Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences
Horticulture and Quarantine Division
Boll Weevil Eradication Commission

Program Participation, Fee Payment and Penalties
(LAC 7:XV.321)

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 amend these rules and regulations for the purpose of establishing a deadline for cotton producers to request a waiver of the assessment on any acre of cotton planted for a crop year. 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
§321. Program Participation, Fee Payment and Penalties

A. - B.2. …

3. A waiver of the assessment on any acre planted in cotton for a crop year may be requested and obtained in accordance with the following procedure.

a. A cotton producer may request a waiver of the assessment on any acre planted in cotton for a crop year if a written request for a waiver is received by the commission, through mail, fax or other form of actual delivery, on or before 4:30 p. m. on August 1 of the crop year for which the waiver is requested. A written request for a waiver will be deemed to be timely when the papers are mailed on or before the due date. Timeliness of the mailing shall be shown only by an official United States postmark or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof. A fax shall be considered timely only upon proof of the commission's receipt of the transmission.

b. The written request for a waiver must show the name of the cotton producer, the field number, the number of acres for which a waiver is requested, the date the acres were failed, the reasons the waiver is being requested and a certification that all living cotton plants and cotton stalks were destroyed prior to July 15 of the crop year and that the acreage will remain void of all living cotton plants through December 31 of the same crop year.

c. Each cotton producer who has timely filed a request for a waiver with the commission shall be notified of the date, time and place the commission is scheduled to consider the request for a waiver at least 10 days prior to the commission meeting.

d. The granting of a waiver is within the discretion of the commission.

e. A cotton producer, whose timely request for a waiver is denied by the commission, shall be entitled to pay his assessment without imposition of a per acre penalty fee if he pays the assessment within 30 days after receiving written notification of the commission's decision.

B.4. - I. …

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture & Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:669 (July 1995), amended LR 23:195 (February 1997), LR 24:2231 (December 1998), LR 25:829 (May 1999), LR 29:

Family Impact Statement

The proposed amendments to LAC 7:XV.321 for the purpose of establishing a deadline for cotton producers to request a waiver of the assessment on any acre of cotton planted for a crop year, should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

All interested persons may submit written comments on the proposed Rules through March 25, 2003, to Dr. John Andries, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. No preamble concerning the proposed Rules is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINIS TRATIVE RULES
RULE TITLE: Program Participation, Fee Payment and Penalties

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

There will be no increase in costs or savings to state or local governmental units.

The purpose of this Rule is to establish a deadline for cotton producers to request a waiver of the assessment on any acre of cotton planted for a crop year; to inform cotton producers of the information required in the initial request and to reorganize and clarify language of the already established rules and regulations.

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

There will be no effect on revenue collections of state and local government units.

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

There will be no effect on costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition and employment in the public and private sectors.

Skip Rhorer	Robert E. Hosse
Assistant Commissioner	General Government Section Director
0302#059	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Louisiana Principal/Assistant Principal Induction Program
(LAC 28:I.901)

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 741, *Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975).

The proposed changes to Standard 1.016.10 will change the name of the Louisiana Principal/Assistant Principal Internship Program to the Louisiana Principal/Assistant Principal Induction Program. This will lessen the confusion between the state sponsored program mandated by SBESE and the required internship component for university programs in Educational Leadership.

The proposed changes will also include administrative assistants and acting principals/assistant principals in the program that will provide support and build capacity of these administrators to provide leadership in both instructional and administrative areas during their first year(s) in a school leadership role.

With the development and implementation of a standards-based induction program in 1999-2000 in which assistant principals and first-year principals participate in a parallel program, it is necessary to ensure continuity and a logical transition as the administrator moves along the career path from assistant principal to principal. As a result of these proposed changes, the waiver which allowed principals to request an exemption from participation in year two of the program based on five years of administrative experience and participation in the Administrative Leadership Academy will no longer apply if their participation in the program was prior to 1998.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education, LR 28:269 (February 2002), LR 28:272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 29:

System Policies and S tandards	School Policies and Standards
1.016.10 All newly appointed principals and assistant principals with standard or provisional certification shall participate in the Principal/Assistant Principal Induction Program. The program shall include the following: Individuals appointed to a principalship or an assistant principalship after October 1 shall be enrolled in the Principal Induction Program at the beginning of the following school year. Principal/Assistant Principal Induction requirements shall also apply to individuals serving in the following leadership capacities: • Administrative Assistant: fully certified and serving in a full-time, full-year administrative capacity. • Acting Principal or Assistant Principal: fully certified and serving in a full-time, full-year administrative capacity. A newly appointed principal who successfully completed the Assistant Principal Induction Program in 1999-2000 shall complete only Year One requirements of the Principal Induction Program. A newly appointed principal who successfully completed the Assistant Principal Induction Program in 2000-2001 shall complete only Year Two requirements of the Principal Induction Program. A newly appointed principal who did not complete the Assistant Principal Induction Program or completed the program in 1998 or before shall complete the two-year requirements of the Principal Induction Program. Upon successful completion of two years of the Induction Program requirements, an individual may request to have provisional status removed from their certificate.	**2.016.10** All newly appointed principals and assistant principals with standard or provisional certification shall participate in the Principal/Assistant Principal Induction Program. The program shall include the following: Individuals appointed to a principalship or an assistant principalship after October 1 shall be enrolled in the Principal Induction Program at the beginning of the following school year. Principal/Assistant Principal Induction requirements shall also apply to individuals serving in the following leadership capacities: • Administrative Assistant: fully certified and serving in a full-time, full-year administrative capacity. • Acting Principal or Assistant Principal: fully certified and serving in a full-time, full-year administrative capacity. A newly appointed principal who successfully completed the Assistant Principal Induction Program in 1999-2000 shall complete only Year One requirements of the Principal Induction Program. A newly appointed principal who successfully completed the Assistant Principal Induction Program in 2000-2001 shall complete only Year Two requirements of the Principal Induction Program. A newly appointed principal who did not complete the Assistant Principal Induction Program or completed the program in 1998 or before shall complete the two-year requirements of the Principal Induction Program. Upon successful completion of two years of the Induction Program requirements, an individual may request to have provisional status removed from their certificate.

* * *

Interested persons may submit comments until 4:30 p.m., April 11, 2003, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741C Louisiana Handbook for School Administrators C Louisiana Principal/Assistant Principal Induction Program

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

There are no estimated implementation costs or savings to state or local governmental units.

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

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

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

There are no estimated costs and/or economic benefits that will directly affect persons or non-governmental groups.

Administrative Assistants, Acting Principals, Acting Assistant Principals: persons fully certified in Principalship or Educational Leadership and serving in a full-time, full-year administrative capacity are now eligible to participate in the program. The program is of no cost to the participants, but requires full participation in face-to-face as well as online activities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance

H. Gordon Monk
Staff Director
Legislative Fiscal Office

0302#048

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1706C Regulations for Implementati on of the Children with Exceptionalities Act Students with Disabilities
(LAC 28:XLIII.Chapters 1-9)

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 amendments to Bulletin 1706, *Regulations for Implementation of the Children with Exceptionalities Act*, R.S. 17:1941 et seq., "Subpart AC Regulations for Students with Disabilities" (LAC 28:XLIII).

The proposed revisions to Bulletin 1706, *The Regulations for Implementation of the Children with Exceptionalities Act*, R.S. 17:1941 et seq., "Subpart AC Regulations for Students with Disabilities," formally changes the state regulations to be in compliance with the 1999 revisions to the federal

regulations of IDEA—Part B and in the state statute at R.S.17:1941 et seq. They make the State Advisory Panel consistent with state and federal statutes; they change the language to be consistent with federal regulations regarding

Due Process and state statute in converting to a one-tier Due Process Hearing system. They clarify timelines regarding re-evaluations for toddlers turning three; they clarify what information must be reviewed at IEP meetings and what clarifies as nonacademic activities, they clarify serving students in their least restrictive environment; they clarify responsibilities when placing students for services in private schools; they clarify rights of parents and students; they provide guidance regarding fiscal responsibilities of noneducational agencies; they provide regulations for interagency coordination with other state agencies; they provide or clarify definitions; they remove all references to handbooks.

Title 28
EDUCATION
Part XLIII. Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act (R.S. 17:1941 et seq.)
Subpart A. Regulations for Students with Disabilities
Chapter 1. Responsibilities of the State Board of Elementary and Secondary Education

§105. Approval of IDEA—Part B Application

A. The State Board will review and approve the State policies and procedures required by the IDEA application before their submission to the U.S. Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:640 (April 2000), amended LR 29:

§130. State Advisory Panel (Panel)

A. - C.2. …

3. The Panel shall advise the State Board and the Department in developing evaluations and reporting on data to the Secretary of Education.

4. - 7. …

8. Repealed.

D. - D.6. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:640 (April 2000), amended LR 29:

§131-199. Reserved.

Chapter 2. Responsibilities of the Superintendent of Public Elementary and Secondary Education and of the Department of Education

§201. General Responsibilities and Authorities

A. The State Superintendent of Public Elementary and Secondary Education (the State Superintendent) and the State Department of Education (the Department) shall administer those programs and policies necessary to implement L.R.S.17:1941 et seq.

1. - 4. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:641 (April 2000), amended LR 29:

§240. Impartial Hearing Officers

A. The Department and each LEA shall maintain a list of qualified and impartial hearing officers. The list shall include a statement of the qualifications of each of those persons.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:641 (April 2000), amended LR 29:

§253-259. Reserved.

§260. Full Educational Opportunity Goal

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:642 (April 2000), repealed LR 29:

Chapter 3. Responsibilities and Activities of the Division of Special Populations

§302. Monitoring, Complaint Management and Investigation

A. …

B. The Division shall monitor in accordance with established procedures all public and participating private schools and other education agencies for compliance with these and other applicable federal regulations, state statutes and standards.

C. - E. 1. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:643 (April 2000), amended LR29:

§369. Personnel Standards

A. Personnel of State and local public and private educational agencies, including local agency providers, who deliver special education services (including instructional, appraisal, related, administrative, and support services) to children and youth with disabilities (3 through 21) shall meet appropriate entry level requirements that are based on the highest requirements in Louisiana applicable to the profession or discipline in which the person is providing special education or related services.

A.1. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:644 (April 2000), amended LR 29:

Chapter 4. Responsibilities of Local Educational Agencies

§401. Responsibilities of LEAs

A. Each LEA shall identify and locate each student suspected of having a disability (regardless of the severity of the disability), birth through 21 years of age, residing within its jurisdiction.

B. - E.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:647 (April 2000), amended LR 29:

§405. Special Education and Early Intervention Services for Infants and Toddlers with Disabilities Less Than 3 Years of Age

A. LEAs have the option of providing special education and early intervention services to infants and toddlers with disabilities who are from birth to 3 years of age.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:648 (April 2000), amended LR 29:

§410. Child Search (Child Find) Activities for Infants and Toddlers with DisabilitiesC Birth through 2 Years of Age

A. If, in the process of implementing these Regulations, any LEA locates a child within these ages ranges who is suspected of having a disability shall be referred to the Lead Agency's designated point of entry.

B. For children 2.6 years of age or older, follow the procedures in §415 below.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§411. Child Search (Child Find) Activities for Students 3 through 21 Years of Age

A. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:648 (April 2000), amended LR 29:

§413. Students in an Educational Program Operated by the LEA

A. An LEA shall identify a student as suspected of having a disability by the School Building Level Committee (SBLC). This committee shall coordinate and document the results, as appropriate, of educational screening, sensory screening, health screening, speech and language screening, or motor screening, and the results of the intervention efforts.

B. - C. …

D. Within 10 business days after receipt of the referral by the pupil appraisal office for an individual evaluation, the Evaluation Coordinator shall complete required initial activities.

E. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:648 (April 2000), amended LR 29:

§415. Students Out of School and/or Former Special Education Students Residing in the State

A. Students out of school, including students ages 3 through 5 years who are suspected of having a disability and former special education students who have left a public school without completing their public education by obtaining a State diploma, shall be referred to the LEA's Child Search Coordinator, who shall locate and offer enrollment in the appropriate public school program and refer them for an individual evaluation, if needed. Students may be enrolled with the development of an interim IEP based on their individual need following the enrollment process in §416 below. If the Louisiana evaluation is current, students may be enrolled with the development of a review IEP within five school days.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:649 (April 2000), amended LR 29:

§416. Students with a Documented Severe or Low-Incidence Impairment; Students Who May Be Transferring from Out of State; or Infants and Toddlers with Disabilities

A. Students who have a documented severe or low-incidence impairment documented by a qualified professional shall be initially enrolled in a special education program concurrent with the conduct of the evaluation. This enrollment process, from the initial entry into the LEA to placement, shall occur within 10 school days and shall include the steps, as listed below.

1. - 5. …

B. Students who have been receiving special education services in another state may be initially enrolled in a special education program, on an interim IEP, concurrent with the conduct of the evaluation. The enrollment process shall be the same as in §416.A.

1. …

C. For toddlers transitioning from Part C programs to preschool special education programs, the LEA shall follow federally mandated time lines and procedures to ensure a smooth and effective transition between programs. The LEA is required to participate in transition planning conferences at least 90 days, and at the discretion of the parties, up to 6 months prior to the age the student is eligible for preschool special education services. The purpose of this conference is to discuss services the student may receive after his or her third birthday. The LEA shall have the multidisciplinary evaluation completed and the IEP developed for all eligible students for implementation by the student's third birthday to ensure the continuity of services.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:649 (April 2000), amended LR 29:

§417. Students with Disabilities Transferring from One LEA to Another LEA within Louisiana

A. …

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:649 (April 2000), amended LR 29:

§418. Evaluation and Re-Evaluation

A. A full and individual evaluation shall be conducted for each student being considered for special education and related services under these Regulations to determine whether the student is a "student with a disability" as defined in these Regulations and to determine the educational needs of the student. The evaluation shall be conducted as mandated; and, if it is determined the student is a "student

with a disability," the results of the evaluation shall be used by the student's IEP team.

B. A re-evaluation of each student with a disability shall be conducted as mandated; and the results of any re-evaluations shall be addressed by the student's IEP team in reviewing and, as appropriate, revising the student's IEP.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:649 (April 2000), amended LR 29:

§431. Required Individual Evaluation

A. - B.1. ….

2. it is requested in writing by the student's parent(s) (a request for a reevaluation may be presented orally if the parent is illiterate in English or has a dis ability that prevents the production of a written statement);

B.3. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:650 (April 2000), amended LR 29:

§433. Evaluation Coordination

A. …

B. The evaluation coordinator shall ensure that the evaluation is conducted including the following: initial responsibilities following receipt of referral, selection of participating disciplines, procedural responsibilities, and mandated time lines.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:650 (April 2000), amended LR 29:

§434. Evaluation Process and Procedures

A. Individual evaluations shall be conducted according to the "Procedures for Evaluation" for each disability.

B. The determination of a disability shall be based upon the established "Criteria for Eligibility" before the initial delivery of special education and related services.

C. - C.11. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:650 (April 2000), amended LR 29:

§436. Time Lines

A. - B. …

C. Extensions of evaluation time lines shall be justified by established criteria.

D. The required triennial re-evaluation shall be completed on or before the third year anniversary date.

E. The required evaluation for toddlers transitioning into preschool special education services shall be completed and the IEP developed, if eligible, by the student's third birthday.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:651 (April 2000), amended LR 29:

§437. Determination of Needed Evaluation Data

A. In conducting re-evaluations under these Regulations and as part of an initial evaluation, if appropriate, the evaluation team shall comply with prescribed procedures as described below.

1. - 5. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:651 (April 2000), amended LR 29:

§438. Evaluating Students with Specific Learning Disabilities

A. The procedures for evaluating a student suspected of having a specific learning disability including team members, criteria for eligibility, observation requirements, and the written report shall be conducted according to mandated procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:652 (April 2000), amended LR 29:

§440. IEP/Placement Responsibilities

A. …

1. Each LEA shall be responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP of a student with a disability in accordance with all the requirements of this subpart.

A.2. - C.2. …

3. Each LEA shall ensure the team revises the IEP, as appropriate, to address any lack of expected progress toward the annual goals and in the general curriculum, if appropriate, as well as concerns in any areas noted in §444.

4. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:652 (April 2000), amended LR 29:

§441 IEP Team Participants

A. - A.7. …

a. The LEA shall invite a student with a disability of any age to attend his or her IEP meeting if a purpose of the meeting will be the consideration of the student's transition service needs under §444.M.1, the needed transition services for the student under §444.M2., or both.

7.b. - 8. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:652 (April 2000), amended LR 29:

§444. IEP Content and Format

A. - M.2. …

3. If a participating agency, other than the LEA, fails to provide the transition services described in the IEP, the LEA shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:654 (April 2000), amended LR 29:

§446. Least Restrictive Environment

A. - A.8. …

9. Nonacademic and extracurricular services and activities shall be provided in the manner necessary to afford students with disabilities an equal opportunity for participation in those services and activities including meals and recess periods and participates with nondisabled children in these services and activities to the maximum extent appropriate to the needs of that child; and may include counseling services, recreational activities, athletics, transportation, health services, special interest groups or clubs sponsored by the LEA, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the LEA and assistance in making outside employment available.

A.10. - C. …

1. early childhood setting;
2. early childhood special education setting;
3. home;
4. part-time early childhood/part-time early childhood special education setting;
5. residential facility;
6. separate school;
7. itinerant service outside the home; or
8. reverse mainstream setting

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:655 (April 2000), amended LR 29:

§447. Extended School Year Services

A. …

B. LEAs shall provide educational and related services beyond the normal school year to students with disabilities when these students are determined to be in need of or eligible for such services for the provision of a FAPE. Student eligibility, which may not limit ESYP services to particular categories of disabilities, shall be determined in accordance with extended school year program eligibility criteria requirements.

