CAPACITY |
|---|---|----------------------|
| Owens Manufacturing and Specialty Company Box 2443 Lafayette, LA 70502 (318) 235-6761 | Kleen Tank Models (Including filter) | |
| | 650-1000 650-1500 | 1000 GPD 1500 GPD |

3. Amend the listing, as appropriate, to reflect current address and related information for all previously listed manufacturers, as follows:

| MANUFACTURER | PLANT DESIGNATION | RATED CAPACITY |
|---|---------------------------------|----------------|
| Aquarobic Limited P. O. Box 704 171 Robert St. E. Penetanguishene Ontario L0K 1P0 (705) 549-7401 (formerly Eastern Environmental Controls, Inc.) | Mini-Plant Models F54291-5-S | 500 GPD |
| | F54291-6-S | thru |
| | F54291-7-S | 1500 GPD |
| | F54291-7.5-S | |
| | F54291-8-S | |
| | F54291-9-S | |
| | F54291-10-S | |
| | F54291-11-S | |
| | F54291-12-S | |
| | F54291-13-S | |
| | F54291-14-S | |
| | F54291-15-S | |

NOTE: without prefix "F" concrete tank

When used in conjunction with Filter Kit Model 3000, the follow-

| | | |
|--|----------------|----------|
| ing Mini-Plant Models 54291-4 thru 54291-15 are approved | | |
| | Models 54291-4 | 400 GPD |
| | 54291-5 | thru |
| | 54291-6 | 1500 GPD |
| | 54291-7 | |
| | 54291-8 | |
| | 54291-9 | |
| | 54291-10 | |
| | 54291-11 | |
| | 54291-12 | |
| | 54291-13 | |
| | 54291-14 | |
| | 54291-15 | |

NOTE: with suffix "F": fiberglass tank;
without suffix "F": concrete tank

| | | |
|---|---|--|
| Clearstream Wastewater Systems, Inc. P. O. Box 705 Silsbee, Texas 77656 (409) 385-1395 | Models 500 H 1000 H 1500 H | 500 GPD 1000 GPD 1500 GPD |
| Delta Process Equipment, Inc. P. O. Box 969 Denham Springs, LA 70727-0969 (504) 665-1666 | Models HU-0.5 HU-1.0 HU-1.5 | 500 GPD 1000 GPD 1500 GPD |
| Jet, Inc. 750 Alpha Drive Cleveland, Ohio 44143 (216) 461-2000 | Model J-150 (Including filter) | 500 GPD |
| Mo-Dad-1, Inc. P. O. Box 96 Denham Springs, LA 70726 (504) 665-2949 1-800-999-0615 | Mo-Dad-1-500 Mo-Dad-1-1000 Mo-Dad-1-1500 Mo-Dad-1-500S Mo-Dad-1-1000S Mo-Dad-1-1500S | 500 GPD 1000 GPD 1500 GPD 500 GPD 1000 GPD 1500 GPD |
| MULTI-FLO Waste Treatment Systems, Inc. 2324 East River Road Dayton, Ohio 45439 (513) 293-1100 | Models FTB-0.5 FTB-1.0 FTB-1.5 | 500 GPD 1000 GPD 1500 GPD |
| Murphy Cormier General Contractor, Inc. Route 14, Box 1935 Lake Charles, LA 70605 (318) 474-2804 | "HOOT" Models 500 1000 1500 | 500 GPD 1000 GPD 1500 GPD |
| NORWECO, INC. (Norwalk Wastewater Equipment Company) 220 Republic Street Norwalk, Ohio 44857 (419) 668-4471 | SINGULAIR MODEL 820 (Including filter, backwash chamber, backwash pump, and appurtenant piping) | 500 GPD |
| Owens Manufacturing & Specialty Company P. O. Box 2443 Lafayette, LA 70502 (318) 235-6761 | Kleen Tank Model 650 (Including filter) | 500 GPD |
| Robert R. Oldham, Inc. P. O. Box 197 Sidney, Ohio 45365 (513) 492-9119 | Model WOM-50 (Including filter) Model WOM-100 (Including filter) | 500 GPD 1000 GPD |

The specified changes are in compliance with the requirements set forth in Section 6.6 of Appendix A of Chapter XIII of the State Sanitary Code.

Comments regarding the proposed rule should be ad-

ressed to Mr. Joseph D. Kimbrell, Deputy Assistant Secretary-Programs, Office of Public Health, Department of Health and Hospitals, Box 60630, New Orleans, LA 70160. A public review hearing will be held on June 6, 1988 at 10 a.m. at 325 Loyola Avenue, Room 511, New Orleans, to hear comments on the rule.

David L. Ramsey
Acting Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: "Mechanical Wastewater Treatment Plants
for Individual Homes—Acceptable Units;" Amended
Listing**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The consumer will be afforded a wider selection of products — thus enhancing competition and possibly resulting in reduced costs for the related products and services to the consumer.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Competition will be stimulated by the presence of the new product. Effect on employment cannot be estimated.

Joseph D. Kimbrell
Deputy Assistant Secretary/Programs

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary**

The Department of Health and Hospitals, Office of the Secretary proposes to discontinue review of capital expenditures made by or on behalf of a health care facility for purposes of Medicaid reimbursement, effective July 20, 1988. This change is based on a notice published in the March 31, 1988 Federal Register (pp. 10431-10433) entitled "Termination of Capital Expenditure Review Agreements Under Section 1122 of the Social Security Act" which states that reviews will no longer be allowed to affect Medicaid or Medicare capital expenditure reimbursement for health care facilities.

