

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Environmental Sciences Office of Agriculture and Environmental Sciences Advisory Commission on Pesticides

Restriction on Application of Certain Pesticides (LAC 7:XXIII.143 and 147)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Environmental and Agricultural Sciences, Advisory Commission on Pesticides, proposes to amend regulations regarding the restrictions on applications of certain pesticides and their exemption to waiver of restrictions.

The aerial applications of certain herbicides, in certain parishes, in accordance with the current regulations and labels has not been sufficient to control drift onto non target areas. Failure to prevent the drift onto non-target areas will adversely affect other crops particularly cotton. The adverse effects to the cotton crop and other non-target crops will cause irreparable harm to the economy of Central Louisiana and to Louisiana agricultural producers.

These rules comply with and are enabled by R.S. 3:3203 and R.S. 3:3223.

Title 7 **AGRICULTURE AND ANIMALS** **Part XXIII. Pesticide**

Chapter 1. Advisory Commission on Pesticides

§143. Restrictions on Application of Certain Pesticides

A. - O. ...

P. Regulations Governing Aerial Applications of 2,4-D or Products Containing 2,4-D

1. Registration Requirements

a. The commissioner hereby declares that prior to making any aerial application of 2,4-D or products containing 2,4-D, the aerial owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs (DPEP) in writing.

b. The commissioner hereby declares that prior to making any aerial application of 2,4-D or products containing 2,4-D, the aerial owner/operator must have in his/her possession and shall be a part of the record keeping requirements, a written permit from the Division of Pesticides and Environmental Programs (DPEP).

2. Grower Liability. Growers of crops shall not force or coerce applicators to apply 2,4-D or products containing 2,4-D to their crops when the applicators, conforming to the Louisiana Pesticide Laws and Rules and Regulations or to the pesticide label, deem it unsafe to make such applications. Growers found to be in violation of this section shall forfeit their right to use 2,4-D or products containing 2,4-D on their crops, subject to appeal to the Advisory Commission on Pesticides.

3. 2,4-D or products containing 2,4-D Application Restriction. Aerial application of 2,4-D or products

containing 2,4-D is limited to only permitted applications annually between April 1 and July 15 in the following parishes: Allen (East of U.S. Highway 165), Avoyelles, Evangeline, Pointe Coupee, Rapides, and St. Landry.

4. Procedures for Permitting Applications of 2,4-D or Products Containing 2,4-D

a. Prior to any application of 2,4-D or products containing 2,4-D, approval shall be obtained in writing from the Louisiana Department of Agriculture and Forestry (LDAF). Such approval is good for two days from the date issued. Growers or aerial applicator shall obtain approval from the DPEP.

b. The determination as to whether a permit for application is to be given shall be based on criteria including but not limited to:

- i. weather patterns and predictions;
- ii. wind speed and direction;
- iii. propensity for drift;
- iv. distance to susceptible crops
- v. quantity of acreage to be treated;
- vi. extent and presence of vegetation in the buffer zone;
- vii. any other relevant data.

5. Monitoring of 2,4-D or Products Containing 2,4-D

a. Growers or aerial owner/operators shall apply to the DPEP, on forms prescribed by the commissioner, all request for aerial applications of 2,4-D or products containing 2,4-D.

b. Aerial owner/operators shall maintain a record of 2,4-D or products containing 2,4-D applications.

6. Determination of Appropriate Action

a. Upon determination by the commissioner that a threat or reasonable expectation of a threat to human health or to the environment exists, he may consider:

- i. stop orders for use, sales, or application;
- ii. label changes;
- iii. remedial or protective orders;
- iv. any other relevant remedies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), LR 19:791 (September 1993), LR 21:668 (July 1993), LR 21:668 (July 1995), LR 27:

§147. Waiver of Restrictions

A. No commercial applicator shall apply any of the pesticides listed in §143.B in the parishes and during the periods specified in §143.C, D and E without written authorization from the commissioner prior to such application, except as described in §143.P.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April

1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), LR 19:791 (September 1993), LR 21:668 (July 1993), LR 21:668 (July 1995), LR 27:

Family Impact Statement

The proposed amendments to rules LAC 7:XXIII.143 and 147 regarding applications of certain pesticides in certain parishes 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 Bobby Simoneaux through the close of business on January 3, 2001 at 5825 Florida Boulevard, Baton Rouge, LA 70806. No preamble regarding these rules is necessary.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Restriction on Application of Certain Pesticides

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

There will be no net estimated implementation costs or savings to state or local governmental units. The department has current regulations requiring registration by owner/operators aerially applying 2,4-D. The proposed rule change requires all aerial owner/operators to obtain a permit, in writing, from the Division of Pesticides and Environmental Programs prior to administering aerial applications of 2,4-D, or products containing 2,4-D. The savings from implementation of these regulations is anticipated to equally offset the minimal cost of permits by reducing the investigations of citizen complaints caused by aerial applications of 2,4-D drifting onto non-target areas.

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

There will be no estimated 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)

Estimated costs will be minimal to the directly affected persons or groups. The applications in the parishes, except for the portion of Allen parish are currently under waiver restriction in existing regulations. The economic benefits will be that the growers and owner/operators can expect less drift because the product should stay on the targeted area.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0011#053

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Boll Weevil Eradication Commission

Boll Weevil Eradication Zones: Continuation, Program Participation, Fee Payment and Penalties (LAC 7:XV.327)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry hereby proposes to amend regulations regarding the Boll Weevil Eradication Program.

The Department of Agriculture and Forestry intends to adopt these rules and regulations for the purpose of continuing the Boll Weevil Eradication Program.

These rules are enabled by R.S. 3:1609, 1612, 1613.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 3. Boll Weevil

§327. Boll Weevil Eradication Zones: Continuation, Program Participation, Fee Payment and Penalties

A. Upon passage of any referendum that continues a boll weevil eradication zone, all cotton producers growing cotton in the eradication zone shall be required to participate in the eradication program established for that zone.

B. Cotton producers in any boll weevil eradication zone continued by referendum, shall each year, submit to the FSA office the annual assessment as set by the commission in accordance with the Administrative Procedure Act, which assessment shall not exceed \$10 per acre for each year.

C. All of the provisions in §321.C-I of these regulations shall apply to each boll weevil eradication zone continued by referendum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609, 1612, 1613.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 27:

Family Impact Statement

The proposed amendments to rules LAC 7:XV.327 regarding the Boll Weevil Eradication Program 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 the stability of the family, the authority and rights of parents regarding the education and supervision of their children, the functioning of the family, family

earnings and family budget, the behavior and personal responsibility of children, or 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 December 27, 2000, to Dr. John Andries, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments, in writing, by the close of business on December 27, 2000. No preamble concerning the proposed rules is available.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Boll Weevil Eradication Zones:
Continuation, Program Participation, Fee
Payment and Penalties**

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

The purpose of this regulation is to continue the Boll Weevil Eradication Program in the Red River Zone. This continuation is for the containment part of the eradication program. Following passage of a referendum, the costs to state government units to implement the program is an estimated \$5,376,827 over a five-year period. This cost will be paid by producer assessments.

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

The maximum estimated effect on revenue collections to state governmental units per the rule is \$7,500.00 over a five-year period. This estimate is based on a \$50 per acre assessment collected over the five-year lifetime of this program. Cotton producers will be assessed \$10 per acre on an average of 150,000 acres of cotton each year. Actual revenue collections are estimated to be \$5,376,827, since assessments will be limited to actual costs.

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

The estimated cost to directly affected persons is \$5,376,827 over a five-year period. This estimate is based on a \$50 per acre assessment over the five-year lifetime of the program. The estimate assumes approximately 150,000 acres of cotton each year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition within the state, but will facilitate competition with out of state producers. Approximately 50 positions will be maintained by this program. These will be a combination of full-time year round, full-time seasonal, and part-time jobs. The number of jobs will decrease over the life of the program.

Skip Rhorer
Assistant Commissioner
0010#052

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Board of Architectural Examiners**

Limited Liability Companies (LAC 46:I.1505)

Under the authority of R.S. 37:144 and in accordance with the provisions of R.S. 49:951 et seq., the board of Architectural Examiners gives notice that rule making procedures have been initiated for the amendment and repromulgation of LAC 46:I.1505 pertaining to the practice of architecture by limited liability companies. The Board proposes to amend its rules to (1) delete the requirement that a limited liability company may practice architecture only if a majority of the membership is owned by one or more natural persons duly licensed to practice architecture in this state, and (2) allow a limited liability company to practice architecture which satisfies the requirements of the Architectural-Engineering Corporation Law, R.S. 12:1171 et seq. The proposed rules have no known impact on family formation, stability, or economy, as described in R.S. 49:972.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part I. Architects

**Chapter 15. Professional Architectural Corporations,
Architectural-Engineering Corporations,
and Limited Liability Companies**

§1505. Limited Liability Companies

A. The practice of architecture by limited liability companies is only permissible when lawfully constituted under the laws pertaining to limited liability companies, R.S. 12:1301, et seq.

B. No person, firm, partnership, corporation, or group of persons shall solicit, offer, execute, or perform architectural services in this state as a limited liability company without first receiving a certificate from the board authorizing the limited liability company to do so.

C. A limited liability company soliciting, offering, contracting to perform, or performing the practice of architecture shall be subject to the discipline of the board and to its authority to adopt rules and regulations governing the practice of architecture.

D. Any person seeking to practice architecture as a limited liability company shall on an annual basis file with the board a request for licensure and registration, stating the name of the proposed limited liability company and designating therein the supervising professional architect who shall perform all professional architectural services or who shall directly supervise the performance of all architectural services by said limited liability company. The applicant is required to complete said application fully and return same to the executive director. Upon receipt of such application and the fee, the board shall promptly either approve said application and certify the limited liability company as authorized to practice architecture or disapprove said application advising the applicant of the reasons therefor.

E. Only those persons who are presently licensed by the board pursuant to the provisions of R.S. 37:141 through R.S. 37:158, who are in compliance with said provisions, who are full-time active employees of the limited liability company, and whose primary occupation is with that limited liability company may be designated as supervising professional architects.

F. The limited liability company shall authorize the registered supervising professional architect to appear for and act on behalf of the limited liability company in connection with the execution and performance of all contracts to provide architectural services.

G. In the event that such registered supervising professional architect ceases being a full-time active employee of the limited liability company or no longer employed by the limited liability company on a primary basis, the authority of the limited liability company to practice architecture is suspended until such time as the limited liability company designates another supervising professional architect pursuant to §1505.D above. However, if a contract to provide architectural services has been executed and the performance of architectural work is in progress on the date the authority of the limited liability company would be suspended in accordance with the first sentence of this paragraph, the authority of the limited liability company to practice architecture concerning that contract only may continue for a period not exceeding 90 days from the date the registered supervising professional architect ceases being a full-time active employee of the limited liability company or no longer employed by the limited liability company on a primary basis, or until that contract is completed, whichever occurs first.

H. The designated supervising professional architect will be responsible to this board for all acts and conduct of such limited liability company.

I. It will be the responsibility of the supervising professional architect to advise the board of any organizational change that would relate to the authority granted under this rule. Failure to do so could result in disciplinary action, including suspension, revocation, or rescission of the license of the supervising professional architect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-145.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 20:996 (September, 1994), amended LR 27:

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

Mary "Teeny" Simmons
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Limited Liability Companies**

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

There are no estimated implementation costs (savings) to state or local governmental units associated with this 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 associated with this proposed rule.

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

An architectural firm which decides to practice architecture as a limited liability company may incur some legal costs in establishing such an entity, or in converting to such an entity. It is anticipated that any such costs would be nominal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment associated with this proposed rule.

Maty "Teeny" Simmons
Executive Director
0011#033

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Office of Financial Institutions

Residential Mortgage Lending Continuing Education (LAC 10:XII.101-113)

Editor's Note: This Notice of Intent is being repromulgated to correct an error in the Fiscal and Economic Impact Statement. The original Notice of Intent may be viewed on pages 2335 - 2336 in the October 20, 2000 edition of the *Louisiana Register*.

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:1085 and R.S. 6:1094(A) of the Residential Mortgage Lending Act, (RMLA), the Commissioner of Financial Institutions hereby promulgates the following rule to provide guidelines governing required professional education for licensure pursuant to the RMLA by establishing requirements, procedures and standards for persons intending to participate in the RMLA continuing education program by conducting educational programs regarding licensure activity pursuant to the RMLA.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part XII. Residential Mortgage Lending

Chapter 1. Residential Mortgage Lending Program

§101. Purpose

A. This Rule establishes minimum requirements that a certified continuing education facilitator must meet; procedures and standards for the facilitator's certification; and a procedure for verifying that continuing education requirements have been met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:

§103. Procedures and Standards for Facilitator Course Certification

A. Persons who want to participate in the Residential Mortgage Lending Continuing Education Program as a Facilitator must obtain certification by the Commissioner of Financial Institutions ("commissioner") before engaging in that activity. Facilitators are subject to review by the Residential Mortgage Lending Board and must demonstrate their ability to provide an educational program that includes quality student materials and instructors with knowledge, experience and teaching skills necessary to improve the professional level of licensees. A facilitator must submit to the board the following not less than 30 days prior to the expected use of the program and pay a \$500 course evaluation fee as provided by R.S. 6:1094(C)(2). The commissioner may waive the 30-day requirement for good cause upon written request.

1. Continuing Education Facilitator Application on a form provided by the commissioner, along with its required attachments.

2. A copy of the student workbook and materials and a course outline on subject matter chosen from the approved topic list provided by the commissioner. The outline shall include presentation time specifications, a list of resource material, training aids, and the method of presentation.

a. If a facilitator submits a course with copyrighted materials, every student must be provided with original materials as part of the registration. No substitute texts, outlines, summaries or copyright infringements will be allowed.

b. Proprietary student material must be submitted to the board for review based on its own merits and must not infringe on existing copyright materials.

c. Description of the course material provider's method and frequency of updates to insure the integrity of the material.

3. Evidence that the course material is current and includes new developments in the residential mortgage business.

4. Any course that has not been certified by the commissioner before the date on which it is to be presented shall not be represented or advertised in any manner as "certified" for continuing education credit.

5. Certification is for one year. A facilitator may be re-certified by providing evidence that course materials are current and include recent changes in federal and state laws, rules, and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:

§105. Course Requirements

A. Each certified facilitator conducting courses in Louisiana must meet the following requirements.

1. Courses must consist of at least eight hours of certified continuing education courses on topics submitted with the application and chosen from the approved topic list on a form provided by the commissioner.

2. Two hours of RMLA Orientation covering the Office of Financial Institutions' (OFI) application process, examination, and general overview of the Residential Mortgage Lending Act. OFI will provide material to instructors.

3. Classes will be in a live setting only; internet or correspondent courses will not be allowed.

4. One credit hour will be given for 50 minutes of instruction.

5. A minimum of 10 hours of certified courses must be conducted once monthly in New Orleans, Baton Rouge, or Shreveport. Courses must be conducted in each of these cities at least once per quarter.

6. A training schedule on a form provided by the commissioner must be submitted with each request for certification and re-certification. Any change in this schedule must be filed with the commissioner not less than seven days prior to the scheduled date.

7. Registration fee for 10-hour program shall not exceed \$400.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:

§107. Training Facility Requirements

A. The training facility must be easily accessible and secure for the safety of the student. It must comply with all applicable state and federal laws, including but not limited to the Americans with Disabilities Act of 1990.

B. An atmosphere conducive to the education presentation shall be maintained, including good housekeeping; controlled environment as to heating and cooling; proper lighting; and proper furnishings.