C. The student's extended school year program is to be designed according to. The ESY IEP team, in determining the duration, amount and type of extended school year services, shall not be bound or limited by any predetermined program or length. The extended school year services shall be determined by the IEP team on an individual basis for each student.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:656 (April 2000), amended LR 29:

§449. IEP Declassification Placement

A. When a re-evaluation indicates that a student with a disability currently enrolled in special education no longer meets all the criteria for classification as a student with a disability, the LEA shall either

1. - 2. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:657 (April 2000), amended LR 29:

§451. Requirements for Placed or Referred Students with Disabilities

A. - F. …

G. Notwithstanding any other provision of these regulations, when it is necessary to provide special education and related services in programs other than public schools, these placements must not occur until it has been determined that the student cannot be appropriately educated by another governmental agency of the State. After determination has been made that neither the public schools nor another governmental agency of the State can adequately provide special education and related services, then private programs within the State (the third alternative) must be considered. If these programs are still inadequate to meet the educational needs of the student, then out-of-state private programs may be approved.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:657 (April 2000), amended LR 29:

§460. Students with Disabilities in Private Schools Placed or Referred by LEAs

A. …

B. Before an LEA places a child with a disability in, or refers a child to, a private school or facility, the LEA shall initiate and conduct a meeting to develop an IEP for the child in accordance with §§440-460 of these Regulations.

C. The LEA shall ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the LEA shall use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.

D. After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the LEA.

E. If the private school or facility initiates and conducts these meetings the LEA shall ensure that the parents and an agency representative:

1. are involved in any decision about the child's IEP; and
2. agree to any proposed changes in the IEP before those changes are implemented.

F. Even if a private school or facility implemented a child's IEP, responsibility for compliance with this Part remains with the LEA and the SEA.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:658 (April 2000), amended LR 29:

§462. Students with Disabilities Enrolled by Their Parents in Private Schools

A. - D.2. …

a. Each LEA shall consult with representatives of private school students in deciding how to conduct the annual child count of the number of private school students with disabilities and shall ensure that the count is conducted on December 1 of each year.

D.2.b. - L.5. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:658 (April 2000), amended LR 29:

§491. Child Count

A. …

B. Each LEA/State agency shall determine the eligibility of each student for inclusion in the December 1 Child Count, which will generate funds under IDEA-B. It is the responsibility of the LEA/State agency to verify that each eligible student is receiving the special education and related services stated on the Individualized Education Program (IEP).

C. - C.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:662 (April 2000), amended LR 29:

§494. Obligation of Noneducational Public Agencies

A. - B. …

C. If a public agency other than the educational agency fails to provide or pay for the special education and related services in A. above, the LEA or Department shall provide or pay for these services to the student in a timely manner. The LEA or Department may then claim reimbursement for the services from the noneducational public agency that failed to provide or pay for these services and that agency shall reimburse the LEA or Department in accordance with the terms of the interagency agreement.

D. Nothing in this part relieves the participating agency, including a State vocational rehabilitation agency, of the responsibility to provide or pay for transition services that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:663 (April 2000), amended LR.

Chapter 5. Procedural Safeguards

§503. Independent Educational Evaluation

A. - C.3. …

4. If a parent requests an IEE at public expense, the LEA must ensure that the evaluation is provided at public expense, unless the LEA demonstrates in a hearing under §507 of these regulations that the evaluations obtained by the parent did not meet agency criteria.

D. An IEE obtained at public expense shall meet the same criteria established by these Regulations. The LEA may not impose conditions on obtaining an IEE, other than the mandated criteria

E. If the parents obtain an IEE at private expense and it meets the mandated criteria, the results of the evaluation shall be considered by the LEA in any decision made with respect to the provision of a free appropriate public education to the student; and they may be presented as evidence at a hearing as described in §507 of these Regulations regarding the student.

F. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:664 (April 2000), amended LR 29:

§504. Prior Notice and Procedural Safeguard Notice

A. - B. …

1. a description of the action proposed or refused by the LEA, an explanation of why the LEA proposes or refuses to take the action, and a description of any other options the LEA considered and reasons why those options were rejected;

B.2. - F.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:664 (April 2000), amended LR 29:

§505. Parental Consent

A. …

B. Consent for initial evaluations may not be construed as consent for initial placement described in A. above.

C. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:665 (April 2000), amended LR 29:

§506. Complaint Management and Mediation

A. Complaint procedures are established to resolve disputes regarding educational decisions between an LEA and a parent.

A.1. - B. …

1. Mediation, which is voluntary on the part of both parties, shall be conducted by a qualified and impartial mediator trained in effective mediation techniques and assigned randomly by the Department.

2. - 8. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:665 (April 2000), amended LR 29:

§507. Impartial Due Process Hearing

A. A parent or LEA may initiate a hearing on any of the matters described in §504 A.1 and 2. A parent of a child with a disability or the attorney representing the child, initiates a hearing by sending written notice to the Department, which remains confidential. The LEA initiates a hearing by sending written notice to the parent and to the Department. When a hearing has been initiated, the Department shall inform the parents of the availability of mediation.

1. The written notice to the Department for a due process hearing shall include the student's name and address, the name of the school the student is attending, a description of the nature of the problem, of the child relating to the proposed or refused initiation or change, including facts relating to the problem, and a proposed resolution of the problem to the extent known and available to the person requesting the hearing. The Department must provide a model form to a parent to assist in filing a request for a due process hearing.

2. …

3. The Department may not deny or delay a parent's right to a due process hearing for failure to provide the required notice described above.

B. …

1. The hearing shall be conducted at a time and place reasonably convenient to the parent and the student involved.

2. Any party shall have the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of students with disabilities.

B.3. - C.2. …

3. be informed, upon request, of any free or low-cost legal and other relevant services if the parent requests the information or when either the parent or the LEA initiates a due process hearing; and

C.4. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:666 (April 2000), amended LR 29:

§508. Hearing Officer Appointment and Hearing Procedures

A. - A.1.b. …

c. No attorney who has represented an LEA or a parent in education litigation within three years may act as a hearing officer.

2. The Department and each LEA shall maintain the list of qualified hearing officers. The list shall include a statement of the qualifications of each of the hearing officers. The Department shall ensure that these hearing officers have successfully completed an in-service training program approved by the Department. Additional in-service training shall be provided whenever warranted by changes in applicable legal standards or educational practices.

3. Appointments shall be for a period of one year.

B. …

1. The hearing officer shall be assigned within five business days by the Department, on a rotational basis from the Department's list of certified hearing officers.

2. …

3. If the parent or LEA has reasonable doubt regarding the impartiality of a hearing officer, written information shall be submitted to the Department within three business days of receipt of the notice of the assigned hearing officer.

4. The Department shall review any written challenge and provide a written decision and notice to the parent and LEA within three business days after receipt of the written challenge.

B.5. - C. 6. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:667 (April 2000), amended LR 29:

§509. Appeal of the Hearing Decision

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:667 (April 2000), repealed LR 29:

§510. The State Level Review Panel

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:668 (April 2000), repealed LR 29:

§511. Appeal to the State Level Review Panel

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:668 (April 2000), repealed LR 29:

§512. Appeal to State or Federal Court

A. Any party aggrieved by the decision and the findings of the hearing officer has the right to bring a civil action in State or Federal court. The civil action shall be filed in State or federal court of competent jurisdiction without regard to the amount of controversy within 90 days after notification of the decision or finding of the hearing officer is received by the aggrieved person, agency, or party.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:668 (April 2000), amended LR 29:

§514. Student Status during Proceedings

A. Except as provided in §519.K of the Regulations during the pendency of any administrative or judicial proceeding regarding due process, the student involved shall remain in the current educational placement unless the parent and the LEA agrees otherwise.

B. …

C. If the decision of a hearing officer agrees with the parent that a change of placement is appropriate, that placement shall be treated as an agreement between the State or the LEA and the parents for the purposes of A above.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:668 (April 2000), amended LR 29:

§515. Costs

A. LEAs shall be responsible for paying administrative costs or reasonable expenses related to participation of LEA personnel in a hearing. The cost and expenses of the hearing officer and stenographic services shall be paid by the Department in accordance with its policies and procedures.

B. - B.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:668 (April 2000), amended LR 29:

§517. Confidentiality of Information

A. - B.5. …

C. In ensuring access rights, each LEA shall permit parents to inspect and review any educational records relating to their child, which are collected, maintained or used by the LEA under these Regulations. The LEA shall comply with the request without unnecessary delay and before any meeting regarding an individualized education program or any hearing pursuant to §507 and §519.D-M of these regulations; in no case shall the time exceed 45 days after the request has been made. The LEA shall not destroy any education records if there is an outstanding request to inspect and review the records.

C.1. - M.1. …

N. All rights of privacy accorded to parents shall be afforded to students with disabilities, taking into consideration the age of the child and type of severity of the disability.

1. …

2. Rights accorded to parents under Part B of the IDEA and these Regulations are transferred to a student who reaches the age of majority, consistent with §518 of these Regulations.

O. State-mandated Compliance Monitoring includes the policies, procedures and sanctions the State shall use to ensure that the requirements of IDEA **C**Part B and these Regulations are met.

P. - P.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:669 (April 2000), amended LR 29:

§518. Transfer of Parental Rights at the Age of Majority

A. - A.3. …

B. When a student with a disability reaches the age of majority and has not been interdicted or the subject of a tutorship proceeding, the student's parent may allege to the LEA that the student lacks the ability to provide informed consent with respect to his or her educational program. In the event that the parent makes such an allegation, the student has the right to dispute the parent's allegation, either orally or in writing, or by any other method of communication.

1. Any protest or objection to the parent's allegation shall result in the student's educational rights being transferred fully to the student at the age of majority, unconditionally. If the student makes no such dispute or objection, the parent shall retain the student's educational rights.

2. The student's position is final and unappealable; however, at any time the student may revoke his protest or objection to his parents' retention of rights. Upon such revocation, the students' rights immediately vest with the student.

3. LEAs are required to document in the child's IEP that the parents and the student have been informed of the rights herein and that they have accepted or declined these rights. If the student and/or parent is unable to sign the appropriate section of the IEP reflecting this information, the IEP team may complete that portion of the IEP on behalf of the student and/or parent, reflecting each party's position and acknowledging that the student and/or parent is unable to sign.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:670 (April 2000), amended LR 29:

§519. Discipline Procedures for Students with Disabilities

A. - B.2. …

a. the student carries or possesses a weapon at school or at a school function under the jurisdiction of the State or an LEA; or

b. the student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function under the jurisdiction of the State or an LEA.

C. …

* * *

Weapon has the meaning given the term *dangerous weapon* under Paragraph (2) of the first Subsection (g) of Sec 930 of Title 18, United States Code.

D. - D.1.c. …

d. determines that the interim alternative educational setting that is proposed by school personnel who have consulted with the student's special education teacher meets all IAES requirements as set forth in Subsection G below.

E. - E.1.a. …

b. for behavior that is not a manifestation of the student's disability consistent with §519.H of these Regulations; the student's IEP team shall determine the extent of which services are necessary to enable the student to progress appropriately in the general curriculum and to advance appropriately toward achieving the goals set out in the student's IEP.

E.2. - F.1. …

2. If the student already has a behavioral intervention plan, the IEP team shall meet to review the plan and its implementation and modify the plan and its implementation as necessary, to address the behavior.

3. - 4.a. …

G. The interim alternative educational setting referred to in Paragraph B of this section shall be determined by the IEP team. Any interim alternative educational setting in which a student is placed under Paragraph B.2 and Subsection D of this Section shall:

1. …

2. include services and modifications designed to address the behavior described in Paragraph B.2 and Subsection D and to prevent the behavior from recurring.

H. - H.4. …

a. consider, in terms of the behavior subject to disciplinary action, all relevant information, the evaluation and diagnostic results, including the results or other relevant information supplied by the parent of the student; observation of the student; and the student's IEP and placement, and

4.b. - 5. …

6. If the IEP team and other qualified personnel determine that the behavior is a manifestation of the student's disability, the disciplinary removal cannot occur, unless the removal is in accordance with §519.B.2.(a) and (b) and §519 D of these Regulations.

H.7. - I.3. …

J. If the student's parent disagrees with a determination that the student's behavior was not a manifestation of the student's disability or with any decision regarding placement and discipline, the parent may request a hearing.

1. The Department, consistent with §507 and §508.B of these Regulations, shall arrange for an expedited hearing in any case described in the above paragraph if a hearing is requested by a parent.

a. In reviewing a decision with respect to the manifestation determination, the hearing officer shall

determine whether the LEA has demonstrated that the student's behavior was not a manifestation of the student's disability consistent with the requirements of §519.H.5.

b. In reviewing a decision under §519.B.2 of these Regulations to place a student in an interim alternative educational setting, the hearing officer shall apply the standards in §519.D of these Regulations.

K. …

1. If the parents request a hearing regarding a disciplinary action described in §519.B.2 or §519.D.1.a-d to challenge the interim alternative educational setting or the manifestation determination, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until expiration of the time period provided for in §519.B.2 or §519.D.1.a-d, whichever occurs first, unless the parent and the State or LEA agree otherwise.

2. If a student is placed in an interim alternative educational setting pursuant to §519B.2 and §519.D.1.a-d and school personnel propose to change the student's placement after expiration of the interim alternative placement, during the pendency of any proceeding to challenge the proposed change in placement, the student shall remain in the current placement (student's placement prior to the interim alternative educational setting), except as provided in K.3 below.

3. ...

a. In determining whether the student may be placed in the alternative educational setting or in another appropriate placement ordered by the hearing officer, the hearing officer shall apply the standards in §519.D.1.a-d.

K.3.b. - L.4. …

5. If the student is determined to be a student with a disability, taking into consideration information from the evaluation conducted by the LEA and information provided by the parents, the LEA shall provide special education and related services in accordance with the provisions of these Regulations including the requirements of §519.B-N and R.S. 17:1943.6.

M. - M.5. …

6. The decisions on expedited due process hearings are appealable consistent with the procedures established at §512 of these Regulations.

N. - N.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:670 (April 2000), amended LR 29:

Chapter 6. Establishment and Operation of Special School District

§602. Program Approval

A. Each educational program operated by SSD shall meet the Standards for school approval.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:674 (April 2000), amended LR 29:

§690. Instructions for Child Count

A. …

B. Each LEA/State agency shall determine the eligibility of each student for inclusion in the December 1 Child Count, which will generate funds under IDEA-B. It is the responsibility of the LEA/State agency to verify that each eligible student is receiving the special education and related services stated on the Individualized Education (IEP).

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:675 (April 2000), amended LR 29:

Chapter 7. Responsibilities of State Board Special Schools

§711. Instructions for Child Count

A. …

B. Each LEA/State agency shall determine the eligibility of each student for inclusion in the December 1 Child Count, which will generate funds under IDEA-B. It is the responsibility of the LEA/State agency to verify that each eligible student is receiving the special education and related services stated on the Individualized Education Program (IEP).

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:677 (April 2000), amended LR 29:

§716. Louisiana Schools for the Deaf and the Visually Impaired Alternative Placement

A. …

B. Upon receipt from a parent (as defined in Chapter 9 of these Regulations) of an application for admission of his or her child, LSD or LSVI shall require, at a minimum, an individual evaluation for classification as having a hearing impairment (i.e., deaf, hard of hearing) or a visual impairment (i.e., blindness, partial sight) as a part of the application. LSD or LSVI shall notify the LEA of the parent/student domicile that the application has been made, in order to fulfill the provisions established in §709 of these Regulations.

C. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:677 (April 2000), amended LR 29:

Chapter 8. Interagency Agreements

§830. Types of Interagency Agreements

A. The Department and SSD shall have agreements or promulgate regulations for interagency coordination with the Department of Health and Hospitals (DHH), the Department of Social Services (DSS), and the Department of Public Safety and Corrections (DPS&C), and/or other state agencies and their sub-offices, where appropriate. LEAs shall have those agreements whenever necessary for the provisions of a free appropriate public education. The State School for the Deaf, State School for the Visually Impaired and the State Special Education Center, now under the auspices of SSD, shall have interagency agreements with the LEA in whose geographic area they are located; with each LEA that places a student in the day programs of that facility; with the regional state agencies; and with habilitation agencies with which they share students.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:678 (April 2000), amended LR 29:

§861. DHH and the Department's Responsibilities under IDEA and the Louisiana Education of Children with Exceptionalities Act

A. This regulation and the following regulations at §§861-870 control the legal relationship between the Louisiana Department of Health and Hospitals (DHH) and the Louisiana Department of Education (the Department), for the interagency coordination of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1400 et seq. and the Louisiana Education of Children with Exceptionalities Act, R.S. 17:1941 et seq., and encompasses all offices, division, bureaus, units and programs at the State, regional and local levels with each department.

B. These regulations are promulgated to comply with the obligations imposed upon the State of Louisiana and its agencies at 20 U.S.C. §1412 and 34 CFR §300.142.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§862. Definitions

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

Educational Services—all other services, including but not limited to academic services, extracurricular activities, transportation, related services for which DHH is not legally responsible, and any other service included on a student's IEP but not provided by DHH, through Medicaid or any other program operated by DHH, under any existing State or federal law.

Eligibility Criteria for DHH Health and Medical Services—the criteria for individuals receiving a specific health or medical service provided by DHH.

Family—the child's parents or legal guardians as well as surrogate parents and persons acting as a parent as defined by Bulletin 1706, Regulations for the Implementation of the Children with Exceptionalities Act.

IEP—Individualized Education Program, as defined in §904 herein.

LEA—a local educational agency, as defined in §904 herein.

Related Services—in addition to the definition of these terms in IDEA and Bulletin 1706, in the context of these regulations, the term means those services which DHH, through Medicaid or any other program operated by DHH, is required by any existing State or federal law to provide to a qualified recipient in the State of Louisiana. *Related services* includes but is not limited to supportive services as are required to assist a student with a disability to benefit from special education, and includes speech-language pathology and audiology services, psychological services, physical and occupational therapy, therapeutic recreation, early identification and assessment of disabilities in students, counseling services, including rehabilitation counseling, orientation and mobility services, medical services for diagnostic or evaluation purposes, and transition services.

