

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Livestock Sanitary Board

Public Livestock Auction Charters (LAC 7:XXI.111)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry proposes to amend regulations regarding livestock auction market requirements.

The Department of Agriculture and Forestry is proposing to amend these rules and regulations to allow greater flexibility in the issuing of Public Livestock Auction Charters. The proposed changes will also allow more livestock sales on the same day of the week thereby providing the public more opportunities to market their livestock when the classes and types of livestock are significantly different such that sellers, buyers and sales companies are positively and not adversely impacted.

These Rules comply with and are enabled by R.S. 3:662, R.S. 3:665, R.S. 3:2221 and R.S. 3:2093.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 1. General Provisions

§111. Livestock Auction Market Requirements

A. No person shall operate a livestock auction without first obtaining a livestock auction market permit from the board. Any person operating a livestock auction market without a valid livestock auction permit will be in violation of this regulation and subject to prosecution.

B. Conditions for Issuing a Livestock Auction Market Permit

1. That proper bond has been posted with the board as required by R.S. 3:565, or it is properly bonded under the U.S. Packers and Stockyards Act.

2. The livestock auction market must provide the following:

a. adequate and sanitary housing for use of state-federal personnel to conduct tests, including the rivanol test for brucellosis. This will include running water, adequate lighting, sanitary plumbing facilities, heating and cooling when necessary and refrigeration for biologics if the quantity to be kept on hand will warrant it. Otherwise, state or federal personnel will furnish his own portable refrigeration;

b. separate pens for holding brucellosis reactors;

c. adequate facilities and personnel to separate and restrain livestock to enable the auction veterinarian and/or representatives of the Livestock Sanitary Board to carry out the requirements of this regulation.

3. The auction operator agrees to operate the sale in conformity with the requirements of this regulation.

4. The day of the week approved by the board for the conduct of the sale must be established prior to the issuance of the charter.

a. In the application for charter, the applicant shall specify the day(s) of the week on which he desires to conduct sales.

b. No requested sales day shall be approved for any applicant if any established, chartered auction market(s) located within a 50-mile radius of the applicant has received prior board approval for the conduct of a sale on the same day of the week, provided that the board may approve more than one sale on the same day of the week within 50 miles of each other if the board finds that the types of livestock being sold at each sale are substantially different and neither sale would adversely affect the other.

B.4.c. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:662, R.S. 3:665, R.S. 3:2221, and R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:233 (March 1985), amended LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 17:30 (January 1991), LR 31:

Family Impact Statement

The proposed rules in Part XXI.111, Livestock Auction Market Requirements should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rules to Dr. Maxwell Lea through the close of business on November 29, 2004 at 5825 Florida Blvd., Baton Rouge, LA 70806. No preamble regarding these Rules is necessary.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Public Livestock Auction Charters

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

No implementation costs or savings to state or local governmental units are anticipated.

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

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

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

There is estimated to be no costs and/or economic benefits to directly affected persons or non-governmental units. The Department of Agriculture and Forestry is proposing to amend these rules and regulations to allow greater flexibility in the issuing of Public Livestock Auction Charters. The proposed changes will also allow more livestock sales on the same day of the week thereby providing the public more opportunities to market their livestock when the classes and types of livestock are significantly different such that sellers, buyers and sales companies are positively and not adversely impacted.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendment would have a positive effect on competition. It allows greater flexibility in issuing public livestock auction charters.

Skip Rhorer Robert E. Hosse
Assistant Commissioner General Government Section Director
0410#054 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Seed Commission**

**Seed Certification Standards
(LAC 7:XIII.125 and 143)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 3:1433, the Department of Agriculture and Forestry, Office of the Louisiana Seed Commission, proposes to amend regulations governing definitions and the fee structure for certified seed making it consistent throughout the industry.

The Louisiana Seed Commission is proposing to amend regulations regarding the fee structure for certified seed making it more consistent throughout the industry. Certification fees are currently assessed on a per tag basis, being one tag per container regardless of the size of the container. (Container sizes can range from 50-2000 pounds.) The proposed standards require that seed certification fees be assessed on a per weight unit basis, with the amount of the weight units being established by the seed commission, and based on a common industry accepted packaging weight and specified within the certification standards. In addition, the term "weight unit" will be defined in the seed certification definitions as a result of the proposed changes.

These Rules are enabled by R.S. 3:1431 and 3:1433.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 1. Louisiana Seed Law

Subchapter B. General Seed

§125. Definitions

* * *

Weight Unit Unit of measure, designated by the Louisiana Seed Commission, based on the most common industry

accepted packaging weight in pounds for a specific commodity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:564 (November 1982), amended by the Department of Agriculture and Forestry, Seed Commission, LR 12:825 (December 1986), LR 20:642 (June 1994), LR 31:

§143. Fees

A. - C. ...

D. Fees for certified seed shall be sixteen cents per weight unit and be calculated on the total weight units in the certifiable lot. The number of weight units for a particular lot of seed shall be reported when the certified sample is taken, and are payable upon request for certified tags.

1. The weight unit for rice is 100 pounds; all other commodity weight units are 50 pounds.

E. Fees for Sweet Potatoes

1. The fee for greenhouse inspections of virus-tested sweet potato plants and mini-roots shall be \$50 per crop year.

2. A fee of five cents per 1,000 plants will be collected for each 1,000 sweet potato plants inspected for certification purposes.

F. Fees for Bulk Seed Certification

1. The fee for the issuance of a bulk certified seed sales certificate shall be sixteen cents per weight unit.

G. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 10:495 (July 1984), amended by the Department of Agriculture and Forestry, Seed Commission, LR 12:825 (December 1986), LR 14:604 (September 1988), LR 16:847 (October 1990), LR 26:235 (February 2000), LR 31:

Family Impact Statement

The proposed amendments to Title 7 Part XIII.125 and 143 regarding an added definition and the fee structure for certified seed, making it consistent throughout the industry, should not have any known or foreseeable impact on any family as defined by R. S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may submit written comments on the proposed Rules through November 29, 2004, to Eric Gates, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above. No preamble concerning the proposed Rules is available.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Seed Certification Standards

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

There is estimated to be no implementation costs or savings to state or local governmental units. The Louisiana Seed Commission is proposing to amend regulations making the fee structure for certified seed more consistent throughout the industry. Certification fees are currently assessed on a per tag basis, being one tag per container regardless of the size of the container. (Container sizes can range from 50-2000 pounds.) The proposed standards require that seed certification fees be assessed on a per weight unit basis, with the amount of the weight units being established by the Seed Commission, and based on a common industry accepted packaging weight and specified within the certification standards. In addition, the term "weight unit" will be defined in the seed certification definitions as a result of the proposed changes.

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

There will be a total estimated increase in revenue collections of \$47,812 to the Seed Commission Fund. This increase was calculated using revenues generated from the total number of tags printed for the previous year verses revenues estimated on the same amount of tags under the new regulations.

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

There will be an increase in costs to persons desiring to certify seed in bulk containers. Certification fees were previously based on a per tag basis, based on one tag per container regardless of the size of the container. Current proposed standards require seed certification fees on a per unit basis. Persons packaging seed in 50 pound containers will potentially see a decrease in certification costs. Persons normally packaging seed in 100-pound containers will realize no impact. Persons packaging certified seed in bulk containers will realize an increase in certification costs based on the number of units packaged within the bulk containers. At present, amendments to rules and regulations regarding bulk certification standards to accommodate the current industries trend towards bulk packaging are in the process of promulgation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition and employment.

Skip Rhorer Robert E. Hosse
Assistant Commissioner General Government Section Director
0410#053 Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111 Louisiana School, District,
and State Accountability System
(LAC 28:LXXXIII.3501, 4310, and 4313)

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 for advertisement revisions to *Bulletin 111 Louisiana School, District, and State Accountability System* (LAC

28:LXXXIII). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components. These changes take advantage of new flexibility in guidance for No Child Left Behind and address situations that were not considered when the accountability policy was initially written.

**Title 28
EDUCATION**

**Part LXXXIII. Bulletin 111 Louisiana School, District,
and State Accountability System**

**Chapter 35. Inclusion of Alternative Education
Students**

§3501. Option Choices

A. ...

B. Any child who is in the custody of the office of juvenile services, Department of Public Safety and Corrections, as a result of being an adjudicated delinquent or in need of supervision by a court and assigned by the office of juvenile services to a community-based program or facility, as provided for in R.S. 17:100.1, shall be provided educational services pursuant to R.S. 17:100.1.

1. For those LEAs providing educational services directly to students in these programs/facilities, the LEA must designate the program/facility as an Option 1 or Option 2 alternative school, and the students' assessment, dropout and attendance results shall be included in the LEA's data for district accountability purposes.

2. Subject to the requirements of R.S. 17:100.1(B), any city or parish school board may contract for the provision of educational services for children described in Subsection B of this Section.

a. If an LEA does satisfy its educational obligations by contract, the program/facility shall be designated as an Option 2 alternative school and will receive its own SPS.

b. The assessment, dropout and attendance results for these students shall not be included in the local school district's data for district accountability purposes.

c. The assessment, dropout and attendance results for these students shall be included in a "R.S. 17:100.1 school district" for accountability purposes. The Department shall have the discretion to create multiple "R.S. 17:100.1 school districts" so that the accountability data accurately reflects the operation of the various programs/facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 31:

Chapter 43. District Accountability

§4310. Subgroup Component AYP (Adequate Yearly Progress)

A. District Subgroup Component Indicators

1. Each district shall be evaluated on the subgroup component at three different levels (grade-clusters); elementary (K-5), middle (6-8), and high school (9-12). A grade-cluster shall pass the subgroup component provided that each subgroup of students meets the subgroup component, and the grade-cluster, as a whole, meets the criteria for status or improvement on the additional academic

indicator. A district shall pass the subgroup component provided that each grade-cluster does not fail the subgroup component.

a. - c. ...

d. For the non-proficient reduction portion of the safe harbor test, a comparison of current year assessment data to the previous year assessment data shall be used. For the additional academic indicator check for the safe harbor test and for the whole grade-cluster check, attendance and dropout data from two years prior will be compared to data from three years prior.

A.1.e. - B.1.b.ii. ...

2. For analyses involving the additional academic indicator, all students in each subgroup in the grade-cluster shall be included.

3. Each subgroup (African American, American Indian/Alaskan Native, Asian, Hispanic, White, Economically Disadvantaged, Limited English Proficient, Students with Disabilities, and All Students) within each district shall be evaluated separately on ELA and mathematics.

a. In calculating the subgroup component for a grade-cluster, the alternate academic achievement standards for students participating in LAA will be used, provided that the percentage of LAA students scoring proficient at the district level does not exceed 1.0 percent of all students in the grades assessed. If the district exceeds the 1.0 percent cap, the district shall request a waiver. If the district fails to request the waiver or if the district requests the waiver but it is determined by LDE that ineligible students were administered LAA, the students that exceed the cap or that are ineligible shall be assigned a zero on the assessment and considered non-proficient.

B.3.b. - C.3.(Table) ...

4. A 99 percent confidence interval shall be used when evaluating whether subgroups within a grade-cluster have attained the Annual Measurable Objective (AMO).

C.5. - D.2.a.i. ...

b. the subgroup:

i. achieves a 90 percent non-dropout rate (9-12) or attendance rate (K-5, 6-8). (A 99 percent confidence interval is applied to the 90 percent attendance rate and 90 percent non-dropout rate check); or

ii. makes at least 0.1 percent improvement in non-dropout rate (9-12) or attendance rate (K-5, 6-8) from the previous year.

3. The non-dropout rate shall be evaluated for students in grade 9 and above.

4. Subgroups passing the participation rate test and achieving safe harbor shall be considered as having passed the subgroup component.

E. Failing the Subgroup Component

1. A grade-cluster shall fail the subgroup component if ANY subgroup within that grade-cluster fails the participation rate test, the ELA or math AMO status test and the safe harbor test.

2. A grade-cluster in which all subgroups have passed the subgroup component must also have the grade-cluster pass the additional academic indicator:

a. achieved a 90 percent non-dropout rate (9-12) or attendance rate (K-5, 6-8). (A 99 percent confidence interval is applied to the 90 percent non-dropout or attendance rate check.); or

b. made at least 0.1 percent improvement in non-dropout rate (9-12) or attendance rate (K-5, 6-8) from the previous year.

NOTE: If a grade-cluster in which all subgroups have passed the subgroup component does not pass the additional academic indicator, it shall not pass the subgroup component.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1447 (July 2004), amended LR 31:

§4313. Corrective Actions

A. - B.1. ...

C. Districts that receive a DRI Index label of Unresponsive and/or fail to achieve AYP in the subgroup component in the same subject for a second consecutive year shall write District Improvement Plans based on the prior years' self-assessments and submit those plan to the LDE.

1. The DOE shall review each District Improvement Plan.

2. The DOE may recommend that BESE schedule a District Dialogue with the District.

D. Districts that receive a DRI Index label of Unresponsive and/or fail to achieve AYP in the subgroup component in the same subject for a third consecutive year shall be audited by the LDE. The audit shall include academic, fiscal, and support services.

E. BESE shall take action on the findings of the prior years audit for Districts that receive a DRI Index label of Unresponsive and/or fail to achieve AYP in the subgroup component in the same subject for a fourth consecutive year. Actions taken shall be dependent upon whether identification was through the DRI label or the subgroup component.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2757 (December 2003), amended LR 30:1449 (July 2004), LR 31:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule effect the stability of the family? No.

2. Will the proposed Rule effect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule effect the functioning of the family? No.

4. Will the proposed Rule effect family earnings and family budget? No.

5. Will the proposed Rule effect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit comments until 4:30 p.m., December 9, 2004, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
**RULE TITLE: Bulletin 111 Louisiana School, District,
and State Accountability System**

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

There are no estimated implementation costs (savings) to state governmental units. The proposed changes outline districts' responsibilities to alternative schools and the relative option choices that must be made, district subgroup component grade cluster evaluation procedures, and district corrective actions for subgroup component failure in the same subject for two consecutive years.

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

There will be no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

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

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

There will be no effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
0410#020

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746 Louisiana Standards for State Certification of School Personnel PRAXIS Exams and Passing Scores for Louisiana Certification (LAC 28:I.903)

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 for advertisement an amendment to *Bulletin 746 Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy specifies the specific Praxis exam and passing score for certification in Middle School English/Language Arts. This action continues the board's alignment of the Praxis testing policies of the No Child Left Behind Act of 2001.

Title 28

EDUCATION

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations**

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183 (April 1975), amended LR 1:311 (July 1975), LR 1:399 (September 1975), LR 1:435 (October 1975), LR 1:541 (December 1975), LR 28:2505 (December 2002), LR 29:117 (February 2003), LR 29:119 (February 2003), LR 29:121 (February 2003), LR 31:

Middle School Certification Testing Policy

For Louisiana middle school certified teachers to have "highly qualified" status, the state's middle school PRAXIS content exam certification requirements must conform with the No Child Left Behind Act of 2001. The Act specifies that middle school teachers must have passed a content specific exam for each core academic content area in which the teacher teaches.

The following exam is specified for use by applicants seeking certification for Middle School: English/Language Arts.

Middle School Subject Area	Exam Number	Cut Score
English/Language Arts	0049	160

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., December 9, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 746 Louisiana Standards for
State Certification of School Personnel PRAXIS Exams
and Passing Scores for Louisiana Certification**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This policy specifies the specific Praxis exam and passing score for certification in Middle School English/Language Arts. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL 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)
This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0410#021

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of Environmental Assessment**

NRC Authorization Cleanup Package
(LAC 33:XV.102, 113, 325, 326, 351, 361, 399, 421,
499, 575, 588, 756, 757, 1503, 1505, and 2017)(RP037)

Under the authority of the Environmental Quality Act, R.S. 30:2001 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 to amend the Radiation Protection regulations, LAC 33:XV.102, 113, 325, 326, 351, 361, 399, 421, 499, 575, 588, 756, 757, 1503, 1505, and 2017 (Log #RP037).

Amendments in this Rule include extending the application period for requesting a grievance hearing, correcting references and typographical errors, making clarifications, stating specific requirements for NRC authorization, and restoring a footnote inadvertently lost in previous rulemaking. In addition, Appendix F of Chapter 4 is being moved in its entirety to Appendix D of Chapter 3, to mirror the federal regulations. This rulemaking is necessary to correct minors errors and to keep Louisiana's radiation protection program current with its federal counterpart. The basis and rationale for this Rule are to incorporate necessary amendments to preserve compatibility with the Nuclear Regulatory Commission federal regulations.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact

on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY
Part XV. Radiation Protection**

Chapter 1. General Provisions

§102. Definitions and Abbreviations

As used in these regulations, these terms have the definitions set forth below. Additional definitions used only in a certain chapter may be found in that chapter.

* * *

A₂ The maximum activity of radioactive material, other than special form, LSA, and SCO material, permitted in a Type A package. These values are either listed in, or may be derived in accordance with the procedure prescribed in, Appendix A of 10 CFR Part 71.

* * *

Rem A measure of the dose of any radiation to body tissue in terms of its estimated biological effect relative to a dose received from an exposure to one Roentgen (R) of X-rays. One millirem (mRem) is equal to 0.001 Rem. Rem is a special unit of dose equivalent. (See *dose equivalent*.) For the purpose of these regulations, any of the following is considered to be equivalent to a dose of one Rem:

- 1. - 4. ...

[Note: If it is more convenient to measure the neutron flux, or equivalent, than to determine the neutron absorbed dose in rads, one Rem of neutron radiation may, for purposes of these regulations, be assumed to be equivalent to 14 million (1.4 x 10⁷) neutrons per square centimeter incident upon the body; or, if there exists sufficient information to estimate with reasonable accuracy the approximate distribution in energy of the neutrons, the incident number of neutrons per square centimeter equivalent to one Rem may be estimated from the table in LAC 33:XV.199.Appendix A.]

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 19:1421 (November 1993), LR 20:650 (June 1994), LR 22:967 (October 1996), LR 24:2089 (November 1998), repromulgated LR 24:2242 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2563 (November 2000), LR 26:2767 (December 2000), LR 30:1171, 1188 (June 2004), amended by the Office of Environmental Assessment, LR 31:

§113. Appeal Procedure, Administrative Review

- A. ...
- B. Applications to Request a Hearing

1. Any person who alleges that he or she has been aggrieved by the final actions or decision of the department or administrative authority may make application to the administrative authority, in writing, within 30 days after the occurrence of the alleged grievance or 30 days after the promulgation of any directive, order, decision or other written decision or declaration of the administrative authority.

- B.2. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and

Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2564 (November 2000), amended by the Office of Environmental Assessment, LR 31:

Chapter 3. Licensing of Radioactive Material
Subchapter D. Specific Licenses

§325. General Requirements for the Issuance of Specific Licenses

A. - C.5.a. ...

b. persons authorized to possess no more than 1,000 times the quantity specified in LAC 33:XV.399.Appendix D or a combination of radioactive material listed therein as given in LAC 33:XV.399.Appendix D;

C.5.c. - D. ...

1. Each applicant for a specific license authorizing the possession and use of unsealed radioactive material of half-life greater than 120 days and in quantities exceeding 10^5 times the applicable quantities set forth in LAC 33:XV.399.Appendix D shall submit a decommissioning funding plan as described in Paragraph D.5 of this Section. The decommissioning funding plan must also be submitted when a combination of isotopes is involved if R divided by 10^5 is greater than one (unity rule), where R is defined here as the sum of the ratios of the quantity of each isotope to the applicable value in LAC 33:XV.399.Appendix D.

2. Each applicant for a specific license authorizing possession and use of radioactive material of half-life greater than 120 days and in quantities specified in Paragraph D.4 of this Section shall either:

2.a. - 3.d. ...

4. The following table lists required amounts of financial assurance for decommissioning by quantity of material.

a. Greater than 10^4 but less than or equal to 10^5 times the applicable quantities of LAC 33:XV.399.Appendix D in unsealed form (for a combination of isotopes, if R, as defined in Paragraph D.1 of this Section, divided by 10^4 is greater than 1 but R divided by 10^5 is less than or equal to 1).	\$750,000
--	-----------

b. Greater than 10^3 but less than or equal to 10^4 times the applicable quantities of LAC 33:XV.399.Appendix D in unsealed form (for a combination of isotopes, if R, as defined in Paragraph D.1 of this Section, divided by 10^3 is greater than 1 but R divided by 10^4 is less than or equal to 1).	\$150,000
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c. Greater than 10^{10} times the applicable quantities of LAC 33:XV.399.Appendix D in sealed sources or plated foils (for a combination of isotopes, if R, as defined in Paragraph D.1 of this Section, divided by 10^{10} is greater than 1).	\$75,000
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5. - 7.d.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 23:1140 (September 1997), LR 24:2091

(November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1018 (May 2000), LR 26:2568 (November 2000), LR 27:1227 (August 2001), amended by the Office of Environmental Assessment, LR 31:

§326. Special Requirements for Issuance of Certain Specific Licenses for Radioactive Material

A. - E.1.g. ...

h. The applicant submits the qualifications of the individual designated as the radiation safety officer (RSO) as described in LAC 33:XV.573.E.

i. - k. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 24:2092 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2569 (November 2000), LR 27:1228 (August 2001), LR 30:1188 (June 2004), amended by the Office of Environmental Assessment, LR 31:

§351. Financial Assurance Arrangements

A. ...

1. the amount of funds to be ensured by such assurance arrangements shall be based on the quantity of radioactive material of half-life greater than 120 days that the licensee is authorized to use and possess;

A.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2573 (November 2000), LR 27:1228 (August 2001), amended by the Office of Environmental Assessment, LR 31:

§361. Registration of Product Information

A. Any manufacturer or initial distributor of a sealed source or a device containing a sealed source whose product is intended for use under a specific license may submit a request to the department for evaluation of radiation safety information about its product and for its registration.