A public hearing will be held on June 3, 1988 at 10 a.m. in the Louisiana State Library Auditorium, 760 Riverside Mall, Baton Rouge, LA 70804. Copies of these documents will be available for review at the State Register or at 200 Lafayette St. Suite 406, Baton Rouge, LA 70801. Interested persons may submit written comments on these changes until June 15, 1988 at the following address: Bonnie Smith, Division of Policy, Plan-

David L. Ramsey
Secretary

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

Rule Title: Discontinuance of Health Facility Capital

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The result of abolishing the Capital Expenditure Review Program would be complex. Funds used to administer the program would no longer be needed and would amount to a savings of \$486,336, including \$134,286 in state funds in FY 1989 and savings of \$502,287, including \$138,685 in state funds in each of FYs 90 & 91. The effect of abolishing the program, however, may result in increases in Medicaid expenditure. The ultimate additional cost is dependent upon the number of hospital and long term care beds which would be constructed as a result of discontinuing the capital expenditure review program and the number of new patients who would occupy these beds. Although these costs cannot be forecast with any certainty, DHH has calculated that they could be as high as \$9,473,547, including \$2,742,226 in state funds in FY 88-89; \$18,947,094 including \$5,484,452 in state funds in FY 89-90; \$28,420,641 including \$8,226,678 in state funds in FY 90-91.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Self-generated funds estimated at \$217,765 in FY 89, and \$224,917 in each of FY 90 & 91, and Title XIX funds estimated at \$134,286 in FY 89, and \$138,685 in each of FY 90 & 91, would be lost due to the abolition of this program. Although additional federal Title XIX revenue will be needed to support any increases in the Medicaid program, the amount of these revenues cannot be forecast with any certainty. DHH has calculated that they could be as high as \$6,731,321 in FY 89, \$13,462,642 in FY 90 and \$20,193,963 in FY 91.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

It is estimated that Medicaid and health care costs overall could increase due to an increase in the number of health facility beds for which no documented need exists (see I above). The increase in costs to taxpayers, health care consumers and insurance companies cannot be estimated.

It is further expected that an increase in the number of facilities would impact developers and potential employees of these facilities. The magnitude of this impact cannot be estimated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is likely that an increase in beds/facilities would lead to an increase in competition and employment. The impact of this increase cannot be estimated.

David L. Ramsey
Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary**

The Department of Health and Hospitals, Office of the Secretary proposes to adopt the following changes to the Title XIX State Plan (pending approval of the Health Care Financing Administration). The Department will conduct a facility need review for skilled nursing facility beds; intermediate care facility I and II beds; and intermediate care facility beds for the mentally retarded to determine whether there is good cause to prohibit these beds from participation in the Medicaid program. Such a review will also be required as a condition of participation in the Medicaid program for psychiatric facility beds. This will assure the availability of long term care beds to meet the need but will contain Medicaid costs by prohibiting an unneeded supply of beds. The authorization for these reviews is provided by 42 CFR Part 442.12 (d)(1), Part 442.13 (b)(2) and Part 431.51 (c)(1) and (2).

Criteria and procedures for the need review will be specified in a document entitled *Policies and Procedures for Facility Need Review*. This document will be attached to the Title XIX State Plan.

The Title XIX State Plan will be revised as follows:

1. Attachment 3.1-C. Section I.B.(2) currently reads: "Nursing Care Facilities must be licensed; certified to meet the conditions of participation under the Title XVIII and Title XIX Programs for skilled facilities and Title XIX for intermediate facilities." It will be revised to read: "Nursing Care Facilities must be licensed; certified to meet the conditions of participation under the Title XVIII and Title XIX Programs for skilled facilities and Title XIX intermediate care facilities, including a facility need review approval."

2. Attachment 3.1-C. Section II.H. will be added to read: "The single state agency." The Department of Health and Hospitals, Office of the Secretary, Facility Need Review Program is the state agency responsible for determining whether there is good cause to deny skilled nursing facilities/beds; intermediate care facilities/beds, levels I and II; intermediate care facilities/beds for the mentally retarded from participation in the Medicaid program on the basis of need. Review approval is also required for psychiatric facilities as a condition of participation in the Medicaid program. This review is authorized by 42 CFR 442.12(d), 442.13(b)2, and 431.5(c)(1) and (2)."

3. 4.11 (b) p.42 currently reads: "The State authorities responsible for establishing and maintaining standards, other than those relating to health, for public or private institutions that provide services to Medicaid recipients are: Department of Health and Human Resources, Division of Licensing and Certification and Office of Family Security, Medical Assistance Program, Long Term Care Unit."

It will be revised to read: "...to Medicaid recipients are: Department of Health and Hospitals, Division of Licensing and Certification; Medical Assistance Program, Long Term Care Unit and the Facility Need Review Program."

4. Attachment 4-11-A Page 1, Section I. B. currently reads: "Skilled Nursing Homes, Intermediate Care Facilities I and II are licensed by the Department of Health and Human Resources, Division of Licensing and Certification, and certified by Office of Family Security, Medical Assistance Program, Long Term Care Unit as meeting the requirement of the Standards for Payment to Skilled Nursing Facilities and Intermediate Care Fa-

cilities I and II.”

It will be revised to read: “...licensed by the Department of Health and Hospitals, Division of Licensing and Certification, and certified by the Medical Assistance Program, Long Term Care Unit and the Facility Need Review Program as meeting the requirement of the Standards...”

5. Attachment 4-11-A Page 1, Section I. C. will also be revised to change Department of Health and Human Resources to Department of Health and Hospitals, to delete Office of Family Security and to add “Facility Need Review Program” after “Medical Assistance Program, Long Term Care Unit”.

6. Attachment 4-11-A, Page 2, Section II.F. will be added to read “Policies and Procedures for Facility Need Review”.

7. Attachment 4.19 D Page 5, D. currently reads: “INCREASED CAPACITY

Increased bed capacity requires a review by Licensing and Certification and 1122 approval. Costs for increased capacity which do not have 1122 approval shall not be included in the annual cost report.”

It will be revised to read: “Increased bed capacity requires a review by Licensing and Certification and approval of the Facility Need Review Program.”