Services—any special education and/or related services as defined in IDEA and Bulletin 1706, Regulations for Implementation of the Children with Exceptionalities Act.

Student—any individual between the ages of 3 and 22 years and is enrolled in a Louisiana Local Education Agency ("LEA") or is the responsibility of the Department and/or the LEAs.

Student with a Disability—as defined in §904 herein.

Transition Services—Transition services, as defined in §904 herein.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§863. Responsibility for Services

A. In order to ensure that all services described in §864 of these regulations that are needed to ensure FAPE are provided, including the provision of these services during the pendency of any dispute, the following requirements are imposed on the Department and DHH.

1. Agency Financial Responsibility. All relevant federal and state mandates apply. The Department and DHH, as obligated under federal or state law, must use allocated federal, state and local funds to provide, pay or otherwise arrange for services on the IEP that are necessary to ensure each eligible student receives a free appropriate public education ("FAPE") as written on the IEP. The financial responsibility for these services shall be governed by all pertinent federal and state laws, including but not limited to 20 U.S.C. §1400 et seq., 34 CFR Parts 300, LSA-R.S. 17:1941 et seq., Louisiana Department of Education *Bulletin 1706*, 42 U.S.C. §1396 and 42 CFR Part 430.

a. If DHH is otherwise obligated under federal or state law, or assigned responsibility under DHH policy or pursuant to 34 CFR §300.142, to provide or pay for any services that are also considered special education or related services (such as, but not limited to, services described in 34 CFR §300.5 relating to assistive technology devices, 34 CFR §300.24 relating to related services, 34 CFR §300.28 relating to supplementary aids and services, and 34 CFR §300.29 relating to transition services) that are necessary for ensuring FAPE to students with disabilities within the State, DHH shall fulfill that obligation or responsibility, either directly or through contract or other arrangement.

b. DHH may not disqualify an eligible service for Medicaid reimbursement because it is on an IEP or because that service is provided in a school context or any other setting that is a most integrated setting or least restrictive environment in order to provide a free appropriate public education. DHH is required to provide all eligible services to the same extent the individual would receive these services under federal and state law and regulation without eligibility for IDEA.

c. The financial responsibility of DHH must precede the financial responsibility of the LEA or the State agency responsible for developing the student's IEP.

2. Conditions and Terms of Reimbursement. DHH will fund or provide services that are included on an IEP to the extent that such services are services that are funded or provided to individuals eligible under any federal or state program provided by DHH. If any program under the auspices of DHH fails to provide or pay for these special education and related services, the LEA and/or the Department is responsible for providing or paying for these services. The Department or the LEA will then claim

reimbursement from DHH, having failed to provide or pay for these services. DHH is then required to reimburse the LEA or the Department for the services that DHH is otherwise obligated to provide. DHH is required to fund or provide services that are included on an IEP to the extent that such services are services for which the individual is eligible under any federal or state program administered by DHH.

3. Interagency Disputes. Disputes relating to the provision of services pursuant to 20 U.S.C. §1400 et seq., and the Louisiana Education of Children with Exceptionalities Act, R.S. 17:1941 et seq., must be addressed in the following manner.

a. If a family disputes the actions of an LEA, that family may either file a complaint with the Department or file for a due process hearing, both as set out in Louisiana Bulletin 1706, Chapter 5, Procedural Safeguards. If a family disputes the actions of DHH and that family or student is a client of or eligible for DHH services, that dispute may be addressed through the DHH appeals process, as authorized in R.S. 46:107 or any other relevant State or federal statute or regulation.

b. If an LEA disputes the actions of the Department, that LEA may file suit against the Department only in the United States District Court for the Middle District of Louisiana or the Nineteenth Judicial District Court for the Parish of East Baton Rouge.

c. If an LEA disputes the actions of DHH, as a Medicaid provider, that LEA may appeal through the DHH appeal process, as authorized in R.S. 46:107 or any other relevant State or federal statute or regulation.

d. An interagency dispute between DHH and the Department, which involves either program or financial responsibility, will be referred to the Superintendent of Education and the Secretary of the Department of Health and Hospitals for mediation. If the dispute cannot be resolved in mediation, it will be referred to the Office of the Governor for resolution. If a dispute continues beyond these interventions, either DHH or the Department may seek resolution from a court of competent authority.

e. During the pendency of any dispute, a student's LEA bears full responsibility for program and/or financial obligations, to ensure that the student's IEP is implemented fully and that the student is receiving FAPE. If the LEA is unable or unwilling to provide FAPE, the Department is responsible for those program and/or financial obligations.

4. Coordination of Services Procedures. The Department and DHH shall coordinate services to students with disabilities by complying with procedures that are specific to each agency, including, but not limited to, the following.

a. The Department bears the following responsibilities:

i. maintain the Child Search system under Part B of IDEA, specifically, the identification, location and evaluation of students from 3 through 21 years of age who are suspected of having a disability;

ii. provide DHH with a listing of its primary contacts and service description for the Child Search Program on a parish basis for DHH to make available to its regional and parish offices;

iii. ensure that each eligible student/student will receive a timely, appropriate multidisciplinary evaluation. In order to reduce the duplication of effort, services and paperwork, the LEAs will implement a policy to ensure evaluations conducted by programs in DHH are utilized in the multidisciplinary evaluation of students suspected of being disabled and in the re-evaluation of students;

iv. ensure that each eligible student with a disability receives a free appropriate public education ("FAPE") in accordance with an IEP. FAPE includes special education and related services;

v. ensure that each eligible student has an IEP developed and implemented in accordance with IDEA;

vi. monitor the provision of services on IEPs through assurances with LEAs; and

vii. monitor the implementation of the IEP and assure that resources necessary for the implementation of services on the IEP will be made available through federal or State funds.

b. DHH bears the following responsibilities:

i. provide access to medical services offered by DHH through application for such services at DHH office locations in all regions of the State where the students currently reside. The student must meet the eligibility criteria for the medical services for which the student is applying. Establishing eligibility and need for services is the responsibility of DHH;

ii. DHH shall not reduce the medical services, which it would be required to provide to a student with a disability solely because those services are included on IEP;

iii. refer students to the LEA upon suspicion of a disability. DHH personnel will share available information on students receiving joint services from the Department and DHH with the proper written consent;

iv. provide information at the consent and request of a parent; and

v. ensure that a student with a disability can access Medicaid services for which the student is eligible. DHH policy and procedures shall not preclude an LEA from enrolling as a provider in the Medicaid program.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§864. Obligations of DHH

A. If DHH is otherwise obligated under federal or State law, or assigned responsibility under State policy or pursuant to §§861-870 herein, to provide or pay for any services that are also considered special education or related services (such as, but not limited to, services described in 34 CFR §300.5 relating to assistive technology devices, §300.6 relating to assistive technology services, §300.24 relating to related services, §300.28 relating to supplementary aids and services, and §300.29 relating to transition services) that are necessary for ensuring FAPE to students with disabilities within the State, DHH shall fulfill that obligation or responsibility, either directly or through contract or other arrangement.

B. DHH may not disqualify an eligible service for Medicaid reimbursement because that service is provided in a school context.

C. If DHH fails to provide or pay for the special education and related services described in Paragraph A hereinabove, the LEA (or State agency responsible for developing the student's IEP) shall provide or pay for these services to the student in a timely manner. The LEA or State agency may then claim reimbursement for the services from DHH, having failed to provide or pay for these services, and DHH shall reimburse the LEA or State agency in accordance with these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§865. Students with Disabilities Who Are Covered by Public Insurance

A. An LEA may use the Medicaid or other public insurance benefits programs in which a student participates to provide or pay for services required under this agreement, as permitted under the public insurance program, except as follows.

1. With regard to services required to provide FAPE to an eligible student under this part, the LEA:

a. may not require parents to sign up for or enroll in public insurance programs in order for their student to receive FAPE under Part B of the IDEA;

b. may not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided pursuant to this part, but pursuant to §867.B of these regulations, may pay the cost that the parent otherwise would be required to pay; and

c. may not use a student's benefits under a public insurance program if that use would:

i. decrease available lifetime coverage or any other insured benefit;

ii. result in the family paying for services that would otherwise be covered by the public insurance program and that are required for the student outside of the time the student is in school;

iii. increase premiums or lead to the discontinuation of insurance; or

iv. risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§866. Students with Disabilities Who Are Covered by Private Insurance

A. With regard to services required to provide FAPE to an eligible student under this Chapter, an LEA may access a parent's private insurance proceeds only if the parent provides informed consent consistent with 34 CFR §300.500(b)(1).

B. Each time the LEA proposes to access the parent's private insurance proceeds, it must:

1. obtain parent consent in accordance with Subsection A this Section; and

2. inform the parents that their refusal to permit the LEA to access their private insurance does not relieve the LEA of its responsibility to ensure that all required services are provided at no cost to the parents.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§867. Use of Part B Funds

A. If an LEA or State agency is unable to obtain parental consent to use the parent's private insurance, or public insurance when the parent would incur a cost for a specified service required under this part, to ensure FAPE the LEA may use its Part B funds to pay for the service.

B. To avoid financial cost to parents who otherwise would consent to use private insurance, or public insurance if the parent would incur a cost, the LEA may use its Part B funds to pay the cost the parents otherwise would have to pay to use the parent's insurance (e.g., the deductible or co-pay amounts).

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§868. Proceeds from Public or Private Insurance

A. Proceeds from public or private insurance will not be treated as program income for purposes of 34 CFR §80.25.

B. If an LEA spends reimbursements from federal funds (e.g., Medicaid) for services under this part, those funds will not be considered "State or local" funds for purposes of the maintenance of effort provisions in 34 CFR §§300.154 and 300.231.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§869. Limitations of these Requirements

A. No provision of this Chapter should be construed to alter the requirements imposed on DHH or any other agency administering a public insurance program by federal statute, regulations, or policy under Title XIX or Title XXI of the Social Security Act or any other public insurance program.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§870. General Provisions Governing §§861-870

A. Confidentiality of Information. In accordance with federal and State law, information on a student's disabilities is confidential. For the purposes of identification, location, evaluation, development and implementation of the IEP, information and records on mutually served students may be exchanged between the Department and DHH with the written, informed consent of the parent(s) of each student. The method of exchanging information may be electronic or written. When a specific student or family is identified, the exchange must be written with proper consent obtained.

B. Ancillary Agreements. Regional and/or local agreements may be developed and implemented between the respective programs within the Department and DHH for the purposes of determining and identifying interagency coordination to promote the coordination of services and the timely and appropriate delivery of services to each eligible student and family. The services may be provided either directly, through a contract or other arrangement. These agreements are considered binding for the programs under the auspices of the Department and DHH only after written approval of such regional or local agreements by the

Secretary of DHH and the Division Director of Special Populations in the Department, respectively.

C. Joint Coordination and Monitoring. DHH and the Department are required to develop jointly State level annual goals that are based on needs/data. DHH and the Department are required to evaluate jointly the overall effectiveness of these goals. Each department is required to designate a liaison at the state level to coordinate the activities and monitor the compliance of these regulations. Each agency is required to appoint an interagency committee to review and evaluate the effectiveness of these regulations; facilitate their implementation; and make recommendations for revisions as deemed appropriate.

D. Modifications to These Requirements. As the lead agency for implementation of the Louisiana Education of Children with Exceptionalities Act and the Individuals with Disabilities Education Act in Louisiana, the Department is the sole agency with authority to promulgate regulations pursuant to those statutes and no modification to these requirements shall be made by any other agency by regulation, policy or otherwise, without the express written consent of the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

Chapter 9. Definitions

§904. Definitions

Adapted Physical Education—is specially designed physical education for not only students with disabilities who may not safely or successfully engage in unrestricted participation in the vigorous activities of the regular physical education program on a full-time basis but also for students with disabilities, ages 3 through 5, who meet the mandated criteria. The delivery of adapted physical education required by an IEP shall meet the following conditions:

1. evaluation and instruction are provided by a certified adapted physical education teacher;

2. only students with disabilities whose need is documented in accordance with mandated criteria for eligibility are included in the caseload;

3. the caseload is in accordance with the pupil/teacher ratios listed in Chapter 10 of these Regulations.

* * *

Alternate Assessment—a substitute approach used in gathering information on the performance and progress of students who do not participate in typical state assessments. Under these Regulations, alternate assessments shall be used to measure the performance of a relatively small population of students with disabilities who are unable to participate in the general statewide assessment system, even with accommodations and modifications.

* * *

Certificate of Achievement—an exit document issued to a student with a disability after he or she has achieved certain competencies and has met specified conditions as listed below. The receipt of a Certificate of Achievement shall not limit a student's continuous eligibility for services under these Regulations unless the student has reached the age of 22.

1. The student has a disability under the mandated criteria.

2. The student has participated in the Louisiana Alternate Assessment Program (LAA).

3. …

4. The student has met attendance requirements.

5. - 6. …

Certificate of Achievement—Provisional Eligibility Criteria—an exit document issued to a student with a disability after he or she has achieved certain competencies and has met specified conditions as listed below.

1. Eligible students are those:

a. who have disabilities under the mandated criteria;

1.b. - 2.b. …

c. The student has met attendance requirements according to the *School Administrator's Handbook, Bulletin 741*.

d. - f. …

* * *

Evaluation—is a multidisciplinary evaluation of a child/student, ages 3 through 21 years, in all areas of suspected disability through a systematic process of review; examination; interpretation; and analysis of screening data, developmental status, intervention efforts, interviews, observations, and test results, as required; and other assessment information relative to the predetermined criteria.

* * *

Extended School Year (ESY) Services—is the provision of special education and related services to students with disabilities beyond the normal school year of the LEA. All students (ages 3 through 21) classified as having a disability with a current evaluation and IEP are to be screened annually by the ESYP screening date to determine eligibility for ESYP. Services are to be provided in accordance with the student's IEP once eligibility is determined.

* * *

Generic Class—is an instructional setting (self-contained or resource).

1. - 1.b. …

2. The instruction is provided by a special education teacher with appropriate certification.

3. - 4. …

* * *

Individualized Family Service Plan (IFSP)—

1. a written plan for providing early intervention services for eligible children and their families. The determination of the most appropriate early intervention services, including any modifications in placement, service delivery, service providers or early intervention services, is accomplished through the development of the IFSP. The IFSP shall:

a. be developed jointly by the family and appropriate qualified personnel, including family service coordinators involved in the provision of early intervention services;

b. be based on the multidisciplinary evaluation and assessment of the child and family;

c. include the services necessary to enhance the development of the child and the capacity of the family to meet the special needs of their child;

d. continue until the child transitions out of early intervention, either to other appropriate service providers at age 3, or at such time that the family and multidisciplinary

professionals determine that services are no longer necessary; or the family no longer desires early intervention services;

e. identify the location of the early intervention services to be provided in natural environments, including the home and community settings, in which children without special needs would participate.

2. If there is a dispute between agencies regarding the development or the implementation of the IFSP, the Lead Agency is responsible for taking the necessary actions to resolve the dispute or assign responsibility for developing or implementing the IFSP.

*Infants and Toddlers with Disabilities***C**children between the ages of birth and 3 years of age who have been determined eligible for early intervention services.

* * *

*Occupational Therapy***C**as a related service, means mandated services provided by a qualified occupational therapist.

* * *

*Physical Therapy***C**as a related service means mandated services provided by a qualified physical therapist.

* * *

*Related Services***C**transportation and such developmental, corrective, and other supportive services as are required to assist a student with a disability to benefit from special education. Related services include speech/language pathology and audiological services, psychological services, physical and occupational therapy, recreation including therapeutic recreation, early identification and assessment of disabilities in students, counseling services including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parental counseling and training.

* * *

*School Health Services***C**as a related services means services provided by a certified school nurse or other qualified person.

* * *

*Specific Learning Disability***C**a severe and unique learning problem characterized by significant difficulties in the acquisition, organization, or expression of specific academic skills or concepts. This learning problem is typically manifested in school functioning as significantly poor performance in such areas as reading, writing, spelling, arithmetic reasoning or calculation, oral expression or comprehension, or the acquisition of basic concepts. The term includes such conditions as attention deficit disorders, perceptual disabilities or process disorders, minimal brain dysfunction, dyslexia, developmental aphasia, or sensorimotor dysfunction, when consistent with the mandated criteria. The term does not apply to students who have learning problems primarily the result of visual, hearing, or motor impairments; of mental disabilities; of an emotional disturbance; of lack of instruction in reading or mathematics; of limited English proficiency; or of economic, environmental, or cultural disadvantage.

* * *

*Student with a Disability***C**a student evaluated in accordance with §§430-436 of these Regulations and determined as having one of the disability categories and, by reason of that disability, needing special education and related services.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:679 (April 2000), amended LR 29:

Chapter 10 State Program Rules for Special Education

§1001. Pupil/Teacher, Pupil/Speech/Language Pathologist, and Pupil Appraisal Ratios for Public Education

A. - 6. …

7. Repealed. (Reserved for future use.)

8. - 12. …

13. Pupil appraisal members shall be employed by LEAs at the rate listed below. LEAs may substitute one pupil appraisal for another provided that all pupil appraisal services are provided in accordance with these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:687 (April 2000), amended LR 29:

Family Impact Statement

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

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

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

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

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

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

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

Interested persons may submit comments until 4:30 p.m., April 11, 2003, 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 1706C Regulations for Implementation of the Children with Exceptionalities ActC Children with Disabilities

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

There are no estimated implementation costs to state or local governmental units resulting from these proposed rule changes.

There would be savings to the state and local educational units resulting from converting from a two-tier to a one-tier Due Process Hearing system. The State Level Review Panel would be eliminated which would save the state approximately $57,000 per year in contractual services, and save the local educational units between $2,000 and $6,000 per case in attorney fees based on the complexity of the case.

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

There is no estimated impact on revenue collections of state or local governmental units as a result of this measure. Federal special education revenue may increase in Fiscal Year 2003-2004; however, this monetary increase is not due to these proposed rule changes.