B. The request for review must be sent by an appropriate method to the Office of Environmental Services, Permits Division.

C. The request for review of a sealed source or a device must include sufficient information about the design, manufacture, prototype testing, quality control program, labeling, proposed uses, and leak testing. For a device, the request must also include sufficient information about installation, service and maintenance, operating and safety instructions, and its potential hazards, to provide reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property.

D. The department normally evaluates a sealed source or a device using radiation safety criteria in accepted industry standards. If these standards and criteria do not readily apply to a particular case, the department formulates reasonable standards and criteria with the help of the manufacturer or distributor. The department shall use criteria and standards

sufficient to ensure that the radiation safety properties of the device or sealed source are adequate to protect health and minimize danger to life and property.

E. After completion of the evaluation, the department issues a certificate of registration to the person making the request. The certificate of registration acknowledges the availability of the submitted information for inclusion in an application for a specific license proposing use of the product.

F. The person submitting the request for evaluation and registration of safety information about the product shall manufacture and distribute the product in accordance with:

1. the statements and representations, including quality control program, contained in the request; and
2. the provisions of the registration certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:

Subchapter Z. Appendices

§399. Schedules A and B, and Appendices A, B, C, D

Schedule A. - Schedule B. ...

Appendix A			
Financial Assurance Arrangements			
Recommended Amounts for Mitigation, Liability, and Decommissioning			
By Title	Clean up	Third Party &/or Off-Site Damages	Decommissioning
A. Licensees 1. Manufacturing & Distribution 2. Radiography 3. Gauges 4. Well Logging 5. Nuclear Medicine 6. Rad. Therp. 7. Acad. 8. R & D 9. Instru. Calib. 10. Irradiators 11. Ind. other than gauges 12. Consultants 13. General Lic. 14. Others not listed in category A	As determined by the chosen method	As determined by the chosen method	For Category A as a whole by quantity of material (Q): 1. $Q > 10^{10}$ x LAC 33:XV.399.Appendix D, as sealed sources = \$75,000. 2. $(10^4 \times \text{LAC 33:XV.399.Appendix D, unsealed sources}) \geq Q > (10^3 \times \text{LAC 33:XV.399.Appendix D, unsealed sources})$, or 10-100 mCi source materials, dispersible form = \$150,000. 3. $(10^5 \times \text{LAC 33:XV.399.Appendix D, unsealed sources}) \geq Q > (10^4 \times \text{LAC 33:XV.399.Appendix D, unsealed sources})$ = \$750,000.
B. Low Quantity 1. In Vitro 2. Gas Chromatograph 3. Greater than or Equal to 100 x to 1000 x Exempt Quantity 4. Unsealed, discrete alpha emitters, 10 μ Ci total 5. Check sources of sufficient quantity to require leak testing	As determined by the chosen method	As determined by the chosen method	NA for this category.

Appendix B. - Appendix C.Footnote 2. ...

Appendix D	
Quantities For Use With Decommissioning	
Material	Microcurie*
Americium-241	0.01
Antimony-122	100
Antimony-124	10
Antimony-125	10
Arsenic-73	100
Arsenic-74	10
Arsenic-76	10
Arsenic-77	100
Barium-131	10
Barium-133	10
Barium-140	10
Bismuth-210	1
Bromine-82	10
Cadmium-109	10
Cadmium-115m	10
Cadmium-115	100
Calcium-45	10

Appendix D	
Quantities For Use With Decommissioning	
Material	Microcurie*
Calcium-47	10
Carbon-14	100
Cerium-141	100
Cerium-143	100
Cerium-144	1
Cesium-131	1,000
Cesium-134m	100
Cesium-134	1
Cesium-135	10
Cesium-136	10
Cesium-137	10
Chlorine-36	10
Chlorine-38	10
Chromium-51	1,000
Cobalt-58m	10
Cobalt-58	10
Cobalt-60	1
Copper-64	100
Dysprosium-165	10

Appendix D	
Quantities For Use With Decommissioning	
Material	Microcurie*
Dysprosium-166	100
Erbium-169	100
Erbium-171	100
Europium-152 (9.2h)	100
Europium-152 (13yr)	1
Europium-154	1
Europium-155	10
Fluorine-18	1,000
Gadolinium-153	10
Gadolinium-159	100
Gallium-72	10
Germanium-71	100
Gold-198	100
Gold-199	100
Hafnium-181	10
Holmium-166	100
Hydrogen-3	1,000
Indium-113m	100
Indium-114m	10
Indium-115m	100
Indium-115	10
Iodine-125	1
Iodine-126	1
Iodine-129	0.1
Iodine-131	1
Iodine-132	10
Iodine-133	1
Iodine-134	10
Iodine-135	10
Iridium-192	10
Iridium-194	100
Iron-55	100
Iron-59	10
Krypton-85	100
Krypton-87	10
Lanthanum-140	10
Lutetium-177	100
Manganese-52	10
Manganese-54	10
Manganese-56	10
Mercury-197m	100
Mercury-197	100
Mercury-203	10
Molybdenum-99	100
Neodymium-147	100
Neodymium-149	100
Nickel-59	100
Nickel-63	10
Nickel-65	100
Niobium-93m	10
Niobium-95	10
Niobium-97	10
Osmium-185	10
Osmium-191m	100
Osmium-191	100
Osmium-193	100
Palladium-103	100
Palladium-109	100
Phosphorus-32	10
Platinum-191	100
Platinum-193m	100
Platinum-193	100
Platinum-197m	100
Platinum-197	100
Plutonium-239	0.01
Polonium-210	0.1
Potassium-42	10
Praseodymium-142	100
Praseodymium-143	100

Appendix D	
Quantities For Use With Decommissioning	
Material	Microcurie*
Promethium-147	10
Promethium-149	10
Radium-226	0.01
Rhenium-186	100
Rhenium-188	100
Rhodium-103m	100
Rhodium-105	100
Rubidium-86	10
Rubidium-87	10
Ruthenium-97	100
Ruthenium-103	10
Ruthenium-105	10
Ruthenium-106	1
Samarium-151	10
Samarium-153	100
Scandium-46	10
Scandium-47	100
Scandium-48	10
Selenium-75	10
Silicon-31	100
Silver-105	10
Silver-IIom	1
Silver-111	100
Sodium-22	10
Sodium-24	10
Strontium-85	10
Strontium-89	1
Strontium-90	0.1
Strontium-91	10
Strontium-92	10
Sulfur-35	100
Tantalum-182	10
Technetium-96	10
Technetium-97m	100
Technetium-97	100
Technetium-99m	100
Technetium-99	10
Tellurium-125m	10
Tellurium-127m	10
Tellurium-127	100
Tellurium-129m	10
Tellurium-129	100
Tellurium-131m	10
Tellurium-132	10
Terbium-160	10
Thallium-200	100
Thallium-201	100
Thallium-202	100
Thallium-204	10
Thorium (natural)**	100
Thulium-170	10
Thulium-171	10
Tin-113	10
Tin-125	10
Tungsten-181	10
Tungsten-185	10
Tungsten-187	100
Uranium (natural)***	100
Uranium-233	0.01
Uranium-234	0.01
Uranium-235	0.01
Vanadium-48	10
Xenon-131m	1,000
Xenon-133	100
Xenon-135	100
Ytterbium-175	100
Yttrium-90	10
Yttrium-91	10
Yttrium-92	100

Appendix D	
Quantities For Use With Decommissioning	
Material	Microcurie*
Yttrium-93	100
Zinc-65	10
Zinc-69m	100
Zinc-69	1,000
Zirconium-93	10
Zirconium-95	10
Zirconium-97	10
Any alpha emitting radionuclide not listed above or mixtures of alpha emitters of unknown composition	0.01
Any radionuclide other than alpha emitting radionuclides, not listed above or mixtures of beta emitters of unknown composition	0.1

* To convert μCi to kBq , multiply the μCi value by 37.

** Based on alpha disintegration rate of Th-232, Th-230 and their daughter products.

*** Based on alpha disintegration rate of U-238, U-234, and U-235.

Note: This Appendix is retained for use by those agreement states that need to adopt decommissioning regulations compatible with the U.S. Nuclear Regulatory Commission.

Note: Where there is involved a combination of isotopes in known amounts, the limit for the combination should be derived as follows: Determine, for each isotope in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific isotope when not in combination. The sum of such ratios for all the isotopes in the combination may not exceed "1" or unity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 20:180 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2574 (November 2000), LR 27:1228 (August 2001), amended by the Office of Environmental Assessment, LR 31:

Chapter 4. Standards for Protection Against Radiation

Subchapter B. Radiation Protection Programs

§421. Radiation Dose Limits for Individual Members of the Public

A. - E. ...

³Retrofit shall not be required for locations within facilities where only radiation machines existed prior to January 1, 1994, and met the previous requirements of 5 mSv (0.5 rem) in a year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:970 (October 1996), LR 24:2095 (November 1998), repromulgated LR 24:2243 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2576 (November 2000), amended by the Office of Environmental Assessment, LR 31:

Subchapter Z. Appendices

§499. Appendices A, B, C, D, E

Appendix A. - Appendix B.Note 4.Example. ...

Appendix C	
Quantities ¹ of Licensed or Registered Sources of Radiation Requiring Labeling	
Radionuclide	Quantity (μCi)*
Hydrogen-3	1,000
Beryllium-7	1,000
Beryllium-10	1
Carbon-11	1,000
Carbon-14	100
Fluorine-18	1,000
Sodium-22	10
Sodium-24	100
Magnesium-28	100
Aluminum-26	10
Silicon-31	1,000
Silicon-32	1
Phosphorus-32	10
Phosphorus-33	100
Sulfur-35	100
Chlorine-36	10
Chlorine-38	1,000
Chlorine-39	1,000
Argon-39	1,000
Argon-41	1,000
Potassium-40	100
Potassium-42	1,000
Potassium-43	1,000
Potassium-44	1,000
Potassium-45	1,000
Calcium-41	100
Calcium-45	100
Calcium-47	100
Scandium-43	1,000
Scandium-44m	100
Scandium-44	100
Scandium-46	10
Scandium-47	100
Scandium-48	100
Scandium-49	1,000
Titanium-44	1
Titanium-45	1,000
Vanadium-47	1,000
Vanadium-48	100
Vanadium-49	1,000
Chromium-48	1,000
Chromium-49	1,000
Chromium-51	1,000
Manganese-51	1,000
Manganese-52m	1,000
Manganese-52	100
Manganese-53	1,000
Manganese-54	100
Manganese-56	1,000
Iron-52	100
Iron-55	100
Iron-59	10
Iron-60	1
Cobalt-55	100
Cobalt-56	10
Cobalt-57	100
Cobalt-58m	1,000
Cobalt-58	100
Cobalt-60m	1,000
Cobalt-60	1
Cobalt-61	1,000
Cobalt-62m	1,000
Nickel-56	100
Nickel-57	100
Nickel-59	100
Nickel-63	100

Appendix C Quantities ¹ of Licensed or Registered Sources of Radiation Requiring Labeling	
Radionuclide	Quantity (μCi)*
Nickel-65	1,000
Nickel-66	10
Copper-60	1,000
Copper-61	1,000
Copper-64	1,000
Copper-67	1,000
Zinc-62	100
Zinc-63	1,000
Zinc-65	10
Zinc-69m	100
Zinc-69	1,000
Zinc-71m	1,000
Zinc-72	100
Gallium-65	1,000
Gallium-66	100
Gallium-67	1,000
Gallium-68	1,000
Gallium-70	1,000
Gallium-72	100
Gallium-73	1,000
Germanium-66	1,000
Germanium-67	1,000
Germanium-68	10
Germanium-69	1,000
Germanium-71	1,000
Germanium-75	1,000
Germanium-77	1,000
Germanium-78	1,000
Arsenic-69	1,000
Arsenic-70	1,000
Arsenic-71	100
Arsenic-72	100
Arsenic-73	100
Arsenic-74	100
Arsenic-76	100
Arsenic-77	100
Arsenic-78	1,000
Selenium-70	1,000
Selenium-73m	1,000
Selenium-73	100
Selenium-75	100
Selenium-79	100
Selenium-81m	1,000
Selenium-81	1,000
Selenium-83	1,000
Bromine-74m	1,000
Bromine-74	1,000
Bromine-75	1,000
Bromine-76	100
Bromine-77	1,000
Bromine-80m	1,000
Bromine-80	1,000
Bromine-82	100
Bromine-83	1,000
Bromine-84	1,000
Krypton-74	1,000
Krypton-76	1,000
Krypton-77	1,000
Krypton-79	1,000
Krypton-81	1,000
Krypton-83m	1,000
Krypton-85m	1,000
Krypton-85	1,000
Krypton-87	1,000
Krypton-88	1,000
Rubidium-79	1,000
Rubidium-81m	1,000
Rubidium-81	1,000

Appendix C Quantities ¹ of Licensed or Registered Sources of Radiation Requiring Labeling	
Radionuclide	Quantity (μCi)*
Rubidium-82m	1,000
Rubidium-83	100
Rubidium-84	100
Rubidium-86	100
Rubidium-87	100
Rubidium-88	1,000
Rubidium-89	1,000
Strontium-80	100
Strontium-81	1,000
Strontium-83	100
Strontium-85m	1,000
Strontium-85	100
Strontium-87m	1,000
Strontium-89	10
Strontium-90	0.1
Strontium-91	100
Strontium-92	100
Yttrium-86m	1,000
Yttrium-86	100
Yttrium-87	100
Yttrium-88	10
Yttrium-90m	1,000
Yttrium-90	10
Yttrium-91m	1,000
Yttrium-91	10
Yttrium-92	100
Yttrium-93	100
Yttrium-94	1,000
Yttrium-95	1,000
Zirconium-86	100
Zirconium-88	10
Zirconium-89	100
Zirconium-93	1
Zirconium-95	10
Zirconium-97	100
Niobium-88	1,000
Niobium-89m (66 min)	1,000
Niobium-89 (122 min)	1,000
Niobium-90	100
Niobium-93m	10
Niobium-94	1
Niobium-95m	100
Niobium-95	100
Niobium-96	100
Niobium-97	1,000
Niobium-98	1,000
Molybdenum-90	100
Molybdenum-93m	100
Molybdenum-93	10
Molybdenum-99	100
Molybdenum-101	1,000
Technetium-93m	1,000
Technetium-93	1,000
Technetium-94m	1,000
Technetium-94	1,000
Technetium-96m	1,000
Technetium-96	100
Technetium-97m	100
Technetium-97	1,000
Technetium-98	10
Technetium-99m	1,000
Technetium-99	100
Technetium-101	1,000
Technetium-104	1,000
Ruthenium-94	1,000
Ruthenium-97	1,000
Ruthenium-103	100
Ruthenium-105	1,000

Appendix C Quantities ¹ of Licensed or Registered Sources of Radiation Requiring Labeling	
Radionuclide	Quantity (μCi)*
Ruthenium-106	1
Rhodium-99m	1,000
Rhodium-99	100
Rhodium-100	100
Rhodium-101m	1,000
Rhodium-101	10
Rhodium-102m	10
Rhodium-102	10
Rhodium-103m	1,000
Rhodium-105	100
Rhodium-106m	1,000
Rhodium-107	1,000
Palladium-100	100
Palladium-101	1,000
Palladium-103	100
Palladium-107	10
Palladium-109	100
Silver-102	1,000
Silver-103	1,000
Silver-104m	1,000
Silver-104	1,000
Silver-105	100
Silver-106m	100
Silver-106	1,000
Silver-108m	1
Silver-110m	10
Silver-111	100
Silver-112	100
Silver-115	1,000
Cadmium-104	1,000
Cadmium-107	1,000
Cadmium-109	1
Cadmium-113m	0.1
Cadmium-113	100
Cadmium-115m	10
Cadmium-115	100
Cadmium-117m	1,000
Cadmium-117	1,000
Indium-109	1,000
Indium-110m (69.1min.)	1,000
Indium-110 (4.9h)	1,000
Indium-111	100
Indium-112	1,000
Indium-113m	1,000
Indium-114m	10
Indium-115m	1,000
Indium-115	100
Indium-116m	1,000
Indium-117m	1,000
Indium-117	1,000
Indium-119m	1,000
Tin-110	100
Tin-111	1,000
Tin-113	100
Tin-117m	100
Tin-119m	100
Tin-121m	100
Tin-121	1,000
Tin-123m	1,000
Tin-123	10
Tin-125	10
Tin-126	10
Tin-127	1,000
Tin-128	1,000
Antimony-115	1,000
Antimony-116m	1,000
Antimony-116	1,000
Antimony-117	1,000

Appendix C Quantities ¹ of Licensed or Registered Sources of Radiation Requiring Labeling	
Radionuclide	Quantity (μCi)*
Antimony-118m	1,000
Antimony-119	1,000
Antimony-120 (16min.)	1,000
Antimony-120 (5.76d)	100
Antimony-122	100
Antimony-124m	1,000
Antimony-124	10
Antimony-125	100
Antimony-126m	1,000
Antimony-126	100
Antimony-127	100
Antimony-128 (10.4min.)	1,000
Antimony-128 (9.01h)	100
Antimony-129	100
Antimony-130	1,000
Antimony-131	1,000
Tellurium-116	1,000
Tellurium-121m	10
Tellurium-121	100
Tellurium-123m	10
Tellurium-123	100
Tellurium-125m	10
Tellurium-127m	10
Tellurium-127	1,000
Tellurium-129m	10
Tellurium-129	1,000
Tellurium-131m	10
Tellurium-131	100
Tellurium-132	10
Tellurium-133m	100
Tellurium-133	1,000
Tellurium-134	1,000
Iodine-120m	1,000
Iodine-120	100
Iodine-121	1,000
Iodine-123	100
Iodine-124	10
Iodine-125	1
Iodine-126	1
Iodine-128	1,000
Iodine-129	1
Iodine-130	10
Iodine-131	1
Iodine-132m	100
Iodine-132	100
Iodine-133	10
Iodine-134	1,000
Iodine-135	100
Xenon-120	1,000
Xenon-121	1,000
Xenon-122	1,000
Xenon-123	1,000
Xenon-125	1,000
Xenon-127	1,000
Xenon-129m	1,000
Xenon-131m	1,000
Xenon-133m	1,000
Xenon-133	1,000
Xenon-135m	1,000
Xenon-135	1,000
Xenon-138	1,000
Cesium-125	1,000
Cesium-127	1,000
Cesium-129	1,000
Cesium-130	1,000
Cesium-131	1,000
Cesium-132	100
Cesium-134m	1,000

Appendix C Quantities ¹ of Licensed or Registered Sources of Radiation Requiring Labeling	
Radionuclide	Quantity (μCi)*
Cesium-134	10
Cesium-135m	1,000
Cesium-135	100
Cesium-136	10
Cesium-137	10
Cesium-138	1,000
Barium-126	1,000
Barium-128	100
Barium-131m	1,000
Barium-131	100
Barium-133m	100
Barium-133	100
Barium-135m	100
Barium-139	1,000
Barium-140	100
Barium-141	1,000
Barium-142	1,000
Lanthanum-131	1,000
Lanthanum-132	100
Lanthanum-135	1,000
Lanthanum-137	10
Lanthanum-138	100
Lanthanum-140	100
Lanthanum-141	100
Lanthanum-142	1,000
Lanthanum-143	1,000
Cerium-134	100
Cerium-135	100
Cerium-137m	100
Cerium-137	1,000
Cerium-139	100
Cerium-141	100
Cerium-143	100
Cerium-144	1
Praseodymium-136	1,000
Praseodymium-137	1,000
Praseodymium-138m	1,000
Praseodymium-139	1,000
Praseodymium-142m	1,000
Praseodymium-142	100
Praseodymium-143	100
Praseodymium-144	1,000
Praseodymium-145	100
Praseodymium-147	1,000
Neodymium-136	1,000
Neodymium-138	100
Neodymium-139m	1,000
Neodymium-139	1,000
Neodymium-141	1,000
Neodymium-147	100
Neodymium-149	1,000
Neodymium-151	1,000
Promethium-141	1,000
Promethium-143	100
Promethium-144	10
Promethium-145	10
Promethium-146	1
Promethium-147	10
Promethium-148m	10
Promethium-148	10
Promethium-149	100
Promethium-150	1,000
Promethium-151	100
Samarium-141m	1,000
Samarium-141	1,000
Samarium-142	1,000
Samarium-145	100
Samarium-146	1