8. Attachment 4.19 D Page 9, 6. currently reads: “Payment will be made in an amount not to exceed the total number of beds which will have been approved in accordance with the Social Security Act (42 USC Section 1320-1 et seq.)(x) times the number of days in the month. Such payment ... The capital expenditures allowable in cost reports shall be based on approvals in accordance with the Social Security Act (42 USC Section 1320a - 1 et seq.)”.

The first sentence will be revised to read: “Payment will be made in an amount not to exceed the total number of beds which have been approved by the Facility Need Review Program in accordance with the Social Security Act (42 USC Section 1902 (a) (23) and 27) (x) times the number of days in the month.” The last sentence will be deleted.

The Standards for Payment SNF/ICF will be revised as follows:

9. Section I.B.(1)(a)p.I-1, currently reads: “The facility has received ‘Section 1122’ approval from DHHR: Health Planning Section;”

It will be revised to read: “The facility has received Facility Need Review approval”.

10. Section I.B.(4)(d)p.I-3 currently reads: “A determination has been made under Section 1122.”

It will be revised to read: “A Facility Need Review approval has been granted.”

11. (3)(b)(vi), p.I-7 currently reads: “Section 1122 approval in the new legal entity’s name;”

It will be revised to read: “Facility Need Review approval in the new legal entity’s name;”

12. E.(1), p.I-9 currently reads: “The Facility’s Section 1122 Approval- The facility shall secure approval from DHHR’s Policy, Planning and Evaluation Division in relation to reimbursement for capital expenditures under Section 1122 of the Social Security Act.

(a) The Section 1122 Approval shall designate the appropriate name of the legal entity operating the facility.

(b) If the Section 1122 Approval is not issued in the appropriate name of the legal entity operating the facility, evidence shall be provided to verify that the legal entity which obtained the original Section 1122 Approval is the same legal entity oper-

ating the facility.”

It will be revised to read: “Facility Need Review Approval- The facility shall secure approval from the Facility Need Review Program to certify that there is no cause to deny the facility from participation in the Medicaid program on the basis of need.

(a) The approval shall designate the appropriate name of the legal entity operating the facility.

(b) If the approval is not issued in the appropriate name of the legal entity operating the facility, evidence shall be provided to verify that the legal entity which obtained the original approval is the same legal entity operating the facility.”

13. E.(3)(a) p.I-9 currently reads: “If all Federal requirements (Health and Safety Standards) including Section 1122 Approval requirements specified in (1) above are met on the day of the Licensing and Certification Division survey,....”

It will be revised to read: “If all Federal requirements (Health and Safety Standards) including Facility Need Review approval requirements specified in (1) above are met on the day of the Licensing and Certification Division survey,....”

The ICF/MR Standards for Payment will be revised as follows:

14. C.(1)(a) p.I-3 currently reads “The ICF/MR has received ‘Section 1122’ approval from DHHR’s Health Planning Section;”

It will be revised to read: “The ICF/MR has received Facility Need Review approval from the Facility Need Review Program.”

15. (b)(vi) p.I-7 currently reads: “Application for Section 1122 approval in the new legal entity’s name;”

It will be revised to read “Application for Facility Need Review approval in the new legal entity’s name;”

16. (c)(iii) p.I-8 currently reads “Section 1122 approval in the new legal entity’s name.”

It will be revised to read “Facility Need Review approval in the new legal entity’s name.”

17. E.(1)p.I-9 currently reads: “The ICF/MR’s Section 1122 Approval- The ICF/MR shall secure approval from DHHR’s Policy, Planning and Evaluation Division in relation to reimbursement for capital expenditures under Section 1122 of the Social Security Act.

a. The Section 1122 approval shall designate the appropriate name of the legal entity operating the ICF/MR.

b. If the Section 1122 approval is not issued in the appropriate name of the legal entity operating the ICF/MR, evidence shall be provided to verify that the legal entity which obtained the original Section 1122 Approval is the same legal entity operating the ICF/MR.”

It will be revised to read - “The ICF/MR’s Facility Need Review Approval - The ICF/MR shall secure approval from Facility Need Review Program to certify that there is no cause to deny the facility from participation in the Medicaid program on the basis of need.

a. The approval shall designate the appropriate name of the legal entity operating the ICF/MR.

b. If the approval is not issued in the appropriate name of the legal entity operating the ICF/MR, evidence shall be provided to verify that the legal entity which obtained the original Facility Need Review approval is the same legal entity operating the ICF/MR.”

The Policies and Procedures for Facility Need Review will describe the criteria and procedures for the Facility Need Review. It may be briefly summarized as follows:

The Department of Health and Hospitals, Office of the Secretary will conduct a Facility Need Review (FNR) for skilled

nursing facility (SNF) beds, intermediate care facility (ICF) beds I and II and intermediate care facility for the mentally retarded (ICF/MR) beds to determine whether there is good cause to prohibit additional beds from enrolling and participating in the Medicaid Program. A Facility Need Review will also be required for psychiatric beds located in psychiatric hospitals as a condition of participation in the Medicaid Program.

Pending applications deemed complete under the Capital Expenditure Review Program as of the effective date of this Program shall be reviewed under the criteria applicable to the Medicaid Capital Expenditure Review Program. Pending applications in incomplete status will be withdrawn by the Facility Need Review Program.

DEPARTMENT DESIGNATION AND DUTIES

A. The department shall be responsible for reviewing proposals for SNF, ICF I and II, ICF/MR and psychiatric facilities and beds by those health care providers seeking to participate in Medicaid and the Secretary or his designee shall issue a decision of approval or disapproval.

B. The duties of the department under this program shall include but are not limited to the following:

(1) determine the applicability of these provisions to all requests for an approval to enroll reviewable facilities or beds in the Medicaid Program;

(2) review, determine and issue an approval or disapproval for those proposals determined to be subject to these provisions;

(3) adopt and promulgate such rules and regulations as may be necessary to implement the provisions of this program pursuant to the Administrative Procedure Act; and

(4) define the appropriate methodology for the collection of data necessary for the administration of the program.