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

Adoption of this rule would provide benefits to younger students with disabilities by ensuring services are provided in a timely fashion. The proposed rule clarifies programmatic and fiscal responsibilities of noneducational agencies in providing and paying for services, which would free up additional dollars to pay for other educational and therapy services. Because of this clarification there could be additional dollars to provide training and technical assistance to school personnel and parents.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment resulting from these proposed rule changes.

Marlyn Langley	H. Gordon Monk
Deputy Superintendent	Staff Director
Management and Finance	Legislative Fiscal Office

0302#049

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Office of Environmental Assessment

Procedures for Public Records Requests
(LAC 33:I.2303-2309) (OS048)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.2303-2309 (Log # OS048).

The proposed rule will modify the uniform fee schedule by adding rates for color copies and reproduced audiotapes and videotapes, setting an hourly rate fee and reduced rate for generating computer reports, and noting no fees for certification of copies or viewing records. These changes establish fees for record copy formats now available, clarifying the cost of the extended staff time required for producing reports from databases. The uniform fee schedule table will be reconstructed to display the regular and reduced fees in separate columns for clarity. The proposed rule will modify the procedure to allow receiving public record requests in electronic form so that requesters have a quick, easy method of delivering requests. The rule continues to exclude requests as e-mail attachments as protection against computer viruses.The proposed rule will extend exceptions to the standard operating procedures. There is a waiver for requiring LDEQ Form ISD-0005-01 for copies prepared for sale to the public. If records must leave the premises, they can be accompanied by someone designated by the department. This allows the Custodian of Records to appoint Records Management contract staff, who have many records management responsibilities, to go with the record to the outside source copy provider. The Custodian of Records' approval is changed from required to may be required for copies delivered by facsimile.

When rules were last promulgated, no clearly-defined records management program existed in DEQ. Now that the functioning records management system is an integral part of DEQ business, the existing regulations are not adequate and we have identified the changes needed, including the different fees required because of the distinct nature of some record copy requests. The basis and rationale for this rule are to bring the regulations up to date with the department's record management system capabilities and procedures, particularly dealing with electronic records and information, and expanding services for public records requests.

This proposed rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY
Part I. Office of the Secretary
Subpart 1. Departmental Administrative Procedures
Chapter 23. Procedures for Public Record Requests

§2303. Policy

A. The department shall implement the fee schedule in LAC 33:I.2309 when providing copies of public records requested by the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., 44:1 et seq., and 30:2043 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§2305. Standard Operating Procedures

A. All requests for copies of public records, including discovery requests and subpoenas duces tecum for production of public records, shall be made using LDEQ Form ISD-0005-01. A certification on LDEQ Form ISD-0005-02 shall be submitted with the request for free or reduced rate copies. Completed forms may be submitted in person, by mail, by facsimile, or other approved method. No other request will be honored. Copies of the forms may be obtained through the department's website at

www.deq.state.la.us or from the department's custodian of records.

B. - C. ...

D. In order to ensure the preservation of department records, no records shall leave the premises, whether accompanied by agency personnel or otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), LR 29:

§2307. Exceptions to Standard Operating Procedures

A. The following procedures shall apply to persons requesting copies of public records under an exception to standard operating procedures.

1. Requests for exceptions to standard operating procedures shall be approved in advance by the department's custodian of records.

2. All requests for copies of public records shall be made using LDEQ Form ISD-0005-01 unless the records were prepared for sale to the public, e.g., Environmental Regulatory Code.

B. Specific Exceptions

1. Exception to LAC 33:I.2305.C. Copies of public records may be requested and delivered by facsimile. The copies may be sent upon receipt of a facsimile of the payment check or money order, pending receipt of the actual payment.

a. Custodian of records' approval and credit approval may be required prior to providing copies by facsimile.

b. If payment is not received within 10 working days, the requester's name will appear on an Accounts Receivable Past Due report maintained by the Office of Management and Finance, Financial Services Division.

c. No copies shall be provided to any requester who appears on the Accounts Receivable Past Due report until all past due amounts have been paid.

2. Exception to LAC 33:I.2305.D. Oversize and color records that must be duplicated by an outside source copy provider, due to unavailability of suitable copying equipment within the department, may leave the premises by approval of the custodian of records.

a. The document shall be accompanied by an official, employee, agent, or contractor of the agency who shall remain with the document until its return.

b. The requester shall be responsible for all costs of reproduction. The requester shall:

i. make payment or arrangements for payment with the outside source copy provider in advance of the request for the exception; and

ii. include a statement of such arrangements as part of the request.

c. The department reserves the right to approve the outside source copy provider and to refuse the release of public records to an outside source copy provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), LR 29:

§2309. Uniform Fee Schedule

Item	Regular Fee	Reduced Fee
Copy	$.25 per one-sided page	$.05 per one-sided page
	$.50 per two-sided page	$.10 per two-sided page
Copy, Color	$1.00 per one-sided page	$.50 per one-sided page
Copy of existing electronic file	$.25 per one-sided page paper copy	$.05 per page paper copy
	$.50 per two-sided page paper copy	$.10 per page paper copy
(Disk/CD will be provided by the department)	Cost of disk/CD for electronic copy	Cost of disk/CD for electronic copy
Computer-generated report/ map that requires data processing time* (Disk/CD will be provided by the department) *Cost to include personnel, supplies, etc.	$25.00 per hour + cost of disk/CD	$5.00 per hour + cost of disk/CD
Copies printed and produced by outside sources at the request of the department (LSU Press, DOA Printing, etc.)	As determined by the cost statement	As determined by the cost statement
Facsimile, per page **A cover sheet and an invoice shall be included in the faxed material at no charge.	$1.00 per page**	$1.00 per page**
Reproduced videotape	Cost of tape	Cost of tape
Reproduced audiotape	Cost of tape	Cost of tape
Postage & Handling	Actual cost	Actual cost
Viewing records, certification of record copies, or copies of Requests for Proposal (RFP)	No charge	No charge

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:430 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

A public hearing will be held on March 27, 2003, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation in order to participate, contact Lynn Wilbanks at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by OS048. Such comments must be received no later than April 3, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation

Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389 or by e-mail to lynnw@deq.state.la.us. Copies of this proposed regulation can be purchased by contacting the DEQ Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of OS048.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at http://www.deq.state.la.us/ planning/regs/index.htm.

James H. Brent, Ph.D.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Procedures for Public Records Requests

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

No significant implementation costs or savings to state or local governmental units are expected as a result of this rule.

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

There will be no impact on local governmental revenue. Overall, a modest decrease in state revenue is anticipated as a result of this rule change. Four copy categories have been added which allow newly specified fees to cover color copies, audiotape and videotape copies, and generating computer reports, rather than as "determined by cost." These fee changes are anticipated to be relatively revenue neutral. An expected modest decrease in state revenues is expected to result from new reduced copy fees paid by indigent citizens or persons using copies strictly for a public purpose.

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

An economic benefit to directly affected persons or non-governmental groups is expected as a result of reduced copy fees paid by indigent citizens or persons using copies strictly for a public purpose.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is expected as a result of this rule.

James H. Brent, Ph.D.	Robert E. Hosse
Assistant Secretary	General Government Section Director
0302#058	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Division of Administration
Office of State Purchasing

LaMAS (Louisiana Multiple Award Schedule)
State Contracts Based on GSA Prices
(LAC 34:I.2506)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and under the authority of R.S. 39:1581 and R.S. 39:1702.A.(2), Office of the Governor, Division of Administration, Office of State Purchasing advertises its intention to adopt additional Rules to Chapter 25 on Intergovernmental Regulations with the following Section on establishment of state contracts based on GSA prices to be known as LaMAS (Louisiana Multiple Award Schedules). This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 34
GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL
Part I. Purchasing
Subpart 1. Central Purchasing Procedures
Chapter 25. Intergovernmental Regulations
§2506. LaMAS (Louisiana Multiple Award Schedule) State Contracts Based on GSA Prices

A. The state Central Purchasing Agency of the Division of Administration may establish state contracts based on GSA (General Service Administration) pricing when it has been determined in writing by the director of State Purchasing that certain conditions are met, which shall become part of the procurement file.

B. Materials, supplies, or equipment shall not be purchased on a state contract based on GSA pricing at a price higher than the price of the same item listed on any available state purchasing contract.

C. Establishment of a state contract based on GSA pricing will only be considered when there is a valid business case.

D. State agencies shall not procure materials, supplies or equipment directly under a GSA contract. The State Central Purchasing Agency of the Division of Administration will:

1. be responsible for analyzing and determining the feasibility of establishing a LaMAS state contract based on GSA prices; and

2. issue procedures for establishment and utilization of this type of contract.

E. No use shall be made of a LaMAS contract without the participation of a Louisiana licensed dealer or distributor. Louisiana licensed dealers or distributors must meet the requirement of a resident business defined in R.S.

39:1591(6). Louisiana licensed dealers or distributors shall agree to:

1. Louisiana terms and conditions; and

2. provide written consent from the GSA contractor to extend current GSA pricing to the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581 and R.S. 39:1702.A.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 29:

Interested persons may submit written comments on the proposed new Rule until 5 p.m., April 21, 2003, to Denise Lea, Director of State Purchasing, P.O. Box 94095, Baton Rouge, LA 70804-9095.

Denise Lea
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Government Contracts, Procurement and Property Control C LaMAS (Louisiana Multiple Award Schedule) State Contracts based on GSA Prices

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

There will be savings in areas where GSA pricing is lower than prices on state brand name contracts. The amount of savings is indeterminable.

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

This Rule will have no impact on revenue collections of state or local governmental units.

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

There are no costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This Rule may marginally increase competition in areas that would lend themselves to state brand name contracts and in Rules that require the use of a Louisiana distributor. No significant overall impact is anticipated in employment.

Denise Lea	Robert E. Hosse
Director	General Government Section Director
0302#062	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Division of Administration
Racing Commission

Worker's Compensation Insurance
(LAC 46:XLI.531)

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 46:XLI.531 Worker's Compensation Insurance because the commission finds it necessary to clarify the requirements of such insurance. This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLI. Horseracing Occupations
Chapter 5. Assistant Trainers and Other Employees
§531. Worker's Compensation Insurance

A. In addition to all other requirements for a trainer's license, each applicant therefor must furnish an individual certificate of insurance issued in his or her name only, of an insurance company licensed and/or authorized to do business in the state of Louisiana, showing he or she has worker's compensation insurance covering his or her employees and which names the Louisiana State Racing Commission as a certificate holder for purposes of coverage and cancellation of policy. Any exceptions to the form and content of the certificate may be considered on timely request.

B. Engaging in the profession of training horses on the grounds of any association licensed by the Racing Commission without proper worker's compensation insurance may result in a fine of not less than $500 and/or suspension or revocation of license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:150.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 4:274 (August 1978), amended by Division of Administration, Racing Commission LR 29:

The domicile office of the Louisiana State Racing Commission is open from 8:30 a.m. to 5 p.m., and interested parties may contact Charles A. Gardiner III, Executive Director, or C. A. Rieger, Assistant Director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule through March 10, 2003, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Worker's Compensation Insurance

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

There are no anticipated costs or savings to state or local governmental units associated with this Rule, other than one-time costs directly associated with its publication.

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

There is estimated to be no effect on revenue collections of local governmental units associated with this proposed Rule.

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

This action benefits horsemen by clarifying the requirements of worker's compensation insurance for employees of trainers. The cost to directly affected persons is potentially $500 per violation as well as suspension/revocation of his/her license for such violation, translating into further expense of the party involved.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This Rule change may result in suspension or revocation of the trainer's license as a result of engaging in the profession of training horses on the grounds of any association licensed by the Racing Commission without the proper worker's compensation insurance.

Charles A. Gardiner III	Robert E. Hosse
Executive Director	General Government Section Director
0302#015	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Real Estate Commission

Transactions (LAC 46:LXVII.3905)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 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 Real Estate Commission has initiated procedures to amend LAC 46:LXVII.3905. The proposed amendment requires designated agents receiving written offers or counter offers to annotate the offers to indicate the time of day and date the offers were received.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXVII. Real Estate
Subpart 1. Real Estate
Chapter 39. Presentation of Offers and Counter Offers
§3905. Transactions

A. Designated agents receiving written offers or counter offers in transactions shall annotate the offers or counter offers to indicate the time of day and date the offers or counter offers were received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:48 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 29:

Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the February 20, 2002 Louisiana Register.

The proposed Rules have no known impact on family formation, stability, or autonomy.

Interested parties are invited to submit written comments on the proposed regulations through March 12, 2003 at 4:30 p.m., to Stephanie Boudreaux, Louisiana Real Estate Commission, P. O. Box 14785, Baton Rouge, LA, 70809.

Julius C. Willie
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Transactions

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.

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

There is no estimated affect on revenue collections. Revenue collections will still be determined by the number of applicants and the time frame within which their license, certificate, or registration is obtained and/or renewed.

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

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups. This action is taken to amend the language contained in the Rule so as to agree with related language contained in R.S. 9:3891-3899 (Agency Relations in Real Estate Transactions).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated affect on competition and employment.

Julius C. Willie	Robert E. Hosse
Executive Director	General Government Section Director
0302#046	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Used Motor Vehicle and Parts Commission

Repossession of Vehicles
(LAC 46:V.3005)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 32:772.E, the Office of the Governor, Used Motor Vehicle and Parts Commission, notice is hereby given that the Used Motor Vehicle and Parts Commission proposes to adopt Rules and regulations governing Repossessions of Vehicles on Rent with Option to Purchase Programs in accordance with R.S. 32:773.B.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part V. Automotive Industry
Subpart 2. Used Motor Vehicle and Parts Commission
Chapter 30. Rent with Option to Purchase Program
§3005. Repossession of Vehicles

A. Every dealer participating in a rent with option to purchase program is required to provide to the purchaser notice and an opportunity to cure any default prior to making an attempt to repossess the vehicle. Such notice shall be mailed by registered or certified mail to the last known address furnished by the purchaser on the rent with option to purchase documents, and it shall give the purchaser the

fifteen days opportunity to cure any default in payments. Only after such time has passed, may the dealer attempt to take repossession of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 29:

Family Impact Statement

The proposed Rules of the Louisiana Used Motor Vehicle and Parts Commission 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. a family's earnings and budget;
5. the behavior and personal responsibility of children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rules.

Interested persons may submit written comments no later than 4:30 p.m. on March 20, 2003 to John M. Torrance, Executive Director, 3132 Valley Creek Drive, Baton Rouge, LA, 70808, (225) 925-3870.

John M. Torrance
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Repossession of Vehicles

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

There will be no implementation costs to state or local governmental units.

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

Neither state nor local revenues will be affected as a result of the proposed Rule.

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

There will be minimal costs to the dealer in relation to mailing notices to the purchaser of the rent with the option to purchase vehicle. The purchaser in default will be given notice by certified or registered mail to the last known address furnished by the purchaser on the rent with the option to purchase documents. The notice shall give the purchaser of the vehicle a 15 day opportunity to cure any default in payments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule on the repossession of vehicle will not impact competition and employment in the public or private sector.

John M. Torrence	Robert E. Hosse
Executive Director	General Government Section Director
0302#026	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Examiners of Psychologists

Ethical Standards of Psychologists
(LAC 46:LXIII.Chapter 13)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists intends to amend §1301 and repeal §§1303-1319.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXIII. Psychologists
Chapter 13. Ethical Standards of Psychologists

§1301. Ethical Principles and Code of Conduct

A. Psychologists shall follow the APA Ethical Principles of Psychologists and Code of Conduct as adopted by the American Psychological Association's Council of Representatives during its meeting, August 21, 2002, and made effective beginning June 1, 2003. The Ethics Code and information regarding the code can be found on the APA web site, http://www.apa.org/ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:66 (February 1980), amended LR 10:791 (October 1984), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:

§1303. Competence

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:66 (February 1980), amended LR 10:791 (October 1984), repealed by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:

§1305. Moral and Legal Standards

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:66 (February 1980), amended LR 10:792 (October 1984), repealed by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:

§1307. Public Statements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists. LR 6:66 (February 1980), amended LR 10:792 (October 1984), repealed by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:

§1309. Confidentiality

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:66 (February 1980), amended LR 10:793 (October 1984), repealed by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:

§1311. Welfare of the Consumer

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:66 (February 1980), amended LR 10:793 (October 1984), repealed by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:

§1313. Professional Relationships

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:66 (February 1980), amended LR 10:793 (October 1984), repealed by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:

§1315. Assessment Techniques

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:66 (February 1980), amended LR 10:794 (October 1984), repealed by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:

§1317. Research with Human Participants

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:66 (February 1980), amended LR 10:794 (October 1984), repealed by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:

§1319. Care and Use of Animals

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:66 (February 1980), amended LR 10:795 (October 1984), repealed by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:

Inquiries concerning the proposed amendments may be directed in writing to Brenda C. Ward, Executive Director, Board of Examiners of Psychologists, 8280 YMCA Plaza Drive, Building 8-B, Baton Rouge, LA 70810.

Interested persons may submit data, views, arguments, information or comments on the proposed rules, in writing, to the Board of Examiners of Psychologists. Written comments must be submitted to and received by the board within 20 days from the date of this notice.

Brenda C. Ward
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Ethical Standards of Psychologists

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

The only cost anticipated to state or local government units to implement this Rule is the $68 cost of publishing it in the *Louisiana Register*. The LSBEP publishes a newsletter which is distributed to all Louisiana licensed psychologists. This proposed Rule will be published in the next edition of that newsletter. No adjustment is necessary in the workload or printing of this Rule in that publication.

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

This proposed Rule does not effect the collection of revenues of state or local governmental units in any way.

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

No persons or non-governmental groups will be affected in any way by this proposed Rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no competition related to this proposed Rule, nor does this proposed Rule create any impact on employment.