C. The instructional area of the facility should be for the exclusive use of the instructional course while in session.

D. The facilitator is responsible for adequate training aids, overhead viewing equipment availability and proper visual layout of the classroom.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:

§109. Procedures for Verifying Continuing Education Credits

A. The facilitator must submit a list of all participants who complete their course to the commissioner in a format approved by the commissioner. The list must be submitted within five business days of the course. The facilitator shall issue a certificate on a form approved by the commissioner, to each individual within 10 business days of successfully completing the course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:

§111. Program Review & Disciplinary Action

A. The commissioner, his designee, or a board member with approval of the commissioner shall have the authority to visit a training facility and review the facilitator's program at any time. Visits may include the review of curriculum records, review of attendance records and observation of instructional sessions in progress.

B. The certification of a facilitator may be suspended or revoked by the commissioner if he determines that:

1. the facilitator's teaching method or curriculum does not meet the standards of this rule or has been significantly changed from that submitted for certification without notice to the commissioner for approval;

2. the facilitator certifies to the commissioner that an individual has completed an approved course in accordance with the standards furnished for certification or completion of the program, when in fact the individual has failed to do so;

3. the facilitator fails to issue a certificate to an individual who has satisfactorily completed the seminar in accordance with the standards furnished for certification; or

4. the commissioner determines there is good and just cause to suspend or revoke certification.

C. Reinstatement of a suspended certification may be made upon the furnishing of proof satisfactory to the commissioner that the conditions responsible for the suspension have been corrected.

D. The commissioner, his designee, or the board at the commissioner's direction, shall review all written complaints lodged against a facilitator or instructor. A meeting may be called for the purpose of investigating the complaint and/or taking necessary action to resolve the complaint. If the facilitator's certification is suspended, the facilitator must respond to the commissioner within 15 days after receiving notice of such suspension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:

§113. Facilitators for Courses Conducted Out of State

A. Certified Facilitators who provide courses at locations out of state must comply with all parts of this Rule except for §105.A.5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:

Any interested person may submit written comments regarding the contents of the proposed Rule to Gary L. Newport, Chief Attorney, Office of Financial Institutions, in person to: 8660 United Plaza Boulevard, Second Floor, Baton Rouge, Louisiana, 70809; or by mail to Louisiana Office of Financial Institutions, P.O. Box 94095, Baton Rouge, LA 70804-9095. All comments must be received no later than 4:30 p.m. November 20, 2000.

John D. Travis
Commissioner

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

**RULE TITLE: Residential Mortgage
Lending & Continuing Education**

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

The proposed rule will result in an approximate cost of \$1,000 annually for travel expenses incurred by the residential mortgage lending board to attend board meetings. In addition a one-time cost of \$60 will be incurred to publish this Proposed Rule.

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

There will be a \$500 fee collected from each educational provider. It is estimated that there will be five for a total revenue of \$2,500.

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

Estimated expenses to the mortgage loan originators will be up to \$400 per year. There are approximately 1,500 originators in Louisiana resulting in up to \$600,000 which they will pay to the educational providers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment because all originators will be required to attend continuing education classes.

John D. Travis
Commissioner
0011#077

John R. Rombach
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School Personnel & Alternative Certification of School Psychologists (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. The proposed amendment provides for the acceptance of an individual's current national certification by the National Association of School Psychologists for the issuance or renewal of Louisiana school psychologist certification. The standards for national certification currently exceed the Louisiana standards for certification of school psychologists.

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

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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, 311, 399, 435, 541 (April, July, September, October, December 1975); amended LR 26:459 (March 2000), LR 26:635 (April 2000); LR 26:638 (April 2000), LR 27:

Bulletin 746: Louisiana Standards For State Certification Of School Personnel

**Alternative Certification of School Psychologists
School PsychologistC Mandatory January 1, 1983**

Standard Certificate (valid for five years, renewable)

1. Issued upon completion of a school psychology training program in Louisiana which meets the requirements of the Standards for Training Programs in School Psychology*

2. Issued to persons who have completed academic preparation in school psychology in another state and whose academic preparation, as evaluated by the Bureau of Higher Education and Teacher Certification, is judged to meet the requirements of the Standards for Training Programs in School Psychology

3. Issued to persons who hold current national School Psychologist certification by the National Association of School Psychologist.

4. Issued to persons who were certified according to criteria previously adopted by the State Board of Elementary and Secondary Education, and

a. Were certified at levels A or B, or

b. Show evidence of 30 additional graduate semester hours (to Level C for 60 hours total) in the areas specified under Level E from a regionally accredited college or university, and who have been employed for at least two years under the supervision of a licensed psychologist or a Level A or B school psychologist with three years of supervised experience as a school psychologist, at least two years of which have been in Louisiana.

5. There shall be two levels of certification issued as Standard Certificates in School Psychology.

a. Level A: Issued to applicants who meet the requirements for the Standard Certificate and who possess a doctoral degree (such as Ph.D, Ed.D, or Psy.D) in psychology from a regionally accredited institution.

b. Level B: Issued to applicants who meet the requirements for the Standard Certificate and who possess a master's or specialist degree from a school psychology training program in a regionally accredited institution.

Provisional Certificate (valid for one year; renewable once, unless lapsed)

1. Issued to persons who have completed academic preparation in school psychology that meets the requirements of the Standards for Training Programs in School Psychology, except for the internship. The internship shall be completed during the time of the provisional certificate in accordance with the internship requirements specified in the Standards for Training Programs in School Psychology.

2. Issued to persons whose certification has lapsed and who have not met the requirements for certification renewal.

Renewal Period

1. The Standard Certificate in School Psychology shall be issued for a period of five years and may be renewed for subsequent five-year periods upon completion within each period ...

a. At least one year of full-time experience or the equivalent as a psychologist, and

b. Six semester hours of additional graduate credit in any of the areas specified in the Standards for Training Programs in School Psychology, or

c. The equivalent number of Continuing Professional Development/Education Units currently awarded by the State Department of Education, the National Association of School Psychologists, or the American Psychological Association, or

d. A combination of graduate credit hours and Continuing Professional Development/Education Units equivalent to six semester hours, or upon presentation of current national School Psychologist certification awarded by the National Association of School Psychologists.

2. The Provisional Certificate may be renewed for one additional year when necessary to complete the internship and upon written request of the applicant and the Director of the Training Program or Intern Supervisor.

3. Lapsed certificates may be renewed upon verification of 1b, 1c, or 1d above. A Provisional Certificate may be awarded for a one-year period during which time the individual must meet the renewal requirements to be awarded the Standard Certificate.

A School Psychologist or School Psychological Assistant certified at Levels E, D, or C (if less than two years of experience) according to criteria previously adopted by the State Board of Elementary and Secondary Education shall have continuing approval for the provision of School Psychological services so long as such certification is kept valid according to the previous renewal criteria. Graduate training taken to meet the renewal requirements for the previous criteria shall be earned in the areas specified in the Standards for Training Programs in School Psychology.

*These standards are on file in the Office of Certification and Higher Education in the State Department of Education.

Interested persons may submit comments until 4:30 p.m., January 10, 2001, 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 746C Louisiana Standards for State Certification of School PersonnelC Alternative Certification of School Psychologists

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

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)

This policy provides for the acceptance of an individual's current national certification by the National Association of School Psychologists for the purposes of issuance and renewal of school psychologist certification in Louisiana. It will eliminate the necessity for the individual to submit required documentation to both the state agency and the national certification body.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn Langley
Deputy Superintendent
0011#074

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Special Certificate for K-8 Foreign Language Teachers with Foreign Credentials (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. The proposed amendment will enable certain individuals who hold foreign credentials and who have been employed in Louisiana as Foreign Associate Teachers to be granted a Special Certificate. Some of these individuals who choose to remain in Louisiana have encountered difficulty in achieving standard certification according to the guidelines in effect for applicants with foreign credentials.

**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, 311, 399, 435,

541 (April, July, September, October, December 1975); amended LR 26:459 (March 2000); LR 26:635-638 (April 2000); LR 26:638-639 (April 2000), LR 27:

Bulletin 746: Louisiana Standards For State Certification Of School Personnel

Special Certificate for K-8 Foreign Language Teachers with Foreign Credentials

A Special Certificate, valid only to teach a foreign language in grades K-8 and allowing the holder to receive the same benefits as other regularly certified teachers, may be issued to a person who:

- a. holds a degree from a foreign university;
- b. holds a teaching certificate from that country;
- c. is a native speaker of the language to be taught;

and

- d. has completed at least two years of service in Louisiana as a Foreign Associate Teacher.

Interested persons may submit comments until 4:30 p.m., January 10, 2001, 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 746C Louisiana Standards for State Certification of School PersonnelC Special Certificate for K-8 Foreign Language Teachers with Foreign Credentials

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

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)

This policy will enable individuals who hold appropriate foreign credentials and who have been employed in Louisiana as foreign associate teachers to become certified to teach the foreign language in grades K-8 without pursuing further course evaluation(s) and/or course credit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy should result in a slight increase in the number of certified teachers available to teach foreign language in grades K-8 in Louisiana.

Marlyn Langley
Deputy Superintendent
0011#076

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Restructure of Board Committees (LAC 28:I.103)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved for advertisement the following revision to the structure, focus areas and charges of the standing committees of the board. The revision reflects the transfer of the post secondary technical system and the adjustments made in order to better address critical initiatives.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 1. Organization

§103. Board Committees

A. ...

B. Standing committees composed of not less than three members of the board and appointed by the president are:

1. 8(g) Committee. Charge: To allocate funds to any or all constitutional categories to enhance elementary and secondary education; to consider all administrative matters of the 8(g) program; and to establish expectations of academic excellence and require accountability of performance.

2. Accountability and Assessment Committee. Charge: To consider all matters relating to student, school and district accountability; to consider all student assessment issues; to determine necessary student and school level interventions based on assessment results of established assessment; to consider all issues regarding the statewide Accountability System; to coordinate resources for school improvement; to monitor the performance of student and schools.

3. Board Relations/Strategic Planning/Administration Committee. Charge: To improve the credibility and visibility of the board and communicate the problems and needs of education through activities of the board and superintendent; to provide for strategic planning and recommend performance outcomes for education initiatives; to consider routine administrative matters of the board; to organize issues-related information to guide board decisions; to administer the superintendent's evaluation; and to receive updates on the benefits of the department's reorganization; to consider program and personnel issues impacting the state Special Schools; to develop policies and procedures for charter school approval and implementation; and to administer loan fund activities of charter schools.

4. Career and Technical Committee. Charge: To serve as liaison with the LCTCS Board to oversee the administration of Carl Perkins funds; to consider matters related to secondary career training programs, such as JTPA; to monitor Department activities related to secondary vocational education; to build an articulated framework from 9-16.

5. Finance/Audit Review Committee. Charge: To provide for a budget process; to annually develop and adopt a formula to equitably allocate education funds to parish and city school systems; to formally review operational plans developed by BESE, SDE, and Special Schools prior to submission to the Office of Planning and Budget; to grant

budget approval and any revisions for the SDE, BESE, and Special Schools; to assure that adequate funding and appropriations are passed along with accountability measures for Special Schools; to review and approve all contracts and leases with agencies under its jurisdiction; to review and address SDE, BESE, and Special Schools audit reports and plans to correct irregularities; and to consider payment of invoices submitted for approval.

6. Legal/Due Process Committee. Charge: To consider legal issues and matters of litigation; to serve as an administrative court of last resort prior to adjudication in the judicial court system (usually revocation/reinstatement of teaching certificates, employee grievances involving property rights, and all due process matters); and to approve nonpublic schools in compliance with *Brumfield v. Dodd*.

7. Legislative/Policy Oversight Committee. Charge: To study the impact of present and future state and federal legislation; to identify the board's role in new legislation; to review goals, implementation and appropriate performance indicators for education initiatives; to develop position statements and/or white papers on education related legislation pending before the legislature and to develop committee/floor strategies for proposed legislation; to draft legislative education reform recommendations; and to receive reports/studies on program results and/or evaluations.

8. Quality Educators Committee. Charge: To make recommendations regarding teacher certification standards, including course studies and teacher licensing test; to consider waivers and/or appeals to standards in special circumstances; to provide for teacher evaluation and assistance, including mentoring; to provide professional development and leadership development designed to improve teaching and learning; to review the impact of professional development activities on teaching and learning; to coordinate activities of the Technology Center; and to coordinate partnerships between secondary and post-secondary institutions.

9. School and Community Support Committee. Charge: To consider school support matters such as nutrition and transportation services, parental involvement, community based learning, school safety, migrant education, child welfare and attendance; and to make recommendations for community support in the area of adult/parental education and training.

10. Student and School Standards/Instruction Committee. Charge: To consider all matters relative to school and student standards; to set standards for high school graduation options; to monitor technical assistance in local curriculum development to align with the state content standards; to monitor curriculum based initiatives, such as Reading/Math; to provide for the education needs of special populations; and to provide for adequate textbooks and materials of instruction.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3(D) and R.S. 17.6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 16:297 (April 1990); amended LR 24:1496 (August 1998), amended LR 26:

Interested persons may submit comments until 4:30 p.m., January 10, 2001, 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: Restructure of Board Committees**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This action will have no fiscal effect other than \$80.00 for advertising in the *State Register*.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This action 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)
This action will have no effect on cost and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This action will have no effect on competition and employment.

Weegie Peabody
Executive Director
0011#075

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Commission Bylaws (LAC 28:VI.209)

The Louisiana Tuition Trust Authority (LATTA), the statutory body created by R.S. 17:3091-3099.2 in compliance with §952 of the Administrative Procedure Act, hereby announces its intention to revise its governing bylaws. This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**Title 28
EDUCATION**

Part VI. Tuition Trust Authority

Chapter 2. Bylaws

§209. Committees

- A. - A.3. ...
 - 4. planning committee; and
 - 5. rules committee.
- B. - B.2. ...
 - 3. The vice chairman of the authority shall be chairman of the rules committee.
 - 4. The term of committee appointments shall be one year.

5. Vacancies occurring among the appointive members of any committees, however arising, shall be filled by the chairman of the authority for the remainder of the unexpired term.

C. - F.3. ...

4. The executive committee shall consider such matters as shall be referred to it by the authority and shall execute such orders and resolutions as shall be assigned to it at any meeting of the authority.

5. However, the authority may not delegate to the executive committee the final determination of the rate of interest to be paid on education savings accounts of record at the close of the calendar year.

6. All official actions of the executive committee shall require a majority vote of the quorum present at the meeting.

7. The executive committee shall also approve all budget adjustments prior to submission to the appropriate authority.

8. In the event that an emergency requiring immediate authority action shall arise between authority meetings, it shall be the duty of the executive committee to meet in emergency session to take such action as may be necessary and appropriate.

9. The executive committee shall report the actions it takes in emergency session to the authority for ratification at the authority's next meeting.

G. - H.3.d. ...

I. Planning Committee. The planning committee shall consist of not less than six members of the authority. Normally, to this committee shall be referred the Strategic Plans and related matters.

J. Rules Committee. The rules committee shall consist of not less than seven members of the authority. Normally, to this committee shall be referred all matters related to making and interpreting rules.

K. Special Committees

1. As the necessary therefore arises, the chairman may, with the concurrence of the authority, create special committees with such functions, powers and authority as may be delegated.

2. The chairman may appoint ad hoc committees for special assignments for limited periods of existence not to exceed the completion of the assigned task.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:1655 (December 1997), amended LR 27:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., December 20, 2000, to Jack L. Guinn, Executive Director, Office of Student Finance Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark S. Riley
Assistant Executive Director

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

RULE TITLE: Commission Bylaws

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No cost is anticipated to implement the proposed rule change. The rule establishes a Planning Committee and a Rules Committee and provides for their duties.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No impact on revenue collections is anticipated to result from this rule change.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No impact on non-governmental groups is anticipated to result from this action.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact on competition and employment is anticipated to result from this rule.