Appendix C Quantities ¹ of Licensed or Registered Sources of Radiation Requiring Labeling	
Radionuclide	Quantity (μCi)*
Samarium-147	100
Samarium-151	10
Samarium-153	100
Samarium-155	1,000
Samarium-156	1,000
Europium-145	100
Europium-146	100
Europium-147	100
Europium-148	10
Europium-149	100
Europium-150 (12.62h)	100
Europium-150 (34.2y)	1
Europium-152m	100
Europium-152	1
Europium-154	1
Europium-155	10
Europium-156	100
Europium-157	100
Europium-158	1,000
Gadolinium-145	1,000
Gadolinium-146	10
Gadolinium-147	100
Gadolinium-148	0.001
Gadolinium-149	100
Gadolinium-151	10
Gadolinium-152	100
Gadolinium-153	10
Gadolinium-159	100
Terbium-147	1,000
Terbium-149	100
Terbium-150	1,000
Terbium-151	100
Terbium-153	1,000
Terbium-154	100
Terbium-155	1,000
Terbium-156m (5.0h)	1,000
Terbium-156m (24.4h)	1,000
Terbium-156	100
Terbium-157	10
Terbium-158	1
Terbium-160	10
Terbium-161	100
Dysprosium-155	1,000
Dysprosium-157	1,000
Dysprosium-159	100
Dysprosium-165	1,000
Dysprosium-166	100
Holmium-155	1,000
Holmium-157	1,000
Holmium-159	1,000
Holmium-161	1,000
Holmium-162m	1,000
Holmium-162	1,000
Holmium-164m	1,000
Holmium-164	1,000
Holmium-166m	1
Holmium-166	100
Holmium-167	1,000
Erbium-161	1,000
Erbium-165	1,000
Erbium-169	100
Erbium-171	100
Erbium-172	100
Thulium-162	1,000
Thulium-166	100
Thulium-167	100
Thulium-170	10
Thulium-171	10

Appendix C Quantities ¹ of Licensed or Registered Sources of Radiation Requiring Labeling	
Radionuclide	Quantity (μCi)*
Thulium-172	100
Thulium-173	100
Thulium-175	1,000
Ytterbium-162	1,000
Ytterbium-166	100
Ytterbium-167	1,000
Ytterbium-169	100
Ytterbium-175	100
Ytterbium-177	1,000
Ytterbium-178	1,000
Lutetium-169	100
Lutetium-170	100
Lutetium-171	100
Lutetium-172	100
Lutetium-173	10
Lutetium-174m	10
Lutetium-174	10
Lutetium-176m	1,000
Lutetium-176	100
Lutetium-177m	10
Lutetium-177	100
Lutetium-178m	1000
Lutetium-178	1,000
Lutetium-179	1,000
Hafnium-170	100
Hafnium-172	1
Hafnium-173	1,000
Hafnium-175	100
Hafnium-177m	1,000
Hafnium-178m	0.1
Hafnium-179m	10
Hafnium-180m	1,000
Hafnium-181	10
Hafnium-182m	1,000
Hafnium-182	0.1
Hafnium-183	1,000
Hafnium-184	100
Tantalum-172	1,000
Tantalum-173	1,000
Tantalum-174	1,000
Tantalum-175	1,000
Tantalum-176	100
Tantalum-177	1,000
Tantalum-178	1,000
Tantalum-179	100
Tantalum-180m	1,000
Tantalum-180	100
Tantalum-182m	1,000
Tantalum-182	10
Tantalum-183	100
Tantalum-184	100
Tantalum-185	1,000
Tantalum-186	1,000
Tungsten-176	1,000
Tungsten-177	1,000
Tungsten-178	1,000
Tungsten-179	1,000
Tungsten-181	1,000
Tungsten-185	100
Tungsten-187	100
Tungsten-188	10
Rhenium-177	1,000
Rhenium-178	1,000
Rhenium-181	1,000
Rhenium-182 (12.7h)	1,000
Rhenium-182 (64.0h)	100
Rhenium-184m	10
Rhenium-184	100

Appendix C Quantities ¹ of Licensed or Registered Sources of Radiation Requiring Labeling	
Radionuclide	Quantity (μCi)*
Rhenium-186m	10
Rhenium-186	100
Rhenium-187	1,000
Rhenium-188m	1,000
Rhenium-188	100
Rhenium-189	100
Osmium-180	1,000
Osmium-181	1,000
Osmium-182	100
Osmium-185	100
Osmium-189m	1,000
Osmium-191m	1,000
Osmium-191	100
Osmium-193	100
Osmium-194	1
Iridium-182	1,000
Iridium-184	1,000
Iridium-185	1,000
Iridium-186	100
Iridium-187	1,000
Iridium-188	100
Iridium-189	100
Iridium-190m	1,000
Iridium-190	100
Iridium-192 (73.8d)	1
Iridium-192m (1.4min.)	10
Iridium-194m	10
Iridium-194	100
Iridium-195m	1,000
Iridium-195	1,000
Platinum-186	1,000
Platinum-188	100
Platinum-189	1,000
Platinum-191	100
Platinum-193m	100
Platinum-193	1,000
Platinum-195m	100
Platinum-197m	1,000
Platinum-197	100
Platinum-199	1,000
Platinum-200	100
Gold-193	1,000
Gold-194	100
Gold-195	10
Gold-198m	100
Gold-198	100
Gold-199	100
Gold-200m	100
Gold-200	1,000
Gold-201	1,000
Mercury-193m	100
Mercury-193	1,000
Mercury-194	1
Mercury-195m	100
Mercury-195	1,000
Mercury-197m	100
Mercury-197	1,000
Mercury-199m	1,000
Mercury-203	100
Thallium-194m	1,000
Thallium-194	1,000
Thallium-195	1,000
Thallium-197	1,000
Thallium-198m	1,000
Thallium-198	1,000
Thallium-199	1,000
Thallium-200	1,000
Thallium-201	1,000

Appendix C Quantities ¹ of Licensed or Registered Sources of Radiation Requiring Labeling	
Radionuclide	Quantity (μCi)*
Thallium-202	100
Thallium-204	100
Lead-195m	1,000
Lead-198	1,000
Lead-199	1,000
Lead-200	100
Lead-201	1,000
Lead-202m	1,000
Lead-202	10
Lead-203	1,000
Lead-205	100
Lead-209	1,000
Lead-210	0.01
Lead-211	100
Lead-212	1
Lead-214	100
Bismuth-200	1,000
Bismuth-201	1,000
Bismuth-202	1,000
Bismuth-203	100
Bismuth-205	100
Bismuth-206	100
Bismuth-207	10
Bismuth-210m	0.1
Bismuth-210	1
Bismuth-212	10
Bismuth-213	10
Bismuth-214	100
Polonium-203	1,000
Polonium-205	1,000
Polonium-207	1,000
Polonium-210	0.1
Astatine-207	100
Astatine-211	10
Radon-220	1
Radon-222	1
Francium-222	100
Francium-223	100
Radium-223	0.1
Radium-224	0.1
Radium-225	0.1
Radium-226	0.1
Radium-227	1,000
Radium-228	0.1
Actinium-224	1
Actinium-225	0.01
Actinium-226	0.1
Actinium-227	0.001
Actinium-228	1
Thorium-226	10
Thorium-227	0.01
Thorium-228	0.001
Thorium-229	0.001
Thorium-230	0.001
Thorium-231	100
Thorium-232	100
Thorium-234	10
Thorium-natural	100
Protactinium-227	10
Protactinium-228	1
Protactinium-230	0.1
Protactinium-231	0.001
Protactinium-232	1
Protactinium-233	100
Protactinium-234	100
Uranium-230	0.01
Uranium-231	100
Uranium-232	0.001

Appendix C Quantities ¹ of Licensed or Registered Sources of Radiation Requiring Labeling	
Radionuclide	Quantity (μCi)*
Uranium-233	0.001
Uranium-234	0.001
Uranium-235	0.001
Uranium-236	0.001
Uranium-237	100
Uranium-238	100
Uranium-239	1,000
Uranium-240	100
Uranium-natural	100
Neptunium-232	100
Neptunium-233	1,000
Neptunium-234	100
Neptunium-235	100
Neptunium-236 (1.15x10 ⁵ y)	0.001
Neptunium-236 (22.5h)	1
Neptunium-237	0.001
Neptunium-238	10
Neptunium-239	100
Neptunium-240	1,000
Plutonium-234	10
Plutonium-235	1,000
Plutonium-236	0.001
Plutonium-237	100
Plutonium-238	0.001
Plutonium-239	0.001
Plutonium-240	0.001
Plutonium-241	0.01
Plutonium-242	0.001
Plutonium-243	1,000
Plutonium-244	0.001
Plutonium-245	100
Americium-237	1,000
Americium-238	100
Americium-239	1,000
Americium-240	100
Americium-241	0.001
Americium-242m	0.001
Americium-242	10
Americium-243	0.001
Americium-244m	100
Americium-244	10
Americium-245	1,000
Americium-246m	1,000
Americium-246	1,000
Curium-238	100
Curium-240	0.1
Curium-241	1
Curium-242	0.01
Curium-243	0.001
Curium-244	0.001
Curium-245	0.001
Curium-246	0.001
Curium-247	0.001
Curium-248	0.001
Curium-249	1,000
Berkelium-245	100
Berkelium-246	100
Berkelium-247	0.001
Berkelium-249	0.1
Berkelium-250	10
Californium-244	100
Californium-246	1
Californium-248	0.01
Californium-249	0.001
Californium-250	0.001
Californium-251	0.001
Californium-252	0.001
Californium-253	0.1

Appendix C	
Quantities¹ of Licensed or Registered Sources of Radiation Requiring Labeling	
Radionuclide	Quantity (μCi)*
Californium-254	0.001
Any alpha emitting radionuclide not listed above or mixtures of alpha emitters of unknown composition	0.001
Einsteinium-250	100
Einsteinium-251	100
Einsteinium-253	0.1
Einsteinium-254m	1
Einsteinium-254	0.01
Fermium-252	1
Fermium-253	1
Fermium-254	10
Fermium-255	1
Fermium-257	0.01
Mendelevium-257	10
Mendelevium-258	0.01
Any radionuclide other than alpha emitting radionuclides not listed above, or mixtures of beta emitters of unknown composition	0.01

* To convert μCi to kBq, multiply the μCi value by 37.
 [NOTE: For purposes of LAC 33:XV.451.E, 454.A, and 485.A where there is involved a combination of radionuclides in known amounts, the limit for the combination shall be derived as follows: determine, for each radionuclide in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific radionuclide when not in combination. The sum of such ratios for all radionuclides in the combination may not exceed "1" or unity.]

¹The quantities listed above were derived by taking 1/10th of the most restrictive ALI listed in Table I, Columns 1 and 2, of LAC 33:XV.499 Appendix B, rounding to the nearest factor of 10, and constraining the values listed between 37 Bq and 37 MBq (0.001 and 1,000 μCi). Values of 3.7 MBq (100 μCi) have been assigned for radionuclides having a radioactive half-life in excess of E+9 years, except rhenium, 37 MBq or 1,000 μCi, to take into account their low specific activity.

Appendix D. - Appendix E. Footnote 1. ...

[Editor's Note: Appendix F has been moved to §399, as Appendix D.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2104.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 20:653 (June 1994), LR 22:973 (October 1996), LR 24:2096 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1012 (May 2002), amended by the Office of Environmental Assessment, LR 31:

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

Subchapter B. Personal Radiation Safety Requirements for Radiographers

§575. Training and Testing

A. - C.1. ...

2. Records of Annual Refresher Safety Training and Semiannual Inspections of Job Performance. The records must list the topics discussed during the refresher safety training, the dates the annual refresher safety training was conducted, and the names of the instructors and attendees. For inspections of job performance, the records must also include a list showing the items checked and any

noncompliance observed by the radiation safety officer or designee.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 20:999 (September 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000), LR 27:1235 (August 2001), LR 28:1951 (September 2002), LR 29:34 (January 2003), LR 29:1470 (August 2003), amended by the Office of Environmental Assessment, LR 30:2029 (September 2004), LR 31:

Subchapter C. Precautionary Procedures in Radiographic Operations

§588. Documents and Records Required at Temporary Job Sites and Applicable Field Stations

A. - A.6. ...

7. a copy of the card issued by the department granting radiographer trainee status to any radiographer trainee performing industrial radiography at the temporary job site;

8. - 11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2772 (December 2000), LR 27:1236 (August 2001), LR 28:1952 (September 2002), amended by the Office of Environmental Assessment, LR 31:

Chapter 7. Use of Radionuclides in the Healing Arts
§756. Full Calibration Measurements on Teletherapy Units, Remote Afterloader Units, and Gamma Stereotactic Radiosurgery Units

A. - B.3. ...

4. A licensee shall make the full calibration measurements required by this Subsection in accordance with published protocols accepted by nationally-recognized bodies.

B.5. - C.7. ...

D. Records of Teletherapy Unit, Remote Afterloader Unit, and Gamma Stereotactic Radiosurgery Unit Full Calibrations. A licensee shall maintain a record of the teletherapy unit, remote afterloader unit, and gamma stereotactic radiosurgery unit full calibrations required by Subsections A, B, and C of this Section for three years. The record shall include:

1. the date of the calibration;
2. the manufacturer's name, model number, and serial number of the teletherapy, remote afterloader, or gamma stereotactic radiosurgery unit, the source, and the instruments used to calibrate the unit;
3. the results and an assessment of the full calibrations;
4. the results of the autoradiograph required for low dose-rate remote afterloader units; and
5. the signature of the authorized medical physicist who performed the full calibration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1182 (June 2004), amended by the Office of Environmental Assessment, LR 31:

§757. Periodic Spot-Checks

A. - A.3. ...

4. A licensee shall perform spot-checks required by Paragraph A.1 of this Section in accordance with procedures established by the authorized medical physicist. The authorized medical physicist does not need to actually perform the output spot-check measurements.

5. A licensee shall have the authorized medical physicist review the results of each output spot-check within 15 days. The authorized medical physicist shall promptly notify the licensee in writing of the results of each output spot-check. The licensee shall keep a copy of each written notification for two years.

A.6. - D.5.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000), LR 30:1183 (June 2004), amended by the Office of Environmental Assessment, LR 31:

Chapter 15. Transportation of Radioactive Material

§1503. Definitions

A. As used in this Chapter, the following definitions apply.

* * *

A₂ The maximum activity of radioactive material, other than special form, LSA, and SCO material, permitted in a Type A package. These values are either listed in, or may be derived in accordance with the procedure prescribed in, Appendix A of 10 CFR Part 71.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1267 (June 2000), amended by the Office of Environmental Assessment, LR 31:

§1505. Exemptions

A. - C.2. ...

D. Any physician licensed by the state of Louisiana to dispense drugs in the practice of medicine is exempt from LAC 33:XV.1502 with respect to transport by the physician of licensed material for use in the practice of medicine. However, any physician operating under this exemption must be licensed under LAC 33:XV.Chapter 7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, LR 31:

Chapter 20. Radiation Safety Requirements for Wireline Service Operations and Subsurface Tracer Studies

§2017. Design, Performance, and Certification Criteria for Sealed Sources Used in Downhole Operations

A. - A.1. ...

2. it must contain licensed radioactive material whose chemical and physical forms are as insoluble and nondispersible as practical; and

3. it must meet the following requirements:

a. for a sealed source manufactured on or before July 14, 1989, the requirements of USASI N5.10-1968, "Classification of Sealed Radioactive Sources," or the requirements in Subsection C or D of this Section; or

b. for a sealed source manufactured after July 14, 1989, the oil well-logging requirements of ANSI/HPS N43.6-1997, "Sealed Radioactive Sources Classification"; or

c. for a sealed source manufactured after July 14, 1989, the sealed source's prototype has been tested and found to maintain its integrity after each of the following tests:

i. Temperature Test. The test source must be held at -40°C for 20 minutes, 600°C for 1 hour, and then be subjected to a thermal shock test with a temperature drop from 600°C to 20°C within 15 seconds.

ii. Impact Test. A 5 kg steel hammer, 2.5 cm in diameter, must be dropped from a height of 1 m onto the test source.

iii. Vibration Test. The test source must be subjected to a vibration from 25 Hz to 500 Hz at 5 g amplitude for 30 minutes.

iv. Puncture Test. A 1 gram hammer and pin, 0.3 cm pin diameter, must be dropped from a height of 1 m onto the test source.

v. Pressure Test. The test source must be subjected to an external pressure of 1.695×10^7 pascals (24,600 pounds per square inch absolute).

B. - E.2. ...

3. The requirements in Subparagraphs E.1.a-c of this Section do not apply to energy compensation sources (ECSs). ECSs must be registered with the U.S. Nuclear Regulatory Commission, an agreement state, or the Office of Environmental Services, Permits Division.

F. - F.1. ...

2. For well-logging applications without a surface casing for protecting fresh water aquifers, use of the ECS is only subject to the requirements of Subsection H of this Section and LAC 33:XV.2004, 2014, 2015, 2016, and 2051.

G. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2605 (November 2000), LR 29:1472 (August 2003), amended by the Office of Environmental Assessment, LR 31:

A public hearing will be held on November 24, 2004, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802.

NOTICE OF INTENT

Department of Health and Hospitals Board of Physical Therapy Examiners

Physical Therapy Services without Prescription/Referral
(LAC 46:LIV.306)

Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by RP037. Such comments must be received no later than December 1, 2004, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of Environmental Assessment, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of RP037. This regulation is available on the Internet at <http://www.deq.louisiana.gov/planning/regs/index.htm>.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Wilbert F. Jordan, Jr.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: NRC Authorization Cleanup Package

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no expected implementation costs or savings to state or local governmental units by the proposed rule.
- 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 by the proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups by the proposed rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment by the proposed rule.

Wilbert F. Jordan, Jr.
Assistant Secretary
0410#048

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., that the Louisiana State Board of Physical Therapy Examiners (board), pursuant to the authority vested in the board by the Physical Therapy Practice Act, R.S. 37:2401-2422 intends to amend LAC 46:LIV.306 of its administrative Rules to address Physical Therapy Services without Prescriptions or Referrals. These Rules are intended to facilitate and implement the provisions of R.S. 37:2410.D-D.(5)(a). They are meant as practical guidelines, while maintaining flexibility in the rendering of physical therapy services, without eliminating the opportunity for oversight and supervision.

The proposed Rule amendment is set forth below.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIV. Louisiana State Board of Physical Therapy Examiners

Subpart 2. Practice

Chapter 3. Practice

Subchapter A. General Provisions

§306. Physical Therapy Services without Prescription or Referral

A. These Rules are intended to facilitate and implement the provisions of R.S. 37:2410.D-D.(5)(a). They are meant as practical guidelines, while maintaining flexibility in the rendering of physical therapy services, without eliminating the opportunity for oversight and supervision.

B. As used in R.S. 37:2410.D.(1), (2) (3) and (5)(a), the following words and phrases shall have the following meaning.

Children Can an individual or individuals under the age of 21 years.

Patient Can an individual receiving treatment through physical therapy services for a diagnosed condition or conditions.

Plan of Care Ca Written Treatment Plan or Program as defined in §305, and incorporating the documentation standards provided for in §323.A.2.

C. As used in connection with providing the services referred to in R.S. 37:2410.D.(4):

1. the word *client* shall mean an individual seeking or receiving information, education and/or recommended activities concerning wellness and preventative services, including conditioning, injury prevention, reduction of stress or promotion of fitness;

2. prior to providing services, the physical therapist shall:

- a. perform an initial screening to determine whether treatment or wellness/preventative services are indicated. The therapist shall inform the individual of the screening

results and make recommendations for follow-up with the appropriate health care provider if needed;

b. assess the client's wellness/preventative services needs, and, should wellness/preventative services be indicated and desired, develop a written plan, which describes the wellness/preventative services to be rendered to the client.

D. Regarding physical therapy rendered pursuant to R.S. 37:2410.D.(5)(a):

1. *Health Care Provider Rendering a Diagnosis* Care those Health Care Providers statutorily authorized to make a diagnosis;

2. physical therapy treatment for a diagnosed condition or conditions may be rendered after the physical therapist has documented verification that the condition has been diagnosed by a health care provider as set forth in §306.D.1 within the past 90 days;

3. the physical therapist shall provide to this healthcare provider, the plan of care for physical therapy services within 15 days of this intervention as set forth in R.S. 37:2410.D.(5)(a).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401-2422.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 31:

Family Impact Statement

In accordance with the requirements of R.S. 49:972, the Board of Physical Therapy Examiners issues the following Family Impact Statement regarding the above proposed Rule.

1. There is no effect on the stability of the family.
2. There is no effect on the authority and rights of parents regarding the education and supervision of their children.
3. There is no effect on the functioning of the family.
4. There will be a cost and time savings on family earnings and family budget due to the fact that the patient will not have to return to the physician for referral for physical therapy services.
5. There is no effect on the behavior and personal responsibility of children.
6. There will be an effect on the ability of the family to perform the function as contained in the proposed Rule as the patient can seek care from a physical therapist without referral as long as they meet criteria for plan of care.