MEDICAL CARE ADVISORY COMMITTEE

The Louisiana Medical Care Advisory Committee, as specified in the Medicaid State Plan, will function as an advisory body for the Facility Need Review Program.

SCOPE OF COVERAGE

Proposals subject to review under this program shall be:

1) Increase or decrease in the number of beds eligible to participate in Medicaid

2) Purchase of a reviewable facility

3) Acquisition of a reviewable facility by lease or comparable arrangement with no change in beds

4) Discontinuance of a lease of a reviewable facility

5) Any change in the ownership of the enrolled provider of a reviewable facility which may include but is not limited to: incorporation, reorganization, merger, consolidation, stock sale or transfer

6) Any change in the ownership of the person (legal entity) who is the lessor to an enrolled provider. Reviewable changes include, but are not limited to: incorporation, reorganization, merger, consolidation, stock sale or transfer

7) Reclassification of beds in a reviewable facility

8) Relocation or replacement of an approved and licensed reviewable facility within the same service area

9) Site change of an approved unconstructed reviewable facility

10) Replacement contracts submitted after the expiration of the approval period

11) Any other proposals which may impact the supply of skilled nursing facility beds, intermediate care facility I and II beds, intermediate care facility for the mentally retarded beds and psychiatric beds eligible to participate in Medicaid.

GRANDFATHER PROVISION

An approval shall be deemed to have been granted under this program without review in the case of SNF, ICF I and II, and ICF/MR health care facilities/beds for:

1. all Section 1122 approved health care facilities/beds;

2. all proposed facilities/beds which have been approved under the Medicaid Capital Expenditure Program prior to the effective date of this program.

For psychiatric beds, an approval shall be deemed to have been granted under this program without review for all beds in facilities which were enrolled in Medicaid as of the effective date of the Facility Need Review Program.

Questions regarding appropriateness of review should be directed to the Facility Need Review Program (in writing) for an official determination.

CRITERIA FOR REVIEW

Criteria for review under this program shall include at a minimum the following:

1. The availability and utilization of beds

2. The availability of funds

3. Cost assessment

4. Review of licensing history and quality of care performance

5. Evidence of site availability

6. Documentation of zoning

7. Evidence of compliance with Licensing and Medicaid Certification standards

Each of these criteria is described fully in the Policies and Procedures for Facility Need Review.

The procedures for appeal of decisions of the Facility Need Review Program are basically the same as those currently in effect for the Capital Expenditure Review Program.

The full text of the Policies and Procedures for Facility Need Review is available for review at the Division of Policy, Planning and Evaluation, 200 Lafayette Street, Suite 408, Baton Rouge, Louisiana 70801 and at the Office of the State Register, Capitol Annex, Ground Floor, Baton Rouge, Louisiana.

A public hearing will be held on June 3, 1988 at 10 a.m., in the Louisiana State Library Auditorium, 760 Riverside, Baton Rouge, LA 70801. Interested persons may submit written comments on these changes until June 15, 1988 at the following address: Bonnie Smith, Division of Policy, Planning and Evaluation, 200 Lafayette Street, Suite 406, Baton Rouge, LA 70801.

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: New Health Facility Review

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation costs for the Facility Need Review program will be approximately \$476,371 including \$158,910 in state funds in FY 89 and \$502,287 including \$167,556 in state funds in FY 90 and 91. This amount is equivalent to the administrative costs for the Capital Expenditure Review program, a program that served a similar function, which is being abolished in a separate proposed rule. The effect of implementing this program may result in reducing Medicaid expenditures which might be expected if

the program was not implemented. The ultimate reduction is dependent upon the number of long term care and psychiatric facility beds which would be constructed as a result of not implementing the Facility Need Review program and the number of new patients who would occupy these beds. Although these costs cannot be forecast with any certainty, DHH has calculated that they could be as high as \$9,344,201, including \$2,704,784 in state funds, in FY 89; \$18,688,402, including \$5,409,568 in state funds in FY 90 and \$28,037,603, including \$8,114,352 in state funds, in FY 91.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenues which will support this program include \$213,311 in self-generated funds and \$104,148 in Title XIX funds in FY 1989 and \$224,917 in self-generated funds and \$109,814 in Title XIX funds in each of FY 1990 and 1991. Although additional Title XIX revenues to support any increases in the Medicaid program would be lost when this program is implemented, the amount of these revenues cannot be forecast with any certainty. DHH has calculated that they could be as high as \$6,535,269 in FY 89, \$13,169,020 in FY 90, and \$19,808,437 in FY 91.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

It is estimated that this program will contain the number of beds approved to participate in Medicaid to only those for which a need is documented. This might also contain costs to taxpayers, health care consumers and insurance companies but the magnitude of this effect cannot be estimated.

Private developers and potential employees of health care facilities will not realize the income which developing and opening a facility would provide. The impact of this cannot be calculated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The program may result in some reduction in competition and employment over what could be expected if the program did not exist. It is impossible to estimate the magnitude of this effect.

David L. Ramsey
Secretary

David W. Hood
Legislative Fiscal Analyst

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.

Under Federal Maximum Allowable Cost limits on Multiple Source Drugs, 42 CFR 447.331, states are allowed to set reimbursement limits for multiple source drugs above HCFA's established limits provided expenditures in the aggregate for all multiple-source drugs covered by HCFA's limits are not ex-

ceeded. Because Louisiana has established limits equal to or lower than HCFA's limits for all affected multiple source drugs, establishing a higher reimbursement limit for Anticonvulsive drugs should not exceed the aggregate limits based on current utilization. The Medical Assistance Program is proposing to increase reimbursement of Anticonvulsive drugs above the Federal Maximum Allowable Cost to assure a wider availability of drug products in this generic classification are available to recipients. Under this rule the upper reimbursement limit for Anticonvulsives shall be the Average Wholesale Price for the brand, strength, and package size from which a prescription is dispensed. This change is proposed in response to reports from some Medical and Pharmaceutical experts which indicate that brand interchanging of Anticonvulsives may increase the incidences of seizures among the user population.