Brenda C. Ward
Executive Director
0302#022

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Office of the Secretary
Bureau of Community Supports and Services

Home and Community Based Services Waiver Program
Children's Choice Crisis Designation
(LAC 50:XXI.11703)

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

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a Rule implementing a Home and Community Based Services waiver called Children's Choice effective January 15, 2001 (*Louisiana Register*, Volume 26, Number 12) and subsequently amended the Rule, raising the service cap from $7,500 to $15,000 (*Louisiana Register*, Volume 28, Number 8). Children's Choice provides supplemental services, limited to $15,000 per year per child for waiver services, to children with developmental disabilities who live with their families. Waiver recipients also receive all medical services covered by Medicaid, including Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services. The department adopted provisions for additional supports outside the

$15,000 cap on waiver service expenditures should certain catastrophic events occur after a child has been found eligible for Children's Choice (*Louisiana Register*, Volume 27, Number 7). The bureau now proposes to amend the crisis designation criteria in LAC 50:XXI.11703.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972. The proposed Rule will provide additional support services if a catastrophic change renders the natural and community support system unable to provide for the health and welfare of the child at the level of benefits offered under Children's Choice.

Title 50
PUBLIC HEALTHC MEDICAL ASSISTANCE
Part XXI. Home and CommunityB Based Services Waivers
Subpart 9. Children's Choice
Chapter 117. Crisis Provisions
§11703. Crisis Designation Criteria

A.1. - 4. ...

5. the child's condition deteriorates to the point where the plan of care is inadequate.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 28:1986 (September 2002), amended LR 29:

Interested persons may submit written comments to Barbara Dodge at the Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to all inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, March 26, 2003 at 9:30 am in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Home and Community Based Services Waiver ProgramC Children's Choice Crisis Designation

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

It is anticipated that the implementation of this proposed Rule will have no programmatic fiscal impact for SFY 2002-03, 2003-04, and 2004-05. It is anticipated that $162 ($81 SGF and $81 FED) will be expended in SFY 2002-03 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

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

It is anticipated that the implementation of this proposed Rule will not affect federal revenue collections except for approximately $81 for SFY 2002-03 for the federal share of the expense for promulgation of this proposed Rule.

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

Implementation of this proposed Rule will not have estimable costs and/or economic benefits for directly affected persons or nongovernmental groups.

This proposed Rule would make qualified recipients eligible for additional benefits above the $15,000 cap when the child's condition deteriorates to the point where the plan of care is inadequate.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden	H. Gordon Monk
Director	Staff Director
0302#033	Legislative Fiscal Office

NOTICE OF INTENT

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

Abortion Facility Licensure
(LAC 48:I.Chapter 44)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to promulgate the following Rule as authorized by R.S. 40:2175.1 et seq. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule in order to implement the provisions of the Louisiana Outpatient Abortion Facility Licensing Law, as established in Act 391 of the 2001 Regular Session of the Louisiana Legislature, which provides the Department of Health and Hospitals with the authority to promulgate Rules governing the licensing and regulation of outpatient abortion facilities.

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

Title 48
PUBLIC HEALTHC GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 44. Abortion Facilities
§4401. Definitions

*Abortion***C**any surgical procedure performed after pregnancy has been medically verified with the intent to cause the termination of the pregnancy other than for the purpose of:

1. producing a live birth;
2. removing an ectopic pregnancy; or
3. removing a dead fetus caused by a spontaneous abortion.

*Department***C**Department of Health and Hospitals, (DHH).

Existing Outpatient Abortion Facility—any outpatient abortion facility, as defined in this §4401, in operation at the time that the licensing standards governing outpatient abortion facilities are promulgated and published.

First Trimester—the time period from 6 to 14 weeks after the first day of the last menstrual period.

General Anesthesia—any drug, element, or other material which, when administered, results in a controlled state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including a loss of ability to independently maintain an airway and respond purposefully to physical stimuli or verbal command.

Gestational Age—the duration of a pregnancy as estimated from the first day of a woman's last menstrual period (LMP) or fertilization date plus two weeks.

Licensed Physicians Assistant—a person who:

1. is a graduate of a program accredited by the Committee on Allied Health Education and Accreditation or its successors; and

2. has successfully passed the national certificate examination administered by the National Commission on the Certification of Physician's Assistants or its predecessors; and

3. is approved and licensed by the Louisiana State Board of Medical Examiners to perform medical services under the supervision of a physician or group of physicians who are licensed by and registered with the board to supervise such assistant.

Licensee—the person, partnership, corporation, association, organization or professional entity on whom rests the ultimate responsibility and authority for the conduct of the outpatient abortion facility.

Licensing Agency—the Louisiana Department of Health and Hospitals.

Local Anesthesia—those anesthetizing agents administered to affect a very small localized area.

Medical Director—a physician licensed to practice medicine in Louisiana who is responsible for the direction of the medical services, nursing services, and health-related services provided to patients at an outpatient abortion facility.

Outpatient Abortion Facility—any outpatient facility, other than a hospital as defined in R.S. 40:2102 or an ambulatory surgical center as defined in R.S. 40:2133, in which any second trimester or five or more first trimester abortions per month are performed.

Patient—the woman receiving services from an outpatient abortion facility.

Products of Conception—placenta, amniotic sac or membrane, embryo, or fetal elements that result from a human pregnancy.

Second Trimester—the time period from 14 to 23 weeks after the first day of the last menstrual period.

Secretary—the secretary of the Louisiana Department of Health and Hospitals.

Telecommunications—any means of transmitting messages at a distance, including but not limited to telephones, cell phones, pagers, or other similar devices which foster communication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§4403. Licensing Requirements

A. An outpatient abortion facility may not be established or operated in this state without an appropriate license issued by the licensing agency.

B. Initial License Application

1. Initial applicants and existing outpatient abortion facilities shall submit a set of architectural plans and specifications to the Office of State Fire Marshal and Division of Engineering and Architectural Services of the department for review and approval.

2. When an architectural requirement on an existing outpatient abortion facility would impose a hardship, financial or otherwise, but would not adversely affect the health and safety of any patient, the existing outpatient abortion facility may submit a request for exception (waiver) to the department, with supporting documentation. The issuance of a waiver by the department does not apply to the Office of State Fire Marshal requirements for approval, which must be addressed exclusively with the Office of State Fire Marshal.

3. An application for license shall be completed and returned to the Health Standards Section by the applicant on forms supplied by the department.

a. Existing outpatient abortion facilities must secure and return a completed licensing application packet to the department within six months from promulgation and publication of the outpatient abortion facility licensing standards.

b. Existing outpatient abortion facilities shall be allowed to continue to operate without a license until such time as their initial application is acted upon by the department and until any and all appeals processes associated with that initial license have been completed, or the time within which any appeal process may be undertaken and completed has expired, whichever is later.

4. The application must be accompanied with a nonrefundable licensing fee set in accordance with R.S. 40:2006.

5. The department will respond to the applicant within 45 days of submitting the completed application.

6. Announced on-site inspections will be performed and the facility must be in substantial compliance with the requirements of the following offices prior to the issuance of an initial license:

a. Office of State Fire Marshal

b. Office of Public Health

c. DHH Health Standards Section

C. Renewal Application

1. Application for license renewal shall be completed and returned to the Health Standards Section prior to the expiration date of the current license on forms supplied by the department. The application must be accompanied by the annual renewal fee set in accordance with R.S. 40:2006.

2. Inspection and approval by the State Fire Marshal and Office of Public Health are required annually.

3. The licensing agency may perform an unannounced on-site inspection upon annual renewal. If the outpatient abortion facility continues to meet the requirements

established in R.S. 40:2175.1 et seq., and the licensing standards adopted in pursuance thereof, a license shall be issued which is valid for one year.

D. Other on-site inspections may be performed to investigate complaints in accordance with R.S. 40:2009.13-2009.20 and perform follow-up surveys as deemed necessary to ensure compliance with these licensing standards.

E. Issuance of License

1. Following receipt of the application and the licensing fee, the department shall issue a license if, after an on-site inspection, it finds that the outpatient abortion facility is in full compliance with the requirements established in accordance with R.S. 40:2175.1 et seq., and the licensing standards adopted in pursuance thereof.

2. A provisional license may be issued in cases where additional time is needed for the outpatient abortion facility to comply fully with the requirements established in accordance with R.S. 40:2175.1 et seq., and the licensing standards adopted in pursuance thereof. The licensing agency may issue a provisional license to an outpatient abortion facility for a period not to exceed six months only if the failure to comply is not detrimental to the health or safety of the women seeking treatment in the outpatient abortion facility. The deficiencies that preclude the outpatient abortion facility from being in full compliance must be cited at the time the provisional license is issued.

3. A license issued to an outpatient abortion facility:

a. is valid for only one location;

b. shall be valid for one year from the date of issuance; unless revoked prior to that date;

c. is not transferable or assignable;

d shall be posted in a conspicuous place on the licensed premises.

F. Denial, Suspension or Revocation of License. The procedure for denial, suspension and revocation of a license and appeals resulting from these actions will be the same as provided in the licensing regulations for hospitals, and as contained in R.S. 40:2110.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§4405. Governing Body

A. The abortion facility must have a governing body which meets at least annually. The governing body is the ultimate authority of the facility, and as such, it shall approve and adopt all bylaws, rules, policies, and procedures formulated in accordance with these licensing standards. All bylaws, rules, policies, and procedures formulated in accordance with these licensing standards shall be in writing, revised as necessary, and reviewed annually. If, due to type of ownership or other reasons, it is not possible or practical to establish a governing body, as such, then documents shall reveal the person(s) who are legally responsible for the conduct of the facility and are also responsible for carrying out the functions and obligations contained herein pertaining to the governing body.

B. The responsibilities of the governing body shall include, but not be limited to:

1. organization and administration of the facility;

2. acting upon recommendations from the medical staff relative to medical staff appointments;

3. designation of an administrator who has the responsibility to carry out the day-to-day operations of the facility;

4. designation of a medical director who has responsibility for the direction of medical services, nursing services, and health-related services provided to patients;

5. maintenance of the physical plant;

6. ensuring that the facility is equipped and staffed to meet the needs of the patients in the facility; and

7. establishing a system for periodic evaluation of its operation (quality assurance).

C. The governing body shall establish formal lines of communication with the medical staff through a liaison committee or other acceptable methods. This committee will address problems and programs of mutual concern regarding topics including, but not limited to, patient care, cost containment and improved practice.

D. Minutes of meetings of the governing body shall be maintained to adequately reflect the discharging of its duties and responsibilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§4407. Administration

A. The administrator is the person who has been designated to carry out the day-to-day operations of the facility which include, but are not limited to the following functions:

1. employing qualified staff to provide the medical and clinical services to meet the needs of the patients being served;

2. assigning duties and functions to each employee commensurate with his/her licensure, certification, and experience and competence;

3. retaining a readily accessible written protocol for managing medical emergencies and the transfer of patients requiring further emergency care to a hospital. The written protocol shall identify which emergency equipment and medications the facility will use to provide for basic life support until emergency transportation can arrive and assume care of those in need of service. The facility shall ensure that when a patient is in the facility for an abortion, there is one physician present who has admitting privileges or has a written transfer agreement with a physician(s) who has admitting privileges at a local hospital to facilitate emergency care;

4. developing disaster plans for both internal and external occurrences. Annual drills shall be held in accordance with the plan. Documentation of these drills shall be recorded;

5. ensuring that a CPR-certified staff member who is currently trained in the use of emergency equipment is on the premises at all times when abortion services are being performed in the facility.

B. Personnel Files

1. Personnel folders shall be maintained on each employee. Contents shall include:

a. application;

b. current license (when required);

c. health screening reports;

d. documentation of areas covered in orientation; and

e. other pertinent information as deemed necessary by the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§4409. Personnel

A. Medical Staff

1. The medical staff of the facility shall consist of at least one physician who is licensed to practice medicine in Louisiana and is responsible to the governing body of the facility for the quality of all medical care provided to patients in the facility and for the ethical and professional practices of its members.

2. The medical staff shall formulate and adopt bylaws, rules, and policies for the proper conduct of its activities and recommend to the governing body physicians who are considered eligible for membership on the medical staff. Such bylaws, rules, and policies must be in writing and must be approved by the governing body.

3. All applications for membership to the medical staff shall be reviewed by the medical staff and recommendations for appropriate action shall be made to the governing body. The governing body's bylaws shall establish time frames for response to the recommendations of the medical staff.

4. An abortion shall be performed only by a physician who is licensed to practice in Louisiana.

5. A physician must be either present in the facility or immediately available by telecommunications to the staff when there is a patient in the facility.

6. A physician must remain in the facility until all patients are assessed to be stable.

B. Nursing Personnel

1. The nursing services shall be provided under the direction of a qualified registered nurse or medical director.

2. There shall be a plan of administrative authority with delineation of responsibilities and duties for each category of nursing personnel.

3. The number of nursing personnel on duty shall be sufficient to meet the needs of the patient(s) in the facility, as determined by the governing body, medical director, or registered nurse.

4. All nurses employed by the facility to practice professional nursing shall have a current and valid Louisiana nursing license as a registered nurse (RN) or licensed practical nurse (LPN), as appropriate.

5. Nursing care policies and procedures shall be in writing and be consistent with accepted nursing standards. Policies shall be developed for all nursing service procedures provided at the facility. The procedures shall be periodically reviewed and revised as necessary.

6. A formalized program of in-service training shall be developed for all categories of nursing personnel. Training related to required job skills shall be provided to nursing personnel.

C. General Staffing

1. When a patient is in the facility for an abortion, there shall be at least two staff members present, one of which must be either a licensed physician, RN, or LPN.

2. All employees shall be provided orientation and training related to the facility's policies, philosophy, job responsibilities of all staff, and emergency procedures.

D. Health Screening. The facility must have policies governing health screening on personnel in accordance with federal, state and local health laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§4411. Pre-Operative Procedures

A. Verification of Pregnancy. The presence of an intrauterine pregnancy shall be verified by one of the following:

1. urine or serum pregnancy test performed on-site;
2. detection of fetal heart tones; or
3. ultrasonography.

B. Duration of Pregnancy. Gestational age shall be estimated by the following methods pre-operatively:

1. date of last menstrual period, if known; and
2. pelvic examination; or
3. ultrasonography.

C. The following laboratory tests shall be performed and documented within 30 days prior to the performance of abortion:

1. hematocrit or hemoglobin determination; and
2. Rh Factor status.

D. Information and Informed Consent. Prior to an Abortion:

1. a written informed consent shall be obtained in accordance with R.S. 40:1299.35.6(B);

2. the clinical record shall reflect informed consent for general anesthesia, if it is to be administered, as well as an indication of the patients history of negative or positive response (for example, allergic reactions) to medications or any anesthesia to be given;

3. the patient shall be made aware of the importance of her post-operative care and follow-up to ensure that the procedure was properly completed and no long-term sequelae have ensued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§4413. Post-Operative Care and Procedures

A. The patient's recovery shall be supervised by a licensed physician, a nurse trained in post-operative care, or a licensed physician's assistant. A patient in the post-operative or recovery room shall not be left unattended.

B. The patient shall be given written post-operative instructions for follow-up care. A contact for post-operative care from the facility shall be available to the patient on a 24-hour basis.

C. A licensed physician or nurse shall assess the patient to be awake, alert and medically stable before she is

discharged in accordance with policies established by the medical director.

D. Upon completion of an abortion procedure, the physician shall immediately perform a gross examination of the uterine contents and shall document the findings in the patients chart. If no products of conception are visible, a high-risk protocol for continuing pregnancy or ectopic pregnancy shall be followed.

E. Products of conception shall be disposed in compliance with Occupational Safety and Health Administration (OSHA), Environmental Protection Agency (EPA) and other state and local standards covering the treatment of medical waste.

F. Rh immunoglobulin administration shall be offered to Rh-negative women and documented. If Rh immunoglobulin is not administered in the facility, one of the following is required:

1. informed waiver signed by a patient who refuses RH immunoglobulin; or

2. documentation of other arrangements for administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§4415. Patient Records and Reports

A. Retention of Patient Records

1. An abortion facility shall establish and maintain a medical record on each patient. The facility shall maintain the record to assure that the care and services provided to each patient is completely and accurately documented, and that records are readily available and systematically organized to facilitate the compilation and retrieval of information. Safeguards shall be established to maintain confidentiality and protection from fire, water, or other sources of damage.

2. The department is entitled to access all books, records, or other documents maintained by or on behalf of the facility to the extent necessary to ensure compliance with this Chapter 44. Ensuring compliance includes permitting photocopying by the department or providing photocopies to the department of any records or other information by or on behalf of the department as necessary to determine or verify compliance with this Chapter.

3. Patient records shall be under the custody of the facility for a period of seven years from the date of discharge. Patient records shall be maintained on the premises for at least one year and shall not be removed except under court orders or subpoenas. Any patient record maintained off-site after the first year shall be provided to the department for review no later than 24 hours from the time the department requests the medical record.

B. Content of Medical Record

1. The following minimum data shall be kept on all patients:

a. identification data;

b. date of procedure;

c. medical and social history;

d. physical examination;

e. chief complaint or diagnosis;

f. clinical laboratory reports (when appropriate);

g. pathology report (when appropriate);

h. physicians orders;

i. radiological report (when appropriate);

j. consultation reports (when appropriate);

k. medical and surgical treatment;

l. progress notes, discharge notes, and summary;

m. nurses' records of care given, including medication administration records;

n. authorizations, consents or releases;

o. operative report;

p. anesthesia report, including post-anesthesia report; and

q. special procedures reports.

2. Signatures. Clinical entries shall be signed by the physician as appropriate, i.e., attending physician, consulting physician, anesthesiologist, pathologist, etc. Nursing notes and observations shall be signed by the nurse.

3. Nurses' Notes. All pertinent observations, treatments and medications given shall be entered in the nurses' notes. All other notes relative to specific instructions from the physician shall be recorded.

4. Completion of the medical record shall be the responsibility of the attending physician.

C. Nothing in this §4415 is intended to preclude the use of automated or centralized computer systems or any other techniques for the storing of medical records, provided the regulations stated herein are met.