Interested persons may submit written comments on the proposed changes to Louisiana State Board of Physical Therapy Examiners, 104 Fairlane Drive, Lafayette, LA 70507, or fax to 337-262-1054 or email to cgaudin@laptboard.org.

A public hearing for this proposed Rule is scheduled for November 30, 2004, at 3 p.m. at the board office located at 104 Fairlane Drive, Lafayette, LA 70507. At that time all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m., November 10, 2004.

Pat Adams, PT
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Physical Therapy Services without Prescription/Referral**

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

It is anticipated that \$6,730 in printing costs and \$2,500 in personal and professional services will be incurred with the publishing of the proposed rule in FY 05. The board has sufficient self-generated funds available to implement the proposed rule.

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

It is not anticipated that the proposed Rule amendment will have any effect on the board's revenue collection.

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

The proposed Rules are intended to facilitate and implement the provisions of R.S. 37:2410.D. through D.(5)(a) by amending Title 46, Subpart 2, Chapter 3, Subpart A of its administrative Rules. The Rules will provide practical guidelines, while maintaining flexibility in the rendering of physical therapy services, without eliminating the opportunity for oversight and supervision. The proposed Rules will allow patients who request care for a condition that has been diagnosed within 90 days of the diagnosis to have direct access to physical therapy services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated as a result of the proposed Rules.

Cheryl Gaudin
Executive Director
0410#046

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Examiners of Psychologists

Certificate of Prescriptive Authority
(LAC 46:LXIII.Chapter 4)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists intends to adopt LAC 46:LXIII.Chapter 4.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXIII. Psychologists

Chapter 4. Certificate of Prescriptive Authority

§401. Preface

A. Pursuant to R.S. 37:2371 through 2378 enacted on August 31, 2004, this document provides for rules and regulations regarding prescriptive authority for medical psychologists, including the application process, limits of practice, documentation requirements and physician consultative relationship, prescribing practices, continuing education requirements, renewal process and complaint procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:

§403. Application for Certificate of Prescriptive Authority

A. A "Certificate of Prescriptive Authority" will be issued by the board granting a psychologist the authority to prescribe medications when the psychologist has met the following requirements.

1. The psychologist has filed an application for a Certificate of Prescriptive Authority and paid the administrative application fee established by the board. The application fee for a "Certificate of Prescriptive Authority" shall be assessed as established for re-specialization registration after licensure.

2. The psychologist holds a current Louisiana license to practice psychology with an applied clinical specialty. For the purposes of these rules, an applied clinical specialty is defined as a board approved specialty in Clinical Psychology, Counseling Psychology, School Psychology, Clinical Neuropsychology or other applied clinical specialty as may be approved by the board.

3. The psychologist has successfully graduated with an approved post-doctoral master's degree in clinical psychopharmacology from an institution accredited by a regional body recognized by the U.S. Department of Education. For the purposes of these rules, an equivalent to the post-doctoral master's degree under the provisions of R.S.37:2373(2) is defined as the successful completion of the Department of Defense Psychopharmacology Demonstration Project (DOD-PDP), or similar program developed and operated under the auspices of any branch of the United States armed services.

a. The education program shall provide post-doctoral didactic instruction in the following content areas:

- i. anatomy and physiology;
- ii. biochemistry;
- iii. neurosciences;
- iv. pharmacology;
- v. psychopharmacology;
- vi. clinical medicine/pathophysiology; and
- vii. health assessment, including relevant physical and laboratory assessment.

b. The training of a medical psychologist shall provide opportunities for the psychologist to review, present and discuss case examples representing a broad range of clinical psychopathologies; medical conditions presenting as psychiatric illness; and treatment complexities, including complicating medical conditions; diagnostic questions; choice of medications; untoward side effects; compliance problems; alternative treatments and treatment failures.

c. Course work and/or training undertaken at a pre-doctoral level cannot be substituted for any educational or training requirement necessary to obtain a Certificate of Prescriptive Authority.

4. The psychologist has passed a national proficiency examination in psychopharmacology approved by the board.

a. The Psychopharmacology Examination for Psychologists (PEP), developed by the American Psychological Association practice organization's College of Professional Psychology and its contractor, the Professional

Examination Service, is an approved proficiency examination.

b. The PEP or other national exam approved by the board shall be taken after the successful completion of a postdoctoral program of education in psychopharmacology and within three years of completing an application for a Certificate of Prescriptive Authority.

c. The passing score shall be established by the board with consideration of the recommendations of the College of Professional Psychology or other national exam sponsoring organization and as approved by the board.

d. If the applicant's score falls below the passing score, the applicant may take the examination a second time after a mandatory 90-day waiting period.

e. If the applicant's score falls below the passing score on the second attempt, the applicant shall be required to wait six months before repeating the examination.

f. If the applicant fails three attempts, the applicant shall be required to undergo and successfully complete remedial education and training as determined by the board before being permitted to repeat the examination.

g. If the applicant fails on the fourth attempt, the applicant will be required to repeat the educational program as outlined in Paragraph A.3 of this Section before repeating the PEP examination and re-applying for prescriptive authority.

B. Upon successful completion of all requirements in §403.A.1-4, the board will review the application and notify the applicant of his or her approval status.

1. The board shall have the right to modify, restrict or otherwise limit the prescriptive authority being granted a medical psychologist, based on his or her training, experience, practice history or other factors as might be necessary to ensure the health, safety and welfare of the public. Such modifications, restrictions or other limitations may include, but are not necessarily limited to, restrictions on the age range of patients treated, the prescription of controlled substances, off-label prescribing, medication classes prescribed and types of disorders treated. The board shall have the right to change, modify or remove any such restriction or other limitations when appropriate.

2. If the application is approved, a valid Certificate of Prescription Authority with an assigned number will be issued to the psychologist, and the psychologist will be listed with the board as a medical psychologist.

a. The Certificate of Prescriptive Authority will be visibly displayed in the medical psychologist's primary practice location.

b. All documents produced by a medical psychologist relevant to prescribing activities, including prescriptions, must include a signature block with the abbreviation of M.P. following the designation of his or her doctorate degree.

c. The medical psychologist shall not issue a prescription for a controlled substance until the board has received verification that the medical psychologist has received a valid Controlled and Dangerous Substance (CDS) license from the state of Louisiana and valid federal DEA number. In order to continue prescribing controlled substances, the medical psychologist is also required to maintain and renew the CDS license and DEA number in accordance with all applicable state and federal laws.

d. The board shall submit to the Louisiana State Board of Pharmacy the name and address of the medical psychologist approved for a certificate of prescription authority, the certificate number, and effective date of the certificate.

3. If the application for a certificate of prescription authority is not approved, the psychologist will be notified and provided an explanation for denial and information pertaining to potential guidelines for remediation of any identified deficiencies.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:

§405. Limits of Practice

A. Medical psychologists shall pharmacologically treat only those disorders listed in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association or those mental, emotional, behavioral or cognitive disorders listed in the most recent edition of the International Classification of Diseases (ICD).

1. Medical psychologists shall prescribe only medications recognized and customarily used for the management of mental, emotional, behavioral or cognitive disorders.

2. A medical psychologist may order and interpret routine laboratory procedures, as necessary for adequate pretreatment health screening and treatment maintenance, including monitoring potential side-effects associated with medications prescribed by the medical psychologist.

3. A medical psychologist shall not prescribe medications outside his or her areas of competency consistent with his or her training and experience as defined by the board.

B. Under no circumstances shall a medical psychologist order, prescribe or distribute narcotics, defined as natural and synthetic opioid analgesics and their derivatives used to relieve pain.

C. Nothing in these regulations shall be interpreted or construed as to permit a medical psychologist to pharmacologically treat patients for primary endocrine, cardiovascular, orthopedic, neurologic, gynecologic, metabolic, hematologic, respiratory, renal, gastrointestinal, hepatic, dermatologic, oncologic, infectious, ophthalmologic, or rheumatologic illness or disorders.

D. Medical psychologists may prescribe medications for mental, emotional, behavioral and cognitive disorders that arise secondary to a primary physical illness, so long as the primary physical illness is being managed the patient's primary or attending physician.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:

§407. Documentation of Physician Consultation

A. When psychopharmacologic management of a patient is indicated, the initial plan shall include consultation with the patient's primary care or attending physician.

B. The medical psychologist shall document the consultation with the primary or attending physician in the patient's medical record. This documentation shall include, but is not necessarily limited to, the patient's name; the

physician's name; date of consultation; purpose of consultation (e.g., new medication, change in medication, discontinuance of medication, adverse treatment effects, treatment failure, change in medical status, etc.); the results of the consultation (e.g., medications ordered, generic or trade; starting dosage and titration plan, if any; number of refills; etc.) and any other information that might be necessary for the appropriate coordination of care for the patient (e.g., review of prior labs or diagnostic procedures; new labs or diagnostic procedures requested by the physician, if any; etc.).

C. The medical psychologist shall forward documentation of all psychopharmacologic consultations to the patient's primary or attending physician for that physician's records.

D. With the permission of the patient, the medical psychologist shall forward any other relevant medical documentation requested by the patient's primary care or attending physician.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:

§409. Prescribing Practices of a Medical Psychologist

A. In order to permit the necessary coordination of care for the patient, the medical psychologist shall obtain a release of information from the patient and/or the patient's legal guardian to contact the patient's primary or attending physician in all cases in which psychopharmacologic management is planned.

1. If a patient or the patient's legal guardian declines to sign a release of information authorizing coordination of care with his or her primary or attending physician, the medical psychologist shall inform the patient and/or the patient's legal guardian that he or she cannot treat the patient pharmacologically without such consultation.

2. If the patient wishes to have his or her primary or attending physician prescribe any recommended psychotropic medications, the medical psychologist shall forward to the attending physician, with a proper release from the patient, a summary of the medical psychologist's findings and treatment recommendations.

B. The medical psychologist shall contact the primary or attending physician prior to prescribing medications or making changes to an established psychopharmacological regimen, such as dosage adjustments, or adding and discontinuing a medication as described in §407.B of these rules.

1. The medical psychologist shall inform the primary or attending physician of the medication(s) he or she intends to prescribe and any laboratory tests that he or she has ordered or reviewed.

2. The medical psychologist shall discuss with the primary or attending physician any relevant indications and contraindications of the proposed medications.

3. In the event that the primary or attending physician does not concur with the psychopharmacologic treatment protocol planned by the medical psychologist, the medical psychologists shall defer to the medical judgment of the physician.

C. In all cases in which the patient does not have a primary or attending physician, the medical psychologist shall inform the patient that he or she cannot prescribe

medication for that patient until such time as the patient has secured a primary care or attending physician and has been established as an active patient of that physician.

D. In the event an established patient changes his or her primary or attending physician with whom the medical psychologist has established a consultative relationship, the medical psychologist shall establish a consultative and collaborative relationship with the new physician in order to continue psychopharmacological treatment of the patient.

E. In the event a patient terminates his or her relationship with his or her primary or attending physician, with whom the medical psychologist has established a consultative relationship and declines to secure a new primary care or attending physician, the medical psychologist cannot continue to psychopharmacologically manage the patient and shall so advise the patient.

1. In such instances, the medical psychologist shall document that he or she has made every reasonable effort to encourage the patient to maintain and/or establish a relationship with a primary care or attending physician.

2. In those cases in which there is a reasonable probability that an abrupt discontinuation of a psychopharmacologic medication could represent a health risk or result in adverse effects, the medical psychologist is authorized to prescribe the medication(s) in a manner that is customarily recognized as a discontinuation regimen until the medication has been completely discontinued. This regimen shall be documented in the patient's medical chart.

F. Providing Sample Medications

1. If a medical psychologist provides sample medications to a patient, dispensations of these medications shall be governed by the same rules as those governing the prescribing of medications as defined in these rules.

2. Medication samples maintained in the medical psychologist's office shall be secured in accordance with all relevant state and federal regulations and/or laws.

G. The medical psychologist shall maintain a duplicate or photostatic copy of all written prescriptions in the patient's medical record. When prescriptions are ordered by telephone, the medical psychologist shall document the date and prescriptions ordered in the patient's medical record.

H. The medical psychologist shall not delegate the prescribing of a drug to any individual who is not authorized and licensed to prescribe medications in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:

§411. Continuing Professional Education

A. In addition to the requirements for continuing professional education as specified in the rules of the board (LAC 46:LXIII.801-815), each medical psychologist shall annually complete 30 hours of approved continuing medical education in psychopharmacology and/or psychopharmacotherapy and/or other topics relevant to the practice of medical psychology. When selecting continuing education activities, the medical psychologist shall select those activities that are offered by sponsors approved by the board, and contain information on subjects relevant to the practice of medical psychology.

B. Acceptable sponsors of continuing education are listed in LAC 46:LXIII.805. These include accredited institutions of higher education; national (e.g., APA, AMA),

regional, or state professional associations (e.g., LPA, LAMP, a state medical society), which specifically offer graduate or post-doctoral continuing education training. When choosing other continuing medical education (CME) activities to fulfill continuing professional education requirements, the medical psychologist shall select those Category 1 activities that are offered by sponsors accredited by the Accreditation Council for Continuing Medical Education (ACCME).

C. Home study courses shall have either APA or ACCME approval.

D. Each medical psychologist shall, as part of his/her continuing education requirements, maintain Basic Life Support (BLS) certification.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:

§413. Annual Renewal of the Certificate of Prescriptive Authority

A. Each medical psychologist shall report his/her 30 hours of annual continuing education relevant to the pharmacological treatment of mental and emotional disorders on a form provided by the board. This form will be distributed with the license renewal form. By signing the report form, the medical psychologist signifies that the report is true and accurate. This report is submitted annually, at the time of license renewal, while other continuing education requirements follow the biennial reporting guidelines listed in LACC 46:LXIII.809.

B. Each medical psychologist prescribing controlled substances shall also submit documentation of a valid CDS license and DEA number with the continuing education report.

C. Upon acceptance of required continuing education credits and documentation of current BLS certification, the board will issue a renewal of the medical psychologist's Certificate of Prescriptive Authority, providing that the medical psychologist's license to practice psychology within the state of Louisiana is simultaneously renewed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:

§415. Complaint Procedure

A. Any complaint against a medical psychologist shall be made, investigated and adjudicated according to the complaint procedures outlined in R.S. 37:2359 and LAC 46:LXIII.1501-1543.

B. The board shall have the right to restrict, modify, suspend or revoke, in whole or in part, the prescriptive authority of a medical psychologist who is found in violation of any part of R.S. 37:2371-2378 or these rules for such time as the board determines necessary to protect the health, safety and welfare of the public.

1. Any medical psychologist who knowingly fails to adhere to any modifications, limitations or restrictions of their prescriptive authority, as determined by the board, shall be subject to revocation of their certificate to prescribe.

2. The name and prescriptive authority number of any medical psychologist whose prescriptive authority is restricted, modified, limited, suspended or revoked for

any reason stemming from violation of any part of R.S. 37:2371-2378 or these rules shall be forwarded to the Louisiana State Board of Pharmacy, along with the nature of any such modification, limitation, suspension or revocation.

3. In any case involving the restriction, modification, limitation, suspension or revocation of the authority to prescribe controlled substances, the board shall forward to the Controlled Substances section of the Louisiana Department of Health and Hospitals and the regional office of the United States Drug Enforcement Agency, the name and address, DEA number and Louisiana State CDS license of the medical psychologist whose prescriptive authority for controlled substances has been so restricted, suspended or revoked.

C. Any medical psychologist who prescribes any medication while his or her certificate to prescribe is suspended or revoked shall be subject to the additional revocation of his or her license to practice psychology in Louisiana, and his or her name shall be forwarded to the district attorney in the parish of their practice.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:

Family Impact Statement

The Board of Examiners of Psychologists hereby issues this Family Impact Statement: The proposed Rule related to the issuance of a Certificate of Professional Qualifications will have no known impact on family formation, stability, and autonomy, as set forth in R.S. 49:972.

Interested persons may submit written comments until 12 p.m., November 9, 2004, to Brenda C. Ward, Executive Director, 8280 YMCA Plaza Dr., Bldg. 8-B, Baton Rouge, LA 70810.

Linda J. Hartwell, Ph.D.
Chair

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Certificate of Prescriptive Authority

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

It is anticipated that the proposed rule will increase the operating expenses of this Board by \$5,300 for FY 04-05. This would include expenses associated with a hearing, and increased utilization of staff time to review an anticipated 45 applications, as well as mailings, printing of certificates, and meeting reporting requirements with other agencies. An additional \$780 is anticipated for the printing of the proposed rule in the *Louisiana Register*. This brings the total increase in operating expenses FY 04-05 to \$6,080.

No psychologists are expected to complete their training in FY 05-06, therefore no additional operating expense is expected for FY 05-06.

It is anticipated that the proposed rule will increase the operating expenses of this Board FY 06-07 by \$3,300, which reflects the staff time, mailing, printings of certificates, and meeting reporting requirements with other agencies, necessary for a projected 33 new applications.

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

It is anticipated that there will be 45 applicants for the Certificate of Prescriptive Authority FY 04-05, increasing the

revenue to this Board by \$4,500 for that year. With no applications expected FY 05-06, there is no anticipated increase in revenue for that year. It is anticipated that there will be 33 applicants for FY 06-07, increasing the revenue to this Board by \$3,300 for that year.

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

The estimated costs to directly affected persons would be the \$100 application fee to each psychologist applying for the Certificate of Prescriptive Authority.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the proposed rule will have no effect on competition and employment in the public and/or private sector.

Brenda C. Ward
Executive Director
0410#044

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office for Citizens with Developmental Disabilities

Pilot Programs for Children with Developmental Disabilities Who Are Considered At-Risk Juveniles (LAC 48:IX.Chapter 15)

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities (OCDD) pursuant to R.S. 28:385(A) is authorized to provide residential living options or developmental disabilities services or both directly or through written agreements with private providers. Act 858 of the 2004 Regular Legislative Session authorizes the Office for Citizens with Developmental Disabilities to establish pilot programs for children with developmental disabilities who are considered at-risk juveniles and mandates that rulemaking be implemented to provide definitions and to establish standards for program operations and procedures. Therefore, OCDD is proposing the following Rule which shall be in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH~~OC~~GENERAL

Part IX. Mental Retardation/Developmental Disabilities Services

Chapter 15. Pilot Programs for Children with Developmental Disabilities Who Are Considered At-Risk Juveniles

§1501. Statement of Purpose

A. OCDD is proposing to establish pilot programs consisting of 4-bed homes in the community designed to meet the needs of at-risk juveniles with developmental disabilities who may be referred to OCDD when their families or foster families can no longer meet their needs at home.

B. The initial pilot program shall be in Region 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:385(A) and Act 858 of 2004 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 31:

§1503. Establishment of Pilot Programs

A. OCDD will establish pilot programs directly or through written agreements with a provider organization in accordance with R.S. 28:385(A) who complies with all contractual provisions for the establishment and the program operations and procedures for Pilot Programs for Children with Developmental Disabilities Who are Considered At-Risk Juveniles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:385(A) and Act 858 of 2004 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 31:

§1505. Program Definition

At-Risk Juveniles Juveniles who are between 10 through 17 years of age inclusive, have a developmental disability which is primarily due to mental retardation, and manifest a co-occurring mental health disorder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:385(A) and Act 858 of 2004 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 31:

§1507. Requirements of Program Participants

A. Participants to be admitted to Pilot Programs for Children with Developmental Disabilities Who Are Considered At-Risk Juveniles shall be governed by the requirements contained at LAC 48:I, Chapter 16, Section 1611 (*Louisiana Register*, Vol. 30, No. 1, January 2004).

B. Participants at the time of admission shall be at-risk juveniles between 10 and 16 years of age.

C. Participants to be admitted shall be at-risk juveniles who have service needs which are consistent with the therapeutic program and services offered for the current participants of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:385(A) and Act 858 of 2004 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 31:

§1509. Standards for Program Operations and Procedures

A. Pilot programs shall meet all federal and state laws and regulations governing an Intermediate Care Facility for the Mentally Retarded and Developmentally Disabled (ICF/MR).

B. The referrals for admissions to pilot programs shall be made by the OCDD Community Services Office located in the region where the pilot program is operated.

C. All individualized planning of supports and services needs shall be developed and implemented in accordance with person-centered planning.

D. Providers will be responsible for meeting all the support and service requirements as outlined in the individualized plan of support for each participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:385(A) and Act 858 of 2004 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 31:

Family Impact Statement

The proposed Rule will have a positive impact on family formation, stability and autonomy as described in R.S. 49:972.

There will be a public hearing on this proposed Rule which is scheduled for Tuesday, November 23, 2004 at 9:30 a.m. in the Fourth Floor Conference Room of the Department of Health and Hospitals at 1201 Capitol Access Road, Baton Rouge, LA. Interested parties are invited to submit written comments on this proposed Rule through November 24, 2004 (day after the public hearing) to Jim Levelle, Chief Psychologist for the Office for Citizens with Developmental Disabilities Services at P.O. Box 3117, Baton Rouge, LA 70821.