PROPOSED RULE

HCFA Maximum Allowable Cost limits for the following drugs are hereby repealed:

1. Phenytoin (Dilantin)
2. Carbamezepine (Tegretol)

Interested persons may submit written comments to the following address: Marjorie T. Stewart, Assistant Secretary, Box 94065, Baton Rouge, LA 70804-4065. She 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 local Office of Family Security.

A public hearing on this proposed rule will be held on June 8, 1988 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.

Implementation of this rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of the change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

David L. Ramsey
Secretary

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

Rule Title: Pharmacy Program Anticonvulsive Drugs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption of this proposed rule will increase State expenditures by: \$47,118 in FY 88/89; and \$51,830 in FY 89/90.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this proposed rule will increase Federal matching funds by: \$111,851 in FY 88/89; and \$123,036 in FY 89/90.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will increase reim-

bursement to providers by: \$158,969 in FY 88/89; and \$174,866 in FY 89/90.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment resulting from this proposed rule.

Marjorie T. Stewart
Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Human Resources, Office of the Secretary, proposes to adopt the following rule on Departmental Rate Setting of rates for Title XIX (Medicaid) facilities.

Current agency policy provides for an application of inflation adjustment screens for providers of ICF-MR services. The rate is broken into several components which are inflated annually based on the current reimbursement methodology. At present the Title XIX Medical Assistance Program is reviewing and amending the level of care definition which will result in establishment of new rates for MR providers enrolled in the Medical Assistance Program.

Under this proposed rule the Department will freeze current rates for existing providers to allow transition to the new rates established under the amended definition of level of care for FY 88/89. The department has found that current rates reasonably and adequately meet the costs which must be incurred by efficiently and economically operated providers to provide services in conformity with applicable rates, regulations and quality and safety standards.

This proposed rule will allow new providers to receive the current weighted average rate for their first cost reporting period.

This rule is allowable under federal regulations set forth in 42 CFR 447.252 - .253 which authorizes the single state agency (DHHR) to establish Medicaid Reimbursement rates for Long Term Care services.

PROPOSED RULE

Rates for ICF-MR Facilities shall be frozen at the current rate effective July 20, 1988 to allow the department to implement new rates for FY 88/89 in accordance with the Medical Assistance Program's level of care definition.

Interested persons may submit written comments to the following address: Howard L. Prejean, Deputy Assistant Secretary, Box 94065, Baton Rouge, LA 70804-4065. Mr. Prejean is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on June 8, 1988 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.

David L. Ramsey
Secretary

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

**Rule Title: Departmental Rate Setting
ICF-MR Rate Freeze**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption of this proposed rule will result in a savings of: \$2,026,711 in FY 88/89; \$2,210,957 in FY 89/90; and \$2,210,957 in FY 90/91.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this proposed rule will reduce Federal matching funds by: \$4,811,044 in FY 88/89, \$5,248,412 in FY 89/90; and \$5,248,412 in FY 90/91.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will prevent automatic rate increases to providers of: \$6,837,755 in FY 88/89; \$7,459,369 in FY 89/90; and \$7,459,369.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment resulting from this proposed rule.

Howard L. Prejean
Deputy Assistant Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary**

The Department of Health and Hospitals, Office of the Secretary, proposes to amend the rules in the DHH Rate Setting for Residential Care System Manual.

Currently, residential care rates are established based upon budgeted costs submitted annually by residential care providers, subject to certain maximum screens based upon inflation indexes and median rates. As mandated by Act 871 of the 1987 Louisiana Legislature, the department is promulgating rules to establish a rate setting system for OHD, OMH, OPRADA, and OMR funded residential care facilities based upon the level of care of the persons receiving the services. The rate setting methodology will consist of three components of level of care, the environment in which the service is delivered, the supervision required in the service delivery, and the treatment required in the service delivery. This change will become effective on July 20, 1988.

PROPOSED RULE

The current rate setting methodology is being changed to one which consists of the three components of level of care - environment in which the service is delivered, supervision required in the service, and treatment required in the service. Costs associated with the environment will reflect average basic costs. Costs associated with supervision will reflect directed care costs, along with administrative salary costs. Costs associated with treatment will reflect professional intervention costs. The rate will be the sum of the three components appropriate to the care being delivered to the client.

Interested persons may obtain additional information and submit written comments to the following address: Division of Rate Setting, Office of the Secretary, Box 3776, Baton Rouge, LA 70821. Maxine Hanks is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on June 8, 1988 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.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Rate Setting/Level of Care**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Adoption of this proposed rule will not result in any costs or savings. Rates will be established within the existing appropriations.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this proposed rule will have no impact upon federal funds. Rates will be established within the existing appropriations.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Implementation of this proposed rule will have no fiscal impact upon reimbursement to private providers. Rates will be established within the existing appropriations.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The effect on competition and employment resulting from this proposed rule cannot be determined.

David L. Ramsey
Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation
Injection and Mining Division**

Docket No. LSM-88-1

Pursuant to the authority granted under the "Louisiana Surface Mining and Reclamation Act," R.S. 30:901 et seq., the Department of Natural Resources, Office of Conservation, hereby gives notice that a public hearing will be held on May 26, 1988, beginning at 9 a.m. in the Conservation Hearing Room located on the first floor of the State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana, at which time all interested persons will be afforded an opportunity to submit oral and written comments regarding amendments to Statewide Order 29-0-1, Louisiana Surface Mining Regulations.

A copy of the proposed amendments to Statewide Order 29-0-1 may be obtained at no cost by writing James H. Welsh, Office of Conservation, Box 94275, Baton Rouge, LA 70804-9275, by calling 504/342-5515 or by coming in person to Room 253 of the State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing.

All parties having interest in the aforesaid shall take notice thereof.