D. Other Reports. An abortion facility shall maintain a daily patient roster of all patients receiving abortion services. This daily patient roster shall be retained for a period of three years.

E. Confidentiality

1. If the department, in the course of carrying out its licensing responsibilities under this Chapter 44, obtains any patient identifiable health information regarding a patient from an abortion facility, it shall keep such information strictly confidential and shall not disclose it to any outside person or agency, except as follows:

a. to the patient who is the subject of the patient identifiable health information;

b. pursuant to and in compliance with a valid written authorization executed by the patient who is the subject of the patient identifiable health information; or

c. when required by the secretary of the U.S. Department of Health and Human Services to investigate or determine DHH's compliance with the requirements of the *Code of Federal Regulations*, Title 45, Part 164, Subpart E.

2. Any person who knowingly discloses such patient identifiable information in violation of Subsection A shall be subject to punishment pursuant to 42 U.S.C. §1320d-6 as follows:

a. a fine of not more than $50,000, or imprisonment for not more than one year, or both;

b. if the violation is committed under false pretenses, a fine of not more than $100,000, or imprisonment for not more than five years, or both; and

c. if the violation is committed with intent to sell, transfer, or use individually identifiable health information for commercial advantage, personal gain, or malicious harm, a fine of not more than $250,000, or imprisonment for not more than 10 years, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§4417. Physical Environment

A. The facility shall have a safe and sanitary environment that is properly constructed, equipped and maintained to protect the health and safety of patients and staff at all times.

1. Abortions shall be performed in a segregated procedure room, removed from general traffic lines with a minimum of 120 square feet, exclusive of vestibule, toilets or closets.

2. There shall be a hand washing fixture within each procedure room.

3. The facility shall have a separate recovery room or area with a minimum clear area of 2 feet, 6 inches around the three sides of each stretcher or lounge chair for work and circulation.

4. The following equipment and supplies shall be maintained to provide emergency medical care for problems that may arise and be immediately available to the procedure and recovery room(s):

a. surgical or gynecologic table;

b. surgical instruments for the performance of abortion;

c. emergency drugs (designated as such by the medical director);

d. oxygen;

e. intravenous fluids; and

f. sterile dressing supplies.

5. All openings to the outside shall be maintained to protect against the entrance of insects and animals.

6. A nurse's station with a countertop, space for supplies, provisions for charting and a communication system shall be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§4419. Infection Control

A. The facility shall have policies and procedures that address:

1. decontamination;

2. disinfection;

3. sterilization; and

4. storage of sterile supplies.

B. The facility shall make adequate provisions for furnishing properly sterilized supplies, equipment, utensils and solutions.

1. It is expected that some disposable goods shall be utilized; but when sterilizers and autoclaves are used, they shall be of the proper type and necessary capacity to adequately meet the needs of the facility.

2. Procedures for the proper use of equipment and standard procedures for the processing of various materials and supplies shall be in writing and readily available to personnel responsible for sterilizing procedures.

3. Acceptable techniques for handling sterilized and contaminated supplies and equipment shall be established to avoid contamination.

4. Medically necessary surgical instruments used to enter the uterine cavity shall be sterilized for each abortion procedure.

C. There shall be a separate sink for cleaning instruments and disposal of liquid waste.

D. Each facility shall develop, implement, and enforce written policies and procedures for the handling, processing, storing and transporting of clean and dirty laundry.

1. If the facility provides an in-house laundry, the areas shall be designed in accordance with acceptable hospital laundry design in that a soiled laundry area will be provided and separated from the clean laundry area. Dirty and/or contaminated laundry shall not be stored or transported through the clean laundry area.

2. For an in-house laundry, special cleaning and decontaminating processes shall be used for contaminated linens.

E. The facility shall provide housekeeping services that shall assure a safe and clean environment.

1. Housekeeping procedures shall be in writing and followed.

2. Housekeeping supplies shall be provided to adequately maintain the facility.

F. All garbage and waste materials shall be collected, stored and disposed of in a manner designed to prevent the transmission of contagious diseases, and to control flies, insects, and animals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§4421. Pharmaceutical Services

A. The facility shall provide pharmacy services and these services shall be commensurate with the needs of the patients and in conformity with state and federal laws.

B. There shall be policies and procedures for the storage, distribution, and handling and administration of drugs and biologicals in the facility.

C. The facility shall provide facilities for proper storage, safeguarding and distribution of drugs.

1. Drug cabinets must be constructed and organized to assure proper handling and safeguard against access by unauthorized personnel.

2. Storage areas shall have proper controls for ventilation, lighting and temperature.

3. Locked areas shall be designed to conform with state and federal laws.

D. In accordance with all applicable laws, records shall be kept on:

1. all ordering, purchasing, dispensing, and distribution of drugs; and

2. the disposal of unused drugs.

E. Records for prescription drugs dispensed to each patient shall contain the:

1. full name of the patient;

2. name of the prescribing physician;

3. name and strength of the drug;

4. quantity dispensed; and

5. date of issue.

F. Provision shall be made for emergency pharmaceutical service.

G. All outpatient abortion facilities shall have a site-specific Louisiana controlled dangerous substance license and United States Drug Enforcement Administration controlled substance registration for the facility in accordance with the Louisiana Uniform Controlled Dangerous Substance Act and Title 21 of the *United States Code*.

H. Drugs and biologicals shall be administered in compliance with an order from an individual who has prescriptive authority under the laws of Louisiana. Such orders shall be in writing and signed by the individual with prescriptive authority under the laws of Louisiana.

I. There shall be a supply of drugs for stabilizing and/or treating medical and surgical complications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§4423. Anesthesia Services

A. The facility shall have policies and procedures pertaining to the administration of general and local anesthesia that are approved by the medical director.

B. Local anesthesia, nitrous oxide, and intravenous sedation shall be administered by the treating physician or by qualified personnel under the orders and supervision of the treating physician, as allowed by law.

C. General anesthesia, if used, shall be given by an anesthesiologist, certified registered nurse-anesthetist (CRNA), or a physician trained in the administration of general anesthesia.

D. The physician who will perform the abortion shall be present in the facility before anesthesia is administered.

E. A physician shall be present in the facility during the post anesthesia recovery period until the patient is fully reacted and stable.

F. When there is a general anesthesia patient present in the facility, personnel trained in the use of all emergency equipment required shall be present on the premises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, March 26, 2003 at 9:30 a.m. in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Abortion Facility Licensure

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

It is anticipated that there will be no estimated costs to the state as a result of implementation of this proposed Rule. It is anticipated that $1,566 ($783 SGF and $783 FED) will be expended in SFY 2002-03 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

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

It is anticipated that implementation of this proposed Rule will increase self generated funds by approximately $845 for SFY 2002-03, $7,800 for SFY 2003-04 and SFY 2004-05 as a result of the collection of annual fees from the licensing of outpatient abortion facilities.

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

It is anticipated that implementation of this proposed Rule will increase funds by approximately $1,628 ($845 self generated and $783 federal) for SFY 2002-03, $7,800 self generated for SFY 2003-04 and for SFY 2004-05 as a result of the collection of annual fees from the licensing of approximately 13 outpatient abortion facilities at a cost of approximately $600 for each facility.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden	H. Gordon Monk
Director	Staff Director
0302#036	Legislative Fiscal Office

NOTICE OF INTENT

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

Durable Medical Equipment Program
Vagus Nerve Stimulator
(LAC 50:XVII.Chapter 136)

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage for durable medical equipment and supplies under the Medicaid Program. All medical equipment, appliances and supplies must be prior authorized to determine medical necessity. In concurrence with the recommendations of the Medical Practices Committee, the bureau established medical necessity criteria for the prior authorization of Vagus Nerve Stimulators *(Louisiana Register*, Volume 27, Number 11). The Vagus Nerve Stimulator is an implantable

device used to assist in the control of seizures related to epilepsy. The department now proposes to adopt a Rule to continue the provisions contained in the November 1, 2001 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. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972. The proposed Rule will promote the health and well being of Medicaid recipients who have epilepsy related seizures and may benefit from use of this medical device.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following criteria for the prior authorization of Vagus Nerve Stimulators under the Durable Medical Equipment Program.

Title 50

PUBLIC HEALTHC MEDICAL ASSISTANCE

Part XVII. Durable Medical Equipment

Subpart 1. Prosthetics

Chapter 136. Vagus Nerve Stimulator

§13601. Prior Authorization

A. The Vagus Nerve Stimulator (VNS) is an implantable device used to assist in the control of seizures related to epilepsy and must be prescribed by a physician. Implantation of the VNS device and all related procedures must be authorized by the department based on criteria in §§13603-13607.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§13603. Recipient Criteria

A. Inclusion Criteria. Consideration shall be given for Medicaid reimbursement for implantation of the VNS if the treatment is considered medically necessary and the patient meets all of the following criteria. The patient:

1. has medically intractable epilepsy;

2. is 12 years of age or older, although case-by-case consideration may be given to younger children who meet all other criteria and have sufficient body mass to support the implanted system;

3. has a diagnosis of partial epilepsy confirmed and classified according to the *International League Against Epilepsy* classification. The patient may also have associated generalized seizures, such as tonic, tonic-tonic, or atonic. The VNS may have efficacy in primary generalized epilepsy as well;

4. has seizures that resist control by antiepilepsy treatment, with adequately documented trials of appropriate antiepilepsy drugs or documentation of the patient's inability to tolerate these medications;

5. has undergone surgical evaluation and is not considered to be an optimal candidate for epilepsy surgery;

6. is experiencing at least four to six identifiable partial onset seizures each month. The patient must have had a diagnosis of intractable epilepsy for at least two years. The two-year period may be waived if it is deemed that waiting would be harmful to the patient;

7. has undergone Quality of Life (QOL) measurements. The choice of instruments used for the QOL must assess quantifiable measures of day to day life in addition to the occurrence of seizures. In the expert opinion of the treating physician, and clearly documented in the request for prior authorization, there must be reason to believe that QOL will improve as a result of the VNS implant. This improvement should be in addition to the benefit of seizure frequency reduction.

B. Exclusion Criteria. Regardless of the provisions of §13603.A, authorization for implantation of a VNS shall not be given if the patient meets one or more of the following criteria. The patient:

1. has psychogenic seizures or other nonepileptic seizures; or

2. has systemic or localized infections that could infect the implanted system; or

3. has a body mass that is insufficient to support the implanted system; or

4. has a progressive disorder that is a contraindication to VNS implantation. Examples are malignant brain neoplasm, Rasmussen's encephalitis, Landau-Kleffrer Syndrome and progressive metabolic and degenerative disorders. Progressive disorders, psychosis, or mental retardation that are not contraindications to VNS implantation are not exclusion criteria. Taking into consideration the additional diagnosis, the treating physician must document the benefits of the VNS.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§13605. Reprogramming Vagus Nerve Stimulator

A. The programming of the VNS stimulator must be performed by the neurosurgeon who performed the implant procedure or a licensed neurologist. The procedure is subject to prior authorization. Authorization will only be considered when there is medical documentation to support the need for programming. This documentation must include clinical evidence to show that the recipient has experienced seizures since any previous programming attempts. Payment for the programming procedure will only be authorized when it is performed as an attempt to reduce or prevent future episodes of seizures. The success or failure of previous programming attempts to reduce the onset and/or severity of seizure activity will be considered. Authorization will not be considered when the clinical documentation does not show any seizure activity since the last programming of the VNS implant or the purpose of the programming is solely to reduce the level of anti-epileptic drugs.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§13607. Subsequent Implants/Battery Replacement

A. Requests to replace batteries or for new implants must be submitted with documentation that shows that the recipient was benefiting from the original VNS transplant.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, March 26, 2003 at 9:30 a.m. in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Durable Medical Equipment ProgramC Vagus Nerve Stimulator

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 $149,671 for SFY 2001-02, $258,375 for SFY 2002-03, $261,368 for SFY 2003-04, and $269,209 for SFY 2004-05. It is anticipated that $324 ($162 SGF and $162 FED) will be expended in SFY 2002-03 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 $355,292 for SFY 2001-02, $633,570 for SFY 2002-03, $657,002 for SFY 2003-04 and $676,712 for SFY 2004-05.

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

It is anticipated that the implementation of this proposed Rule will increase program expenditures for Vagus Nerve Stimulators by approximately $504,963 for SFY 2001-02, $891,621 for SFY 2002-03, $918,370 for SFY 2003-04 and $945,921 for SFY 2004-05. It is anticipated that implementation of this proposed Rule will increase utilization of the VNS device as more Medicaid recipients will meet the prior authorization criteria.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden	H. Gordon Monk
Director	Staff Director
0302#035	Legislative Fiscal Office

NOTICE OF INTENT

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

Personal Care Services
Long Term Care
(LAC 50:XV.Chapter 129)

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. 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 currently provides coverage and reimbursement for personal care services under the Early and Periodic Screening, Diagnosis and Treatment Program for recipients who are up to the age of 21. Coverage is also provided for personal care attendant services under the Home and Community-Based Services Waiver Program in accordance with the age criteria specified in the particular waiver document. In accordance with the terms of a lawsuit settlement agreement, the bureau proposes to establish coverage of personal care services as an optional service under the Medicaid State Plan for recipients who are 65 years of age or older, or 21 years of age or older and disabled. Disabled is defined as meeting the eligibility criteria established by the Social Security Administration for disability benefits.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that implementation of this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 as it will enhance the long term care service alternatives that are available to Medicaid recipients.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following provisions governing the coverage of personal care services as an optional service under the Medicaid State Plan for recipients who are 65 years of age or older, or 21 years of age or older and disabled. Disabled is defined as meeting the eligibility criteria established by the Social Security Administration for disability benefits.

Title 50
PUBLIC HEALTHB MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 9. Personal Care Services
Chapter 129. Long Term Care
§12901. General Provisions

A. The purpose of personal care services is to enable an individual whose needs would otherwise require placement in an acute or long term care facility to remain safely in that individual's own home. The mission of Medicaid funded personal care services is to supplement the family and/or community supports that are available to maintain the

recipient in the community. This service program is not intended to be a substitute for available family and/or community supports. Personal care services must be prescribed by a physician and provided in accordance with an approved service plan and supporting documentation. In addition, personal care services must be coordinated with the other Medicaid services being provided to the recipient and will be considered in conjunction with those other services. Personal care services will be provided in a manner consistent with the basic principles of consumer direction as set forth in §12907.

B. An assessment shall be performed for every recipient who requests personal care services. This assessment shall be utilized to identify the recipient's long term care needs, preferences, the availability of family and community supports and to develop the service plan. The Minimum Data Set-Home Care (MDS-HC) System will be used as the basic assessment tool. However, other assessment tools may be utilized as a supplement to the MDS-HC to address the needs of special groups within the target population.

C. Prior Authorization. Personal care services must be prior authorized. Requests for prior authorization must be submitted to the Bureau of Health Services Financing or its designee and include a copy of the assessment form and the service plan. Any other pertinent documents that substantiates the recipient's request for services may also be submitted. These documents will be reviewed to determine whether the recipient meets the criteria for personal care services and the necessity for the number of services hours requested.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§12903. Covered Services

A. Personal care services are defined as those services that provide assistance with the activities of daily living (ADL) and the instrumental activities of daily living (IADL). Assistance may be either the actual performance of the personal care task for the individual or supervision and prompting so the individual performs the task by him/herself. ADLs are those personal, functional activities required by an individual for continued well-being, health and safety. ADLs include tasks such as:

1. eating;
2. bathing;
3. dressing;
4. grooming;
5. transferring (getting in/out of the tub, from a bed to a chair);
6. reminding the recipient to take medication;
7. ambulation; and
8. toileting.

B. IADLs are those activities that are considered essential for sustaining the individual's health and safety, but may not require performance on a daily basis. IADLs include tasks such as:

1. light housekeeping;
2. food preparation and storage;
3. grocery shopping;
4. laundry;
5. assisting with scheduling medical appointments when necessary;
6. accompanying the recipient to medical appointments when necessary due to the recipient's frail condition; and
7. assisting the recipient to access transportation.

C. Emergency and non-emergency medical transportation is a covered Medicaid service and is available to all recipients. Non-medical transportation is not a required component of personal care services. However, providers may choose to furnish transportation for recipients during the course of providing personal care services. If transportation is furnished, the provider agency must accept any liability for their employee transporting a recipient. It is the responsibility of the provider agency to ensure that the employee has a current, valid driver's license and automobile liability insurance. See §12917 regarding reimbursement.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§12905. Recipient Qualifications

A. Personal care services shall be available to recipients who are 65 years of age or older, or 21 years of age or older and disabled. Disabled is defined as meeting the eligibility criteria established by the Social Security Administration for disability benefits. The recipient must require assistance with at least three activities of daily living, be able to participate in his/her care and self direct the services provided by the personal care worker independently or through a responsible representative, meet the nursing facility requirements for a reduced physical functions level of care, and meet one of the following criteria. The recipient:

1. is in a nursing facility and could be discharged if community-based services were available;
2. is likely to require nursing facility admission within the next 120 days;
3. has a primary care-giver who has a disability or is over the age of 70; or
4. faces a substantial possibility of deterioration in mental or physical condition or functioning if either home and community-based services or nursing facility services are not provided in less than 120 days.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§12907. Recipient Rights

A. Recipients who receive services under Long Term Personal Care Services Program have the right to actively participate in the development of their service plan and the decision-making process regarding service delivery. Recipients also have the right to freedom of choice in the selection of a provider of personal care services and to participate in the following activities:

1. interviewing and selecting the personal care worker who will be providing services in their home;
2. developing the work schedule for their personal care worker;
3. training the individual personal care worker in the specific skills necessary to maintain the recipient's

independent functioning while safely maintaining him/her in the home;

4. developing an emergency component in the service plan that includes a list of personal care staff who can serve as back-up when unforeseen circumstances prevent the regularly scheduled work from providing services;

5. signing off on payroll logs and other documentation to verify staff work hours and to authorize payment;

6. evaluating the personal care worker's job performance; and

7. transferring or discharging the personal care worker assigned to provide their services;

8. an informal resolution process to address their complaints and/or concerns regarding personal care services; and

9. a formal resolution process to address those situation where the informal resolution process fails to resolve their complaint.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§12909. Standards for Participation

A. In order to participate as a personal care services provider in the Medicaid Program Service, an agency:

1. must comply with:

a. state licensing regulations;

b. Medicaid provider enrollment requirements;

c. the standards of care set forth by the Louisiana Board of Nursing; and

d. the policy and procedures contained in the personal care services provider manual;

2. must possess a current, valid license for the Client Services Providers, Personal Care Attendant Services Module issued by the Department of Social Services, Bureau of Licensing.