Mark S. Riley
Assistant Executive Director
0011#021

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Nursing**

**Alternatives to Disciplinary Proceedings
(LAC 46:XLVII.3419)**

Notice is hereby given, in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., that the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 intends to adopt rules amending the Professional and Occupational Standards pertaining to Alternatives to Disciplinary Proceedings. The proposed amendments of the rules are set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part XLVII. Nurses
Subpart 2. Registered Nurses**

§3419. Alternative to Disciplinary Proceedings

A. Under the provisions of *Louisiana Revised Statutes* 37:911 et seq., as re-enacted and amended, the Louisiana State Board of Nursing (board) has the authority to establish and implement a recovering nurse program as an alternative to the disciplinary process. The RNP is established to assist registered nurses or student nurses who have demonstrated actual or potential inability to practice nursing with reasonable skill and safety to individuals because of use of alcohol or drugs; or who have demonstrated inability to practice nursing with reasonable skill and safety to individuals because of illness or as a result of any mental or physical condition, so that such nurses or student nurses can be treated and return to the practice of nursing in a manner which will not endanger the public health, safety and

welfare. Only nurses or student nurses whose conditions have reliable indicators of ability for safe nursing practice will be eligible for participation in the RNP.

1. The purpose of the RNP is to encourage the voluntary participation of such nurses or student nurses in appropriate rehabilitative medical treatment and/or ongoing aftercare and monitoring, and to allow for the deferral of administrative proceedings of such nurses under the Louisiana Nursing Practice Law, R.S. 37:911-933.

A.2. - B. ...

1. ensure the health, safety and welfare of the public through a program that closely monitors registered nurses or student nurses whose capacity to practice nursing with reasonable skill and safety to patients has been, or may potentially be, compromised because of use of alcohol or drugs, or because of illness or as a result of any mental or physical condition;

2. promote safe nursing care by preventing and/or restricting the practice of the chemically, physically, and/or mentally impaired nurse or student nurse;

3. implement a plan for identification, referral to treatment facilities and monitoring of the chemically, physically and/or mentally impaired nurse or student nurse;

4. establish criteria for identification of a chemically, physically and/or mentally impaired nurse or student nurse;

5. ...

6. provide a structured program for nurses and student nurses seeking recovery from the impairment through a non-punitive process;

7. provide educational programs to the health care community related to the identification and intervention of chemically, physically and/or mentally impaired nurses or student nurses, subsequent treatment alternatives, and monitoring.

C. ...

Confidentiality Call records of a nurse or student nurse who has successfully completed or is in the non-disciplinary alternative program shall not be subject to public disclosure, and shall not be available for discovery proceedings except as required by federal and state confidentiality laws and regulations. The records of a nurse or student nurse who fails to comply with the Program Agreement or who leaves the program without enrolling in a alternative program in the state to which the nurse moves, or who subsequently violates the Nurse Practice Act or the rules of the board, shall not be deemed confidential except for those records protected by Federal and State confidentiality laws and regulations.

Impaired Nurse Ca registered nurse or student nurse who has demonstrated actual or potential inability to practice nursing with reasonable skill and safety to individuals because of use of alcohol or drugs; or has demonstrated inability to practice nursing with reasonable skill and safety to individuals because of illness or as a result of any mental or physical condition.

Recovering Nurse Program (RNP) Ca program established by the board to identify and assist registered nurses, registered nurse applicants and student nurses whose capacity to practice nursing with reasonable skill and safety to patients has been, or may potentially be, compromised

because of use of alcohol or drugs, or because of illness or as a result of any mental or physical condition.

Student Nurse Can individual who is enrolled in a Louisiana State Board of Nursing approved program preparing for licensure as a registered nurse.

D. - D.2 ...

3. ...

a. licensed registered nurse who resides in the state of Louisiana; or graduate of a school of nursing who is eligible for licensure in Louisiana; or registered nurse currently enrolled in a peer assistance program and who is requesting endorsement from another state; or registered nurse currently enrolled in a peer assistance/alternative program and who is licensed in Louisiana and is requesting transfer back to Louisiana, or a student nurse enrolled in a Louisiana State Board of Nursing approved program;

b. ...

c. addicted to or uses alcohol and/or other mood altering substances including prescription drugs, or has a physical or mental condition, which impairs or potentially impairs the ability of the nurse or student nurse to perform duties safely;

d. no previous disciplinary action within the past two years. No previous peer assistance/alternative program participation unless first relapse uncomplicated by previous history;

e. - i. ...

j. agrees to comply with all RNP specifications and signs Program Agreement including statement of admission of chemical dependency or other impairment.

E. - E.1. ...

2. A registered nurse or student nurse seeking confidential entry into the Recovering Nurse Program (RNP) is initially interviewed by the board's professional staff, the employer, and/or a qualified clinician to assess the nurse's immediate needs, to identify and evaluate the nature and extent of the nurse's or student nurse's impairment, and to determine the nurse's or student nurse's motivation for seeking entry into the program. Eligibility for entry into RNP is based upon the criteria in §3419.D.

3. The board reserves the right to require participation in RNP of any impaired individual who has disciplinary action on their license or who is seeking licensure or who is enrolled in an approved program preparing for licensure as a registered nurse.

4. - 6.c. ...

d. A participant's failure to comply with the RNP agreement may constitute grounds for disciplinary action.

F. ...

1. For nurses or student nurses who have met criteria in §3419.D. and have entered the program confidentially with no disciplinary action will progress according to the guidelines established by the board.

2. Nurses or student nurses who are admitted by disciplinary action will progress according to guidelines established by the board .

G ...

1. A participant who moves from Louisiana to another state with an alternative program shall have records transferred to that program.

2. A participant nurse or student nurse who moves to a state where there is no alternative program shall have the nurse's records transferred to the board in the receiving state and notification of same to Nursing Consultant for Compliance.

H. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), amended LR 27:

Family Impact Statement

The Louisiana State Board of Nursing hereby issues this Family Impact Statement: The proposed rule related to the Board's appointing authority 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 on the proposed rules to: Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 3510 N. Causeway Blvd, Suite 501, Metairie, LA, 70002. The deadline for receipt of all written comments is 4:30 p.m. on December 8, 2000.

Barbara L. Morvant, R.N.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Alternatives to Disciplinary Proceedings

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

There is no anticipated increase or decrease in expenditure or savings based on the projection of 8-10 students entering the Recovering Nurse Program (RNP) per year. These same individuals would be monitored by the board through the disciplinary department if not entering RNP. The only implementation cost is the estimated \$45.00 cost of publishing the rule in the *Louisiana Register*.

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

It is projected that the board will experience a \$5,000 per year loss of revenues based on 8-10 students entering the RNP per year. The loss of self-generated revenues will result from disciplinary fines and fees not excused as a result of entering RNP.

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

Individuals will no longer pay disciplinary fines and fees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment.

Barbara L Morvant, R.N.
Executive Director
0011#032

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

Genetic Diseases C Neonatal Screening (LAC 48:V.6303)

Under the authority of R.S. 40:5 and 40:1299 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health proposes to amend Subsections A, B, E and G of LAC 48:V.6303.

The proposed Rule increases the fee for the purchase of the laboratory specimen form used for newborn screening, adds screening for biotinidase deficiency and includes other requirements necessary for ensuring proper testing, follow-up and reporting. It also restates references on which requirements are based.

The proposed rule should have an overall positive impact on the stability, authority, functioning, behavior and personal responsibility of the family unit in that the rule would ensure that newborn screening is performed timely and properly. Newborn screening is a very important service to families in detecting diseases at birth which can be identified through proper and available screening. Although the proposed rule contains a \$6 increase in the fee for the lab slip used in newborn screening, the proposed fee is well within the average range as charged by other southern states.

Title 48

PUBLIC HEALTHC GENERAL

Part V. Public Health Services

Subpart 19. Genetic Diseases Services

Chapter 63. Neonatal Screening

§6303. Purpose, Scope, Methodology

A. Purpose and Scope. R.S. 40:1299.1.2.3, require physicians to test Louisiana newborns for phenylketonuria, congenital hypothyroidism, sickle cell disease and biotinidase deficiency. The Office of Public Health (OPH) maintains a laboratory for performing screening tests for hyperphenylalanemia manifest in phenylketonuria (PKU), for thyroxine (T₄) and thyroid stimulating hormone (TSH) used in congenital hypothyroidism detection, hemoglobin identification for sickle cell disease and enzyme assay for detection of biotinidase deficiency. Definitive diagnostic tests are provided if the screening test is positive. The newborn screening battery may also be available through other approved laboratories (see Subsection G). Act 0997 of the 1993 Legislative Regular Session of the state of Louisiana, removed galactosemia from the newborn screening battery and replaced it with a program for informing physicians and hospitals of the current medical standards for diagnosing and treating children who exhibit clinical symptoms which suggest the presence of galactosemia.

B. Methodology

1. Filter Paper Specimen Form, (Lab-10) used in blood specimen collection for neonatal screening, can be obtained at parish health units. There are two different types of Lab-10 forms which are color coded.

a. ...

b. For private and non-Medicaid patients, red border Lab-10 forms are used. These red border Lab-10 forms are \$18 each.

2. ...

3. For non-Medicaid patients with a financial status of greater than 100 percent of the Poverty Guidelines as established by the Department of Health and Hospitals (DHH) and who attend a parish health unit for just the newborn screening service, the parent or guardian will be charged \$18 upon registering at the parish health unit.

C. - C.2. ...

D. Notification of Screening Results

1. Providers are notified immediately of positive screens by telephone. Otherwise, submitters should receive the result slip from the State Central Lab within two to three weeks. Submitters may call the Central Lab for results 10 days after submission. The telephone number for the Central Lab is (504) 568-5371. Results are also available to submitters 24 hours a day, 365 days a year through the Voice Response System with FAX (VRS) which is accessed by using a touch tone telephone. Information on using VRS can be obtained by calling the Genetic Diseases Program Office at 1-800-871-9548.

E. Unsatisfactory Specimens. The accuracy of a test depends on proper collection of the blood spot. Specimens of unsatisfactory quality for testing will be indicated on the result slip. Training on collecting adequate specimens can be arranged by calling the Genetics Nurse at telephone number (504) 568-5070.

F. - F.1.f. ...

G Acceptable Newborn Screening Testing Methodologies and Procedures for Medical Providers Not using the State Laboratory. Laboratories performing or intending to perform the state mandated newborn screening battery on specimens collected on Louisiana newborns must meet the conditions specified below pursuant to R.S. 40:1299.1.

1. The testing battery must include testing for phenylketonuria (PKU), congenital hypothyroidism, biotinidase deficiency, and the following hemoglobinopathies: sickle cell disease, SC disease, thalassemias, E disease and C disease.

2. ...

3. A laboratory must perform the complete battery at one site. Using two laboratories for completion of the total battery is unacceptable as this increases the risk of error and delay in reporting.

4. When using dried blood spots, only specimen forms using filter paper approved by the Centers for Disease Control (CDC) are acceptable.

5. Only the following testing methodologies are acceptable without prior approval:

Disease	Testing Methodology
PKU	Flourometric Tandem Mass Spectroscopy Guthrie Bacterial Inhibition Assay Phenylalanine level cut-off: >3 mg, dL, call Genetics Office immediately for obtaining phenylalanine/tyrosine
Congenital Hypothyroidism	Radioimmunoassay (RIA) or Enzyme Immunoassay (EIA) methods for T ₄ and/or Thyroid Stimulating Hormone (TSH) which have been calibrated for neonates
Biotinidase Deficiency	Qualitative or Quantitative Enzymatic Colorometric or Fluorometric
Hemoglobinopathies (Sickle cell)	Cellulose acetate/citrate agar Capillary isoelectric focusing (CIEF)

	Gel isoelectric focusing (IEF) High Pressure Liquid Chromatography (HPLC) Sickle DexCNOT Acceptable Controls must include: F, A, S, C, E Result Reporting: by phenotype Positive/negative is NOT acceptable
New Food and Drug Administration approved methodologies may be used if found to be acceptable by the Genetic Diseases Program. Approval should be requested in writing 60 days before the intended date of implementation (see Genetic Diseases Program mailing address below). Requests for approvals will be based on documentation of FDA approval and an inhouse validation study of said methodology.	

6. The laboratory must comply with the regulations for proficiency testing as mandated in the Clinical Laboratory Improvement Amendments of 1988 (CLIA 88 Section §493.1707). When using dried blood spots, the laboratory must participate in the proficiency testing program of the Centers for Disease Control. The laboratory must report all proficiency testing results to the Genetic Diseases Program Office within one month of receiving the report from the proficiency testing provider.

7. The laboratory must be able to provide test result data to physicians and nurses on their specific patients by telephone and by FAX 24 hours a day 365 days a year.

8. Mandatory Reporting of Positive Test Results Indicating Disease

a. To ensure appropriate and timely follow-up, positive results must be reported, along with patient demographic information as specified below to the Genetic Diseases Program Office either by FAX at 225/568-7722 or by telephone at 225/568-5070 and followed up by the mailing of the information to the following address: Genetic Diseases Program, P.O. Box 60630, Room 308, New Orleans, LA 70160-0630.

b. Specific time deadlines for Reporting positive results indicating probable disease to the Genetics Office:

- i. PKU: report a phenylalanine level of >3 mg/dL on the initial or repeat blood specimen within 2 hours;
- ii. congenital hypothyroidism: report confirmatory test results within 24 hours;
- iii. biotinidase deficiency: report confirmatory results within 24 hours;
- iv. sickle cell disease: report results of FS, FSC, FSA from initial specimens within 24 hours.

c. The specified information to be reported:

- i. child's name;
- ii. parent or guardian's name;
- iii. child's street address;
- iv. child's date of birth;
- v. child's sex;
- vi. child's race;
- vii. parent's telephone number;
- viii. collection date;
- ix. test results;
- x. primary care physician;
- xi. age at collection (< or > 48 hours old);
- xii. birth weight;
- xiii. full term or premature;
- xiv. transfusion

Yes ___ Date of last transfusion No ___.

9. Provision of Follow-up Services. To ensure that reporting time deadlines are met for every positive result indicating probable disease under b above, a follow-up

system must be in operation. The protocol for a follow-up system must include the following.

- a. Locate the infant and ensure diagnostic and medical care:
 - i. telephone call to medical provider within 24 hours of positive lab result;
 - ii. if there is no medical provider available, a telephone call should be made to parent/guardian;
 - iii. if the parent/guardian does not have a telephone, then notify them by certified and regular mail;
 - iv. if there is no response to mail within 5 days, a home visit should be made;
 - v. report to the Genetic Diseases Program Office all patients with suspect results who are unable to be located.
- b. Results of repeat testing should be obtained.
 - i. If results are normal, the case can be closed.
 - ii. If results are abnormal, the case must be reported to the Genetic Diseases Program Office.

10. Reporting requirements of private laboratories to the Genetic Diseases Program Office for public health surveillance and quality assurance purposes.

a. The laboratory must submit quarterly statistical reports to the Genetic Diseases Program Office that indicate the number of specimens screened by method, the number of specimens unsatisfactory for testing, the number normal and positive, and for screening of hemoglobinopathies, the number by phenotype (see Genetics Office address in Subsection G.7).

b. The laboratory must also report to the Genetic Diseases Program Office via electronic transmission newborn screening results on all Louisiana newborns screened each month. The method of transmitting as well as the reporting must be by diskette or another mutually agreed upon form of electronic transmission. The file format and data layout will be determined by the Genetic Diseases Program.

11. The laboratory must register by letter with the Genetic Diseases Program of the Office of Public Health each year. This letter must contain the following and be received in the Genetic Diseases Program Office by February 1 each year:

- a. assurance of compliance with the requirements described in Subsection G.1.-9;
- b. the type of testing methodologies used;
- c. the number of specimens projected to be tested or actually tested annually;
- d. the type of specimen(s) used i.e., filter paper or whole blood;
- e. reporting format for positive/abnormal test results.