Frederick Cerise, M.D. M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Pilot Programs for Children with Developmental Disabilities Who Are Considered At-Risk Juveniles

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

This program is to provide an alternative to institutional long-term placement for children under age 21 who for crisis reasons cannot continue residing in their usual community living arrangement. This program will provide a smaller, properly home structured setting with therapeutic supports that are conducive to positive long-term outcomes.

The cost of implementing this program is approximately \$287,787 for FY 2005, \$519,956 for FY 2006 and \$571,953 for FY 2007. The costs for this program includes personal services, operating services, professional services, other charges and acquisitions.

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

This program is not expected to generate any revenue until at least 3 months after startup. After that it should begin to generate enough revenue to cover the costs of operations. Unallotted Title XIX overcollections (\$287,787) within the OCDD will be used to fund this program during the current fiscal year. The program is expected to generate federal dollars of \$370,157 in FY 06 and \$406,086 in FY 07.

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

This program is not expected to generate a cost to the consumer directly unless the consumer has the means to pay. The economic benefits are that this program will provide the therapies and supports necessary to maintain 3-5 individuals in community setting who would otherwise be placed into a long-term care facility.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This program will provide full time employment to ten (10) individuals. The full time staff will consist of nine direct care individuals to provide 24 hours seven days a week care and support and one house manager for management, supervision and oversight. This program will also provide contract hours for six (6) others. The contract hours will consist of psychology, psychiatry, nursing, counseling, nutritional and occupational therapy. These are contract because full time for these areas are not warranted.

Kathy H. Kliebert
Assistant Secretary
0410#077

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Durable Medical Equipment Program Adult Dentures (LAC 50:XVII.30101-30701)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:XVII.30101-30701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage under the Medicaid Adult Denture Program for dentures and denture related services rendered to eligible recipients who are 21 years of age and older. As a result of the allocation of additional funds by the Legislature during the 2003 Regular Session, the bureau increased the reimbursement fees for certain denture procedures (*Louisiana Register*, Volume 30, Number 3). The bureau now proposes to repeal existing rules and adopt new criteria in the Adult Denture Program.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals existing rules and adopts the following provisions governing the Adult Denture Program.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XVII. Durable Medical Equipment

Subpart 5. Dentures

Chapter 301. General Provisions

§30101. Prior Authorization

A. Only those services specified as covered under the Adult Denture Program are reimbursable and then only as allowed by this Subpart 5.

B. Prior authorization is required for all adult denture services except for denture repairs. Items requiring prior authorization are noted with an asterisk in §30501.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

Chapter 303. Provider Participation and Recipient Criteria

§30301. Participation Requirement

A. Provider participation is limited to those dentists who are duly licensed and authorized to practice dentistry in the state of Louisiana and who are enrolled in the Medicaid Program as a dental provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

§30303. Recipient Qualifications

A. Medicaid recipients who are 21 years of age and older and whose Medicaid coverage includes the full range of Medicaid services are eligible for denture services. Recipients who are certified as Qualified Medicare Beneficiary only (QMB only), adult recipients who are certified for Medicaid in the Medically Needy Program, and pregnant women who are certified with presumptive eligibility are not eligible for services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

Chapter 305. Covered Services

§30501. Adult Denture Services

A. Only the following services are reimbursable under the Adult Denture Program and only in accordance with program policy and guidelines:

1. comprehensive oral examination*;
2. intraoral radiographs, complete series*;
3. complete denture, maxillary*;
4. complete denture, mandibular*;
5. immediate denture, maxillary*;
6. immediate denture, mandibular*;
7. maxillary partial denture, resin base (including clasps)*;
8. mandibular partial denture, resin base (including clasps)*;
9. repair broken complete denture base;
10. replace missing or broken tooth, complete denture, per tooth;
11. repair resin denture base, partial denture;
12. repair or replace broken clasp, partial denture;
13. replace broken teeth, partial denture, per tooth;
14. add tooth to existing partial denture;
15. add clasp to existing partial denture;
16. reline complete maxillary denture (laboratory)*;
17. reline complete mandibular denture (laboratory)*;
18. reline maxillary partial denture (laboratory)*;
19. reline mandibular partial denture (laboratory)*;
20. unspecified removable prosthodontic procedure, by report*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

§30503. Denture Replacement and Denture Reline

A. Only one complete or partial denture per arch is allowed in a seven-year period. The seven-year time period begins from the date the previous complete or partial denture for the same arch was delivered. A combination of two complete or partial denture relines per arch or one complete or partial denture and one reline per arch is allowed in a seven-year period, as prior authorized by BHSF or its designee.

B. For relines, at least one year shall have elapsed since the complete or partial denture was delivered or last relined.

C. Cast partial dentures continue to be a noncovered service in the Adult Denture Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

Chapter 307. Reimbursement

§30701. Fees

A. Fees for these services shall be reimbursed as established in the Adult Denture Program Fee Schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, November 29, 2004 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Durable Medical Equipment Program Adult Dentures

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

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than cost of promulgation for FY 04-05. It is anticipated that \$408 (\$204 SGF and \$204 FED) will be expended in FY 04-05 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 04-05. It is anticipated that \$204 will be expended in FY 04-05 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This rule proposes to repeal existing rules and adopt new criteria in the Adult Denture Program for dentures and denture related services rendered to recipients (approximately 6,000) who are 21 years of age and older. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for FY 04-05, FY 05-06 and FY 06-07.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Ben A. Bearden
Director
0410#071

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Durable Medical Equipment Hyperalimentation Therapy (LAC 50:XVII.2101-2113)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:XVII.2101-2113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement for continuous Parenteral Nutritional Therapy and Intradialytic Parenteral Nutrition (IDPN) under the Durable Medical Equipment (DME) Program. The bureau now proposes to adopt criteria for the authorization of Parenteral Nutritional Therapy and Intradialytic Parenteral Nutrition.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that implementation of this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 as it will promote the health and welfare of Medicaid recipients by facilitating access to this medically necessary medical equipment.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XVII. Durable Medical Equipment

Chapter 21. Hyperalimentation Therapy (Parenteral and Enteral)

Subchapter A. Parenteral Nutrition Therapy

§2101. Description

A. Parenteral Nutrition Therapy is the introduction of nutrients by some means other than through the gastrointestinal tract, in particular intravenous, subcutaneous, intramuscular, or intramedullary injection. Intravenous nutrition is also referred to as TPN (Total Parenteral Nutrition) or Hyperalimentation Therapy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

§2103. Medical Necessity Criteria

A. Parenteral nutrition is covered for a patient with permanent, severe pathology of the alimentary tract which

does not allow absorption of sufficient nutrients to maintain weight and strength commensurate with the patient's general condition.

B. Parenteral nutrition is covered in any of the following situations:

1. the patient has undergone recent (within the past three months) massive small bowel resection leaving less than or equal to 5 feet of small bowel beyond the ligament of Treitz; or

2. the patient has a short bowel syndrome that is severe enough that the patient has net gastrointestinal fluid and electrolyte malabsorption such that on an oral intake of 2.5-3 liters/day the enteral losses exceed 50 percent of the oral/enteral intake and the urine output is less than 1 liter/day; or

3. the patient requires bowel rest for at least three months and is receiving intravenously 20-35 cal/kg/day for treatment of symptomatic pancreatitis with/without pancreatic pseudocyst, severe exacerbation of regional enteritis, or a proximal enterocutaneous fistula where tube feeding distal to the fistula isn't possible; or

4. the patient has complete mechanical small bowel obstruction where surgery is not an option; or

5. the patient is significantly malnourished (10 percent weight loss over three months or less and serum albumin less than or equal to 3.4 gm/dl) and has very severe fat malabsorption (fecal fat exceeds 50 percent of oral/enteral intake on a diet of at least 50 gm of fat/day as measured by a standard 72 hour fecal fat test); or

6. the patient is significantly malnourished (10 percent weight loss over three months or less and serum albumin less than or equal to 3.4 gm/dl) and has a severe motility disturbance of the small intestine and/or stomach which is unresponsive to prokinetic medication (prokinetic medication is defined as the presence of daily symptoms of nausea and vomiting while taking maximal doses) and is demonstrated either:

a. scintigraphically (solid meal gastric emptying study demonstrates that the isotope fails to reach the right colon by six hours following ingestion); or

b. radiographically (barium or radiopaque pellets fail to reach the right colon by six hours following administration).

NOTE: These studies must be performed when the patient is not acutely ill and is not on any medication which would decrease bowel motility.

7. For criteria in §2103.B.1-6.b above, the conditions are deemed to be severe enough that the patient would not be able to maintain weight and strength on only oral intake or tube enteral nutrition.

C. Maintenance of weight and strength commensurate with the patient's overall health status must require intravenous nutrition and must not be possible utilizing all of the following approaches:

1. modifying the nutrient composition of the enteral diet (e.g., lactose free, gluten free, low in long chain triglycerides, substitution with medium chain triglycerides, provision of protein as peptides or aminoacids, etc.); and

2. utilizing pharmacologic means to treat the etiology of the malabsorption (e.g., pancreatic enzymes or bile salts, broad spectrum antibiotics for bacterial overgrowth, prokinetic medication for reduced motility, etc.).

D. Patients who do not meet criteria in §2103.B. above must meet criteria in Paragraphs §2103.C.1-2 above (modification of diet and pharmacologic intervention) plus:

1. the patient is malnourished (10 percent weight loss over three months or less and serum albumin less than or equal to 3.4 gm/dl); and

2. a disease and clinical condition has been documented as being present and it has not responded to altering the manner of delivery of appropriate nutrients (e.g., slow infusion of nutrients through a tube with the tip located in the stomach or jejunum).

E. The following are some examples of moderate abnormalities which would require a failed trial of tube enteral nutrition before parenteral nutrition would be covered:

1. moderate fat malabsorption (fecal fat exceeds 25 percent of oral/enteral intake on a diet of at least 50 gm fat/day as measured by a standard 72 hour fecal fat test;

2. diagnosis of malabsorption with objective confirmation by methods other than 72 hour fecal fat test (e.g., Sudan stain of stool, dxylose test, etc.);

3. gastroparesis which has been demonstrated:
a. radiographically or scintigraphically as described in §2103.B. above with the isotope or pellets failing to reach the jejunum in three to six hours; or

b. by manometric motility studies with results consistent with an abnormal gastric emptying, and which is unresponsive to prokinetic medication;

4. a small bowel motility disturbance which is unresponsive to prokinetic medication, demonstrated with a gastric to right colon transit time between three to six hours;

5. small bowel resection leaving greater than 5 feet of small bowel beyond the ligament of Treitz;

6. short bowel syndrome which is not severe (as defined in §2103.B);

7. mild to moderate exacerbation of regional enteritis, or an enterocutaneous fistula;

8. partial mechanical small bowel obstruction where surgery is not an option.

F. Documentation must support that a concerted effort has been made to place a tube. For gastroparesis, tube placement must be post-pylorus, preferably in the jejunum. Use of a double lumen tube should be considered. Placement of the tube in the jejunum must be objectively verified by radiographic studies or luoroscopy. Placement via endoscopy or open surgical procedure would also verify location of the tube.

G. A trial with enteral nutrition must be documented, with appropriate attention to dilution, rate, and alternative formulas to address side effects of diarrhea.

H. Parenteral nutrition can be covered in a patient with the ability to obtain partial nutrition from oral intake or a combination of oral/enteral (or oral/enteral/parenteral) intake as long as the following criteria are met:

1. a permanent condition of the alimentary tract is present which has been deemed to require parenteral therapy because of its severity;

2. a permanent condition of the alimentary tract is present which is unresponsive to standard medical management; and

3. the person is unable to maintain weight and strength.

I. If the coverage requirements for parenteral nutrition are met, medically necessary nutrients, administration supplies and equipment are covered. Parenteral nutrition solutions containing little or no amino acids and/or carbohydrates would be covered only in situations stated in §2103.B.1, 2, or 4 above.

J. Documentation Requirements

1. Patients covered under Paragraph B.4 should have documentation of the persistence of their condition. Patients covered under §2103.B.5-C.2 should have documentation that sufficient improvement of their underlying condition has not occurred which would permit discontinuation of parenteral nutrition. Coverage for these patients would be continued if the treatment has been effective as evidenced by an improvement of weight and/or serum albumin. If there has been no improvement, subsequent claims will be denied unless the physician clearly documents the medical necessity for continued parenteral nutrition and any changes to the therapeutic regimen that are planned, e.g., an increase in the quantity of parenteral nutrients provided.

2. A total caloric daily intake (parenteral, enteral and oral) of 20-35 cal/kg/day is considered sufficient to achieve or maintain appropriate body weight. The ordering physician must document in the medical record the medical necessity for a caloric intake outside this range in an individual patient.

3. Parenteral nutrition would usually be non-covered for patients who do not meet criteria in §2103.H, but will be considered on an individual case basis if detailed documentation is submitted.

4. Patients covered under criteria in §2103.B.1 or 2 should have documentation that adequate small bowel adaptation had not occurred which would permit tube enteral or oral feedings.

5. Patients covered under §2103.B.3 should have documentation of worsening of their underlying condition during attempts to resume oral feedings.

6. The ordering physician must document the medical necessity for protein orders outside of the range of 0.8-1.5 gm/kg/day, dextrose concentration less than 10 percent, or lipid use greater than 15 units of a 20 percent solution or 30 units of a 10 percent solution per month.

7. If the medical necessity for special parenteral formulas is not substantiated, authorization of payment will be denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

§2105. Exclusionary Criteria

A. Parenteral nutrition will be denied as non-covered in situations involving temporary impairments. The patient must have:

1. a condition involving the small intestine and/or its exocrine glands which significantly impairs the absorption of nutrients;

2. disease of the stomach and/or intestine which is a motility disorder and impairs the ability of nutrients to be transported through the GI system. There must be objective evidence supporting the clinical diagnosis.

B. Parenteral nutrition is noncovered for the patient with a functioning gastrointestinal tract whose need for parenteral nutrition is only due to:

1. a swallowing disorder;
2. a temporary defect in gastric emptying such as a metabolic or electrolyte disorder;
3. a psychological disorder impairing food intake such as depression;
4. a metabolic disorder inducing anorexia such as cancer;
5. a physical disorder impairing food intake such as the dyspnea of severe pulmonary or cardiac disease;
6. a side effect of a medication; or
7. renal failure and/or dialysis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

§2107. Prior Authorization

A. Parenteral Nutrition Therapy may be approved by Prior Authorization Unit (PAU) at periodic intervals not to exceed six months. However, Medicaid will pay for no more than one month's supply of nutrients at any one time. All requests to the PAU shall include:

1. the prognosis, as well as the diagnosis;
2. the date the recipient was first infused;
3. whether the recipient has been trained to use parenteral equipment;
4. a statement that the recipient is capable of operating the parenteral equipment;
5. either the Medicaid certificate of medical necessity form for TPN, or the Medicare certificate of medical necessity form, Form DMERC 10.02A, completed and signed by the treating physician;
6. documentation showing that the patient has a permanent impairment. Permanence does not require a determination that there is no possibility that the patient's condition may improve sometime in the future. Medical documentation must substantiate that the condition is expected to last a long and indefinite duration (at least three months).

B. Additional documentation must be included with the initial request for parenteral nutrition.

1. In situations covered in §2103.E.1-4, the documentation should include copies of the operative report and/or hospital discharge summary and/or X-ray reports and/or a physician letter which document the condition and the necessity for parenteral therapy.

2. For situations in §2103.F.5 and E.2 (when appropriate), include the results of the fecal fat test and dates of the test.

3. For situations in §2103.F.6 and E.2, include a copy of the report of the small bowel motility study and a list of medications that the patient was on at the time of the test.

4. For situations in §2103.F.5-H.2, include results of serum albumin and date of test (within one week prior to initiation of parenteral nutrition (PN)) and a copy of a nutritional assessment by a physician, dietitian or other qualified professional within one week prior to initiation of PN, to include the following information:

- a. current weight with date and weight one-three months prior to initiation of PN;
- b. estimated daily calorie intake during the prior month and by what route (e.g., oral, tube);
- c. statement of whether there were caloric losses from vomiting or diarrhea and whether these estimated losses are reflected in the calorie count;

d. description of any dietary modifications made or supplements tried during the prior month (e.g., low fat, extra medium chain triglycerides, etc.).

5. For situations described in §2103.E.2, include:

- a. a statement from the physician;
- b. copies of objective studies; and
- c. excerpts of the medical record giving the following information:
 - i. specific etiology for the gastroparesis, small bowel dysmotility, or malabsorption;
 - ii. a detailed description of the trial of tube enteral nutrition including the beginning and ending dates of the trial, duration of time that the tube was in place, the type and size of tube, the location of tip of the tube, the name of the enteral nutrient, the quantity, concentration, and rate of administration, and the results;
 - iii. a copy of the X-ray report or procedure report documenting placement of the tube in the jejunum;
 - iv. prokinetic medications used, dosage, and dates of use;
 - v. nondietary treatment given during prior month directed at etiology of malabsorption (e.g., antibiotic for bacterial overgrowth);
 - vi. any medications used that might impair GI tolerance to enteral feedings (e.g., anticholinergics, opiates, tricyclics, phenothiazines, etc.) or that might interfere with test results (e.g., mineral oil, etc.) and a statement explaining the need for these medications.

6. Any other information which supports the medical necessity for parenteral nutrition may also be included.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

§2109. Intradialytic Parenteral Nutrition

A. Intradialytic Parenteral Nutrition Therapy (IDPN) is parenteral nutrition therapy provided to an end stage renal disease (ESRD) patient while the patient is being dialyzed.

B. In order to cover intradialytic parenteral nutrition (IDPN), documentation must be clear and precise to verify that the patient suffers from a permanently impaired gastrointestinal tract and that there is insufficient absorption of nutrients to maintain adequate strength and weight. The supporting documentation must substantiate that the patient cannot be maintained on oral or enteral feedings and that due to severe pathology of the alimentary tract, the patient must be intravenously infused with nutrients.

C. Infusions must be vital to the nutritional stability of the patient and not supplemental to a deficient diet or deficiencies caused by dialysis. Physical signs, symptoms and test results indicating severe pathology of the alimentary tract must be clearly evident in any documentation

submitted. Patients receiving IDPN must also meet the criteria for parenteral nutrition.

D. If the coverage requirements for parenteral nutrition are met, one supply kit and one administration kit will be covered for each day that parenteral nutrition is administered, if such kits are medically necessary and used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

§2111. Additional Documentation Requirements

A. For the initial request and for revised requests or reconsiderations involving a change in the order, there must be additional documentation to support the medical necessity of the following orders, if applicable:

- 1. the need for special nutrients;
- 2. the need for dextrose concentration less than 10 percent;
- 3. the need for lipids more than 15 units of a 20 percent solution or 30 units of a 10 percent solution per month.

B. After the first six months, the PA request must include a physician's statement describing the continued need for parenteral nutrition. For situations in §2103.B.5-6.b and §2103.E-E.2, the PA request must include the results of the most recent serum albumin (within two weeks of the request date) and the patient's most recent weight with the date of each. If the results indicate malnutrition, there should be a physician's statement describing the continued need for parenteral nutrition and any changes to the therapeutic regimen that are planned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

§2113. Equipment and Supplies

A. Infusion pumps are covered for patients for whom parenteral nutrition is covered. Only one pump (stationary or portable) will be covered at any one time. Additional pumps will be denied as not medically necessary.

B. An IV pole is a device to suspend fluid to be administered by gravity or pump. An IV pole will be covered when a patient is receiving enteral or parenteral fluids and the patient is not using an ambulatory infusion pump.

C. Parenteral pumps are used to deliver nutritional requirements intravenously. Parenteral pumps are covered for parenteral nutrition for those patients who cannot absorb nutrients by the gastrointestinal tract.

D. Infusion pumps, ambulatory and stationary, are indicated for the administrative of parenteral medication in the home when parenteral administrative of the medication in the home is reasonable and medically necessary, and an infusion pump is necessary to safely administer the medication.

E. An external ambulatory infusion pump is a small portable electrical device that is used to deliver parenteral medication. It is designed to be carried or worn by the patient.