B. In addition, a Medicaid enrolled agency must:

1. either demonstrate experience in successfully providing direct care services to the target population or demonstrate the ability to successfully provide direct care services to the target population;

2. employ a sufficient number of personal care and supervisory staff to ensure adequate coverage in the event that a worker's illness or an emergency prevents him/her from reporting for work;

3. ensure that a criminal background check and drug testing is conducted for all direct care staff prior to an offer of employment being made;

4. ensure that the direct care staff is qualified to provide personal care services. Assure that all new staff satisfactorily completes an orientation and training program in the first 30 days of employment. A legally responsible relative is prohibited from being the paid personal care worker for a family member;

5. assure that all agency staff is employed in accordance with Internal Revenue Service (IRS) and Department of Labor regulations. The subcontracting of individual personal care staff and/or supervisors is prohibited;

6. implement and maintain an internal quality assurance plan to monitor recipient satisfaction with services on an ongoing basis; and

7. document and maintain recipient records in accordance with federal and state regulations governing confidentiality and licensing requirements;

8. have written policies and procedures that recognize and reflect the recipient's right to participate in the activities set forth in §12907.

9. have a written policy for an informal resolution process to address recipient complaints and/or concerns regarding personal care services; and

10. have a written policy for a formal resolution process to address those situation where the informal resolution process fails to resolve the recipient's complaint.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§12911. (Reserved)

§12913. Place of Service

A. Personal care services may be provided in the recipient's home or in another location outside of the recipient's home if the provision of these services allows the recipient to participate in normal life activities. The recipient's home is defined as the recipient's place of residence including his/her own house or apartment, a boarding house, or the house or apartment of a family member or unpaid primary care-giver. A hospital, an institution for mental disease, a nursing facility, or an intermediate care facility for the mentally retarded, are not considered to be the recipient's home.

B. The provision of services outside of the recipient's home does not include trips outside of the borders of the state. However, consideration will be given when the recipient lives in an area adjacent to the state's border and it is customary for residents of that area to seek medical and other services in the neighboring state.

C. Personal care services shall not be provided in the personal care worker's home. However, consideration will be given if it can be satisfactorily assured that:

1. the selection of the place of service is consistent with the recipient's choice;

2. the recipient's health and safety can be maintained when services are provided in the personal care worker's home; and

3. the services do not substitute for otherwise available family and/or community supports.

D. Place(s) of service must be documented in the service plan and progress notes.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§12915. Service Limitations

A. Personal care services shall be limited to up to 56 hours per week. Authorization of service hours shall be considered on a case-by-case basis as substantiated by the recipient's service plan and supporting documentation.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§12917. Reimbursement Methodology

A. Reimbursement for personal care services shall be a prospective flat rate for each approved unit of service that is provided to the recipient. One quarter hour is the standard unit of service for personal care services. Reimbursement shall not be paid for the provision of less than one quarter hour of service. Additional reimbursement shall not be available for transportation furnished during the course of providing personal care services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

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

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, March 26, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Personal Care Services C Long Term Care

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 $8,060,691 for SFY 2003-04, $8,302,511 for SFY 2004-05, and $8,551,587 for SFY 2005-06. It is anticipated that $702 ($351 SGF and $351 FED) will be expended in SFY 2002-2003 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 $20,262,186 for SFY 2003-04, $20,870,052 for SFY 2004-05, and $21,496,153 for SFY 2005-06.

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

Implementation of this proposed Rule will establish coverage of personal care services as an optional service under the Medicaid State Plan for recipients who are 65 years of age or older, or 21 years of age or older and disabled (that meet Social Security Income criteria). Implementation of this proposed Rule will increase program expenditures for personal care services (for approximately 2,211 recipients) by approximately $28,322,877 for SFY 2003-04, $29,172,563 for SFY 2004-05, and $30,047,740 for SFY 2005-06.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. It is anticipated that employment opportunities will increase for individuals to work as personal care services workers.

Ben A. Bearden
Director
0302#037

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Examiners for New Orleans and Baton Rouge Steamship Pilots

Enhanced Drug and Alcohol Policy
(LAC 46:LXXVI.Chapter 3)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots for the Mississippi River and/or Board of Review (hereinafter "board") hereby intends to adopt Rules regarding enhancement of current drug and alcohol policies, together with other violations and penalties associated therewith.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
PART LXXVI. Steamship Pilots
Chapter 3. Enhanced Drug And Alcohol Policy

§301. Purpose and Policy

A. Due to the safety sensitive nature of the duties performed by NOBRA pilots, the board will maintain and enforce a policy of no tolerance for the violation of its policies, rules and regulations as to those river pilots who pursuant to R.S. 34:1041 et seq. have the duty to pilot sea-going vessels up and down the Mississippi River generally from mile 88 AHP to mile 304 AHP (Latitude 31). These rules and regulations are enacted to accomplish those purposes required by the legislature and to protect the public by ensuring available, safe and competent pilotage of vessels on the waterways under the jurisdiction of this board.

B. Further, the Louisiana legislature formed this board for the additional purpose of establishing rules, regulations and requirements for all NOBRA pilots to establish standards for recommendation by the board to the governor of the state of Louisiana for such disciplinary matters who may have violated same.

C. The purposes of these rules and regulations are as follows:

1. to enhance general standards of conduct of pilots herein; and

2. for the board to recommend to the Office of the Governor such sanctions as are permitted herein; and

3. to enhance certain minimum standards of conduct relative to alcohol and substance abuse; and

4. to enhance a set of rules and regulations for the proper and safe pilotage of sea-going vessels upon the waterways under the jurisdiction of this board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

§303. Application

A. The board hereby adopts the following enhanced rules and regulations relating to a drug and alcohol abuse policy applicable to all state licensed NOBRA Pilots pursuant to the provisions of R.S. 34:1041 et seq., together with all apprentices and candidates. These rules and regulations are not intended to replace those rules and regulations in existence. Current rules and regulations are not superceded nor replaced. What follows is intended only to enhance and strengthen the existing rules and regulations. Any conflict is to be construed and resolved in the stricter sense and implementation. With that end, all current rules and regulations are adopted herein in extenso.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

§305. Statement of Findings

A. This board has always had a strong commitment and policy to establish programs promoting the highest standards of pilot heath, safety and welfare. Consistent with the spirit and intent of this on-going commitment, the board herewith re-establishes ands re-enforces these policies. The board's stated goals will continue to be one of establishing and maintaining a work environment that is free from the effects of alcohol and drug use and abuse. The board's stated goals will continue to be one of establishing and maintaining a work environment that is free from any incident or occasion that may result in any loss, adverse effect or harm to the state's or general public's safety, health and welfare.

B. While the board has no intention of intruding into the private lives of NOBRA pilots, apprentices or candidates, the board does expect that these persons report for work in a fit condition to perform their respective duties. The board recognizes that off-the-job incidents, as well as on-the-job incidents, and involvement with alcohol and drugs can have an impact on the work place and on a river pilot's ability to accomplish the board's goals herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

§307. Authority

A. As mandated by R.S. 34:1041, these rules and regulations are issued in accordance with the Administrative Procedure Act under R.S. 49:950 et seq., for the purpose of adopting rules, regulations and requirements of oversight for NOBRA pilots, apprentices and candidates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

§309. Definitions

A. As used in this Chapter, the following terms as used in these rules and regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Administrative Procedure Act—(APA) the Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

Alcoholic Beverage/Alcohol—any fluid, or solid capable of being converted into fluid, suitable for human consumption, which contains ethanol; any substance that may otherwise impair or affect the ability of a pilot to function in any way whatsoever.

Applicant/Candidate—any person who seeks or is seeking a pilot commission issued herein; also may be used interchangeably with "pilot."

Application—the written application supplied by the Board of Examiners to an applicant who desires to become a river pilot as per law and/or for the New Orleans-Baton Rouge Pilot Association.

Apprentice—any person enrolled and/or participating in the orientation program as established by this board; also may be used interchangeably with "pilot."

Association—New Orleans-Baton Rouge Steamship Pilot Association

Board of Examiners or Board of Review—the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River and/or Board of Review, established in R.S. 34:1041 et seq.

Candidate—any person enrolled and/or participating in the orientation program as established by this board; also may be used interchangeably with "pilot."

Drug—any and all controlled dangerous substances as defined in R.S. 40:961(7). Drugs which are illegal under federal, state, or local laws include but are not limited to, marijuana, heroin, hashish, cocaine, hallucinogens, and depressants and stimulants not prescribed for current personal treatment by an accredited or licensed physician.

Gender—the use of "his" or "her" or any reference to masculinity or femininity are to be used interchangeably

NOBRA Pilot or Pilot—a Mississippi River pilot under the jurisdiction of this Commission, as designated in R.S. 34:1041; any person as recommended by the board to the Office of the Governor and commissioned thereafter as per law; hereinafter "pilot."

Prescription Medication—any medication distributed by or with the authorization of a licensed physician as defined in R.S. 40:961 (30).

VTC—Vessel Traffic Center, or any other similarly related United States Coast Guard or governmental facility, institution, or program whatsoever.

Waterways—the Mississippi River generally between mile 88 AHP and Mile 304 AHP (Latitude 31).

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

§311. Severability

A. If any provision of these rules and regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of these rules and regulations are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

§313. Effective Date

A. These rules and regulations shall be in full force and effective ninety days after final publication in the *Louisiana Register* or as per law, whichever is earlier.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

§315. Violations of the Policy

A. Any pilot in violation of these policies, rules or regulations may be referred to the Office of the Governor for reprimand, fine, suspension and/or pilot commission revocation, unless otherwise provided for in this board's rules and regulations.

B. Any pilot in violation of this policy may be reprimanded, fined, evaluated, and treated for drug use and have his or her pilot commission suspended or revoked as provided by R.S. 34:1041 et seq.

C. A pilot shall be suspended from performing the duties of a pilot pending a hearing pursuant to R.S. 34:1041 et seq. and Revised Statute Title 49 upon the following:

1. tests positive for any drug;

2. uses any drug in violation of these rules and regulations;

3. refuses to submit to reasonable scientific testing for drugs and/or fails to cooperate fully with the testing procedures and/or in any way attempts to alter the test results;

4. tests positive for alcohol;

5. refuses to submit to a blood alcohol test and/or fails to cooperate fully with the testing procedure and/or in any way attempts to alter the test results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

§317. Standards of Safe Pilotage, Grounds for Recommendation to the Governor

A. Subject to the authority of the Office of the Governor, as per law, this board shall be exclusively and unilaterally be vested with the power and authority to recommend to the Office of the Governor of Louisiana revocation and/or suspension of all rights and privileges of river pilotage for appointment as a NOBRA Pilot, apprentice, and/or candidate for any violation of the board's drug and alcohol rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

§319. Effect of Positive Tests/ Disciplinary Action

A. Any NOBRA pilot, apprentice or candidate with alcohol or a prohibited drug detected in his system will have an opportunity to explain any medical condition which may have had an effect on the test result. However, passive inhalation or atmospheric contamination are not acceptable explanations for confirmed positive drug tests.

B. Any positive drug screen or positive alcohol test shall be reported to the U.S. Coast Guard and may place the pilot's license in jeopardy. Any NOBRA pilot testing positive for alcohol or a prohibited drug, or residual thereof, shall be removed from duty, pursuant to §111.L of the commission's rules, pending a hearing pursuant to R.S. 34:1042. Any NOBRA pilot who presents a positive alcohol test or drug screen shall be subject to disciplinary action by the Board of Examiners/Board of Review, including the recommendation of revocation or suspension of his commission by the governor, reprimand or treatment/rehabilitation. The proper disciplinary action shall be determined by the Board of Examiners/Board of Review on a case by case basis. Any pilot who is required to undergo evaluation and/or treatment for drug use and/or alcohol abuse shall do so at his own personal expense. In addition, the evaluation and treatment facility must be pre-approved by the Board of Examiners/Board of Review.

C. Refusing a drug screen and/or alcohol test, or any attempts at alteration or substitution of samples is considered a violation of these rules. Any NOBRA pilot who refuses to submit to a drug screen and/or alcohol test, fails to cooperate fully with the testing procedures, or in any way tries to alter the test results, shall be removed from duty as a pilot pursuant to §111.L of the commission's rules, pending a hearing pursuant to R.S. 34:1042. Furthermore, any refusal to submit to a drug screen and/or alcohol test, failure to cooperate fully with the testing procedures, or any attempt to alter the test results shall be considered by the Board of Examiners/Board of Review as a positive test result. In addition, avoiding the directions of the Board of Examiners/Board of Review after an accident/incident which mandatorily requires a drug/alcohol screen will be considered a refusal to test and will subject the offending pilot to disciplinary action by the Board of Examiners/Board of Review.

D. In addition, if the master of a vessel refuses a pilot's services due to the alleged impairment of the pilot, the pilot shall immediately contact a member of the Board of Examiners/Board of Review to receive instructions regarding testing. The pilot shall then immediately proceed to a testing facility selected and pre-designated by the Board of Examiners/Board of Review. Failure to proceed to the testing facility in the time allowed by the Board of Examiners/Board of Review, which shall be determined at the time, but shall not exceed three hours, shall be considered a refusal to test and will subject the offending pilot to disciplinary action by the Board of Examiners/ Board of Review.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 34:1041

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

§321. Prohibitions and Requirements of the Policy

A. It shall be assumed that a NOBRA pilot, under any influence of alcohol or drugs or who uses alcohol or drugs on the job, has the potential for interfering with his own safety, as well as that of the vessel he is piloting and other vessels in the area, together with danger to related property and personnel. Consistent with existing board practices, such conditions shall be immediate cause for disciplinary action.

B. The board will cooperate fully with appropriate law enforcement agencies by reporting information with respect to the violation of laws regarding illegal substances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

§323. Drug and Alcohol Testing

A. All current NOBRA pilots, applicants and/or apprentices shall be subject to testing for the presence of alcohol and the presence of marijuana, opiates, cocaine, amphetamines, and phencyclidine, together with any and all other substances as may be tested as ordered by the board.

B. Types of Testing

1. All pilots shall submit to all reasonable scientific testing for drugs and alcohol when directed by the board. All procedures conducted in connection with such testing shall comply with NOBRA rules and regulations as of this date, and as those that may be amended from time to time.

2. A pilot shall be required to submit a breath test and/or blood test and/or urine test and/or hair specimen test for the presence of drugs and/or alcohol under the following non-exclusive circumstances:

a. prior to recommendation for appointment, as a part of the physical exam required by law and these rules and regulations;

b. after recommendation, whenever the pilot is required by the board to undergo a physical examination;

c. upon written complaint investigated by this board;

d. when and if any commissioner invokes the provision of any of its rules and regulations, including but not limited to LAC 46:LXXVI.111.L;

e. when subject to the random drug or alcohol testing policy as created by the NOBRA Association;

f. when subject to the random drug or alcohol testing policy as created by this board;

g. when the pilot is reasonably suspected of using drugs in violation of this policy;

h. when the pilot is determined to be directly involved in a marine casualty or accident;

i. when there exists reasonable suspicion that a pilot is performing duties while under the influence of alcohol or drugs.

C. The board may designate a testing agency to perform any scientific test(s) necessary to detect the presence of alcohol and/or drugs or their metabolites in a pilot's system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

§325. Test Results

A. Any pilot, whose test is confirmed as positive, shall have the right of reasonable immediate access to drug tests records. Any and all pilot requests shall be in writing and delivered to the board without delay.

B. The results of the drug testing conducted pursuant to this policy and all information, interviews, reports, statements and memoranda relating to the drug testing shall, as per law, be confidential and disclosed only to this board and the pilot tested, except that:

1. the board may report the results to the Office of the Governor; and

2. in the event that the board determines that a hearing is required pursuant to R.S. 34:1041 et seq., there shall be no requirement of confidentiality in connection with such hearing or release of such medical records or test results, all as per law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

Interested persons may submit written comments no later than 4:30 p.m. on March 12, 2003 to Robert A. Barnett, Executive Director, 3900 River Road, Suite 5, Jefferson, LA 70121.

Henry G. Shows
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Enhanced Drug and Alcohol Policy

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

There is no cost to the Board of New Orleans and Baton rouge Steamship Pilot Commissioners for the Mississippi River, the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, nor the state of Louisiana for this Rule change and implementation. All expenses, if any, are paid by the Pilot Association, as per law. All funds paid by the NOBRA Association are generated by pilot fees paid by shipping concerns and industry members.

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.

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

This Rule change may result in an increase in costs for those pilots who must retain any attorney for representation in a disciplinary hearing. Also, pilots who are required to undergo evaluation and/or treatment for drug and/or alcohol use shall do so at his/her own expense.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Any NOBRA pilot who presents a positive drug or alcohol test or drug screen shall be subject to disciplinary action by the Board of Review and/or Board of Examiners, including revocation or suspension of the pilot commission by the Office of the Governor. Penalties may also include fines, reprimands and/or treatment/rehabilitation.