J. Patrick Batchelor
Commissioner

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Amendments to Statewide Order 29-0-1**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs (savings) to state or local governmental units since Louisiana presently has surface mining rules in effect and the proposed changes will keep Louisiana's Surface Mining Program in compliance with the approved federal regulations
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Louisiana presently receives \$185,000 in federal funds and \$185,000 in state matching funds to administer the Surface Mining Program. Failure to amend the Louisiana rules to make them consistent with the federal regulations would cause the state to lose this funding.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
These proposed rules may result in additional costs to surface mining operators. Among the more significant provisions, the rules require surface mining permit applications to contain more extensive information on sub-surface strata, groundwater resources, surface water bodies and the probable hydrological consequences of the proposed mining. Also, operator expenses may increase due to stronger revegetation requirements, inclusion of intermittent streams in buffer zones, protection of endangered species and stricter requirements for operations conducted on prime farmland. Sufficient data does not exist to estimate the impact of these costs.
Benefits will be realized by persons in the vicinity of the surface mining operation and the state's citizens generally due to the reclamation of the surface mine property according to state and federal standards.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule amendments will bring the Louisiana Surface Mining Program into compliance with the federal SMCRA regulations and will insure the continued operation of surface mining in Louisiana.

J. Patrick Batchelor
Commissioner

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

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

Under authority granted by R.S. 32:1504 and in accordance with the Administrative Procedure Act R.S. 49:950 et seq., the Department of Public Safety and Corrections intends to amend the following rule relative to recovery of civil penalties.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Materials and Hazardous Waste

Subpart 2. Department of Public Safety and Corrections - Hazardous Materials

Chapter 103. Motor Carrier Safety and Hazardous Materials Regulations for Carriage by Public Highway

§10309. Recovery of Civil Penalties

A. To enforce the collection of a civil penalty levied after due process upon a person determined by the secretary of the Department of Public Safety and Corrections to have committed an act that is a violation of R.S. 32:1501 et seq., or adopted or promulgated regulations as provided in this Chapter, the secretary -

- 1. may order the removal of the offending vehicle's license tag if the registration is from this state;
- 2. may seize any vehicle not registered within the state which is owned by the person or company in violation;
- 3. shall have the driver's or operator's license suspended for a violation(s) committed by the driver or operator.

B. The secretary shall enforce the provisions of Subsection A as follows:

- 1. The removal of a vehicle's license tag shall be completed and, upon remittance of the levied penalty, reinstated in a manner consistent with the procedures required by the Office of Motor Vehicles.
- 2. When the person or company fails to remit a levied civil penalty within 90 days subsequent to the seizure of a vehicle as authorized in this Section, the Department of Public Safety and Corrections shall collect the penalty in a manner consistent with applicable portions of R.S. 32:521 et seq.
- 3. The suspension of a driver's license shall be completed and, upon remittance of the levied penalty, reinstated in a manner consistent with the procedures required by the Office of Motor Vehicles.

Interested persons may submit written comments or objections until 4:30 p.m. on May 16, 1988 to the Supervisor of the Motor Carrier Safety Unit, Louisiana State Police, Box 66614, Baton Rouge, LA 70896.

Marlin Flores
Deputy Secretary

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

**Rule Title: Recovery of Civil Penalty on
Motor Carrier Safety Violations**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of the proposed amendment would result in no cost or savings to state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections to the State General Fund would increase by approximately \$33,180 from drivers license and license plate reinstatement fees from this proposed action.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

"Motor Carrier" drivers whose drivers license was suspended or license plate removed for failure to pay civil penalty fines will be required to pay a \$50 reinstatement fee for clearance of drivers license and \$10 duplicate license plate fee for restoration of removed license plate.

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

It is estimated that there will be no effect on competition and employment.

James L. Thibodeaux
Deputy Undersecretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing

§125. Free Fishing Days - Freshwater

In accordance with Act 301 of the 1987 Louisiana Legislature, it is the intent of the Wildlife and Fisheries Commission to declare June 11 and 12, 1988 as free recreational fishing days in Louisiana to coincide with National Fishing Week June 6-12. On the two above mentioned free fishing days, residents and non-residents may exercise the privileges of a licensed recreational fisherman without purchase of any otherwise necessary recreational fishing license.

Interested parties may submit their views in writing to Bob Dennie, Information and Education Director, Louisiana Department of Wildlife and Fisheries, Box 15570, Baton Rouge, LA 70895.

J. Burton Angelle Sr.
Secretary

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

Rule Title: Free Fishing Days (Freshwater)

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

As part of the Free Fishing Days, National Fishing Week program, fishing clinics for children will be staged across the state. Implementation costs for the clinics will be absorbed under the existing education program of the department.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule is estimated to have no negative effect on revenue collections. Hopefully, it will promote sales of fishing licenses, but to what extent is unknown.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The proposed rule will have no costs or economic benefits to affected persons.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule will have no effect on competition and employment.

J. Burton Angelle Sr.
Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§311. Free Fishing Days - Saltwater

In accordance with Act 301 of the 1987 Louisiana Legislature, it is the intent of the Wildlife and Fisheries Commission to declare June 11 and 12, 1988 as free recreational fishing days in Louisiana to coincide with National Fishing Week June 6-12. On the two above mentioned free fishing days, residents and non-residents may exercise the privileges of a licensed recreational fisherman without purchase of any otherwise necessary recreational fishing license.

Interested parties may submit their views in writing to Bob Dennie, Information and Education Director, Louisiana Department of Wildlife and Fisheries, Box 15570, Baton Rouge, LA 70895.

J. Burton Angelle Sr.
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Free Fishing Days (Saltwater)

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
As part of the Free Fishing Days, National Fishing Week program, fishing clinics for children will be staged across the state. Implementation costs for the clinics will be absorbed under the existing education program of the department.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule is estimated to have no negative effect on revenue collections. Hopefully, it will promote sales of fishing licenses, but to what extent is unknown.

- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The proposed rule will have no costs or economic benefits to affected persons.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule will have no effect on competition and employment.