12. Guidelines and recommendations on quality assurance of newborn screening from nationally recognized committees and authors should be considered in the establishment and operation of a newborn screening system.

Reference

¹American Academy of Pediatrics, Committee on Genetics: New Issues in Newborn Screening for Phenylketonuria and Congenital Hypothyroidism. *Pediatrics* 1982; 60-104-6.

²References pertaining to Subsection G:
 a. Committee on Genetics, American Academy of Pediatrics Issues in Newborn Screening. *Pediatrics* 1992;89:345.

b. CORN Newborn Screening Committee, Council on Regional Networks for Genetic Services. U.S. Newborn Screening System

Guidelines: Statement of the Council of Regional Networks for Genetics Services. Screening, 1 (1992 pp. 135-147).

c. Andrews L *Legal Liability and Quality Assurance in Newborn Screening*. Chicago, American Bar Foundation (1985), pp. 82-83.

d. National Committee for Clinical Laboratory Standards (NCLS) Standards for Blood Collection on Filter Paper for Neonatal Screening. Document LA4-A2 July 1992.

e. Committee on Assessing Genetic Risks, Division of Health Sciences Policy, Institute of Medicine *Assessing Genetic Risks* National Academy Press, Washington, D.C. (1994).

f. Clinical Laboratory Improvement Amendments, 1988. Health Care Financing Authority (HCFA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, LR 17:378 (April 1991), LR 18:1131 (October 1992), LR 20:1386 (December 1994), LR 23:301 (March 1997), LR 27:

A public hearing will be held December 29, 2000 at 9:00 a.m. in room 511 of the State Office Building in New Orleans located at 325 Loyola Avenue. Interested persons may submit written comments on the proposed rule until December 20, 2000 to Charles Myers, MSW, Administrator, Louisiana Genetic Diseases Program, Office of Public Health/DHH, Room 308, P.O. Box 60630, New Orleans, Louisiana 70160-0630 or by FAX to (225) 568-7722.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Genetic Diseases Neonatal Screening

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

The Agency is reporting costs of \$66,000 for FY 01, and \$198,000 per year for FY 02 and FY 03 respectively. These costs represent biotinidase screening and other laboratory services that were implemented in FY 99 pursuant to Act 328 (1999) and for the purpose of maintaining national newborn screening and follow-up minimum standards. These costs consist of the following items within the State Central Laboratory: One clerk, computer programming contract, an automated dial up reporting system, supplies for laboratory testing and laboratory equipment. A one time cost for the publication of the rule in the *Louisiana Register* is also included in the projection for FY 01. These projected costs will match the amount of revenue projected from the proposed fee increase for the newborn screening lab specimen form.

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

The proposed fee increase from \$12.00 to \$18.00 per lab form is projected to increase state collections by an additional \$66,000 for FY 01 and \$198,000 annually thereafter based upon current birth rate projections. Revenue projections should match the cost of services associated with this rule.

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

Hospitals, physicians and clinics will pay \$6.00 more per lab form as used in the required screenings of newborns. Private laboratories impacted by this rule will have to change or add reporting and follow-up activities to current procedures.

However, their costs associated with compliance with specified reporting and follow-up procedures are expected to be limited.

The proposed \$6.00 increase for the purchase of the lab form as used for screening any newborns not covered by Medicaid will probably be passed on to their parents/guardians and/or their insurance companies.

This is the first such increase since the inception of the fee in 1988 and is within the range charged by many states. Assurance of proper newborn testing and follow-up will be improved by the proposed rule which will benefit children affected by a disease for which screening is mandated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment from the proposed action.

Madeline McAndrew
Assistant Secretary
0011#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

Early Periodic Screening, Diagnosis and
Treatment Dental Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental services under the Medicaid Program. Reimbursement for these services is a flat fee established by the bureau minus the amount that any third party coverage would pay. As a result of the budgetary shortfall, the bureau adopted a rule to reduce the reimbursement fees for EPSDT dental services by 7 percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau determined it was necessary to restore the 7 percent reduction that was previously made to the reimbursement fees for EPSDT dental services. In addition, the reimbursement fees for certain designated procedure codes were increased (*Louisiana Register*, Volume 26, Number 7).

The bureau now proposes to adopt a rule to continue the provisions contained in the July 1, 2000 Emergency Rule.

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 restores the 7 percent reduction that was previously made to the reimbursement fees for the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental services. In addition, the reimbursement fees for certain designated procedure codes are increased to the following rates:

Procedure Code	Procedure Name	New Rate
02110	Amalgam-1 Surface Deciduous	\$ 35.00
02120	Amalgam-2 Surface Deciduous	\$ 45.00
02130	Amalgam-3 Surface Deciduous	\$ 55.00
02140	Amalgam-1 Surface Permanent	\$ 35.00
02150	Amalgam-2 Surface Permanent	\$ 45.00
02160	Amalgam-3 Surface Permanent	\$ 55.00
02930	Stainless Steel Crown-Primary	\$ 75.00
02931	Stainless Steel Crown-Permanent	\$ 75.00
02950	Crown Buildup	\$ 75.00
05211	Upper Acrylic Partial w/Clasp	\$355.00
05212	Lower Acrylic Partial w/Clasp	\$355.00
07110	Simple Extraction	\$ 35.00
07210	Surgical Extraction	\$ 50.00

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Thursday, December 28, 2000, at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, 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.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Early Periodic Screening, Diagnosis and Treatment Dental Services

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

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$959,137 for SFY 2000-01, \$991,865 for SFY 2001-02, and \$1,021,621 for SFY 2002-03. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2000-2001 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 increase federal revenue collections by approximately \$2,289,888 for SFY 2000-01, \$2,354,507 for SFY 2001-02, and \$2,425,142 for SFY 2002-03.

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

Implementation of this proposed rule will increase expenditures to providers of EPSDT dental services by approximately \$3,248,905 for SFY 2000-01, \$3,346,372 for SFY 2001-02, and \$3,446,763 for SFY 2002-03.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0011#062

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**

Home Health Program Extended Skilled Nursing Visits

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for Home Health extended skilled nursing visits provided to medically fragile Medicaid recipients under the age of 21. Reimbursement is made at a prospective rate established by the bureau. As a result of a budgetary shortfall, the bureau adopted a rule to reduce the reimbursement rate for the first hour of the Home Health extended skilled nursing visit to \$20.00 (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau determined it was necessary to increase the reimbursement rate for the Home Health extended skilled nursing visit to \$24.50 per hour (*Louisiana Register*, Volume 26, Number 7).

The bureau now proposes to adopt a rule to continue the provisions contained in the July 1, 2000 Emergency Rule.

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 increases the reimbursement rate for Home Health extended skilled nursing visits to \$24.50 per hour.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health

Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this proposed Rule. A public hearing on this proposed rule is scheduled for Thursday, December 28, 2000, at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, 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.

David W. Hood
Secretary

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

**RULE TITLE: Home Health ProgramC Extended
Skilled Nursing Visits**

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

It is anticipated that implementation of this proposed rule will reduce state program costs by approximately (\$37,680) for SFY 1999-00, (\$175,458) for SFY 2000-01, (\$181,518) for SFY 2001-02, and (186,964) for SFY 2002-03. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2000-01 for the states administrative cost of promulgating 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 reduce federal revenue collections by approximately (\$89,316) for SFY 1999-00, (\$418,994) for SFY 2000-01, (\$430,891) for SFY 2001-02, and (\$443,818) for SFY 2002-03.

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

Implementation of this proposed rule will establish a separate reimbursement rate when skilled nursing services are provided by a licensed practical nurse. Implementation of this proposed rule will reduce the reimbursement to home health agencies by approximately (\$126,996) for SFY 1999-00, (\$594,572) for SFY 2000-01, (\$612,409) for SFY 2001-02, and (\$630,782) for SFY 2002-03.

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

There is no known effect on competition. As a result of the rate reduction some providers may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden
Director
0011#070

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**

**Home Health ServicesC
Skilled
Nursing Reimbursement Reduction**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a rule in March 1996 that established a prospective reimbursement methodology for home health services as well as other provisions governing these services under the Medicaid Program (*Louisiana Register*, Volume 22, Number 3). As a result of a budgetary shortfall, the bureau determined it was necessary to amend the reimbursement methodology to establish a separate reimbursement rate for skilled nursing and physical therapy services when these services are not performed by a licensed registered nurse (RN) or licensed physical therapist. Reimbursement is set at 80 percent of the current rate when skilled nursing services are performed by a licensed practical nurse (LPN). Reimbursement is set at 80 percent of the current rate when physical therapy services are performed by a physical therapy assistant. However, the current rates on file will continue to be paid when a registered nurse provides the skilled nursing service and when a licensed physical therapist provides the physical therapy services (*Louisiana Register*, Volume 26, Number 2). The bureau has subsequently decided to discontinue the reduced reimbursement for physical therapy services when the service is provided by a physical therapy assistant (*Louisiana Register*, Volume 26, Number 9). The bureau now proposes to adopt a rule to continue all other provisions contained in the February 1, 2000 Emergency Rule, except for the provision that established a separate reimbursement rate for physical therapy services when these services are performed by a physical therapy assistant.

In compliance with Act 1183 of the 1999 Regular Session, 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 reimbursement methodology for home health services by establishing a separate reimbursement rate for skilled nursing services when these services are not provided by a licensed registered nurse. Reimbursement is set at 80 percent of the current rate when skilled nursing services are provided by a licensed practical nurse (LPN). However, the current rates on file will continue to be paid when a registered nurse provides the skilled nursing services. The separate reimbursement rate set at 80 percent of the current home health physical therapy rate when the physical therapy services are provided by a physical therapy assistant is discontinued.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, December 28, 2000, at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, 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.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home Health Services Nursing Reimbursement Reduction

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

It is anticipated that implementation of this proposed rule will reduce state program costs by approximately (\$37,680) for SFY 1999-00, (\$175,458) for SFY 2000-01, (\$181,518) for SFY 2001-02, and (\$186,964) for SFY 2002-03. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2000-01 for the states administrative cost of promulgating 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 reduce federal revenue collections by approximately (\$89,316) for SFY 1999-00, (\$418,994) for SFY 2000-01, (\$430,891) for SFY 2001-02, and (\$443,818) for SFY 2002-03.

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

Implementation of this proposed rule will establish a separate reimbursement rate when skilled nursing services are provided by a licensed practical nurse. Implementation of this proposed rule will reduce the reimbursement to home health agencies by approximately (\$126,996) for SFY 1999-00,

(\$594,572) for SFY 2000-01, (\$612,409) for SFY 2001-02, and (\$630,782) for SFY 2002-03.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the rate reduction some providers may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden
Director
0011#064

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**

**Medical Transportation Program Emergency
Ambulance Services**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for emergency ambulance transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount that any third party coverage would pay. As a result of a budgetary shortfall, the bureau adopted a rule to reduce the reimbursement for emergency ambulance transportation services by 7 percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau determined it was necessary to restore the 7 percent reduction previously made to the reimbursement rates for emergency ambulance transportation services. In addition, the base rate for these services was increased by 2 percent. In addition, the reimbursement fees for certain designated procedure codes were increased (*Louisiana Register*, Volume 26, Number 7).

The bureau now proposes to adopt a rule to continue the provisions contained in the July 1, 2000 Emergency Rule.

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 restores the 7 percent reduction previously made to the reimbursement rates for emergency ambulance transportation services. In addition, the base rate for these services is increased by two percent.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-

9030. He is the person responsible for responding to all inquiries regarding this proposed Rule. A public hearing on this proposed rule is scheduled for Thursday, December 28, 2000, at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, 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.

David W. Hood
Secretary

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

**RULE TITLE: Medical Transportation
ProgramC Emergency Ambulance Services**

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

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$276,010 for SFY 2000-01, \$285,384 for SFY 2001-02, and \$293,946 for SFY 2002-03. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2000-2001 for the states 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 increase federal revenue collections by approximately \$658,900 for SFY 2000-01, \$677,450 for SFY 2001-02, and \$697,773 for SFY 2002-03.

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

Implementation of this proposed rule will increase expenditures to providers of providers of emergency ambulance transportation services by approximately \$934,790 for SFY 2000-01, \$962,834 for SFY 2001-02, and \$991,719 for SFY 2002-03.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0011#069

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**

Medical Transportation ProgramC Non-Emergency
Ambulance Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act. This

proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for non-emergency ambulance transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount that any third party coverage would pay. As a result of a budgetary shortfall the bureau adopted a rule to reduce the base rate for non-emergency ambulance transportation services to the rate that was in effect prior to July 1, 1999 (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau determined it was necessary to restore the base rate for non-emergency ambulance transportation services to the rate that was in effect July 1, 1999. In addition, the reimbursement fees for certain designated procedure codes were increased (*Louisiana Register*, Volume 26, Number 7).

The bureau now proposes to adopt a rule to continue the provisions contained in the July 1, 2000 Emergency Rule.

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 restores the base rate for non-emergency ambulance transportation services to the rate that was in effect July 1, 1999. In addition, the reimbursement fees for certain designated procedure codes are increased to the following rates:

A0360	Base rate, BLS, 1 st Trip	\$125.00
A0364	Base rate, no specialized ALS services, 1 st trip	\$125.00
A0366	Base rate, Specialized ALS services, 1 st trip	\$125.00
A0380	Loaded miles, BLS, 1 st trip	\$4.32
A0390	Loaded miles, ALS, 1 st trip	\$4.32
Z5100	Transfer, loaded miles, BLS, 1 st trip	\$125.00
Z5101	Transfer, loaded miles, ALS, 1 st trip	\$125.00
Z5102	Loaded miles, ALS or BLS, 2 nd trip	\$4.32
Z9497	Base rate, ALS or BLS, 2 nd trip	\$125.00

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this proposed rule. A public hearing on this proposed Rule is scheduled for Thursday, December 28, 2000, at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, 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.

David W. Hood
Secretary

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

**RULE TITLE: Medical Transportation
Program C Non-Emergency Ambulance Services**

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

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$1,061,901 for SFY 2000-01, \$1,098,143 for SFY 2001-02, and \$1,131,087 for SFY 2002-03. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2000-2001 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 increase federal revenue collections by approximately \$2,535,242 for SFY 2000-01, \$2,606,791 for SFY 2001-02, and \$2,684,995 for SFY 2002-03.

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

Implementation of this proposed rule will increase expenditures to providers of non-emergency ambulance transportation services by approximately \$3,597,023 for SFY 2000-01, \$3,704,934 for SFY 2001-02, and \$3,816,082 for SFY 2002-03.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0011#068

H. Gordon Monk
Staff Director
Legislative Fiscal Office

Jerry W. Jones
Undersecretary

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of the Fire Marshal**

National Fire Protection Code 101 (LAC 55:V.103)

This Notice of Intent advises that the State Fire Marshal will supplant the 1997 Edition of the National Fire Protection Association National Fire Protection Code 101 for Safety to Life from Fire in buildings and Structures (NFPA Life Safety Code) with the 2000 Edition of the NFPA Life Safety Code for all purposes.