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Durable Medical Equipment Program Reimbursement Methodology and Prior Authorization (LAC 50:XVII.105, 125, and 133)

F. A stationary infusion pump is an electrical device, which serves the same purpose as an ambulatory pump, but is larger and typically mounted on a pole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, November 29, 2004 at 9:30 am in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Durable Medical Equipment—Hyperalimentation Therapy**

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

It is anticipated that there will be no programmatic costs to the state as a result of implementation of this proposed rule. It is anticipated that \$1,496 (\$748 SGF and \$748 FED) will be expended in FY 04-05 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that implementation of this proposed rule will have no programmatic effect on federal revenue collections. \$748 is included in FY 04-05 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

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

Implementation of this proposed rule adopts criteria that clearly establishes requirements for the authorization of Parenteral Nutritional Therapy and Intradialytic Parenteral Nutrition (IDPN). Implementation of this 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)

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Ben A. Bearden
Director
0410#073

H. Gordon Monk
Staff Director
Legislative Fiscal Office

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:XVII.105, 125, and 133 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule to establish a payment methodology for durable medical equipment, prosthetics, orthotics, and supplies under the Medicaid Program (*Louisiana Register*, Volume 19, Number 4). The criteria for prior authorization of these services was previously adopted in a rule promulgating the Medicaid Eligibility Manual in its entirety by reference in July, 1996 (*Louisiana Register*, Volume 22, Number 7). The bureau repealed Section O of the July 20, 1996 rule that addressed prior authorization of medical transportation and durable medical equipment, appliances, and supplies in the Medicaid Eligibility Manual (*Louisiana Register*, Volume 29, Number 12). The bureau now proposes to promulgate a rule to adopt criteria for the prior authorization and to amend the reimbursement methodology for durable medical equipment, prosthetics, orthotics, and supplies.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions governing the authorization of durable medical equipment, prosthetics, orthotics and supplies.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XVII. Durable Medical Equipment

Subpart 1. General Provisions

Chapter 1. Standard Administrative Procedures

Subchapter A. Reserved.

Subchapter B. Prior Authorization

§105. Purchase, Rental, and Repairs

A. For the purchase of supplies, for the purchase or repair of prosthetics or orthotics, and for the rental, purchase or repair of medical equipment and appliances, prior authorization is required before payment can be issued.

B. Prior authorization is performed by the Medicaid fiscal intermediary under contractual arrangement with the Bureau of Health Services Financing and is the responsibility of the Prior Authorization Unit (PAU).

- C. Every prior authorization request shall contain:
1. medical information from a physician, including:
 - a. a written prescription from a licensed physician, a physician's order form signed by the prescribing physician, or a provider-designed equipment list signed by the prescribing physician;
 - b. the diagnosis related to the request;
 - c. the length of time that the supplies, equipment, or appliance will be needed; and
 - d. other medical information to support the need for the requested item, including documentation that the medical criteria specific to the requested items are met;
 2. if pertinent, a statement from the prescribing physician or appropriate licensed rehabilitation therapist as to whether the recipient's age and circumstances indicate that he can adapt to or be trained to use the item effectively;
 3. any other pertinent information, such as measurements to assure correct size of appliance; and
 4. a written price quotation including any charge for an initial adjustment, delivery, and/or set-up of the item. Sales tax is not applicable.

D. **Emergency Requests.** Emergency requests for prior authorization decisions may be considered for equipment or supplies requested during hospitalization of a recipient which is medically necessary for hospital discharge and is to be furnished for use in an outpatient setting.

E. **Requests for Repairs, Modification, or Additional Components to Equipment**

1. Requests for basic repairs to equipment shall contain medical information from a physician that is required for purchase/rental of equipment.

2. Requests for repairs or replacements of original equipment components or parts, other than for customized wheelchairs, that was previously approved for purchase by Medicaid do not require a submittal of a new prescription or medical information unless the provider does not have the following identified information:

- a. a copy of the original request for approval;
- b. the original prior authorization number; or
- c. a copy of the original prescription.

F. If one or more of these items are available, the provider may submit the prior authorization request with the original prescribing physician's name, prescription date, and diagnosis codes. The original approval date or prior authorization number shall be noted on the request form or a copy of the original prescription attached.

G. If these items are not available, a new request with all required information must be submitted for approval.

AUTHORITY NOTE: Promulgated in accordance with R. S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

Subchapter C. Provider Participation

§125. Provider Responsibilities

A. Providers may not deliver more than one month's approval of supplies initially and all subsequently approved supplies must be delivered in increments not to exceed one month's rations.

B. The recipient must be Medicaid eligible on the date of service for payment to be made. The date of service is the date of delivery, unless delivered through a mail courier service.

C. The date of shipping will be considered the date of service for all durable medical equipment delivered through mail courier service.

D. Providers who make or sell medical equipment must provide a warranty which lasts at least one year from the time the equipment is delivered to the customer. If, during that year, the equipment does not work, the manufacturer or dealer must repair or replace the equipment.

E. Providers who rent medical equipment must provide a full-service warranty covering the authorized period(s) of the rental agreement.

F. Providers must furnish a comparable, alternate device while repairing the beneficiary's device during a warranty period.

G. For any appliance which requires skill and knowledge to use, the DME provider must provide appropriate training for the recipient and must provide documentation of plans for training upon the request of the prior authorization unit.

AUTHORITY NOTE: Promulgated in accordance with R. S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

Subchapter D. Reimbursement

§133. Reimbursement Methodology

A. Unless otherwise stated in this Part XVII, the reimbursement for all durable medical equipment supplies and items is established at:

1. seventy percent of the 2000 Medicare fee schedule for all procedure codes that were listed on the 2000 Medicare fee schedule and at the same amount for the HIPAA compliant codes which replaced them; or
2. seventy percent of the Medicare fee schedule under which the procedure code first appeared; or
3. seventy percent of the manufacturer's suggested retail price (MSRP) amount; or
4. billed charges, whichever is the lesser amount.

B. If an item is not available at the rate of 70 percent of the applicable established flat fee or 70 percent of the MSRP, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, November 29, 2004 at 9:30 a.m. in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the

receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Durable Medical Equipment Program
Reimbursement Methodology and Prior Authorization**

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

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 04-05. It is anticipated that \$612 (\$306 SGF and \$306 FED) will be expended in FY 04-05 for the state administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 04-05. \$306 is included in FY 04-05 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This rule proposes to adopt criteria that clarifies requirements for the prior authorization and reimbursement of durable medical equipment, prosthetics, orthotics and supplies. It is anticipated that implementation of this proposed rule will have no estimable cost or economic benefits to directly affected persons or non-governmental groups.

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

This rule has no known impact on competition and employment.

Ben A. Bearden
Director
0410#072

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**Admissions to Entertainment Tax Exemption
(LAC 61:I.4413)**

Under the authority of R.S. 47:305.13, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4413 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for

the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered
by the Secretary of Revenue**

Chapter 44. Sales and Use Tax Exemptions

**§4413. Admissions to Entertainment Furnished by
Certain Domestic Nonprofit Corporations**

A. R.S. 47:305.13 grants a limited exemption to organizations created under the laws of the state of Louisiana as nonprofit, charitable, educational, or religious organizations from state and local sales or use tax on the sale of admissions to entertainment events. Such sales of admissions are exempt only when the entire proceeds, with the exception of necessary expenses connected with the event, are used for the purpose for which the organization was formed. The requirement that the entire proceeds from the sales of tickets, except for necessary expenses, must be used for the purpose for which the organization was formed eliminates from exempt status any event where payment has been made to a promoter or promotional firm for engaging the services of persons not directly connected with the sponsoring organization.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.13, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed

amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Admissions to Entertainment Tax Exemption

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

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4413 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

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

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

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

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#038

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Collector's Authority to Determine Tax
(LAC 61:I.4355)

Under the authority of R.S. 47:307, R.S. 47:337.28, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4355 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4355. Collector's Authority to Determine the Tax in Certain Cases

A. R.S. 47:307 and 47:337.28 impose a direct burden and responsibility upon the collector to determine that the taxable amount reported by any taxpayer is correct and further empowers the collector to assess and collect any tax, penalties or interest which might be due based on correct figures. In the case of a dealer who makes a report that is grossly incorrect, false or fraudulent, the collector is directed by the statute to make an estimate of the retail sales of the dealer, his gross proceeds from rentals or leases of tangible personal property, the cost of any articles of tangible personal property imported by the dealer for use or consumption or distribution or storage to be used or consumed in the taxing jurisdiction, and the gross amount

paid for taxable services. Upon having made the estimate, the collector is further directed to assess all taxes, penalties and interest and the amount assessed is considered to be prima facie correct with the burden on the dealer to prove to the contrary.

B.1. Solely for state sales or use tax purposes, whenever the secretary has determined that the amount reported by a dealer is incorrect and is required to make an estimate or an assessment in accordance with the provisions of R.S. 47:307, if an examination of any books, records, or documents or an audit thereof is necessary in order to make such assessment, then the secretary shall add to the assessment of the tax, the cost of the examination together with penalties accruing on the cost. The cost and penalties assessed will be collected in the same manner in which the tax is collected.

2. Solely for local sales or use tax purposes, whenever the collector has determined that the amount reported by a dealer is incorrect and must make an estimate or assessment in accordance with the provisions of R.S. 47:337.28(D) or R.S. 47:337.75, if an examination of any books, records, or documents or an audit thereof is necessary in order to make such assessment, then the collector may add to the assessment of the tax, the cost of the examination together with penalties accruing on the cost. The cost and penalties assessed will be collected in the same manner in which the tax is collected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:307, R.S. 47:337.28, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Collector's Authority to Determine Tax

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

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:1.4355 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

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

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

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

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

Cynthia Bridges
Secretary
0410#022

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Collector's Authority to Examine Records (LAC 61:I.4363)

Under the authority of R.S. 47:311, R.S. 47:337.2, R.S. 47:337.31, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4363 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered

by the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4363. Collector's Authority to Examine Records of Transportation Companies

A. The collector as defined in R.S. 47:301(2), is further expanded to include additional duly authorized representatives for purposes of R.S. 47:311 and R.S. 47:337.31. Such representatives will have identification cards stating that they are authorized representatives of the collector with the power and authority as provided in Chapters 18 and 2D, Title 47, Louisiana Revised Statutes.

B. Under these Sections, specific authorization is granted to the collector to examine all pertinent books, records, and other documents of all transportation companies, agencies, or firms operating in the taxing jurisdiction in order to gather information necessary to determine what dealers are importing or are otherwise shipping articles of tangible personal property subject to state and local sales or use tax. The collector or his assigned agents are expected to notify the transportation companies at a reasonable time in advance and to conduct the investigation during reasonable hours and with a minimum of difficulty to the transportation companies. The transportation companies, in turn, are expected to cooperate with the agents, furnishing all records required as well as reasonable working surroundings and conditions.

C. Failure to permit such an investigation will force the collector to proceed by rule against the company, in term

time or in vacation, in any court of competent jurisdiction in the parish where such refusals occurred to show cause why the collector should not be permitted to examine books, records or other documents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:311, R.S. 47:337.2, R.S. 47:337.31, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Collector's Authority to Examine Records

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

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue

regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4363 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

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

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

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

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#026

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Corporation Franchise Tax (LAC 61:I.309)

Under the authority of R.S. 47:609 and 1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.309 relative to the filing of corporation franchise tax returns.

By amending LAC 61:I.309, the Department of Revenue will clarify the requirements for filing short period Louisiana corporation franchise tax returns when there is a change in accounting periods.

**Title 61
REVENUE AND TAXATION**

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 3. Corporation Franchise Tax

§309. Due Date, Payment, and Reporting of Tax

A. - B. ...

C. Whenever the secretary has granted permission to a corporation to change its accounting period under the provisions of R. S. 47:613, the tax to be paid for the period

from the end of the last period for which the tax has already become due until the end of the new accounting period shall be determined by multiplying the ratio that the number of such months bears to 12, times the tax computed for an annual period based on the previous period's closing. All subsequent returns shall be prepared on the basis of the new accounting period.

1. The previous period's closing means the closing of the new accounting period.

2. Example: A taxpayer has been filing Corporation Income and Franchise Tax returns on a FYE June 30 basis. In December 2002, the taxpayer obtains approval to change his accounting year-end to December 31. For franchise tax purposes, a taxpayer will compute the franchise tax due based on its December 31, 2002 information and multiply the tax by 50 percent (6/12). On its prior return, which was based upon the June 30, 2002 balance sheet, the taxpayer paid franchise tax through June 30, 2003. When the taxpayer changes its accounting period to December 31, 2002, the franchise tax is due only for the period July 1, 2003 through December 31, 2003, a period of six months. This short period return will be due April 15, 2003.

D. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:609 and 1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income and Corporation Franchise Taxes Section, Office of Group III, LR 6:25 (January 1980), amended LR 11:108 (February 1985), amended by the Department of Revenue, Policy Services Division, LR 28:97 (January 2002), LR 30:468 (March 2004), LR 31:

Family Impact Statement

The proposed adoption of the amendment to LAC 61:I.309, which will provide guidance to taxpayers regarding the requirements for filing short period Louisiana returns when there is a change in accounting periods, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed Rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments or comments regarding this proposed Rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be received no later than 4:30 p.m., Monday, November 29, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 9 a.m. in the River Room Conference Room on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Corporation Franchise Tax

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

The implementation of this proposed amendment to the regulation will have no impact upon any local governmental units.

The implementation of this proposed regulation, which will provide guidance to taxpayers regarding the requirements for filing short period Louisiana corporation franchise tax returns when there is a change in accounting periods, would have no impact on state government costs or savings.

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

There will be no effect on state or local revenue collections as a result of this proposed amendment to the regulation. The proposed rule is the same as current practice.

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

Corporations that undergo a change in accounting periods are required to file short period corporation franchise tax returns. By amending LAC 61:1.309, the Department will provide guidance to taxpayers regarding the requirements for filing. Because the regulation is the same as current practice, it will ease the filing process by making the filing requirements clear.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#043

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**Dealers Required to Keep Records
(LAC 61:1.4359)**

Under the authority of R.S. 47:309, R.S. 47:337.2, R.S. 47:337.29, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:1.4359 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax

Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered
by the Secretary of Revenue**

Chapter 43. Sales and Use Tax

§4359. Dealers Required to Keep Records

A. As provided in R.S. 47:309 and R.S. 47:337.29, every person required to collect or remit the tax imposed under R.S. 47:302, 321, 331, and local ordinances shall keep a permanent record of all transactions in sufficient detail to be of value in determining the correct tax liability. The records to be kept shall include all sales invoices, purchase orders, merchandise records, inventory records, credit memoranda, debit memoranda, bills of lading, shipping records, and all other records pertaining to any and all purchases, sales, or use of tangible personal property whether or not the person believes them to be subject to state or local sales or use tax. Full detail must be kept of all property leased or rented from or to others and all services performed for or by others. They must also keep all summaries' recapitulations, totals, journal entries, ledger accounts, accounts receivable records, accounts payable records, statements, tax returns, and other documents listing, summarizing, or pertaining to such sales, purchases, inventories, shipments, or other transactions dealing with tangible personal property.

B. Where such records are voluminous, they must be kept in chronological order or in some other systematic order compatible with the taxpayer's regular bookkeeping system which will enable the collector to verify the accuracy of information contained in tax returns.

C.1. Records kept on punched cards, magnetic tape, magnetic (floppy) diskettes or other mechanical or electronic record keeping equipment are permissible provided the taxpayer makes available all necessary codes, program specifications, and equipment to enable the collector to audit such records, or provides the collector with written transcripts of these parts of the records which the collector wishes to examine.

2. If it is mutually agreed, the dealer may furnish the collector with data in a machine readable form, such as on floppy disk or magnetic tape, in addition to the source documents necessary to verify the data in order to facilitate the examination.

D. The books and records must contain complete information pertaining to both taxable and nontaxable items which are the subject of the taxes imposed and must be retained until the taxes to which they relate have prescribed according to R.S. 47:1579 and R.S. 47:337.67. If a notice of assessment has been issued by the collector, the records for the period covered by the notice must be retained until such time as the issues involved in the assessment have been completely disposed of. Records required by R.S. 47:309 and R.S. 47:337.29 must be available at all times during the regular business hours of the day for inspection by the collector or his duly authorized agents.

E. Any person who fails to keep records required by R.S. 47:309 or R.S. 47:337.29 or who refuses to make the records available for inspection by the collector or who keeps

records which are insufficient for use by the collector in determining the correct tax liability makes himself liable for a fine of up to \$500 for each reporting period or imprisonment for up to 60 days, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:309, R.S. 47:337.2, R.S. 47:337.29, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987), amended LR 15:274 (April 1989), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Dealers Required to Keep Records

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

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue

regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4359 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

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

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

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

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#024

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Exemptions from Lease or Rental Tax, Helicopters (LAC 61:I.4402)

Under the authority of R.S. 47:302.1, R.S. 47:337.2, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4402 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several

regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 44. Sales and Use Tax Exemptions

§4402. Exemptions from Lease or Rental Tax, Helicopters

A. - B. ...

C. For state and local sales or use tax purposes, these transactions shall be taxed as sales and not as leases. Thus, the location of intended use of the helicopters will not determine taxability as it would in a rental transaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:302.1, R.S. 47:337.2, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Exemptions from Lease or Rental Tax, Helicopters

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

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4402 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

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

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

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

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#031

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Failure to Pay Tax; Grounds for Attachment
(LAC 61:I.4365)

Under the authority of R.S. 47:312, R.S. 47:337.2, R.S. 47:337.32, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4365 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 43. Sales and Use Tax

4365. Failure to Pay Tax on Imported Tangible

Personal Property; Grounds for Attachment

A. The failure to pay any tax, interest, penalties or cost when due as provided in state and local sales or use tax laws and the regulations pertaining thereto automatically causes the tax, interest, penalties or costs to become immediately delinquent. Any tangible personal property, of which the sale at retail or the use, consumption, distribution and/or storage which gave rise to the incident of tax is subject to attachment irrespective of whether the delinquent taxpayer is in possession of the property or not, and irrespective of whether he is a resident of the state of Louisiana. The failure to pay the tax when due constitutes grounds for attachment as provided by R.S. 47:312 and R.S. 47:337.32. The procedure prescribed by law for attachment proceedings is to be followed except no bond is required of the taxing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:312, R.S. 47:337.2, R.S. 47:337.32, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Failure to Pay Tax; Grounds for Attachment

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

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4365 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

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

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

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

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a

single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#027

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**Failure to Pay Tax; Rule to Cease Business
(LAC 61:I.4367)**

Under the authority of R.S. 47:314, R.S. 47:337.2, R.S. 47:337.33, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4367 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered

by the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4367. Failure to Pay Tax; Rule to Cease Business

A. The failure to pay any tax when due as provided in state and local sales or use tax laws and regulations pertaining thereto shall cause said tax, interest, penalty and cost to become immediately delinquent. The collector has the authority to use summary process in any court of competent jurisdiction to require the dealer owing the tax to show cause why he should not be ordered to cease from further pursuit of his business. The rule to show cause shall be set for hearing at least two but not more than 10 days, exclusive of holidays, after it is filed. It may be tried out of turn, in chambers with preference and priority over all other proceedings. There is a prima facie presumption that all tangible personal property imported or held in the taxing jurisdiction by any dealer is subject to a sales or use tax. If the rule is absolute, said dealer shall be prohibited from

further pursuit of his business until such time as the delinquent tax, interest, penalties and costs have been paid. Any violation shall be considered contempt of court and punished according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:314, R.S. 47:337.2, R.S. 47:337.33, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Failure to Pay Tax;
Rule to Cease Business**

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

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue

regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4367 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

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

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

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

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#028

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Little Theatre Tickets Tax Exemption (LAC 61:I.4406)

Under the authority of R.S. 47:305.6, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4406 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation

applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered

by the Secretary of Revenue

Chapter 44. Sales and Use Tax Exemptions

§4406. Little Theatre Tickets

A. The exemption provided by R.S. 47:305.6 excludes from state and local sales or use tax—the sale of admission tickets by little theater organizations. This exemption has been construed to cover the sale of tickets by any nonprofit organization whose sole purpose is the presentation of stage productions by nonprofessional actors and the advancement of amateur acting. The exemption extends to all such organizations whether they are officially known by the name little theater or by some other appropriate designation.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.6, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All

comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Little Theatre Tickets Tax Exemption**

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

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4406 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

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

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

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

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#033

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Mardi Gras Specialty Items Tax Exemption
(LAC 61:I.4416)

Under the authority of R.S. 47:305.40 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4416 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered

by the Secretary of Revenue

Chapter 44. Sales and Use Tax Exemptions

§4416. Purchases of Mardi Gras Specialty Items

A. R.S. 47:305.40 grants an exemption solely from state sales or use tax on purchases of specialty items for use in connection with Mardi Gras activities. The exemption is available to:

A.1. - D....

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.40 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Mardi Gras Specialty Items Tax Exemption**

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

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4416 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

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

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use

tax laws and will have no effect on state or local sales tax revenues.

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

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#039

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Motion Picture Film Rental Tax Exemption (LAC 61:I.4409)

Under the authority of R.S. 47:305.9, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4409 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 44. Sales and Use Tax Exemptions §4409. Motion Picture Film Rental

A. R.S. 47:305.9 provides a very limited exemption to the operators of motion picture theaters wherein the amount paid by operators to distributing agencies for the use of film are specifically exempted from state and local sales or use tax. Note that film is the only item covered by the exemption. Distributing agencies and suppliers for motion picture theaters are required to collect taxes on any other

supplies or materials furnished to operators. Theaters are required to collect the tax on admissions.