J. Burton Angelle Sr.
Secretary

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission Office of Coastal and Marine Resources

The Wildlife and Fisheries Commission does hereby give notice, in accordance with the Administrative Procedure Act, that the Commission intends to promulgate a rule to establish a season for the taking, landing and processing of menhaden in all waters seaward of the inside-outside line as described in R.S. 56:495 including waters of the federal Exclusive Economic Zone (EEZ), and in Breton and Chandeleur Sounds; said rule to be designated as LAC 76:VII.307 and to read as follows:

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§307. Menhaden Season

A. The season for the taking of menhaden as well as processing of menhaden shall be from the third Monday in April through the Friday following the second Tuesday in October.

B. No menhaden may be landed in Louisiana ports except during the menhaden season as described in LAC 76:VII.307.A.

C. The menhaden season shall apply to all waters seaward of the inside-outside line described in R.S. 56:495 including waters in the Federal Exclusive Economic Zone (EEZ), and in Breton and Chandeleur Sounds as described in Subsection D. All other inside waters and passes are permanently closed to menhaden fishing.

D. For purposes of the menhaden season Breton and Chandeleur Sounds are described as that portion of the statutorily described inside waters beginning at the most northerly point on the south side of Taylor Pass at Lat. 89 23'18." 476 N. (Y-268, 131.65), Long. 89 19'00." 803 W. (X-2,642,-161.69). Thence run N.32 32' W. for 8-3/4 miles to a horizontal tank battery located in the vicinity of Battledore Reef and east of Little Battledore Island; thence run N. 30 47' E. for 11 miles to the Mississippi River Gulf Outlet Channel at a lighted privately-maintained marker known as Station "69-A" and "70-A"; thence N. 16 10'E. for 8-1/2 miles to Point Chicot light; thence N. 20 10'E. for 13-1/2 miles to Mitchell Key light; thence N. 35 47'E. for 19 miles to a point intersecting the Lower Mississippi Valley Division Line Lat. 30 06'N., Long. 80 52'W., thence southerly 71 E., for five miles to Chandeleur light, thence southeasterly

running along the present inside-outside water line as described in R.S. 56:495 to the point of origin.

Interested persons may submit written comment to Philip Bowman, Assistant Chief, Seafood Division, Department of Wildlife and Fisheries, Box 15570, Baton Rouge, LA 70895, until June 6, 1988.

Virginia Van Sickle
Secretary

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

Rule Title: Menhaden Season (LAC 76:VII.307)

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no cost to implement this season as it will be handled along with other duties.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule change will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The proposed rule change will have no effect on costs or economic benefits to menhaden fishermen or processors.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Approximately 1,000 individuals are influenced by the menhaden season. The proposed rule change clarified but does not alter the menhaden season and boundaries. Therefore, there will be no impact on competition and employment.

Philip Bowman
Assistant Chief-Seafood

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) the Louisiana Wildlife and Fisheries Commission has developed proposed open seasons, rules and regulations for hunting resident game quadrupeds and birds during the period October 1, 1988 to April 30, 1989. This Act is exempt from the legislative oversight and action was taken at a public hearing on April 29, 1988 at University Center, L.S.U. New Orleans, New Orleans, Louisiana. A subsequent hearing will be held on July of 1988 to ratify this proposal. Authority to establish these rules is vested in the commission by Section 115 of Title 56 of the Louisiana Revised Statutes of 1950. The secretary of the Department of Wildlife and Fisheries has the authority to close seasons or alter any rule or regulation in emergency situations to protect the wildlife resources of the state.

In general these proposals include dates for open hunting

seasons and bag limits for all resident game quadrupeds and birds provided for by law. Also proposed are regulations establishing legal methods of taking game species as well as special open hunting seasons for the department controlled wildlife management areas and federal refuges controlled by the U. S. Fish and Wildlife Service. A summary of the 1988-89 hunting seasons and bag limits for resident game species is attached. (A more detailed copy of the proposed rules and regulations will be available upon request at the address listed below.)

Interested parties may submit their views in writing to Hugh A. Bateman, Administrator, Game Division, Department of Wildlife and Fisheries, Box 15570, Baton Rouge, LA 70895.

SUMMARY OF 1988-89

HUNTING SEASON REGULATIONS

Quail: Nov. 24-Feb. 28. Daily bag limit 10, possession 20.

Rabbit: Oct. 1-Feb. 28. Daily bag limit 8, possession 16.

Squirrel: Oct. 1-Jan. 15. Daily bag limit 8, possession 16.

Deer: One per day. 6 per season

Area 1 - 48 days

9 days still hunt only: Nov. 19-27

9 days with or without dogs: Dec. 3-11

30 days with or without dogs: Dec. 17-Jan. 15

Area 2 - 48 days

23 days still hunt only: Nov. 5-27

9 days with or without dogs: Dec. 3-11

16 days with or without dogs: Dec. 17-Jan. 3

Area 3 - 48 days

23 days still hunt only: Nov. 5-27

9 days still hunt only: Dec. 3-11

16 days still hunt only: Dec. 17-Jan. 3

Area 4 - 41 days

9 days still hunt only: Nov. 19-27

9 days still hunt only: Dec. 3-11

23 days still hunt only: Dec. 17-Jan. 8

Turkey: One per day. 3 per season

Area A - 30 days. Mar. 25-Apr. 23

Area B - 37 days. Mar. 11-Apr. 16

Area C - 37 days. Mar. 19-Apr. 23

Area D - 30 days. Apr. 2-30

Area E - 9 days. Apr. 15-23

Virginia Van Sickle
Secretary

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

Rule Title: 56-Sec. 115

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Projected hunting license fee collections for fiscal year 1988-89 are approximately 5.6 million dollars. Failure to adopt rule changes would result in loss of these funds.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Hunting in Louisiana generates in excess of \$150,000,000 annually through the commercial sales of

outdoor related equipment. Closure of hunting would result in loss of funds generated by the hunting public to commercial operations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no realistic method by which this department can estimate the effect on employment or competition.