Title 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 1. Preliminary Provisions

§103. General Provisions

A. ...

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NFPA 101	2000 Edition	Code for Safety to Life from Fire in Buildings and Structures
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B. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after 12:01 a.m. on June 1, 2001, shall be made

using construction requirements set forth in the 2000 Edition of the *Life Safety Code* of the National Fire Protection Association and Section 412B Special Provisions for High-Rise Buildings published in the 1994 Edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc. All references to performance based criteria in the 2000 Edition of the *Life Safety Code* shall only be considered by the Office of State Fire Marshal after an appeal of a decision has been timely made. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after May 31, 1998, and prior to 12:01 a.m. on June 1, 2001, shall be made using construction requirements set forth in the 1997 Edition of the *Life Safety Code* of the National Fire Protection Association and Section 412C Special Provisions for High-Rise Buildings published in the 1994 Edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

C. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1578.6 and R.S. 40:1561(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:145 (February 1975), amended LR 5:468 (December 1979), LR 6:71 (February 1980), amended by the Office of the State Fire Marshal, LR 7:588 (November 1981). LR 9:417 (June 1983), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 15:96 (February 1989), LR 17:1114 (November 1991), LR 23:1688 (December 1997), LR 27:

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

RULE TITLE: National Fire Codes

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

The 2000 Edition of the Life Safety Code (NFPA 101) replaces the 1997 Edition. There will be no significant change in practice. The 2000 Edition introduces a performance based option via Section 4.4 and Chapter 5. The Office of State Fire Marshall (SFM) will not implement this option in the 2000 Code. Therefore, there is no projected impact on expenditures until the 2000 Code is updated in three or four years.

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

It is anticipated that there will be no direct 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)

No significant impact from the change to performance based codes is anticipated since Louisiana will not implement this technique in any different manner. The purpose of revising the Life Safety Code periodically is to improve preventative measures. A multitude of detailed measures may be modified during each cycle that are not susceptible of meaningful estimation of fiscal impact on the construction and insurance industries. The purpose of the Code is to prevent fires. This means the economic benefit would be found in estimating the value of lives and property that do not experience a fire loss as a consequence of the changes in the 2000 Edition. However, at such time that the performance based option is implemented, it

is estimated that no significant additional costs would be realized by affected entities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No net effect on competition or employment is anticipated since all entities will be equally affected.

Jerry W. Jones
Undersecretary
0011#050

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Approved Citation for Litter Enforcement
(LAC 55:I.2101)**

Pursuant to R.S. 30:2531.7 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Public Safety Services, hereby gives notice of its intent to adopt LAC55:I.2102. The proposed adoption of §2101 is necessary as a result of the enactment of Act Number 148 of the 1998 First Extraordinary Legislative Session which requires the department to promulgate rules and regulations to provide for a uniform citation document which shall be used for issuing citations of the litter law.

The Superintendent of the Office of State Police will consider comments and public input for a period of 35 days following publication. All comments should be directed to Tammy Pruet Northrup, Post Office Box 66614, Mailstop #11, Baton Rouge, LA 70896, 225-925-6103 (phone) 225-925-4624 (facsimile). A tentative public meeting on these rules is currently scheduled for 11 a.m. Wednesday, December 27, 2000, in the Operational Development conference room at Louisiana State Police Headquarters located at 265 South Foster Drive, Baton Rouge, LA 70806. Please call to confirm the date, time and location if you plan to attend.

**Title 55
PUBLIC SAFETY
Part I. State Police**

Chapter 21. Litter Enforcement

§2101. Approved Citation for Litter Enforcement

A. The department hereby approves any uniform citation approved and adopted for use pursuant to R.S. 32:398.1 for the enforcement of any litter violations committed in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2531.7.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

Family Impact Statement

1. The effect of these rules on the stability of the family.

These rules will have no effect on the stability of the family.

2. The effect of these rules on the authority and rights of parents regarding the education and supervision of their children.

These rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of these rules on the functioning of the family.

These rules will have no effect on the functioning of the family.

4. The effect of these rules on family earnings and family budget.

These rules will have no effect on family earnings and family budget.

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

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

6. The effect of these rules on the ability of the family or local government to perform the function as contained in the proposed rules.

The rules will have no effect on the ability of the family to perform the function as contained in the proposed rules as families do not write citations for violations of the Louisiana Litter Law. The rules will have an effect on local governments as local governments which write citations for violations of the Louisiana Litter Law will be required to write the citation on one of the forms approved by these rules.

Jerry W. Jones
Undersecretary

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

**RULE TITLE: Approved Citation for Litter
Enforcement**

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

There should be no implementation costs or savings to the department. The proposed new rule only authorizes the use of an existing citation currently in use by the department for the enforcement of litter violations in this state. The proposed new rules are necessary as a result of the passage of Act No. 148 of the 1998 First Extraordinary Session which requires the department to promulgate rules and regulations to provide for a uniform citation document which shall be used for issuing citations for litter violations.

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

There should be no effect on revenue collections of the state or local governments as the new rule simply provides for a uniform citation to be used for litter violations. To the extent that state and local governments are receiving any funds as a result of litter violations, they should continue to do so after the promulgation of this new rule.

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

There should be no effect on costs and there should be no economic benefit to directly affected persons or nongovernmental groups as it relates to the new rule. The uniform citation approved for use for litter violations throughout this state is a citation form which is currently in use and being utilized by affected entities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no affect on competition and employment. The proposed new rules simply authorize the use of existing citation currently in use by the department and other affected entities for the enforcement of litter violations in this state.

Jerry W. Jones
Undersecretary
0011#026

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Collection of DNA Samples for Convicted
Offenders (LAC 55:I.Chapter 23)**

Pursuant to R.S. 15:601 et seq. and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Public Safety and Corrections, Public Safety Service, Office of State Police intends to adopt LAC 55:I.Chapter 23. Notice is further given that the department intends to promulgate the following rules and regulations which establish guidelines for the collection, submission, receipt, identification, storage and disposal of DNA samples for convicted offenders as defined in R.S. 15:601 et seq.

The superintendent of the Office of State Police will consider comments and public input for a period of 35 days following publication. All comments should be directed to Tammy Pruet Northrup, P.O. Box 66614, Mailslip #11, Baton Rouge, LA 70896, (225) 925-6103 (phone) (225) 925-4624 (facsimile). A tentative public meeting on these rules is currently scheduled for 10 a.m., Wednesday, December 27, 2000, at the Operational Development Conference Room at Louisiana State Police Headquarters located at 265 South Foster Drive, Baton Rouge, LA 70806. Please call to confirm the date, time and location if you plan to attend.

Title 55

PUBLIC SAFETY

Part I. State Police

**Chapter 23. Collection, Submission, Receipt,
Identification, Storage and Disposal of
DNA Samples**

§2301. Scope, Purpose and Application

A. Scope, Purpose, and Application. To provide rules and regulations governing the collection, submission, receipt, identification, storage and/or disposal of DNA samples for convicted offender for a state database/CODIS pursuant to R.S. 15:601 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

§2302. Definitions

AFISCthe Automated Fingerprint Identification System operated by the Department of Public Safety and Corrections, Public Safety Services.

CAJUNCthe Corrections and Justice Unified Network operated by the Department of Public Safety and Corrections.

CODIS or Combined DNA Index Systemthe Federal Bureau of Investigation's national DNA identification index system which facilitates the storage and exchange of DNA records submitted by state and local criminal justice and law enforcement agencies.

Crime LaboratoryLouisiana State Police Crime Laboratory of the Department of Public Safety and Corrections, Public Safety Services.

Convicted Offendera person convicted of a felony sex offense, other specified offense or any other offense for which a DNA sample must be obtained pursuant to La. R.S. 15:601 et seq.

DepartmentDepartment of Public Safety and Corrections, Public Safety Services.

Directorthe Director of the Louisiana State Police Crime Laboratory.

DNAdeoxyribonucleic acid.

DNA AnalysisDNA typing tests that generate numerical identification information and are obtained from a DNA sample.

DNA Databasethe DNA identification record system maintained and administered by the director.

DNA Database Blood Collection Kit or Kitthe kit provided by the Department for the collection of DNA samples.

DNA RecordDNA information that is derived from a DNA sample and DNA analysis and is stored in the state DNA database or in CODIS, including all records pertaining to DNA analysis.

DNA Samplebiological evidence of any nature that is utilized to conduct DNA analysis.

DPS&CCDepartment of Public Safety and Corrections.

Evidence Technicianindividual authorized by the Director to perform the duties set forth in LAC 55:I:2301 et seq.

FBICFederal Bureau of Investigation within the United States Department of Justice.

FTAspecialized paper that binds DNA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

**§2303. Collection, Submission, and Identification of
DNA Samples for Convicted Offenders**

A. All DNA samples obtained for DNA Analysis from a convicted offender shall be collected using an approved Louisiana State Police Crime Laboratory DNA Database Collection kit as supplied by the department.

1. Each DNA Database Blood Collection Kit shall contain all necessary materials for blood collection via finger stick and for proper identification of the offender.

2. Each kit shall be numbered sequentially from one kit to the next so that each kit number shall serve as a unique identifier. Any DNA Database Collection Kit Envelope, Kit Shipping Envelope, DNA Database Information Card, DNA Database Collection Card or AFIS or CAJUN Printout identifying the convicted offender that may be used as part of the kit shall have the same number as the kit used for collection.

3. For blood collection, all DNA samples shall be collected by individuals trained and approved to serve as collectors by the Louisiana State Police Crime Laboratory.

4. The collector shall complete the DNA Database Information Card or utilize an AFIS or CAJUN Printout which contains the identifying information of the collected offender when obtaining a sample.

a. In the event a DNA Database Information Card is used, the collector shall fill in all requested information as completely as possible. This information shall include the offenders name in full, current address, social security number, date of birth, sex, race, state identification number, submitting agency, name and signature and agency of person obtaining the blood sample, date, and form of positive identification shown by the offender.

b. If an AFIS or CAJUN printout is used, identifying information of the offender will be contained on the printout.

c. A DNA Blood Collection Card or a space on the AFIS or CAJUN printout utilized for all necessary collection information shall be filled out as completely as possible and shall include the following information: race, sex, name of blood collector, signature of blood collector, date and time of sample collection, signature of person taking offender's fingerprint, date and time of fingerprint application.

d. The state identification number or Department of Corrections number and name of the offender shall be written on the FTA Blood Collection Paper in the information space provided.

5. Finger stick blood samples shall be obtained using recognized and approved medical procedures, and the following guidelines shall be followed.

a. Prior to each individual blood collection procedure, personnel performing the collection shall put on barrier gloves. The FTA Blood Collection Paper contained within the kit shall not be touched unless the individual collecting the offender's blood is wearing barrier gloves.

b. The tip of the offender's finger shall be wiped with an absorbent alcohol pad.

c. The offender's finger shall be pricked using a sterile, fixed depth lancet.

d. The offender's finger shall be positioned over one of the four circles printed on the FTA Blood Collection Paper, and the finger shall be milked, allowing two drops of blood to fall onto the FTA paper, within the circle. This procedure will be repeated for the remaining three circles if possible.

e. A sterile gauze pad shall be used to wipe off any remaining blood from the offender's finger, and an adhesive bandage shall be affixed to the offender's finger.

f. All medical supplies (lancet, absorbent alcohol pad, gauze pad, barrier gloves) shall be discarded in compliance with standard medical procedures.

g. The blood on the FTA Blood Collection Paper shall be allowed to air dry for approximately 30 minutes. The FTA Blood Collection Paper shall not be touched, nor shall it be allowed to come in contact with any other FTA Blood Collection Paper during the drying and packaging stages.

h. The FTA Blood Collection Paper shall be placed in the protective envelope provided in the kit and sealed. The sealed protective envelope shall be stapled to the DNA Database Collection Card or the Completed AFIS or CAJUN printout which shall then be placed in the kit envelope. The kit envelope flap shall be moistened and the envelope sealed.

An evidence or security seal shall then be placed over the envelope seal, and the seal shall be dated and initialed.

i. The sealed kit envelope shall be placed in a pre-addressed mailing envelope which shall be conspicuously marked as containing dried blood specimens with a biohazard label.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

§2304 Shipping of DNA Samples for Convicted Offenders

A. DNA samples collected in accordance with these procedures shall be submitted to the Crime Laboratory in person by approved personnel or via delivery service, such as U.S. mail in accordance with the Crime Laboratory's Quality Manual. The mailing envelope shall be mailed or delivered to the Crime Laboratory after collection to the following address:

Louisiana State Police Crime Laboratory
376 East Airport Drive
Baton Rouge, LA 70806

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 27:

§2305. Record Keeping of DNA Samples for Convicted Offenders

A. The individual who collects each DNA sample shall provide an accurate, up-to-date list of every DNA sample collected each day of collection. Any failed attempts to collect blood from an offender and the reason for the failure (e.g. refusal of offender to submit, failure to keep scheduled appointment) shall also be indicated. The list will include the following information: the kit number, the offender's name, the name of the person collecting the sample and the submitting agency together with any additional data which the director deems necessary. This information shall be forwarded in the form of an audit sheet to the director on a daily basis, via both facsimile and U.S. mail. If the mailing envelopes are hand delivered to the Crime Laboratory the audit sheet shall accompany the mailing envelopes being delivered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

§2306. Storage of DNA Samples for Convicted Offenders

A. The sealed kits containing DNA samples shall be stored in a dedicated storage area within the Crime Laboratory. Access to the sealed kits and to the storage area shall be limited to authorized personnel. Any access to or removal/return of the sealed kit or specimen bags shall be performed in accordance with Crime Lab Evidence and Handling Policies and Procedures. Only authorized personnel shall open a sealed kit or specimen bag and shall initial and date the broken seal and shall reseal the kit or specimen bag in accordance with standard forensic operating procedures.

B. DNA samples on FTA Blood Collection Paper, DNA Database Collection Cards, DNA Database Identification Cards, and AFIS or CAJUN printouts shall be stored

indefinitely in a secure storage area unless otherwise required in accordance with R.S. 15:614.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

§2307. Severability

A. If any article, section, subsection, sentence, clause or phrase of LAC 55:I:2301 et seq. is for any reason determined to be unconstitutional, contrary to statute, in excess of authority, or otherwise inoperative, such determination shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of LAC 55:I:2301 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

Family Impact Statement

1. The effect of these rules on the stability of the family. These rules will have no effect on the stability of the family.

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

3. The effect of these rules on the functioning of the family. These rules will have no effect on the functioning of the family.

4. The effect of these rules on family earnings and family budget. These rules will have no effect on family earnings and family budget.

5. The effect of these rules on the behavior and personal responsibility of children. These rules will have no effect on the behavior and personal responsibility of children.

6. The effect of these rules on the ability of the family or local government to perform the function as contained in the proposed rules. The rules will have no effect on the ability of the family to perform the function as contained in the proposed rules as families are not required to collect DNA samples from convicted offenders. The rules may have an effect on local governments as local governments which house prisoners for a crime for which a DNA sample is required may be required to have their employees trained to collect DNA samples. Any such training will be supplied by the Louisiana State Police Crime Laboratory.

Jerry W. Jones
Undersecretary

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

**RULE TITLE: Collection of DNA Samples for
Convicted Offenders**

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

There should be no implementation costs or savings to the department. The proposed new rules are necessary as a result of the passage of Act No. 737 of the 1997 Regular Legislative Session which requires promulgation of policies and procedures to implement the DNA Detection of Sexual and Violent Offenders Act. The department is proposing to initiate collections on convicted offenders only. The only expense for

this type of collections will be the costs of the DNA collection kits. The secretary of the Department of Public Safety and Corrections has agreed to fund the costs of at least 2,000 of the DNA collection kits at \$4.47 per kit to begin sampling of convicted offenders.

The enactment of LAC 55 Part I, Chapter 23 et seq. is necessary to establish guidelines for the collection, submission, receipt, identification, storage and disposal of DNA samples for convicted offenders as defined in R.S. 15:601 et seq.

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

There should be no effect on revenue collections of the state as these rules only establish guidelines for the collection, submission, receipt, identification, storage and disposal of DNA samples for convicted offenders as defined in R.S. 15:601 et seq. The commencing of sampling for DNA will not raise revenue. There should be no effect on revenue collections of local governments as the programs for which these rules are being adopted and/or amended are not utilized by local governments.