B. Any distributing agent who fails to collect state or local sales or use tax because of the exemption provided in R.S. 47:305.9 must be able to identify the motion picture theater operators to whom films were furnished. Failure of the distribution agency to maintain a complete record of transactions for which no taxes were collected can result in the dealer being held responsible for the tax.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.9, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 22:854 (September 1996), Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Motion Picture Film Rental Tax Exemption

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

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4409 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

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

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

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

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#036

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Nonprofit Organizations Tax Exemption (LAC 61:I.4418)

Under the authority of R.S. 47:305.14, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4418 to provide for

uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered

by the Secretary of Revenue

Chapter 44. Sales and Use Tax Exemptions

4418. Nonprofit Organizations; Nature of Exemption; Limitations; Qualifications

A. - A.5. ...

6. The purchase of items to be sold at these events is not exempt from the advance state or local sales or use tax, where applicable. In order to receive a credit for the tax paid on items to be sold at one of these exempt events, the organization would register with the appropriate taxing authority as an irregular filer and then file a sales tax return taking a credit for the sales tax paid on the purchases for resale.

B. - B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.14, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Division, LR 22:854 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Nonprofit Organizations Tax Exemption

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

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:1.4418 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

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

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

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

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#040

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Nonresident Contractors (LAC 61:I.4373)

Under the authority of R.S. 47:9, R.S. 47:306, R.S. 47:337.2, R.S. 47:337.18, R.S. 47:337.19, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4373 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered
by the Secretary of Revenue**

Chapter 43. Sales and Use Tax

§4373. Nonresident Contractors

A. General. This Section provides the procedures that must be followed by nonresident contractors who do business in this state as required by R.S. 47:9 and R.S. 47:306(D). This Section also provides the procedures that must be followed by state and local agencies charged with the responsibility for granting permits and/or licenses for the lawful commencement of construction contracts in this state as required by R.S. 47:337.18(C). This Section also provides the necessary definitions.

B. - F.1.c. ...

2. The secretary is authorized by R.S. 47:337.19(B) to evaluate and monitor parish and municipal permitting agencies to ensure compliance with these provisions.

a. - c. ...

d. The state treasurer, within 90 days of notification, shall request a hearing on the suspected violation with the House Committee on Ways and Means. The date, time, and location of this meeting will be furnished by the state

treasurer to the permitting office, the parish collector, the governing authority of the parish, and the secretary of the Department of Revenue by registered mail. Following the hearing, the state treasurer shall take action as directed by the committee, including the withholding of state funds as authorized by R.S. 47:337.19(C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9, R.S. 47:306, R.S. 47:337.2, R.S. 47:337.18, R.S. 47:337.19, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Division, LR 21:185 (February 1995), amended by the Department of Revenue, Policy Services Division, LR:31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nonresident Contractors**

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

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are

common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4373 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

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

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

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

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#041

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Pesticides Used for Agricultural Purposes Tax Exemption (LAC 61:I.4408)

Under the authority of R.S. 47:305.8, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4408 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of

Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 44. Sales and Use Tax Exemptions

§4408. Pesticides Used for Agricultural Purposes

A. General. R.S. 47:305.8 provides an exemption from state and local sales or use tax for the sale at retail of pesticides used for agricultural purposes, including particularly, but not limited to, insecticides, herbicides, and fungicides used for agricultural purposes.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.8, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:401 (April 1995), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday,

November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

NOTICE OF INTENT
Department of Revenue
Policy Services Division

Property Purchased for First Use Outside the State
Tax Exemption
(LAC 61:I.4410)

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Pesticides Used for Agricultural
Purposes Tax Exemption**

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

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4408 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

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

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

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

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#035

H. Gordon Monk
Staff Director
Legislative Fiscal Office

Under the authority of R.S. 47:305.10, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4410 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered
by the Secretary of Revenue**

Chapter 44. Sales and Use Tax Exemptions

**4410. Property Purchased for First Use Outside the
State**

A. R.S. 47:305.10 provides an exemption from state and local sales or use tax for the purchase or importation of tangible personal property in Louisiana for first use beyond the territorial taxing jurisdiction of this state. This Section provides an exemption for purchases and importations in two categories of first use: first use in another state; and first use in the offshore area beyond the borders of Louisiana or any other state.

B. Purchases or importations of tangible personal property for first use in another state for which an exemption is claimed under the provisions of R.S. 47:305.10 may be accomplished by the use of an exemption certificate LGST 9-D, entitled "Foreign Purchasers," which is available from the Department of Revenue. The transaction must meet the following requirements before the exemption will be allowed:

1. - 3. ...
a. the purchaser obtains a written authorization from the Secretary of the Department of Revenue to make the tax-exempt purchase; or

b. ...

C. - D. ...

E. Purchases or importations of tangible personal property for use in the offshore area of Louisiana or that of any other state, for which an exemption is claimed under R.S. 47:305.10, may be accomplished by use of either one of two exemption certificates available from the Department of Revenue, LGST 9-D or LGST 9-O/S, depending on the following conditions:

1. ...

2. if the exact location of first use of the property is not known at the time of purchase, and the purchaser has been assigned an "offshore registration number" by the Secretary of Revenue, then the purchaser may claim the exemption by completing an exemption certificate LGST 9-O/S and presenting it to the vendor. All accounting records of importations and purchases made through the use of this certificate will be maintained in such a manner so as to accurately account for tax-free and tax-paid inventories until they are withdrawn for use. Physical segregation of tax-free inventory is not required. In the case of fungible goods, such as diesel fuel, where usage occurs continuously in travel in and out of the offshore area, exemption certificate LGST 9 O/S may be used to make tax-free purchases of such goods in their entirety. At the end of each reporting period, the purchaser will determine that portion of the fungible goods which was actually consumed within any taxing jurisdiction and make the necessary accrual entries to record the proper tax due;

3. ...

4. an offshore registration number will be issued only to dealers who have demonstrated to the Secretary of Revenue that the nature of their business is such that consumption of tangible personal property occurs in the offshore area beyond the territorial limits of Louisiana, or that of other states or foreign nations. It must also be shown to the satisfaction of the secretary that the records maintained by the purchaser are adequate to facilitate an examination and that they document the location of first use of all tangible personal property purchased tax-free under the provisions of this Section. In the case of fungible goods, such as diesel fuel, which are purchased tax-free, the purchaser must retain, and make available for examination, all purchase invoices, vessel logs, fuel usage records, fuel transfer records, and all other pertinent information which will determine the portion which has been consumed in and/or delivered to, offshore locations, and the portion which has been consumed in, and/or delivered to, locations within the taxing jurisdiction of any state or foreign nation. Timely returns must be filed, along with the proper remittance, to report the taxes due on all withdrawals from nontax-paid inventory for taxable uses. The following shall be taxable uses:

a. - e. ...

F. R.S. 47:305.10 makes it clear that the aforementioned records shall be maintained by the purchaser or importer, and shall be made available for examination. It also provides that the offshore registration number issued under the

provisions of this Section may be revoked by the secretary at any time, if the purchaser misuses the exemption to make tax-exempt purchases of property for first use in the state, or if he fails to maintain adequate records, or fails to report and remit any tax which becomes due under this Section. In case of such a revocation, all tangible personal property which is stored in an offshore inventory site will immediately become taxable, unless the purchaser is able to identify the exact location (area name, block number, lease number) of first use of the property. Thereafter, and until the offshore registration status is reinstated, tax-free purchases may be made only in instances when the exact location of first use is known at the time of purchase, and a certificate form LGST 9-D is presented to the vendor. The offshore registration number may be reinstated at the discretion of the Secretary of Revenue, upon being provided with sufficient proof that the conditions and requirements of this Section will be adhered to by the purchaser. The burden for supplying proof of eligibility shall rest with the purchaser/importer at all times, whether the request is for initial registration or for reinstatement of a revoked registration.

G. This Section provides an exemption from the sales and use tax on tangible personal property purchased in or imported into a taxing jurisdiction under the circumstances described. All other purchases and importations of property shall be subject to state and local sales or use tax at the time of such purchase or importation, unless otherwise exempted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.10, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:108 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Property Purchased for First Use
Outside the State Tax Exemption**

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

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4410 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

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

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

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

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#037

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**Property Used in Interstate Commerce Tax Exemption
(LAC 61:I.4420)**

Under the authority of R.S. 47:305.50, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4420 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered

by the Secretary of Revenue

Chapter 44. Sales and Use Tax Exemptions

§4420. Property Used in Interstate Commerce

A. - B. ...

1. If the documentation indicates that the property was not used during the one year period following the date of its purchase for the required 80 percent or more of its total mileage in interstate commerce, the taxpayer will not qualify for the exemption and state and local sales or use tax will be due on the amount paid for the property at the rate that was applicable on the date the property was purchased, plus interest from the date the property was purchased to the date of the tax payment. The state sales or use tax must be reported on a sales tax return provided by the Department of Revenue and paid to the Department of Revenue by the 20th day of the month following the end of the one-year period in which the taxpayer fails to qualify for the exemption. The local sales or use tax must be reported and paid to the proper local taxing authority in accordance with their ordinances and the Uniform Local Sales Tax Code.

2. If, during any of the following one-year periods, the documentation indicates that the property was not used for the required 80 percent or more of its total mileage in interstate commerce, the taxpayer will no longer qualify for the exemption. If this occurs, state and local sales or use tax will be due on the lesser of the purchase price or fair market

value of the property on the first day of the one-year period that it does not meet the 80 percent test. The tax will be calculated based on the rate in effect on the first day of the one-year period in which the taxpayer no longer qualifies for the exemption, plus interest from the date the tax is due to the date of tax payment. The state sales or use tax must be reported on a sales tax return provided by the Department of Revenue and paid to the Department of Revenue by the 20th day of the month following the end of the one-year period in which the taxpayer no longer qualifies for the exemption. The local sales or use tax must be reported and paid to the proper local taxing authority in accordance with their ordinances and the Uniform Local Sales Tax Code.

C. ...

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:305.50, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:188 (February 2003), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Property Used in Interstate Commerce Tax Exemption

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

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4420 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

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

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

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

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#042

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Sales Returned to Dealer; Credit or Refund of Tax
(LAC 61:I.4369)

Under the authority of R.S. 47:315, R.S. 47:337.2, R.S. 47:337.34, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4369 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4369. Sales Returned to Dealer; Credit or Refund of Tax

A. R.S. 47:315(A) and 47:337.34(A) provide special rules for the handling of taxes which have been charged to the account of a purchaser, consumer, or user in cases where the property sold has been returned to the dealer or where a refund is made of the charges for services upon which a tax was based. In either case, if the tax has been collected or charged to the account of the purchaser or consumer or user and has not yet been remitted to the collector, and a refund or credit is made to the purchaser or consumer, the dealer may delete the sale and the tax due in submitting his return for the current tax period. If the merchandise is returned to the dealer or if a refund is made to the customer for any charges for services after the tax collected or charged to the customer's account has been remitted to the collector, the dealer may file an amended sales tax return for the period in which the tax so refunded was originally remitted. The blank return form must be obtained from the appropriate taxing authority to ensure that it bears the correct taxpayer identification and account information and the proper marking of an "amended" return. The dealer must complete the amended return by reporting sales and deductions after making the proper adjustments to reflect the rescinded sale or sales. The credit balance which will result from the computation of total tax, penalty, and interest will be refunded to the dealer in the same manner as a credit return which is timely filed in accordance with §4351.

B. R.S. 47:315(B) and R.S. 47:337.34(B) provide a dealer with a method for claiming refunds for the recovery of taxes which have been remitted to the collector, but are later written off as uncollectible accounts from credit customers. Dealers submitting refund claims should be aware of the following restrictions specifically provided in or authorized by R.S. 47:315(B) and 47:337.34(B).

1. The state sales or use tax is refundable on debts incurred after January 1, 1976, that ultimately become worthless. The tax will not be refunded on worthless debts incurred prior to January 1, 1976. The local sales or use tax is refundable on debts incurred after September 3, 1989, which ultimately become worthless. The tax will not be

refunded on worthless debts incurred prior to September 3, 1989.

2. Before the collector can issue a sales tax refund on a bad debt, the debt must actually have been deducted on a federal income tax return in accordance with Section 166 of the United States Internal Revenue Code. Since the issuance of refunds is tied to charge-offs on the annual federal return, the collector will process one refund per year for each dealer.

3. ...

4. The local credit or refund shall be granted whenever the Louisiana Department of Revenue has found the dealer to be entitled to reimbursement in accordance with R.S. 47:337.34(B)(1).

5. - 6. ...

7. Dealers may recover sales tax remitted on bad debts solely through the issuance of refunds by the collector. Dealers must continue to file sales tax returns reporting their total sales of merchandise during each taxable period, regardless of whether customer obligations have been collected. Deductions for bad debt losses may not be taken on sales tax returns.

C. Refund claims submitted to the collector must be accompanied by schedules detailing the names of debtors whose obligations were charged off, the uncollectible amounts, the amount of debt written off which was incurred prior to January 1, 1976, for state sales or use tax purposes or September 3, 1989, for local sales or use tax purposes, nontaxable portion of debt written off, and tax claimed.

1. - 2. ...

3. All refund claims filed with the collector are subject to office or field examination and verification, so dealers must maintain auditable records to support their claims. The records must be able to substantiate that the sales tax was charged and remitted to the collector on the original sales and that the dealers made reasonable efforts to collect the debt amounts. Dealers must have good evidence that debts charged off are worthless and will remain so in the future. The debt must actually be charged off as worthless on a federal income tax return before a refund of state sales or use tax will be processed by the Department of Revenue. The credit or refund for local sales or use tax shall be granted whenever the Louisiana Department of Revenue has found the dealer to be entitled to reimbursement in accordance with R.S. 47:337.34(B)(1). In the absence of the required records, a dealer will not be entitled to refund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:315, R.S. 47:337.2, R.S. 47:337.34, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no

effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Sales Returned to Dealer; Credit or
Refund of Tax**

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

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4369 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

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

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

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

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#029

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**Sales Tax Refund for Loss by Natural Disaster
(LAC 61:I.4371)**

Under the authority of R.S. 47:315.1 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4371 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered

by the Secretary of Revenue

Chapter 43. Sales and Use Tax

**§4371. Sales Tax Refund for Purchases to Replace
Tangible Personal Property Lost by Natural
Disaster**

A. Under certain circumstances, a refund of state sales or use tax is authorized for the destruction of tangible personal property destroyed in any natural disaster. The conditions and requirements are as follows:

1. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:315.1 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Sales Tax Refund for Loss by Natural Disaster

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

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4371 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the

administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

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

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

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

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#030

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Seeds Used in Planting Crops Tax Exemption (LAC 61:I.4404)

Under the authority of R.S. 47:305.3, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4404 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered
by the Secretary of Revenue

Chapter 44. Sales and Use Tax Exemptions

§4404. Seeds Used in Planting Crops

A. The sale at retail of seeds for use in the planting of any kind of crops is specifically exempt from state and local sales or use tax. Crops are construed to mean the planting of a sufficient quantity of seed to result in a harvest of recognizable commercial value depending upon the product being planted. It is not intended to cover the planting of a garden to produce food for the personal consumption of the planter and his family. Neither is it intended to cover seed used in the planting of growth for landscape purposes unless the planter is engaged in the business of harvesting those plants and selling them in the commercial market. As an example, seeds used in planting grasses which will be harvested and sold would constitute seeds used in the planting of crops. Seeds such as alligator grass or millet planted in ponds used for the production of crawfish would also come within this exemption because the planted crop will be consumed or harvested by the crawfish which will be sold commercially by the farm operator. To the contrary, various grass seeds used to plant ponds to provide food and promote the growth of fish contained in the pond primarily for recreational purposes would not come within this exemption. If the pond is converted to the commercial production of fish, any seeds used for the promotion or health of the commercial fish crop would come within the exemption.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47.305.3, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

RULE TITLE: Seeds Used in Planting Crops
Tax Exemption

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

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:14404 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

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

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

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

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#032

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Tickets to Musical Performances (LAC 61:I.4407)

Under the authority of R.S. 47:305.7, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4407 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered

by the Secretary of Revenue

Chapter 44. Sales and Use Tax Exemptions

§4407. Tickets to Musical Performances of Nonprofit

Musical Organizations

A. R.S. 47:305.7 specifically exempts the sale of admission tickets by Louisiana nonprofit corporations or organizations engaged in the presentation of musical performances, or who are known as symphony organizations, from state and local sales or use tax. The exemption covers only sales of tickets made by corporations or organizations established within Louisiana and does not apply to the sales of tickets within this state which might be made by similar organizations or companies from outside of the state. The exemption does not apply to the sales of tickets by a domestic corporation or organization if the performance will be presented by a symphony group from outside of the state.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.7, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of

Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Tickets to Musical Performances

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

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4407 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

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

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of

sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

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

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#034

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Termination or Transfer of a Business
(LAC 61:I.4357)

Under the authority of R.S. 47:308, R.S. 47:337.2, R.S. 47:337.21, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4357 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered
by the Secretary of Revenue**

Chapter 43. Sales and Use Tax

§4357. Termination or Transfer of a Business

A. ...

B. In order to insure that all taxes are paid by a discontinuing business, R.S. 47:308 and 47:337.21 require

that the successor, successors, or assigns, if there are any, must withhold a sufficient portion of the purchase price to cover any taxes, penalties and interest due and unpaid at the time of the purchase. These funds must be withheld by the purchaser until the former owner can produce a receipt from the collector showing that the taxes have been paid or a certificate from the collector stating that there are no taxes, interest, or penalties due. If the purchaser of the business or of the stocks of goods fails to withhold sufficient funds with which to pay any taxes, penalties, or interest found to be due, he shall be held personally liable for the payment of the amount due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:308, R.S. 47:337.2, R.S. 47:337.21, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Termination or Transfer of a Business

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

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4357 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

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

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

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

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#023

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**Wholesalers/Jobbers Recordkeeping
(LAC 61:I.4361)**

Under the authority of R.S. 47:310, R.S. 47:337.2, R.S. 47:337.30, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4361 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered
by the Secretary of Revenue**

Chapter 43. Sales and Use Tax

§4361. Wholesalers and Jobbers Required to Keep Records

A. As provided by R.S. 47:310 and R.S. 47:337.30, wholesalers and jobbers are clearly within the definition of dealers set forth in R.S. 47:301(4) and as dealers, are required to maintain complete and accurate records pertaining to all sales of tangible personal property made within a taxing jurisdiction whether such sales are for cash or on terms of credit or whether they are taxable or exempt.

B. For a complete description of records which must be kept by all dealers, see R.S. 47:309, R.S. 47:337.29, and LAC 61:I.4359.

C. In the case of wholesalers and jobbers, R.S. 47:310(B) and R.S. 47:337.30(B) provide that whoever violates this requirement shall be fined not less than \$50 nor more than \$200 or imprisoned for not less than 10 days nor more than 30 days, or both, for the first offense. For the second or each subsequent offense, the penalties double.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:310, R.S. 47:337.2, R.S. 47:337.30, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Wholesalers/Jobbers Recordkeeping

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

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:1.4361 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

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

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

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

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#025

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

CCAP Immunization and Age Verification (LAC 67:III.5103 and 5107)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, LAC 67:III.5103 and 5107 in the Child Care Assistance Program (CCAP).

Effective February 1, 2004, the agency chose to make the child care provider responsible for providing proof of immunization as required by the Office of Public Health (OPH) for each child receiving child care assistance in its care. It was the agency's opinion that this amendment would remove an eligibility criterion for child care families and eliminate the need for the agency to monitor day care providers as OPH was already doing so.

State auditor disagreed and it is their position that the providers be monitored by the Office of Family Support. The auditor's position was affirmed by the Administration for Children and Families, the governing body for all Child Care Development Fund (CCDF) programs, who ordered that the agency must monitor the child care providers and that it is currently out of compliance with federal regulations.

Therefore, in order to comply with federal regulations that all children receiving child care services be immunized and that verification of such be provided and to comply with the findings of the state audit regarding agency responsibility in monitoring immunization in Family Child Day Care Homes and to avoid severe penalties or sanctions, the agency intends to amend §5103 to make verification of immunization an eligibility requirement for the receipt of child care assistance and to amend §5107 to remove the provision that Family Child Day Care Home providers retain an immunization record.

These amendments were effected by a Declaration of Emergency signed October 1, 2004, and is being published in the October issue of the *Louisiana Register*.

The text of this proposed Rule may be viewed in the Emergency Rule section of this Register.

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The Rule will have no effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

NOTICE OF INTENT

Department of Social Services Office of Family Support

STEP/FITAP Disability Definition and Time Limits
(LAC 67:III.1221, 1247, 5321, 5705, 5715, and 5727)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Chapter 57, Strategies to Empower People (STEP) Program, Chapter 12, Family Independence Temporary Assistance Program (FITAP), and Chapter 53, Kinship Care Subsidy Program (KCSP).

Pursuant to Act 675 of the 2004 Legislative Session, the agency proposes to amend §1221 and §1247 of the Family Independence Temporary Assistance Program. Section 221 is being amended to clarify the criteria necessary to be classified as a dependent child. Section 1247 is being amended to: modify those situations which constitute an exemption from the 24-month time limit; to allow FITAP recipients to receive benefits beyond the state's 24-month time limit if they maintain compliance with the STEP Family Success Agreement; and to modify the criteria of hardships that must exist in order for cash assistance to be provided to a family that includes an adult who has received assistance for sixty months. Section 5321 of the Kinship Care Subsidy Program is being amended to align the age limit eligibility criteria in FITAP and KCSP.