Hugh A. Bateman
Chief, Game Division

David W. Hood
Legislative Fiscal Analyst

The proposed rule will have no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment in the public and private sectors.

Bennie J. Fontenot
Inland Fisheries Division
Administrator

David W. Hood
Legislative Fiscal Analyst

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing

§110. Toledo Bend Reciprocal Agreement

Pursuant to the authority granted under R.S. 56:673, the Louisiana Wildlife and Fisheries Commission hereby advertises its intent to enter into a reciprocal agreement with the State of Texas to establish uniform creel limits and minimum length limits for black bass and uniform creel limits for crappie on the waters of Toledo Bend Reservoir and Caddo Lake. The reciprocal agreement shall establish a 12-inch minimum size and a 10-fish daily creel limit for black bass along with a 50-fish daily creel limit for crappie. It is also the intent of the Louisiana Department of Wildlife and Fisheries to cooperate with the Texas Parks and Wildlife Department in a joint research project designed to collect information on the fish population in Toledo Bend Reservoir and Caddo Lake.

Interested persons may submit written comments on the proposed rule to the following address: Bennie J. Fontenot, Jr., Chief, Inland Fisheries Division; Department of Wildlife and Fisheries; Box 15570; Baton Rouge, LA 70895

Virginia Van Sickle
Secretary

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

**Rule Title: Toledo Bend and Caddo Lake
Reciprocal Agreement**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out using the existing staff.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Potpourri

POTPOURRI

**Department of Agriculture
Horticulture Commission**

The next retail floristry examinations will be given at 10 a.m. daily at the Sidney N. Collier Memorial Vo-Tech School in New Orleans, LA. The deadline for getting in application and fee is June 24, 1988. All applications must be in the Horticulture Commission office no later than 4:30 p.m. on that date. The test dates will be July 12-15, 1988.

Further information concerning examinations may be obtained from Craig M. Roussel, Director, Horticulture Commission, Box 44517, Capitol Station, Baton Rouge, LA 70804, phone (504) 925-7772.

Bob Odom
Commissioner

POTPOURRI

**Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences**

Notice of Quarantine
Citrus Canker

Whereas, the bacterial pathogen disease of citrus and citrus plants parts of the Family Rutaceae known as citrus canker, *Xanthomonas campestris* pv *citri* (Hasse) Dye, including the Florida nursery strains, is established in the state of Florida; and

Whereas, there are commercial nurseries that raise citrus nursery stock located north of the Interstate 10 - Interstate 12 line;

Therefore, I, John W. Impson, State Entomologist of the state of Louisiana, by virtue of the authority provided for in LSA

RS 3:1652 and Rule 7:9509, hereby designate all of Louisiana as a commercial citrus producing area and establish a quarantine to prevent the spread of citrus canker disease and set forth: prohibition, definitions, regulated materials, quarantined area, movement of certain regulated materials under federal certificate for interstate movement, and penalties.

1.0 Prohibition

No common carrier or person shall move any regulated materials from the quarantined area into or within the state of Louisiana except in accordance with conditions explained in the quarantine.

2.0 Definitions

Citrus canker is a disease caused by the bacterium *Xanthomonas campestris* pv *citri* (Hasse) Dye, including the Florida nursery strains.

3.0 Regulated Materials

a. Plants and any plant parts, including fruit and seeds of any of the following:

- Calamondin orange (*Citrus mitis*)
- Citrus citron (*Citrus medica*)
- Grapefruit (*Citrus paradisi*)
- Kumquat (*Fortunella japonica*)
- Lemon (*Citrus limon*)
- Lime (*Citrus aurantifolia*)
- Mandarin orange (tangerine) (*Citrus reticulata*)
- Pummelo (Shaddock) (*Citrus maxima*)
- Satsuma (*Citrus reticulata*)
- Sour orange (*Citrus aurantium*)
- Sweet orange (*Citrus sinensis*)
- Tangelo (*paradisi* x.c. *reticulata*)
- Temple orange (*reticulata* x.c. *sinensis*)
- Trifoliata orange (*Poncirus trifoliata*)

b. Any other product, article, or means of conveyance, of any character whatsoever, not covered by Paragraph a. when it is determined by an inspector that it presents a risk of spread of the citrus canker and the person in possession thereof has actual notice that the product, article, or means of conveyance is subject to this quarantine.

4.0 Quarantined Area

The entire state of Florida has been designated as a quarantined area.

5.0 Movement of Certain Regulated Materials in Louisiana

a. Only regulated materials which are citrus fruit certified for interstate movement in accordance with Section 301.75-7(b)

of the Federal Citrus Canker Regulations may be shipped or moved from the quarantined area into Louisiana.

b. Fruit moving under a limited permit for interstate movement according to Section 301.75-7(c) of the Federal Citrus Canker Regulations will not be allowed to move into Louisiana.

c. Any regulated materials from the quarantined area found in Louisiana without a federal certificate for interstate movement or found to be infested shall be confiscated and/or destroyed or shipped to the point of origin at the expense of the owner. The state entomologist shall determine, at his discretion, which course of action is most appropriate.

6.0 Penalties

Any person who violates this quarantine shall be subject to penalties provided in LSA RS 3:1653.

7.0 Repeal of Prior Quarantine

The declaration of emergency and Notice of Quarantine for Citrus Canker dated March 24, 1988, is hereby repealed and replaced.

DATE: May 10, 1988

John W. Impson
State Entomologist

Bob Odom
Commissioner

POTPOURRI

Department of Natural Resources Fishermen's Gear Compensation Fund

In accordance with the provisions of the Fishermen's Gear Compensation Fund, R.S. 56:700.1 through 56:700.5, and regulations adopted for the fund published in the *Louisiana Register* on August 20, 1980, notice is given that 12 claims amounting to \$30,546.01 were received during the month of April, 1988. During the same month, no claims were paid.

No hearings are scheduled for the month of May.

Raymond W. Stephens, Jr.
Secretary

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