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

There should be no effect on costs and there should be no economic benefit to directly affected persons or nongovernmental groups as it relates to the program for which the proposed rules apply. This program provides for the sampling of DNA from convicted offenders as defined in R.S. 15:601 et seq. There will be no costs to convicted offenders who will provide the samples in accordance with law and no nongovernmental group will be affected by this program.

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

There should be no effect on competition and employment. The proposed new rules initiate collections of DNA samples from convicted offenders as defined in R.S. 15:601 et seq. currently housed in correctional facilities throughout the state. The Office of State Police proposes to utilize existing employees to train individuals who are currently employed at those correctional facilities to collect these samples.

Jerry W. Jones
Undersecretary
0011#025

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Office of the Secretary**

Policy Statements (LAC 61:III.101)

Under the authority of 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, Office of the Secretary, proposes to adopt LAC 61:III.101 to provide for policy statements issued by the Department of Revenue.

The Secretary of Revenue is authorized by R.S. 47:1511 to adopt reasonable rules and regulations to enforce the provisions relating to the taxes collected and administered by the department. LAC 61:III.101 is proposed to establish the types of policy statements to be issued for the proper administration and enforcement of the tax laws and the collection of revenues.

Title 61

REVENUE AND TAXATION

Part III. Department of Revenue; Administrative Provisions and Miscellaneous

Chapter 1. Agency Guidelines

§101. Policy Statements

A. Purpose

1. This rule defines the types of policy statements that may be issued and the procedures for issuing them. Policy statements provide guidance as to the department's position and ensure that employees enforce the tax laws correctly, consistently, and fairly.

2. In the past, policy statements issued to provide policy guidance included rules, Private Letter Rulings, Technical Advisory Memoranda, Policy and Procedure Memoranda, and informal oral and written advice.

3. The following policy statements will now be issued:

- a. rules adopted according to the administrative procedure act;
- b. policy and procedure memoranda;
- c. declaratory rulings:
 - i. private letter rulings;
 - ii. revenue rulings; and
 - iii. statements of acquiescence or nonacquiescence;
- d. revenue information bulletins; and
- e. informal advice.

B. Distinguishing Rules from Other Policy Statements

1. Rules are adopted in accordance with Louisiana's Administrative Procedure Act (APA), R.S. 49:950 et seq., and the APA is the authoritative guide as to when a rule is required.

2. The APA excepts agency statements, guides, or requirements for conduct or action that regulate the internal management of the agency from the definition of a "Rule" [R.S. 49:951(6)]. Policy and Procedure Memoranda are issued under this exception.

3. The APA also provides that "The fact that a statement of policy or an interpretation of a statute is made in the decision of a case or in an agency decision upon or disposition of a particular matter as applied to a specific set of facts involved does not render the same a rule within this definition or constitute specific adoption thereof by the agency so as to be required to be issued and filed as provided in this Subsection" [R.S. 47:951(7)]. The term Rule "does not include declaratory rulings or orders." [R.S. 47:951(6)]. Declaratory Rulings are issued under these exceptions.

4. General information may be disseminated and general assistance provided, but taxpayers are only bound by statutes and regulations that have the force and effect of law. Revenue Information Bulletins and informal advice offered to taxpayers do not establish legal requirements for taxpayers.

5. Within the parameters set forth by the APA, Title 47, and other applicable laws, discretion may be used to determine if policy guidance is needed and the type of policy guidance to be issued.

6. Reasons for issuing a rule may include:

- a. the law or current rules are not clear and the issue affects many people;

b. there is inconsistency in the treatment of a tax issue within the department or among taxpayers;

c. the procedures a taxpayer should follow to comply with the law are undefined, unclear, or inconsistently followed;

d. a request for a Private Letter Ruling from one taxpayer concerns an issue that may affect many taxpayers;

e. a request for policy guidance from employees concerns an issue that may affect many taxpayers; or

f. issuance of a rule will assist the public in meeting its legal obligations in an effective and efficient manner.

7. Reasons for not issuing a rule may include:

- a. the matter affects only one taxpayer;
- b. the law is clear;
- c. a statutory change is more desirable; or
- d. the matter may best be handled by another means.

C. Declaratory Rulings

1. Declaratory Rulings are statements pertaining to a specific set of facts to provide guidance for department employees and taxpayers. Declaratory Rulings, Policy and Procedure Memoranda, Revenue Information Bulletins, and informal advice are not agency rules and are not binding on the public.

2. The following types of Declaratory Rulings will be issued with a uniform format and numbering system. Each Declaratory Ruling will indicate the date the ruling was issued, a summary title of what the ruling addresses (subject heading), whether it replaces, modifies, or supersedes a previous policy statement, applicable references and authority, a statement of scope, and other pertinent information.

a. Private Letter Rulings

i. Private Letter Rulings (PLR) provide guidance to a specific taxpayer at the taxpayer's request. It is a written statement issued to apply principles of law to a specific set of facts or a particular tax situation. A PLR does not have the force and effect of law.

ii. A PLR is not binding on the person who requested it or on any other taxpayer. It is binding on the department only as to that taxpayer and only if the facts provided were truthful and complete and the transaction was carried out as proposed. It continues as authority for the department's position unless a subsequent declaratory ruling, rule, court case, or statute supersedes it.

iii. Requests for PLR are submitted to the Secretary by an identified taxpayer, or the taxpayer's representative who has a power of attorney. Requests must contain the following information:

(a) name, address, and telephone number of person requesting the advisory opinion;

(b) a power of attorney, if the person is represented by a third party;

(c) specific questions to be answered or issues to be addressed;

(d) complete statement of all relevant facts;

(e) citations to or copies of relevant statutes, regulations, court decisions, advisory opinions, or other authority that appear to support the taxpayer's position;

(f) copies of relevant documents such as contracts, wills, deeds, account statements, workpapers, reports, invoices, etc.; and

(g). a statement attesting:

(i). whether the person requesting the opinion has the same issue under audit or appeal with the department or any other taxing or revenue authority;

(ii). if the person requesting the opinion has been notified that an examination or audit is pending;

(iii). if the person requesting the opinion is litigating the issue;

(iv). if the department, or any other taxing or revenue authority, has previously issued the advisory opinion on the same issue (with copy attached); and

(v). if the Attorney General's Office has been, or will be, requested to issue an opinion concerning the issue.

(vi). that, prior to the issuance of a PLR, if the requesting person is notified of a pending examination or audit by the department or other taxing or revenue authority, they will notify the secretary of the pending examination.

iv. PLR's may be published but only after all taxpayer identifying information has been removed and measures are taken to protect taxpayer confidentiality.

v. A PLR request may not be used to delay or interrupt an audit.

vi. Reasons for issuing a Private Letter Ruling may include:

(a). it has been requested by an identified taxpayer, or the taxpayer's representative who has a power of attorney; and

(b). the law and regulations are not clear.

vii. Reasons for not issuing a Private Letter Ruling may include:

(a). the law and regulations are clear;

(b). a rule would be more appropriate under the

APA;

(c). the inquiry concerns alternative treatments or purely hypothetical situations;

(d). the inquiry concerns matters scheduled for audit or in audit, appeal, or litigation;

(e). the inquiry concerns federal tax matters not pertaining to differences in treatment for federal and state purposes;

(f). the inquiry concerns an issue that is being litigated or may be litigated in the near future;

(g). the request is incomplete because it does not contain all of the information required by §101.C.2.a.iii;

(h). the request can best be handled by another means; or

(i). the requesting person withdraws the request at any point prior to issuance of the PLR.

b. Revenue Rulings

i. A Revenue Ruling provides guidance to the public and employees.

(a). It is a written statement issued to apply principles of law to a specific set of facts.

(b). A Revenue Ruling does not have the force and effect of law and is not binding on the public. It is a statement of the department's position and is binding on the department until superseded or modified by a subsequent change in statute, regulation, declaratory ruling, or court decision.

(c). A Revenue Ruling is requested by employees, who provide a complete factual and legal

background similar to that required of taxpayers requesting a Private Letter Ruling.

(d). A Revenue Ruling request cannot be used to delay or interrupt an audit.

ii. Temporary Revenue Rulings may be used when necessary due to time constraints or emerging issues.

(a). Temporary Revenue Ruling must clearly state their lack of finality and once a final Revenue Ruling is issued, the Temporary Revenue Ruling is superseded.

(b). If the final Revenue Ruling reaches a different conclusion than the Temporary Revenue Ruling, the department will honor whichever ruling is more favorable to the taxpayer, but only for those transactions that occurred after the Temporary Revenue Ruling was issued and before the final Revenue Ruling.

iii. Reasons for Issuing a Revenue Ruling may include:

(a). to provide an official interpretation of rules, regulations, statutes, court cases, Board of Tax Appeals decisions, or any other sources of law as to a specific set of facts;

(b). to serve as guidance to taxpayers, tax practitioners, and employees if the law or regulations are not clear as to a specific set of facts.

iv. Reasons for Not Issuing a Revenue Ruling may include:

(a). the law and regulations are clear;

(b). a rule would be more appropriate under the

APA;

(c). the inquiry concerns an issue that is being litigated or may be litigated in the near future;

(d). the facts contain information that could identify a taxpayer and the taxpayer has not consented to publication of the revenue ruling or there are other confidentiality concerns; and

(e). the request can best be handled by another means.

c. Statements of Acquiescence or Nonacquiescence

i. A Statement of Acquiescence or Nonacquiescence (SA/SNA) is intended to provide guidance to the public and to employees.

ii. A SA/SNA is a written statement issued to announce the department's acceptance or rejection of specific unfavorable court or administrative decisions. If a decision covers several disputed issues, a SA/SNA may apply to just one of them, or more, as specified.

iii. A SA/SNA is not binding on the public, but is binding on the department unless superseded by a later SA/SNA, declaratory ruling, rule, statute, or court case.

iv. If the department acquiesces, these guidelines will be followed.

(a). In cases that are substantially the same as the facts, the same result will be reached by department officials and may be relied on by employees and taxpayers. Taxpayers must be careful to apply acquiescence to the same or substantially the same facts. Acquiescence does not mean agreement with the court's reasoning; simply that the department will abide by it.

(b). The department may acquiesce in the result only, which only concedes the litigation with that particular taxpayer. The issue may still be pursued with other taxpayers. This indicates that the department will likely seek

out another opportunity to litigate the issue with the hope of having the issue addressed by an authoritative court.

(c). The department may consider any of the following factors in deciding whether to issue a Statement of Acquiescence or Nonacquiescence:

(i). whether the issue in the court or administrative decision affects many taxpayers;

(ii). whether the issue is one of fact or law, or a mixed question;

(iii). whether the decision is binding statewide with no statement needed;

(iv). whether other cases on the same or a similar issue are pending;

(v). whether cases in other jurisdictions have been decided, and in whose favor;

(vi). the cost of litigation as it relates to that issue, as well as overall;

(vii). the clarity of the applicable statutes and regulations on the disputed issue;

(viii). the soundness of the reasoning of the decision; or

(ix). the likelihood of success if the Department relitigates the issue.

C. Other Types of Policy Guidance

1. Policy and Procedure Memoranda

a. A Policy and Procedure Memorandum (PPM) is an internal document providing internal administrative or management guidance to employees. A PPM does not have the force and effect of law and is not binding on the public. It does not focus on taxpayers' substantive or procedural rights or obligations. It is binding on employees.

b. A PPM may be issued for any of the following reasons:

i. to notify employees of internal policies that apply only to employees and do not apply to taxpayers;

ii. to notify employees of internal procedures and instructions that do not apply to taxpayers; or

iii. to inform employees of internal programs that affect only employees.

c. A PPM may not be the appropriate policy statement if:

i. a taxpayer's substantive or procedural rights or obligations would be affected; or

ii. a rule would be more appropriate under the APA.

2. Revenue Information Bulletin

a. A Revenue Information Bulletin (RIB) is an informal statement of information issued for the public and employees that is general in nature. A RIB does not have the force and effect of law and is not binding on the public or the department. RIB's will be established in a standard format and issued in sequence. Each RIB will address one topic.

b. A RIB announces general information useful in complying with the laws administered by the department and may be issued under any of the following circumstances:

i. to inform the public and employees that a statute or regulation has been added, amended, or rescinded;

ii. to inform the public and employees that a case has been decided;

iii. to publish information to employees and the public that is based on data supplied by other agencies, such

as per capita income figures or comparative tax collections by parish;

iv. to publish IRS information;

v. to publish information such as deadlines;

vi. to inform the public of services offered by the department, such as regional office hours, website features, and like information; or

vii. to revise a previous Revenue Information Bulletin, Tax Topics, or other similar publication.

c. A RIB may not be used under the following circumstances:

i. if the primary purpose is to provide a declaratory ruling, interpretation, or procedural guidance; or

ii. if announcements of general information can best be handled by other means.

3. Informal Advice

a. In addition to Rules, Declaratory Rulings, Policy and Procedure Memoranda, and Revenue Information Bulletins, taxpayers and employees may still seek advice on tax questions. To assist customers, the department will provide informal advice. Informal advice does not have the force and effect of law and is not binding on the department, the public, or the person who asked for the advice. Informal advice will have no effect on an audit.

b. Any of the following types of informal advice may be provided.

i. Informal Oral Advice. There is no formal procedure for requesting informal oral advice. Employees will answer questions by telephone or in person as requested, within resource and appropriateness constraints. Advice given at audit meetings, protest conferences, and the like is considered informal oral advice.

ii. Informal EMail Advice. Has the same status as informal oral advice.

iii. Informal Written Advice. Requests for informal written advice should be in writing. Informal written advice is not a declaratory ruling.

iv. Newsletters, Pamphlets, and Informational Publications. The department may publish informational newsletters, pamphlets, and publications at regular intervals. Statements contained in these publications do not have the force and effect of law and they are not binding on the public or the department. They are merely helpful tools for disseminating information.

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

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of the Secretary, LR 27:

Interested persons may submit data, views, or arguments, in writing to Susan Louise Dunham, Assistant Secretary, Office of Legal Affairs, P.O. Box 4064, Baton Rouge, LA 70821-4064 or by fax to (225) 925-6612. All comments must be submitted by 4:30 p.m., Wednesday, December 27, 2000. A public hearing will be held on Thursday, December 28, 2000, at 1:00 p.m. in the Department of Revenue Secretary's conference room, 330 North Ardenwood Drive, Baton Rouge, Louisiana.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Policy Statements**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Implementation of this proposed regulation, which establishes the types of policy statements to be issued by the Department for the proper administration and enforcement of the tax laws and the collection of revenues, will have no impact on the agency's costs.
- 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 as a result of this proposed regulation.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Implementation of this proposed regulation will have no effect on the costs of taxpayers submitting requests for policy statements.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposed regulation should have no effect on competition or employment.

Cynthia Bridges Robert E. Hosse
Secretary General Government Section Director
0011#034 Legislative Fiscal Office

Family Impact Statement

- 1. The effect on the stability of the family. The proposed emergency rule will have no effect on the stability of the family.
- 2. The effect on the authority and rights of parents regarding education and supervision of their children. The proposed emergency rule will have no effect on the authority and rights of parents regarding education and supervision of their children.
- 3. The effect on the functioning of the family. The proposed emergency rule will have no effect on the functioning of the family.
- 4. The effect on family earnings and family budget. The proposed emergency rule will have no effect on family earnings and family budget.
- 5. The effect on the behavior and personal responsibility of children. The proposed emergency rule 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. The proposed emergency rule does not contain any function which would need to be performed by a family or a local government.

J. Renea Austin-Duffin
Secretary

NOTICE OF INTENT

**Department of Social Services
Office of Community Services**

**Residential Facilities Reimbursement Rates
(LAC 67:V.3503)**

The Department of Social Services, Office of Community Services, proposes to amend the *Louisiana Administrative Code*, Title 67, Part V, Subpart 5, Foster Care. The agency proposes to amend §3503 entitled "Reimbursement Rates for Residential Facilities" to change Subsection D.