Pursuant to Act 110 of the 2004 Regular Legislative Session, the agency is amending §§5705, 5715, and 5727 of the STEP Program. Section 5705 is being amended by redefining a work-eligible family and work-eligible recipient in the STEP Program to remove the requirement that a recipient be permanently disabled, and by removing temporary incapacity or illness from the definition of temporary exception. Section 5715 is being amended regarding temporary exceptions and the state's 24-month time limit. Section 5727 is being amended to clarify criteria for completion of a Family Transition Assessment.

The text of this proposed Rule may be viewed in the Emergency Rule section of this Register.

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The Rule will have no effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? The Rule will have no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? The family's earning and budget could be positively impacted by this Rule. Those participants complying with their Family Success Agreement will no longer be subject to the 24-month time limit, which will

3. What effect will this have on the functioning of the family? The Rule will have no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule will not impact family earnings or budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will not impact the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this is strictly an agency function.

Interested persons may submit written comments by November 24, 2004, to Adren O. Wilson, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana, 70804-9065. He is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on November 24, 2004, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Ann S. Williamson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **CCAP Immunization and Age Verification**

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

There are no costs associated with this rule except the cost of publishing the rule and printing policy and forms which is estimated to be approximately \$5,000.

This cost is routinely covered in the agency's annual budget.

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

This rule 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 NONGOVERNMENTAL GROUPS (Summary)

The rule will result in no costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The rule will have no impact on competition and employment.

Adren O. Wilson
Assistant Secretary
0410#062

H. Gordon Monk
Staff Director
Legislative Fiscal Office

afford them the opportunity for more training that could result in better employment opportunities. Better employment opportunities could result in higher paying jobs and an increase in income. Also, those participants who meet the new disability criteria will continue to receive benefits thereby boosting their income.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will not impact the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this is strictly an agency function.

Interested persons may submit written comments by November 24, 2004, to Adren O. Wilson, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana, 70804-9065. He is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on November 24, 2004, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Ann S. Williamson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: STEP/FITAP Disability Definition and
Time Limits**

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

Act 110 of the 2004 Regular Session of the Louisiana Legislature redefines a work-eligible recipient and a work-eligible family by removing the word "permanent" before disability in the Strategies to Empower People (STEP) Program. This will allow more participants to be exempt from the state current Family Independence Temporary Assistance Program's (FITAP) 24-month time limit. The estimated cost of this amendment is \$518,610 per fiscal year. The definition of temporary exceptions has also been revised by removing "temporary incapacity or illness".

Act 675 of the 2004 Regular Session of the Louisiana Legislature will allow FITAP recipients to receive benefits beyond the state's twenty-four month time limit if they maintain compliance with the STEP Family Success Agreement. The estimated cost of this amendment will be \$845,520 for FY 04/05; \$2,406,501 for FY 05/06; \$3,967,428 for FY 06/07; and \$4,682,868 for FY 07/08 on. These amounts are the maximum likely costs. If some cases are closed prior to the completion of the additional three years (as is likely), the actual costs will be lower than these projections.

The cost for publishing rulemaking and printing policy and forms is estimated to be \$850. A total cost for FY 04/05 is \$1,364,980, for FY 05/06 is \$2,925,114, and for FY 06/07 is \$4,486,038.

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

The revenue collections of state and local governmental units will be unaffected by this rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There will be no costs to any non-governmental groups or persons as a result of this rule.

Participants who comply with the STEP Family Success Agreement will no longer be subject to the 24-month time limit and will be afforded the opportunity for more training that could result in better employment opportunities. Better employment opportunities could result in higher paying jobs and an increase in income. Also, those participants who meet the new disability criteria will continue to receive benefits beyond the state's 24-month time limit.

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

The proposed rule should permit increased training opportunities for STEP participants. It is anticipated that a possible result of the change would be the ability of these participants to attain higher paying jobs and to retain those jobs more successfully. This rule change has the potential to increase the pool of skilled workers in the state.

Adren O. Wilson
Assistant Secretary
0410#063

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of the Secretary
Bureau of Licensing**

Agency Profile (LAC 48:I.8001)

The Department of Social Services, Office of the Secretary, Bureau of Licensing proposes to amend the Louisiana Administrative Code, Title 48, Part I, Subpart 3, Licensing and Certification. This Rule is to outline general administrative procedures used by this office.

Title 48

PUBLIC HEALTH GENERAL

Part 1. General Administration

Subpart 3. Licensing and Certification

Chapter 80. General Administration

§8001. Agency Profile

A. Mission. To develop licensing regulations for and to carry out licensing of all child care and social care programs legislatively mandated to be licensed by DSS.

B. Program Administration. The Bureau of Licensing, hereafter referred to as Licensing, is mandated by law to license 16 social care programs, including:

1. Child Day Care Class A;
2. Child Day Care Class B;
3. Adult Day Care;
4. Adult Residential;
5. Child Residential Class A;
6. Child Residential Class B;
7. Adoption;
8. Foster Care;
9. Emergency Shelter;
10. Family Support;
11. Early Infant Intervention;
12. Maternity Homes;

13. Personal Care Attendant Services;
14. Respite Care Services;
15. Supervised Independent Living;
16. Transitional Living.

C. Types of Licenses

1. A license is defined as a permit by the department to a child care or other social service agency, authorizing the licensee to provide care in accordance with the provisions of the license, the law, and the regulations of the Department of Social Services. Issuance of a license is not an endorsement of child care methods or a provider's operational philosophy.

2. When a provider is in substantial compliance with the minimum standards, a full license will be issued. This license may be in effect for one or more years. At initial application, a provider must meet all minimum standards for the program for which he/she is applying before a license is issued.

3. When a provider has maintained a record of substantial compliance, a multi-year license may be issued. Providers receiving a multi-year license will still be required to submit an annual application and fee as required by statute and the regulations. A compliance visit will be made in lieu of the full annual survey at the time of the provider's anniversary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq., 40:2141 et seq., 46:1971 et seq., 28:380 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 31:

Family Impact Statement

In accordance with Section 972 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted the Family Impact Statement regarding the Rule proposed for adoption, repeal or amendment.

1. What effect will this Rule have on the stability of the family? There will be no effect on the stability on the family because of this Rule.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? There will be no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule is not anticipated to have any effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no effect on family earnings and family budget.

5. What effect will this have on the behavior and personal responsibility of children? There will be no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? The family or local government cannot perform the function of this Rule.

Interested persons may submit written comments within the next 20 days to Thalia Stevenson, Director Bureau of Licensing, P.O. Box 3078, Baton Rouge, LA 70821-3078.

Public hearings on this proposed Rule will be held on Friday, November 19, 2004, at the A.Z. Young Building, 755 Third Street, Second Floor, Auditorium A, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing at the

public hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TSS).

Ann S. Williamson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Agency Profile**

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

There will be a minimal cost for printing the new regulations (approximately \$136.00 for one page). There are no other implementation costs to state or local governmental units associated with this proposed rule which only clarifies administrative procedures used by this office.

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

There will be no effect on revenue collections as this rule only clarifies administrative procedures used in this office.

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

There should be no cost or economic benefit to any affected persons or non-governmental group as this rule only clarifies administrative procedures used in this office.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no impact anticipated on competition or employment as this rule only clarifies administrative procedures used in this office.

Thalia Stevenson
Director
0410#061

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of Highways/Engineering**

Traffic Impact Rule for New Developments
(LAC 70:I.Chapter 11)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and Development intends to promulgate a Rule entitled "Traffic Impact Rule for New Developments Affecting Traffic on State Highways," in accordance with R.S. 32:2 and R.S. 48:344, et seq.

**Title 70
TRANSPORTATION**

Part I. Highway Construction

Chapter 11. Traffic Impact Rule for New Developments Affecting Traffic on State Highways

§1101. Traffic Impact

A. Purpose

1. The Department of Transportation and Development (DOTD) has a responsibility to design, operate and maintain highway facilities that are reasonably safe and

efficient for prudent drivers using the highway system. At the same time DOTD must allow all property owners reasonable access to the highway system.

2. In an effort to balance these often conflicting needs, this rule was developed to ensure that new or expansion of existing developments generating significant traffic on state highways are evaluated in a consistent manner by using objective data to facilitate decision-making.

B. Applicability

1. This rule applies to new or expanding developments, typically generating 100 hourly trips in the peak direction or 750 average daily trips on state highways.

2. This rule also applies to developments on local public or private streets, within 0.25 mile of a state highway, adversely affecting traffic on the state system.

3. These developments include but are not limited to:

- a. new businesses;
- b. new subdivisions;
- c. new apartment complexes;
- d. additions to existing subdivisions;
- e. additions to existing apartment complexes;
- f. new streets and/or traffic control devices ;
- g. new schools;
- h. minor developments in traffic networks that are already congested;
- i. hospitals; and
- j. large commercial or industrial complexes.

4. Additional requirements (such as analysis of nearby major intersections as determined by DOTD) may be necessary for large commercial centers and regional shopping malls.

5. This rule, in certain situations, may apply to new, smaller developments located on severely congested highway corridors, as determined by the district traffic operations engineer.

C. This rule does not apply to the following:

1. access to interstate and other controlled-access facilities;
2. individuals requesting single-family residential access;
3. access to local public and private streets for developments which are greater than 0.25 miles from the state system; and
4. minor developments generating less than 100 hourly trips in the peak direction or 750 average daily trips.

D. Pre-Application Procedure

1. Prior to any permit requests, land developers shall meet with the DOTD district traffic operations engineer and the district permit specialist for a pre-application meeting during preliminary site planning for the development. The purpose of this meeting is to discuss the proposed development and determine if a traffic impact study is warranted.

2. The developer shall be notified within seven days after the pre-application meeting whether or not a traffic impact study is required. The decision will be based on the preliminary site plan layout and anticipated additional traffic.

3. DOTD will coordinate with the appropriate municipal authorities for developments not abutting the state highway system but which will adversely affect traffic on

the state system. In this case, the developer may be required to mitigate traffic on the state system as well as the local roadway system.

E. Traffic Impact Study

1. When a traffic impact study is required by DOTD, it shall be prepared before submitting an application for access. The study will include all information as outlined in the DOTD traffic impact policy, a detailed guidance document which includes forms, roadway classification, traffic volume criteria and mitigation strategies. This document may be obtained from DOTD headquarters in the office of the traffic impacts engineer. the purpose of the traffic impact study is to:

- a. determine existing traffic conditions on the network surrounding the proposed development;
- b. estimate the traffic likely to be generated by the proposed development;
- c. assess the impact of additional traffic on the existing and future road network system at full build out and the anticipated construction phasing; and
- d. identify effective roadway improvements and/or changes in the site plan of the proposed development that will minimize impact to the state highway system.

F. Responsibilities of the Developer

1. The developer is responsible for mitigating traffic caused by the development.

2. All road improvements constructed by the developer shall comply with the latest DOTD standards and specifications.

G. Letter of Compliance

1. No permit applications will be accepted until DOTD provides the developer with a letter of compliance. The letter shall be attached to any permit application.

2. The letter of compliance shall indicate the approval of the traffic impact study and the traffic mitigation required.

H. Traffic Mitigation

1. "Traffic Mitigation" is a roadway improvement or improvements designed to minimize congestion and improve the safety of the highway system.

2. The required mitigation shall be constructed prior to completion of the new development.

3. Roadway improvements constructed by developers shall have a warranty period of 5 years.

4. In some instances, the developer shall be required to permanently maintain traffic signals.

5. Types of mitigation include but are not limited to:

- a. turn lanes;
- b. traffic signal upgrade;
- c. traffic control devices;
- d. signal phasing/timing/interconnect;
- e. raised medians;
- f. roadway widening;
- g. restricted turning movements;
- h. right-of-way donation; and
- i. roadway resurfacing.

I. Approval Process

1. The Office of the DOTD district traffic operations engineer and the DOTD Headquarters (HQ) traffic impacts engineer, if requested for a joint review, will review the traffic impact study. The department shall take one of the following actions:

a. Approve the traffic impact study submitted by the developer and recommend mitigation to minimize traffic impacts. The DOTD HQ traffic impact engineer will provide the developer with a letter of compliance to indicate approved traffic impact study and mitigation. The developer may apply for access, driveway, project, or traffic signal permits.

b. Recommend alternative mitigation procedures to minimize traffic impacts.

c. Deny the traffic impact study and/or the recommended mitigation. If it is denied, no further reviews will be made. The developer may request a new review based on revisions to the traffic impact study and recommended mitigation for the proposed development, or the developer may appeal the decision.

J. Appeal Process

1. Following are provisions for a traffic impact review process for developers disagreeing with the DOTD decision on traffic mitigation.

2. The traffic impact review committee shall be composed of representatives of the following divisions within the DOTD when the HQ traffic impacts engineer is involved with a joint review with the district traffic operations engineer:

a. maintenance division (access management engineer or his designee);

b. legal division;

c. traffic engineering development administrator or director or his designee;

d. district traffic operations engineer or his designee (office of particular district in which the development is located) (nonvoting);

e. headquarters traffic impacts engineer or his designee (non-voting).

3. The traffic impact review committee shall be composed of representatives of the following divisions within the DOTD when the HQ traffic impacts engineer is not involved with a joint review with the district traffic operations engineer:

a. maintenance division;

b. legal division;

c. headquarters traffic impacts engineer;

d. traffic engineering development administrator;

e. traffic engineering division administrator;

f. district traffic operations engineer (office of particular district in which the development is located) (nonvoting).

4. The traffic impact review committee, pursuant to a majority vote, may arbitrate and resolve disputes which arise during the review process and grant or deny relief to appealing parties.

5. The appealing party must bring his/her complaint before the traffic impact review committee no later than 30 days after notification of the decision of DOTD.

6. Upon receipt of the appeal and all pertinent information, the traffic impact review committee will schedule a meeting to review the appeal. The meeting will be scheduled not earlier than 14 days and not more than 30 days after receipt of the appeal. The traffic impact review

committee shall give due notice of the meeting time and place to those filing the appeal and shall render a decision of its action within 14 days of its meeting. The maintenance division shall also be notified of the pending requirements for permit purposes.

7. The party appealing the decision shall submit the written reason for the appeal along with the appropriate exhibits to the Department of Transportation and Development, Traffic Engineering Development Section, 1201 Capitol Access Road, Baton Rouge, Louisiana 70804-9245.

8. The submittal will be checked by the department within seven days of its receipt. If the information deemed necessary for a proper review is not complete, the appealing party will be notified and the appeal will then be postponed at least one month.

9. The party submitting the appeal may appear before the traffic impact review committee to offer a brief explanation of his/her complaint.

10. Failure to submit an appeal in a timely manner shall constitute a denial of the traffic impact appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2, and R.S. 48:344 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:

Family Impact Statement

The proposed adoption of this rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed rule will have no known or foreseeable effect on the stability of the family.

2. The implementation of this proposed rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The implementation of this proposed rule will have no known or foreseeable effect on the functioning of the family.

4. The implementation of this proposed rule will have no known or foreseeable effect on family earnings and family budget.

5. The implementation of this proposed rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The implementation of this proposed rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of this Notice of Intent to Sherryl J. Tucker, Senior Attorney, Department of Transportation and Development, P. O. Box 94245, Baton Rouge, LA 70804-9245, Telephone (225)237-1359.

Johnny B. Bradberry
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Traffic Impact Policy
for New Access Requests**

NOTICE OF INTENT

**Department of Treasury
Board of Trustees of the Louisiana
State Employees' Retirement System**

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

There should be no implementation costs to state or local governmental units as a result of this rule. Although Departmental employees will possibly have to process more cumbersome applications for access permits, the existing DOTD work force will be utilized at no additional cost to the Department. Although this is a new program for DOTD, several local governmental units have had similar programs for some time. This particular rule only applies to DOTD. As a general, long term benefit, the state highways should be made safer and easier to maintain as a result of this rule and the limits it places on access to state highways by businesses which generate high volume traffic counts. There should also be a small savings for DOTD as a result of instances in which a developer is required to acquire right-of-way outside of existing right-of-way in order to make improvements and typically donates said right-of-way to DOTD. Such donations eliminate the need to acquire right-of-way for future capacity improvements. The value of such donations would vary widely depending upon the nature of the area of the acquisition, i.e. urban or rural, etc. The Department should also realize some benefit because some turning lanes and signals which are now installed and maintained by the Department would be installed and maintained at the expense of developers.

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

There should be no effect on revenue collections of state or local governmental units. Any permits issued pursuant to this rule-making are issued by DOTD at no charge.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This rule applies to developers of businesses on or within .25 miles of a state highway which generate such substantial traffic flows that access to the state highways must be mitigated by one or more of the methods prescribed in the rule and based on a traffic impact study. The rule also applies to smaller developers which locate on already congested highway corridors. Costs to these groups include (1) the cost of a typical traffic impact study which is \$1,500 to \$4,000 for small developments and \$10,000 to \$15,000 for large developments (Most developers already fund such studies); (2) the cost of a typical roadway improvement consisting of a short left turn lane which is \$200,000; and (3) the cost of a typical traffic signal which is \$80,000 to \$150,000 (depending upon intersection configuration), with negligible maintenance costs. Costs for restricting turning movements are usually part of the initial site development and are negligible.

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

All businesses affected by this rule-making will be affected equitably. No development will have an economic advantage over any competitor as a result of this rule. Any such advantage would be created by factors outside the control of the Department.

J. Michael Bridges
Undersecretary
0410#055

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Emergency Refunds (LAC 58:I.1301)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System (LASERS) proposes to amend LAC 58.I.1301. This amendment is needed to allow LASERS to more efficiently administer refunds of accumulated employee contributions.

The text of this proposed Rule may be viewed in the Emergency Rule section of this Register.

Family Impact Statement

The proposed amendment of LAC 58.I.1301 concerns emergency refunds of accumulated contributions. This regulation should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rules.

No preamble for this Rule is necessary. Interested persons may submit written comments on the proposed changes until 4:30 p.m., November 10, 2004, to Steve Stark, Board of Trustees for the Louisiana State Employees' Retirement, P.O. Box 44213, Baton Rouge, LA 70804.

Robert L. Borden
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Emergency Funds**

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

No implementation costs to state or local governmental units are anticipated to result from the implementation of these rules. The rule deals with refunds of accumulated employee contributions. The enactment of the rule will limit LASERS members to a single instance of emergency refund, which is a refund granted without the usual 30-day delay from the date of termination. There should be a reduction in the administration workload, but it is not possible currently to estimate what the savings will be.

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

No effect on revenue collections to state or local governmental units is expected to result from the implementation of these rules.

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

LASERS members who have terminated employment with the State of Louisiana and who subsequently seek a refund of their accumulated employee contributions prior to the end of the 30 day waiting period set out in R.S. 11:403(22) will be directly affected by the proposed rule change. The cost to these persons will be the end of exemption from that waiting period.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is expected to result from the implementation of these rules.

Robert L. Borden
Executive Director
0410#057

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Mental Health Rehabilitation Program Sanctions

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule revising the provisions governing the grounds and levels of sanctions and the notice and appeal procedures for Mental Health Rehabilitation (MHR) providers (*Louisiana Register*, Volume 30, Number 1). The bureau now proposes to amend the January 20, 2004 Rule to allow sanctioned MHR providers to admit new clients during the appeals process, except in cases involving program integrity issues where safety and health, fraud or abuse are at issue.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the January 20, 2004 Rule to revise provisions governing sanctions for Mental Health Rehabilitation (MHR) providers.

I. ...

II. Provider Participation

A. - G.I.s ...

H. Sanctions

1. The following sanctions may be applied to any MHR agency, independently, consecutively and/or collectively. These sanctions may be imposed in addition to those sanctions cited in the Surveillance and Utilization

Systems (SURS) rule, LAC 50:I.Chapter 41 (*Louisiana Register*, Volume 29, Number 4).

a. - f. ...

g. Sanctioned MHR providers shall be allowed to admit new clients during the appeals process, except in cases involving program integrity issues where safety and health, fraud or abuse are at issue.

H.1.h. - IX. ...

Interested persons may submit written comments to: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Monday, November 29, 2004 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Mental Health Rehabilitation
Program Sanctions**

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

It is anticipated that there will be no programmatic costs to the state as a result of implementation of this proposed rule. It is anticipated that \$136 (\$68 SGF and \$68 FED) will be expended in FY 04-05 for the state administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that implementation of this proposed rule will have no programmatic effect on federal revenue collections. \$68 is included in FY 04-05 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

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

Implementation of this proposed rule allows sanctioned Mental Health Rehabilitation (MHR) providers (approximately 130 providers, the number of sanctions will vary depending on program compliance) to admit new clients during the appeals process, except in cases involving program integrity issues where fraud or abuse are at issue. Implementation of this 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)

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Ben A. Bearden
Director
0410#074

H. Gordon Monk
Staff Director
Legislative Fiscal Office