**Title 67
SOCIAL SERVICES
Part V. Office of Community Services
Subpart 5. Foster Care
Chapter 35. Payments, Reimbursables and Expenditures**

§3503. Reimbursement Rates for Residential Facilities

A.1. - C. ...

D. The department will freeze residential rates at the 1999/2000 amount.

Authority Note: Promulgated in accordance with R.S.15:1084.

Historical Note: Promulgated by the Department of Social Services, Office of Community Services, LR 14:542 (August 1988), amended LR 20:898 (August 1994), LR 25:1144 (June 1999), LR 25:1609 (September 1999), LR 26:24 (January 2000), LR 26:1342 (June 2000), LR 27:

Interested persons may submit written comments relative to this proposed rule through November 20, 2000 to Carmen D. Weisner, Assistant Secretary, P.O. Box 3318, Baton Rouge, LA 70821.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Residential Facilities
Reimbursement Rates**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
It is estimated that the costs to publish this rule will be \$80 which will be paid out of current year funds in the Office of community Services (OCS). there will be no increased cost as a result of implementation of the proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections as a result of implementation of this proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Residential facilities reimbursed under the rate setting system will experience no change in their currently frozen rates as a result of the implementation of this rule. Failure to continue the frozen rates would cause a fiscal emergency for many residential providers which would adversely affect their ability to continue caring for foster children in residential placements.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact on competition or employment is expected from the proposed rule.

Debbie Johnson
Budget Director
0011#044

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Rehabilitation Services

Vocational Rehabilitation Services
Eligibility and Ineligibility
(LAC 67:VII. Chapter 1)

In accordance with the provisions of R.S. 49:953(B), the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) is revising its Vocational Rehabilitation Policy Manual Sections: 109. Eligibility and Ineligibility and 115. Financial. Revisions to the Eligibility and Ineligibility are being made to the "Order of Selection" to provide the agency with sufficient flexibility in allocating the order of selection groups on the basis of functional impairment with the most significant continuing to receive priority. Moving to five selection groups will also provide the agency with increased flexibility in managing the opening and closing of the groups to ensure that the most significantly disabled continue to receive priority for services. Revisions to the Financial section are being made to the Individual's Participation in the Cost of Vocational Rehabilitation Services, to exempt certain Social Security recipients from a financial need test.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 1. General Provisions

§109. Eligibility and Ineligibility

A. - H.1.b. ...

I. *Individual with a Significant Disability*C

1. Individuals eligible for vocational rehabilitation services are determined to be significantly disabled if the disabling condition and subsequent functional limitations fall into one of the following:

- a. The individual is a recipient of Social Security Disability Insurance (SSDI); or
- b. The individual is a recipient of Supplemental Security Income (SSI) by reason of blindness or disability (SSI based on age alone does not automatically render an individual significantly disabled); or
- c. The individual is one:
 - i. who has a severe physical or mental impairment which severely limits one or more functional capacities (mobility, motor skills, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and
 - ii. whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time (extended period of time means six months or longer); and
 - iii. who has one or more physical or mental disabilities resulting from:
 - (a). amputation;
 - (b). arthritis;
 - (c). autism;
 - (d). blindness;
 - (e). burn injury;
 - (f). cancer;
 - (g). cerebral palsy;
 - (h). cystic fibrosis;

- (i). deafness;
- (j). head injury;
- (k). heart disease;
- (l). hemiplegia;
- (m). hemophilia;
- (n). respiratory or pulmonary dysfunction;
- (o). mental retardation;
- (p). mental illness;
- (q). multiple sclerosis;
- (r). muscular dystrophy;
- (s). musculoskeletal disorders;
- (t). neurological disorders (including stroke and epilepsy);
- (u). paraplegia, quadriplegia, other spinal cord conditions;
- (v). sickle cell anemia;
- (w). specific learning disability;
- (x). end-stage renal disease; or
- (y). another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitations.

J. **Functional Capacity Areas** Defined. Functional Capacity Areas are defined as follows: mobility, motor skill, communication, self-care, self-direction, interpersonal skills, work tolerance, and work skills.

K. Order of Selection

1. LRS follows an Order of Selection to ensure that individuals with the most significant disabilities receive priority for vocational rehabilitation services.

2. The following factors shall not be used either in determining the order of selection or in determining the placement category of eligible individuals:

- a. any duration of residency requirement, provided the individual is present in the state;
- b. type of disability;
- c. age, gender, race, color, creed, or national origin;
- d. source of referral;
- e. type of expected employment outcome;
- f. the need for specific services or anticipated cost of services required by an individual; or
- g. the income level of an individual or an individual's family.

3. Prerequisite to Placement in the Order of Selection Assignment to a selection group is made after a determination of both of the following:

- a. eligibility for Vocational Rehabilitation Services; and
- b. significance of disability.

4. Selection Groups. In accordance with the criteria below, an individual is placed in one of the following:

a. **Selection Group I** Most Significantly Disabled. An eligible individual is considered most significantly disabled when all of the following apply:

- i. the individual meets the definition of an "individual with a significant disability" as defined in Subsection I above.
- ii. the individual's significant physical or mental impairment seriously limits four or more functional capacity areas; and

iii. the individual's vocational rehabilitation is expected to require multiple vocational rehabilitation services over an extended period of time;

b. Selection Group IICThe Most Significantly Disabled. An eligible individual is considered the most significantly disabled when the following apply:

i. the individual meets the definition of an "individual with a significant disability" as defined in Subsection I above.

ii. the individual's severe physical or mental impairment seriously limits three functional capacity areas; and

iii. the individual's vocational rehabilitation is expected to require multiple vocational rehabilitation services over an extended period of time.

c. Selection Group IIICSignificantly Disabled. An eligible individual is considered significantly disabled when the following apply:

i. the individual meets the definition of an "individual with a significant disability" as defined in Subsection I above.

ii. the individual's severe physical or mental impairment seriously limits two (2) functional capacity areas; and

iii. the individual's vocational rehabilitation is expected to require multiple vocational rehabilitation services over an extended period of time.

d. Selection Group IVCSignificantly Disabled. An eligible individual is considered significantly disabled when the following apply:

i. the individual meets the definition of an "individual with a significant disability" as defined in Subsection I above.

ii. the individual's severe physical or mental impairment seriously limits one functional capacity area; and

iii. the individual's vocational rehabilitation is expected to require multiple vocational rehabilitation services over an extended period of time.

e. Selection Group VCNNon-Significantly Disabled. An individual is considered non-significantly disabled when:

i. the individual has a physical or mental impairment;

ii. the individual has been determined eligible for vocational rehabilitation services; and

iii. the individual does not meet the above stated criteria for an individual who is either "the most significantly disabled" or "significantly disabled."

f. Other Considerations

i. individuals shall be placed in the highest priority category for which they are eligible;

ii. upon placement into a priority category, individuals will be notified in writing of their category assignment and of their right to appeal their category assignment.

5. Scope of Services Available. LRS' order of selection shall not limit the scope of services available for eligible individuals within the selection group(s) being served.

6. Information and Referral. LRS will, as appropriate, refer those individuals in selection Groups(s) not being served to other components of the statewide workforce

investment system that are best suited to address the specific employment needs of the individual with a disability.

7. Continuity of Services. LRS shall provide for continuity of services once an otherwise eligible individual is selected for and begins to receive services under an IPE, irrespective of the severity of the individual's disability.

8. Other Assurances

a. All individuals within a higher priority category for services shall be served before individuals in the next lowest priority category.

b. When it is impossible to serve all eligible individuals within a priority category, the individuals (in addition to referral to other components of the statewide workforce investment system) will be placed on a deferred services waiting list. Individuals on the deferred services waiting list will be served in chronological order based on the date of application.

c. If the order of selection is rescinded, individuals on deferred services waiting lists and in unserved categories will be contacted and served in chronological order based on the date of application.

9. Client Participation in the Cost of Services. All LRS policy relative to client participation in the cost of services shall apply to individuals receiving services under the order of selection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 19:891 (September 1991), amended LR 20:317 (March 1994), LR 21:191 (February 1995), LR 22:993 (October 1996), LR 23:994 (August 1997), LR 25:1267 (July 1999), LR 27:

§115. Financial

A. Comparable Services and Similar Benefits

1. Determination of Availability

a. Prior to providing any vocational rehabilitation service to an eligible individual, except those services specified below in c.i.(a)-(f), LRS will determine whether comparable services and benefits are available under any other program (other than a program carried out under Title IV, Rehabilitation Act Amendments of 1998) unless such a determination would interrupt or delay;

i. the progress of the individual toward achieving the employment outcome identified in the IPE of the individual;

ii. an immediate job placement; or

iii. the provision of such service to any individual at extreme medical risk.

b. Awards and Scholarships. For purposes of the determination of availability in A.1 above, comparable benefits do not include awards and scholarships based on merit.

c. Exceptions to Use of Comparable Services and Benefits. The following vocational rehabilitation services can be provided without making a determination of the availability of comparable services and benefits:

i. services provided through LRS' Information and Referral System;

ii. assessment for determining eligibility and vocational rehabilitation needs, including if appropriate, assessment by personnel skilled in rehabilitation technology;

- iii. counseling and guidance, including information and support services to assist an individual in exercising informed choice;
- iv. referral and other services needed to secure necessary services from other agencies through cooperative agreements, if such services are not available from LRS;
- v. job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;
- vi. rehabilitation technology, including telecommunications, sensory, and other technological aids and devices.

B. Individual's Participation in the Cost of Vocational Rehabilitation Services.

1. Neither a financial needs test nor a budgetary analysis of assets, income, monthly liabilities, and/or comparable services and similar benefits shall be applied as a condition for furnishing any vocational rehabilitation services if the individual in need of the services has been determined eligible for Social Security benefits under Title II or Title XVI if the Social Security Act.

2. LRS will consider, through budgetary analysis of assets, income, monthly liabilities, and comparable services and similar benefits, the financial need of eligible individuals and individuals who are under extended evaluations for purposes of determining the extent of the individual's participation in the costs of certain vocational rehabilitation services.

a. Neither a financial needs test, nor a budgetary analysis, is applied and no financial participation is required as a condition for furnishing the following vocational rehabilitation services:

- i. assessment for determining eligibility and priority for services, except those non-assessment services that are provided during an extended evaluation to explore the individual's abilities, capabilities, and capacity to perform in work situations (trial work periods);
- ii. assessment for determining vocational rehabilitation needs;
- iii. counseling, guidance, including information and support services to assist an individual in exercising informed choice;
- iv. referral and other services to secure needed services from other agencies through cooperative agreements, if such services are not available from LRS;
- v. job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;
- vi. rehabilitation technology assessments;
- vii. supported employment, on-site training, and on-the-job training;
- viii. personal assistance services directly related to a direct job placement outcome and provided simultaneously with any of the above-listed vocational rehabilitation services. (Examples include attendant, reader, scribe, interpreter, braille, notetaker, and adjustment/orientation and mobility training services.)
- ix. assistive technology devices and services.

b. A financial needs test will be applied through budgetary analysis to determine the ability of the individual to financially contribute to the cost of the following vocational rehabilitation services:

- i. physical restoration and/or mental restoration;
- ii. maintenance;
- iii. transportation;
- iv. books and supplies;
- v. occupational tools and equipment;
- vi. cost services to other family members;
- vii. occupational licenses;
- viii. discretionary training fees such as car registration fees, student health service fees, etc. not included in tuition;
- ix. adjustment/orientation and mobility, attendant, reader, scribe, and interpreter services not directly related to a direct job placement outcome;
- x. vocational and other training services, such as college/university, vocational and proprietary school training, not related to an immediate direct job placement outcome;
- xi. other goods and services;
- xii. post-employment services consisting of the services listed above.

c. The only exception to items ix. and x. above is as follows:

i. to preserve LRS' Continuity of Services provision in the Order of Selection, LRS exempted those eligible individuals who had an IWRP/IPE in effect prior to July 20, 1999, which is the date of the adoption of this rule change; therefore, Clauses ix and x in Subparagraph b above will only apply to those individuals who had an IWRP/IPE developed after July 20, 1999.

d. The following services are exempt from the application of a budget surplus, if the counselor determines that a surplus exists:

- i. adjustment/orientation and mobility services
- ii. attendant services
- iii. reader services
- iv. scribe, notetaker/braille services,
- v. interpreter services
- vi. assistive technology services

e. When it is determined by a counselor and an eligible client that self-employment, through establishment of a small business enterprise, is the best option for the client, the client must provide a minimum cash capital contribution of 20 percent of the total transaction. (Refer to LRS Policy on Small Business Enterprise.)

f. An individual's status for the budget analysis will be determined as follows:

- i. the agency will perform the budget analysis on the basis of the resources of both the client and the spouse if the client is married;
- ii. the agency will perform the budget analysis on the basis of the resources of the family unit for all single clients living in the family home as a family member. Temporary absences from the home, such as for vacations, school, or illness, count as time lived in the home;
- iii. the agency will perform the budget analysis on an individual who has returned to the family unit on the basis of the resources of only that individual if the following conditions are met:

(a) the individual's disability has precluded their obtaining or maintaining employment; and

(b) the individual has a documented history of self-sufficiency that includes providing over one-half the

costs of maintaining a residence for at least one year prior to their return to the family unit; and

(c). the individual's parent(s), legal guardian, or other head of household provides documentation that indicates such person(s) do not claim the individual as an exemption for federal and/or state income tax purposes;

(d). the agency will perform a budget analysis on the basis of the resources of a single consumer living away from the family home if the individual meets the following conditions:

(i.). the individual can document history of self-sufficiency that included providing over one-half the costs of maintaining a residence. Documentation must include, but is not limited to, the following: copy of the lease which is in consumer's name; utility bills in consumer's name; and income verification sufficient to cover living expenses; and

(ii.). the consumer files his/her own state and federal income tax forms and is not claimed as an exemption on another individual's state/federal income tax return;

(iii.). at annual review, the Counselor must verify that consumer still meets the criteria established for individual status.

(e). Family unit is defined as the client and the client's parents or the client and any significant other(s), such as aunts, uncles, friends, legal guardians, etc., who are living in the household and are providing support for the maintenance of the household in which the client lives. Adult siblings of the client can be excluded as a member of the family unit for income reporting; but, must also be excluded from the family unit in the determination of allowable monthly liabilities.

g. Individuals who do not provide LRS with necessary financial information to perform the budget analysis will be eligible only for those vocational rehabilitation services that are not conditioned upon an analysis to determine the extent of the individual's participation in the costs of such services.

h. Individuals who have defaulted on a student loan must make good faith efforts with the lender to clear the default or to defer payment before LRS will participate in the cost of the client's vocational rehabilitation program.

i. Simultaneously with the comprehensive assessment, at the annual review of the IPE, and at any time there is a change in the financial situation of either the client or the family, the counselor will perform a budget analysis for each client requiring vocational rehabilitation services as listed above in §15.B.2b.i.-xii. The amount of client participation in the cost of their vocational rehabilitation program will be based upon the most recent budget analysis at the time the relevant IPE or amendment is developed.

3. State and Departmental Purchasing Procedures. All applicable state, departmental and agency purchasing policies and procedures must be followed.

a. LRS does not purchase vehicles or real estate.

b. Fee Schedule. Services and rates of payment must be authorized in accordance with LRS' Medical Fee Schedule and LRS' Technical Assistance and Guidance Manual, Section 500 which lists approved service providers.

c. Approval of Service Providers

i. Any service provider approved by the agency must agree not to make any additional charge to or accept any additional payment from the client or client's family for services authorized by the agency.

ii. Relatives of vocational rehabilitation clients will not be approved as a paid service provider unless such individuals are professionally and occupationally engaged in the delivery of such services by offering their services to the general public on a regular and consistent basis.

d. Prior Written Authorization and Encumbrance

i. Either before or at the same time as the initiation or delivery of goods or services, the agency must be in possession of the proper authorizing document. The only exception is in an emergency situation.

ii. If oral authorization of approved services is made in an emergency situation, there must be prompt documentation, and the authorization must be confirmed in writing and forwarded to the provider of the services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 19:891 (September 1991), amended LR 20:317 (March 1994), LR 21:191 (February 1995), LR 22:993 (October 1996), LR 23:994 (August 1997), LR 25:1267 (July 1999), LR 27:

Family Impact Statement

The Department of Social Services, Louisiana Rehabilitation Services hereby issues this Family Impact Statement: The proposed rules for the Vocational Rehabilitation Policy Manual, Order of Selection and the Individual's Participation in the Cost of Vocational Rehabilitation Services, to exempt certain Social Security recipients, 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 for 40 days from the date of this publication to May Nelson, Director, Louisiana Rehabilitation Services, 8225 Florida Boulevard, Baton Rouge, LA 70806-4834. Ms. Nelson is responsible for responding to inquiries regarding the proposed rule.

Public Hearings will be conducted at 10:00 a.m. on Thursday, December 28, 2000, as follows, Baton Rouge, LRS Regional Office, 3651 Cedarcrest Avenue; Alexandria, LRS Regional Office, 900 Murray Street, Shreveport, LRS Regional Office, 1525 Fairfield Avenue; New Orleans, LRS Regional Office, 3500 Canal Street.

Individuals with disabilities who require special services should contact Judy Trahan, Program Manager, Louisiana Rehabilitation Services, at least 14 working days prior to the hearing if special services are needed for their attendance. For information or assistance, call (225) 925-4131 or 1-800-737-2958, or 1-800-543-2099 for voice and TDD.

J. Renea Austin-Duffin
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Vocational Rehabilitation ServicesC Eligibility and Ineligibility

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

Title 64

SECURITIES INVESTMENTS

Part V. Office of the Treasurer

Subpart 1. Investments

Chapter 1. Permissible Investments

§103. Time Certificates of Deposit

A. - A.2.a. ...

i. National Certificates of Deposit which is the average of the top rates paid by major New York money banks on primary new issues of negotiable certificates of deposits, usually on amounts of \$1,000,000 or more with similar length of maturity as quoted from the *Wall Street Journal* or a nationally recognized quotation system, less 15 basis points.

A.2.a.ii. - A.3.d. ...

B. Competitive Bid Time Certificates of Deposit. Pursuant to R.S. 49:327B(1)(d), as amended from time to time, a certain percentage of the amount designated by the treasurer to be available for time certificates of deposit to financial institutions with a location in the state of Louisiana may be competitively bid. The following procedures and system, to be called "BidLouisiana," shall govern the competitive bidding for such certificates of deposit.

1. Frequency of Bidding. On the third Tuesday of each month, or in the case of a holiday or any other closure of the Office of the Treasurer on such day, the first business day following the third Tuesday of each month, the state treasurer may offer the amount of funds determined to be available for competitive Internet online auction bid, to be invested effective on the business day following the acceptance of bids, through BidLouisiana as more fully set forth herein. Should additional funds become available for competitive bid between such dates, the state treasurer reserves the right to offer such funds for competitive Internet online auction bid in accordance herewith upon giving all institutions currently eligible to bid at least three business days notice via the Internet or other reasonable notice procedure prior to the online auction. On each such auction bid day, the online auction shall begin at 10 a.m. and shall conclude at 10:30 a.m., Central time. In the event of a BidLouisiana website failure or other cause which delays the commencement of an online auction of certificates of deposit on a scheduled auction bid day, the auction will be attempted at the top of every hour the day of the scheduled auction between the hours of 10 a.m. and 4 p.m. In the event the auction is not completed on the scheduled day, the next attempt of the scheduled auction shall be at 10 a.m. the next business day, and the treasurer will attempt to inform all registered bidders of any change in the bidding format via telephone, fax transmission or e-mail.

2. Eligibility to Bid. A financial institution shall become eligible to bid on the designated amount of state funds to be competitively bid online through BidLouisiana if it meets all of the following:

a. is qualified as a fiscal agent/ depository of state funds of the state of Louisiana;

LRS is proposing to change the Order of Selection categories from three (3) to five (5) groups. The purpose of this change is to provide the agency with greater flexibility in opening and closing selection groups and thus provide for more efficient administration of the Order of Selection, while ensuring that services are first provided to those individuals who are the most significantly disabled. This portion of the rule change will not have a fiscal impact on the Agency because services are not currently being provided to clients in the Order of Selection Group III. However, in the event services are opened beyond the current groups that are being served the fiscal impact will be within the budgeted amount for services provided within this program, which is undetermined at this time.

LRS is also proposing to change the Financial section to exempt from an economic needs test those consumers who have been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act. The anticipated increase in costs to implement the proposed action is \$1,939,630.

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

There is no anticipated increase or decrease on revenue collections for this proposed rule change.

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

LRS consumers who have been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act would be directly affected and would benefit from the proposed action. Also, in the event services are opened beyond the current groups that are being served, those individuals that would fall within the guidelines of the categories provided for in this rulemaking would be directly affected and would benefit from the proposed action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact of the proposed action on competition and employment in either the public or the private sectors.

May Nelson
Director
0011#043

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of the Treasury
Office of the Treasurer**

Time Certificates of Deposit (LAC 64:V.103)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act (the "Act"), notice is hereby given that the Department of the Treasury, Office of the Treasurer, approved for notice and advertisement, a revision to LAC 64:V.103, its Rules for Securities Investments, Permissible Investments, Time Certificates of Deposit, as set forth below. The revision of §103 has no known impact on family formation, stability and autonomy as described in R.S. 49:972 of the Act. It primarily provides new procedures for Internet online competitive bidding for Time Certificates of Deposit investments by the Treasury.

b. meets Federal Deposit Insurance Corporation (FDIC), Savings Association Insurance Fund (SAIF), Federal Savings and Loan Insurance Corporation (FSLIC) Resolution Fund and National Credit Union Association (NCUA) capital adequacy requirements;

c. is solvent under generally accepted accounting principles and/or regulatory accounting requirements;

d. is profitable in one of the last three years as indicated in the audited financial statements or fiscal year end financial statements certified by the board of directors of the financial institution. Should the overall financial condition of a financial institution substantially decline from a previous eligibility period, in the sole determination of the state treasurer, and regardless of whether the financial institution appears to meet the other above requirements, the state treasurer reserves the right to and may remove the financial institution from the list of eligible bid institutions until, in the treasurer's sole determination, the institution's financial condition has returned to the minimum eligibility criteria stated herein.

3. Required Financial Information. The financial institutions participating in the Internet online auction bid process for time certificates of deposit shall provide the state treasurer's office with publicly disclosable quarterly call reports as filed with the appropriate regulatory authorities. The complete quarterly call report shall be sent to the state treasurer within 90 days of the end of the reported quarter. Annual audited financial statements or financial statements certified by the board of directors, if annual audited statements are not available, shall be provided to the state treasurer within 30 days of issuance.

4. Registration and Entry to Competitive Online Auction Bidding. All eligible financial institutions must register with BidLouisiana at least three days prior to an auction bid date at which it wishes to enter bids. To register, bidders shall go to the BidLouisiana website to receive a BidLouisiana password for the online auction, and shall be responsible for protecting the confidentiality of its password. The auction administrator, to be determined by the state treasurer, must confirm proper registration by 4:30 p.m., the day before the online auction. Confirmation of registration will be sent to bidders via e-mail or, if not available, via fax transmission. On the auction day, registered bidders must request and receive admission to the online auction in order to submit bids. The state treasurer reserves the right to deny admission and access to any BidLouisiana online auction to any bidder, at any time and for any reason whatsoever, in his sole and absolute discretion.

5. Availability of Online Auction Funds. The state treasurer shall determine the amount of state funds, if any, to be competitively bid by online auction through BidLouisiana and shall post the amount or amounts and the maturity or maturities thereof to be bid online on the BidLouisiana Internet website home page at least three business days before each online auction bid date provided for hereinabove.

6. Minimum Interest Rates. For maturities of one year or less, the minimum interest rate for an online auction of certificates shall be the discount rate on U.S. Treasury bills with a similar length of maturity. For maturities of greater than one year for an online auction of certificates, if any, the minimum interest rate shall be the yield of maturity on U.S.

Treasury obligations with similar length maturities as provided for in §103.A.2.b and §103.A.3.b hereof. The minimum interest rate or rates will be posted on the BidLouisiana auction home page prior to an auction. Bids below the minimum rate will not be accepted.

7. Online Auction Guidelines and Bid Procedures. The state treasurer shall select the Auction Administrator and establish the BidLouisiana website for the competitive online auction of certificates through or in conjunction with the auction administrator. The treasurer and/or the auction administrator shall establish Guidelines for each auction pursuant to and in accordance with these Rules, and shall post the Guidelines and any amendments thereto on the BidLouisiana website prior to each auction. In the event of any conflict between these Rules and the Guidelines, these Rules shall prevail and govern.

a. The minimum bid shall be \$100,000 during each online auction. Bids may be increased only in increments of \$100,000 to a maximum of \$5,000,000 per bidding financial institution, including all branches and other offices or locations, per auction. Multiple bids from the same bidder are permitted during an auction. Each bidder may enter up to five bid categories during an auction, the total amounts of which may not exceed the bidding maximum for each financial institution bidder. There shall be no limit as to the number of times a bid may be updated or changed during an auction subject to the other provisions hereof.

b. If qualified bids submitted in the same auction by the same or different bidders result in a tie for the highest bid, the first bid submitted shall prevail and be accepted. Any change to a bid during an auction shall constitute a new level of that bid.

c. Winning bidders must confirm their award of a certificate or certificates in accordance with the confirmation instructions on the BidLouisiana website immediately after the auction ends. Failure to do so may result in the loss of the winning bid and the award of the certificate or certificates to the next highest qualified bidder.

8. Other Auction Bid Conditions and Procedures. The state treasurer reserves the right to reject any BidLouisiana bid for any reason at his sole and absolute discretion. The treasurer also reserves the right to award a portion of an institution's bid subject to the minimum and maximum amounts provided for hereinabove.

a. Each bidder must acknowledge that it has read the posted Guidelines and any amendments thereto prior to each auction and indicate agreement to same electronically on the BidLouisiana website in order to enter the auction. Submitted bids must also be electronically verified through the website during and after the auction. In submitting and so verifying a bid or bids, each bidder understands and agrees that it has made a formal offer subject to acceptance and being irrevocably bound thereby under these Rules and procedures and other applicable law.

b. Bids that generate error messages during the auction shall not be accepted until the error is corrected and the bid is resubmitted without error. Error messages will indicate the reason for the error such as in the instance where the bidder has submitted a bid that is lower than the minimum bid.

c. In submitting and/or verifying a bid or bids during an auction, the bidder understands and agrees that the

submitted and/or verified bid or bids may initially be a leading bid, but further may be replaced by other more competitive bids throughout the duration of the auction. Each bidder will know immediately if its bid or bids continue to be a winning bid or bids by updating their bids during the auction. Any bid's status when leading or "in the money" may change at any given time during the auction due to new bids by other bidders. It shall be the bidder's responsibility to update his or her bid status. There shall be no limit to the number of times a bid or bids may be updated during an auction.

d. A financial institution submitting a winning bid shall be irrevocably obligated to provide the certificate of deposit at the specified rate, amount and maturity date, if acceptable to the state treasurer, as further provided for herein. In submitting and/or verifying a bid or bids during an auction, each bidder understands and agrees that an award shall not have been made or finally accepted until posted on the BidLouisiana website. All discrepancies relating to final acceptances and results shall be reported to the Investment Division at the Department of the Treasury within 15 minutes of the posting on the website at the number or address provided thereon. Failure to do so within this period may result in the loss of the right to have any such discrepancies corrected at the sole determination of the state treasurer.

e. Each winning bidder shall be assessed a fee in a percentage amount of the principal amount of the certificate or certificates awarded to the bidder which shall be set by the state treasurer and posted on the BidLouisiana website prior to each online auction. The fee will be payable to the Auction Administrator or as otherwise directed by the state treasurer by automated clearing house (ACH) debit within two days following the conclusion of the auction pursuant to instructions set forth in the Guidelines. Completion of the ACH Debit Authorization on the website by a winning bidder is required and shall constitute a binding authorization for the debit of the bidder's account for the fee incurred. Failure to permit or to make timely payments of the incurred fee shall result in exclusion from subsequent online auctions.

9. Certificate of Deposit Requirements. Certificates of deposit awarded as the result of BidLouisiana online bidding auctions shall be in book entry form in the name of the state of Louisiana, state treasurer, and the exempt Tax ID number shall be 72-6000839. Certificate of deposit transactions shall be completed by wire transfer pursuant to instructions of the state treasurer.

10. Calculation and Interest Payment. The interest on all competitively bid certificates of deposit maturing in one year or less shall be calculated on a 360-day basis with interest paid at maturity. The interest on all such certificates maturing greater than one year shall be calculated on a 360-day basis with interest paid semi-annually from date of

inception. Notwithstanding the foregoing, the state treasurer reserves the right to collect interest on a more frequent basis in cases of unusual circumstances, such as but not limited to a financial emergency of the state or if a financial institution's financial condition is deteriorating and collection of interest on a more frequent basis is deemed appropriate by the state treasurer to protect state funds.

11. Collateralization Requirements for Competitively Bid Certificates of Deposit. Certificates of deposit to be awarded through a BidLouisiana online auction shall be collateralized pursuant to R.S. 49:321 by 4 p.m. the day before the scheduled auction by a bidding financial institution. Bidding financial institutions shall have sufficient collateral in place and acceptable to the state treasurer by such time to secure its bid or bids. Insufficient or unacceptable collateral shall be cause to prevent a financial institution's admission to an auction or for the rejection or nonacceptance of a bid or bids. Collateral for online competitively bid certificates of deposit shall be in a form acceptable to the state treasurer as indicated on the most recent list of acceptable collateral prepared by the treasurer's office.

C. Total Amount of Certificates of Deposit with each Financial Institution. The maximum total amount of certificates of deposit with each eligible financial institution of competitively bid and of non-bid certificates shall not exceed at any one time, the total of its capital, surplus and undivided profits, exclusive of loan loss reserves. Should a financial institution have losses indicated, the losses shall be deducted from the total capital and surplus to determine the total amount of certificates of deposit limit at any one time. Notwithstanding the foregoing, the state treasurer reserves the right to maintain less than the maximum amount of certificates of deposits with any financial institution should the treasurer deem it in the best interest of the state.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:327B(1)(b).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Office of the Treasurer, LR 15:751 (September 1989), amended LR 16:137 (February 1990), LR 27:

Interested persons may submit written comments on the proposed revision until 4:30 p.m. December 1, 2000 to: Cooper Harrell, Investment Division, Department of the Treasury, P.O. Box 44154, Capitol Station, Baton Rouge, Louisiana 70804-4154.

J. Cooper Harrell
Investment Manager

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Time Certificates of Deposit

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

There are no known or anticipated additional implementation costs or savings of any significance expected as a result of the proposed Rule change.

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

The Treasury expects some increases in investment revenue through implementation of the proposed Rule change, but they may be minimal because competitive bidding of Certificates of Deposit is a very small segment of the overall General Fund's investment administration.

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

There will be a minimal additional cost to the financial institutions user group which should be offset by the benefit of

the ease, access and administration of participation in the proposed investment procedure change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no known or anticipated negative effects on competition or employment expected.

J. Cooper Harrel
Investment Manager
0011#056

H. Gordon Monk
Staff Director
Legislative Fiscal Office