Robert A. Barnett	Robert E. Hosse
Executive Director	General Government Section Director
0302#021	Legislative Fiscal Office

NOTICE OF INTENT

Board of Examiners for New Orleans and Baton Rouge Steamship Pilots

Standards of Conduct and Investigations
(LAC 46:LXXVI.Chapter 4)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots for the Mississippi River (hereinafter "board") hereby intends to adopt Rules regarding standards of conduct, standards of proper and safe pilotage, standards of recency of service,

conditions of reinstatement, procedures for investigations and enforcement, together with other violations and penalties associated therewith.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXXVI. Steamship Pilots
Chapter 4. Standards of Conduct and Investigations

§401. Purpose/Statement of Policy

A. Due to the safety sensitive nature of the duties performed by NOBRA pilots, the board, with respect to pilotage up and down the Mississippi River generally from mile 88 AHP to mile 304 (Latitude 31) along the Mississippi River:

1. will maintain and enforce a strict policy of no tolerance for the violation of its policies, rules and regulations;

2. will maintain and enforce a strict policy of no tolerance for misconduct or conduct unbecoming of a pilot while on or off duty;

3. will establish standards for recommendation of NOBRA pilots to the governor of the state of Louisiana for such disciplinary matters for pilots who pursuant to R.S. 34:1041 et seq. may have violated these rules and regulations and/or work related thereto, including but not limited to services rendered at the Vessel Traffic Center (commonly known as "VTC");

4. will maintain and enforce a strict policy of full and complete oversight as is necessary to ensure that pilots who return to duty after varying degrees of absences shall comply with the following rules and regulations herein below;

5. will establish procedures in conformity with the requirements of the Administrative Procedure Act (R.S. 49:950 et seq.) for investigating and conducting such hearings relative to incidents and/or complaints of pilot misconduct, carelessness, and/or incompetence;

6. will establish certain additional minimum standards of conduct, including but not limited to conduct relative to neglect of duty, drunkenness, habitual intemperance, substance abuse, incompetency, maintaining proficiency, remaining properly posted, and general bad conduct of river pilots;

7. will maintain and enforce a strict policy of conducting full and complete investigations, and possible subsequent referrals to the Office of the Governor of any and all violations of commission rules and state and/or federal law;

8. will maintain and enforce a strict policy no tolerance of the failure of a NOBRA pilot to maintain all applicable licenses, certificates and commissions as may be administered and/or issued by any local, state or federal governmental agency as are necessary to pilot vessels herein;

9. will maintain a policy of no tolerance for the failure of a NOBRA pilot, within the jurisdiction of this board, to pilot vessels for less than a certain number of trips within a specified time period, all in order to maintain familiarity and continuous working knowledge of the Mississippi;

10. to provide a situational policy for the proper and safe pilotage of sea-going vessels upon the waterways under the jurisdiction of the NOBRA pilots;

11. will establish general standards of pilotage hereunder and herein;

12. will establish standards to recommend to the Office of the Governor such sanctions of NOBRA Mississippi River pilots as is permitted herein;

13. will establish certain minimum standards of pilotage time actually performed on the Mississippi River to assist in establishing competency of NOBRA pilots;

14. will provide a uniform set of rules and regulations for the proper and safe pilotage of sea-going vessels upon the waterways under the jurisdiction of this board;

15. will establish standards by which this board may recommend a pilot to return to work as a pilot or, where applicable, otherwise recommend or deny to the Office of the Governor of the State of Louisiana such an individual for re-appointment as NOBRA Mississippi River pilots who pursuant to R.S. 34:1041 et seq.;

16. will ensure compliance by the board with the Public Meetings Law. These rules and regulations are enacted to accomplish those purposes required by the legislature and to protect the public by ensuring safe and competent pilotage of vessels on the waterways under the jurisdiction of this board;

17. to further enhance the safety and well being of the citizens of Louisiana, as well as to prevent any imminent peril to public health, safety, and welfare, and to achieve and maintain reliable, safe and efficient pilotage services;

18. will establish standards of oversight and rules for apprentices and candidates; and

19. will maintain and enforce a policy where there shall be no other violation of these rules and regulations that is contrary, in the discretion of this board, to these rules and regulations herein.

B. In accordance with state law and in order the board of examiners proposes to adopt the following pertaining to the rules and regulations of the board.

C. This board has always had a strong commitment and policy to the pilot members of NOBRA Association to provide a safe work place and to establish programs promoting the highest standards of pilot health, safety and welfare. Consistent with the spirit and intent of this on-going commitment, the board herewith re-establishes ands re-enforces these policies. The board's stated goal will continue to be one of establishing and maintaining a work environment that is free from any incident or occasion that may result in any loss, adverse effect or harm to the safety, health and welfare of the public's interests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§403. Application

A. The board hereby adopts the following rules and regulations relating to all applicants, apprentices, and state licensed NOBRA pilots pursuant to the provisions of R.S. 34:1041 et seq. These rules and regulations are not intended to replace those rules and regulations in existence. Current rules and regulations are not superceded nor replaced. Where applicable, what follows is intended only to enhance and/or clarify existing rules and regulations. Where applicable, any conflict is to be construed and resolved in the stricter sense and implementation. With that end, all current rules and regulations are adopted and incorporated herein in extenso.

With that end, all current rules and regulations are to be read in para materii.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§405. Statement of Findings

A. This board has always had a strong commitment and policy to the general public and maritime industry, including but not limited to apprentices and candidates and the pilot members of NOBRA Association to provide a safe work place and to establish programs promoting the highest standards of pilot heath, safety and welfare. Consistent with the spirit and intent of this on-going commitment, the board herewith re-establishes ands re-enforces all rules and regulations. The board's stated goals will continue to be one of establishing and maintaining a work environment that is free from any incident or occasion that may result in any loss, adverse effect or harm to the state's or general public's safety, health and welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§407. Authority

A. As mandated by R.S. 34:1041, these rules and regulations are issued by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots in accordance with the Administrative Procedure Act under R.S. 49:950 et seq., for the purpose of adopting rules, regulations and requirements for pilot oversight for NOBRA pilots, apprentices and candidates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq..

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§409. Definitions

A. As used in this Chapter, the following terms as used in these rules and regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

*Administrative Procedure Act (APA)***C**the Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

*Applicant/Candidate***C**any person who seeks or is seeking a pilot commission issued herein.

*Application***C**the written application supplied by the board of examiners to an applicant who desires to become a river pilot as per law and/or for the New Orleans-Baton Rouge Pilot Association.

*Apprentice***C**any person enrolled and/or participating in the orientation program as established by this board.

*Association***C**New Orleans-Baton Rouge Steamship Pilot Association.

*Board of Examiners or Board***C**the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, as established in R.S. 34:1041 et seq.

*Gender***C**the terms "his" and "her" are to be used interchangeably, as are any references to that which may be masculine or feminine.

*NOBRA Pilot or Pilot***C**a Mississippi River pilot under the jurisdiction of this Commission, as designated in R.S. 34:1041; any person as recommended by the board to the Office of the Governor and commissioned thereafter as per law; hereinafter "pilot."

*Services of a Pilot***C**any advice or assistance with respect to pilotage by the commissioned pilot, including but not limited to advice concerning weather, channel conditions, or other navigational conditions.

*Time***C**shall mean the period of time necessary to commence and complete a job assignment, as dispatched, aboard a vessel or at the Vessel Traffic Center (VTC) or other similar event.

*Turn***C**shall mean the overall time-period necessary to complete the designated scope of work to be performed, including but not limited to a vessel, drug testing continuing education or at the VTC.

*VTC***C**Vessel Traffic Center, or any other similarly related United States Coast Guard or governmental facility, institution, or program whatsoever.

*Waterways***C**the Mississippi River generally between mile 88 AHP and Mile 304 (Latitude 31).

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§411. Severability

A. If any provision of these rules and regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of these rules and regulations are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§413. Effective Date

A. These rules and regulations shall be in full force and effect ninety days after final publication in the *Louisiana Register*, or as per law, whichever is earlier.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§415. Violations of the Policy

A. This board may take such action as is necessary for any violation of these policies, rules and regulations by any pilot, apprentice, or candidate who violate these policies, rules or regulations, or the board may refer such person to the Office of the Governor, if required by law, for reprimand, fine, suspension and/or pilot commission revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§417. Standards of Conduct: Proper and Safe Pilotage; Grounds for Disqualification and Suspension of Pilots, Apprentices, and Candidates; Grounds to Recommend Revocation of Pilot Commission

A. This board shall be exclusively and unilaterally vested with the power and authority to take action as to all rights and privileges of river pilotage as to a NOBRA Pilot, apprentice, and/or candidate for the following non-exclusive list of particulars.

B. This board shall be exclusively and unilaterally vested with the power and authority to recommend to the Office of

the Governor of Louisiana revocation and/or suspension of all rights and privileges of river pilotage, for appointment as to a NOBRA pilot, apprentice, and/or candidate for the following non-exclusive list of particulars:

1. failure to pass any examination given by the board of examiners;

2. failure to maintain, in good, valid and current standing, any and all maritime licenses and certificates necessary to pilot vessels as a NOBRA pilot, including but not limited to a U.S. Coast Guard First Class Pilot License of any gross tons between mile 88 AHP and mile 234 AHP;

3. conviction of any felony from any jurisdiction whatsoever;

4. denial, revocation or suspension of a pilot and/or maritime license and/or pilot commission by any local, state, or federal entity or jurisdiction whatsoever;

5. neglect of duty;

6. neglect of duty while piloting any vessel;

7. neglect of duty while performing services at VTC (Vessel Traffic Center) or other similar governmental facility;

8. conduct unbecoming a pilot while on-duty;

9. conduct unbecoming a pilot while off-duty;

10. failure to remain a qualified and registered voter of the state of Louisiana;

11. not successfully passing any physical examination as mandated by the U.S. Coast Guard;

12. any violation of the board's drug and alcohol rules and regulations;

13. refusal to submit to any and all scientific testing for drugs or alcohol ordered by the association and/or board as promulgated by the board's rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§419. Affirmative Duty to Report

A. There is an affirmative duty of apprentices, candidates, and pilots to immediately and timely provide proof of any and all test results and examinations to the board, including but not limited to medical, licensure, physical, drug, substance abuse or alcohol, where such results or examinations are related to safe pilotage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§421. False Claims

A. This board shall be vested with the right and ability to sanction any person who levies a knowingly false claim against this board, any board member or staff hereof, or any member of the NOBRA Association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§423. Absolute Insurer

A. A NOBRA pilot is the absolute insurer of his or her own state of mind, physical abilities, and overall well-being.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§425. Adoption of Navigational Rules

A. The board shall use a standard of that which adheres to common, local practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§427. Pilot's Duty to Remain on Board Ship

A. A NOBRA pilot shall remain on board the ship until properly relieved and/or has completed one's pilot assignment and/or is released by the ship master or his representative/agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§429. Pilot's Duty of Remain on Duty at the Vessel Traffic Center (VTC)

A. A NOBRA pilot shall remain on site and on duty at VTC (or similar facility) until properly relieved and/or released by the VTC watch supervisor or representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§431. Establishing Standards for Recency of Service on the River

A. In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the board hereby gives notice of intent to promulgate Rules regarding standards of mandated pilotage time on the Mississippi River and the necessity to obtain and maintain a current and valid Louisiana state pilot license and commission, together with other violations and penalties associated therewith.

B. In accordance with state law and in order to further enhance the safety and well being of the citizens of Louisiana, as well as to prevent any imminent peril to public health, safety, and welfare, and to achieve and maintain reliable, safe and efficient pilotage services, the board proposes to adopt the following.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§433. Other Qualifications to Maintain as a NOBRA Pilot while Performing Pilotage Services on the Mississippi River; Grounds for Disqualification and Suspension of Pilots, Apprentices, and Candidates; Grounds to Recommend of Revocation of Pilot Commission

A. All current NOBRA pilots, apprentices, and candidates shall always maintain each of the following:

1. a current and valid Louisiana voter's registration card as issued by the Louisiana Secretary of State, through the Office of the Registrar in the Parish where the NOBRA pilot, apprentice or candidate is domiciled as per Louisiana. A NOBRA pilot, apprentice or candidate may establishing residency elsewhere, as per law.

B. All current NOBRA pilots, apprentices, and candidates shall always:

1. have successfully passed a physical examination which, in the judgment of the board, includes, but is not limited to those standards, such as vision, color perception

and hearing tests, necessary to perform duties as a pilot, together with those requirements as mandated by the United States Coast Guard;

2. cooperate fully with this board's testing procedures;

3. cooperate fully with this board's investigations of any matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§435. Pilot's Duty to Exhibit Identification

A. Whoever offers to pilot a ship or other vessel shall, if required, exhibit to the commander thereof his identification card as a NOBRA pilot, attested to by the chairman of the board of examiners; and if he refuses or neglects to do so, he shall not be entitled to any remuneration for any service he may render.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§437. Administrative Policy and Application

A. The purpose of these rules and regulations is to ensure compliance by the board with the provisions of the Louisiana Public Meeting Law and the records maintenance requirements of the provisions of R.S. 49:950 et seq. and R.S. 42:1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§439. Meetings of Examiners

A. All meetings and notices thereof of the board shall be conducted in accordance with the Open Meetings Law (R.S. 42:1 et seq.). The board shall meet at least once each quarter and meetings shall be called in accordance with R.S. 42:7 or as per law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§441. Record Keeping

A. The board of examiners shall maintain records and conduct its hearings in accordance with R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§443. Reinstatement of Commission Pilot Privileges as Relates to Inactivity of Pilot Services; Re-Appointment of Pilot; Testing and Examination of Apprentices and Active Pilots; Establishing Standards of Pilotage

A. These Sections shall apply to all NOBRA commissioned pilots, together with former commissioned pilots, apprentices or applicants who have not piloted a vessel and/or been assigned to a turn or vessel as discussed hereinafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§445. Request for Appearance before Board

A. Any person who is subject to these rules and regulations shall apply, in writing, to this board to request an appearance for an administrative determination as to the status of such person for re-appointment or recommendation to pilot re-commissioning.

B. Such a request shall be placed on the board's agenda, as per law.

C. Such a request shall be heard as per law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§447. Applicability to Turns or Assignments

A. If an otherwise state-commissioned NOBRA pilot does not pilot or has not piloted a vessel or ship as assigned by the NOBRA Pilot Association during the normal course of dispatching of pilotage services for any period of six consecutive months, then before that pilot is eligible and authorized to pilot any such vessel along the NOBRA route, said pilot shall be required to successfully complete, to the exclusive and unilateral satisfaction of the board, each of the following non-exclusive list of particulars.

1. A minimum of five trips or turns along the NOBRA route from the general area of the Baton Rouge harbor (or within three miles of the Baton Rouge Interstate 10 Bridge over the Mississippi River at river mile 234 AHP and then along the meandering line of the Mississippi River) to the Algiers cut-off canal at Mississippi River mile 88 AHP.

2. Two trips of these five trips shall cover the entire NOBRA route between Baton Rouge and New Orleans. One trip shall be northbound. One trip shall be southbound.

3. Two trips of these five trips shall be at night.

B. Where there has been no pilotage or vessel assignments in excess of such six months, a NOBRA pilot shall be subject to and shall be required to successfully complete, to the exclusive and unilateral satisfaction of the board, a specially designed and planned program to reasonably re-orient such pilot to Mississippi River pilotage under the jurisdiction of this board.

C. These Sections shall not apply to any assignment or turn at the VTC (Vessel Traffic Center) and shall be excluded from these rules. Work performed at VTC shall not be considered as a turn or assignment for these purposes only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§449. Re-Orientation Period

A. Upon commencement of the re-orientation period, any pilot subject to these minimum requirements shall successfully complete all five trips and turns within 30 consecutive days. For good reason shown, and upon timely application by the pilot, additional time to complete these trips or turns may granted by the board. The board shall have the exclusive and unilateral discretion to grant or deny any extension of time.

B. Where there has been no pilotage or vessel assignments in excess of such six months, and before resumption of pilot assignments, a NOBRA pilot shall have conducted a thorough U.S. Coast Guard physical as per

Code of Federal Regulations (CFR) 10.709 and CFR 10.205, all as may be amended from time to time by the U.S. Coast Guard.

C. Where there has been no pilotage or vessel assignments in excess of such six months, a NOBRA pilot shall present for inspection and copying by the board a Form CG 719K/E (Rev. 7-01) or as may be amended from time to time by the U.S. Coast Guard.

D. Where there has been no pilotage or vessel assignments in excess of such six months, a NOBRA pilot shall produce to the board sufficient and verifiable documentation, to the exclusive discretion of the board, from any and all local, state, or federal governmental agencies to establish that said pilot is in good standing and is authorized to pilot such a vessel. Such documentation shall be reasonably determined by the board on a case-by-case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§453. Investigations and Enforcement of Board Policies and Other Violations of Commission Rules and Regulations; Penalties Associated with Violations; Conducting Hearings Associated with any Complaint or Violation of Pilotage; Testing and Examination of Apprentices and Active Pilots; Establishing Standards of Pilotage

A. All complaints reported to the board shall be considered for investigation. A complaint, under the provisions hereinafter, is defined as:

1. any written, signed complaint involving a pilot commissioned as per law; and/or

2. any other event involving a pilot commissioned herein, that, in the discretion of the board, justifies further investigation.

B. The board shall appoint an investigating officer to conduct a preliminary investigation of the complaint and report their findings to the board. In no event shall the investigating officer be an active member of the board.

C. If the investigating officer, following the preliminary investigation, is of the opinion that the conduct in question is not sufficient to justify further proceedings, he/she shall make a written report to the board, which, in its exclusive discretion, may accept or reject the recommendation and dismiss the complaint.

D. If after the preliminary investigation, the board is of the opinion that the complaint is sufficient to justify a full investigation, the board shall, if so required by law, notify the Office of the Governor and request authority from the governor to conduct a full investigation and/or administrative hearing regarding the complaint. Following receipt of authority from the governor, if so required by law, the board shall authorize its investigating officer to conduct a full investigation of the complaint.

E. If the investigating officer, following the full investigation, is of the opinion that the conduct in question is not sufficient to justify further proceedings, he/she shall make a written report to the board, which, in its exclusive discretion, may accept or reject the recommendation and dismiss the complaint.

F. Following the full investigation, if the board is of the opinion that an administrative hearing is required, the board shall give notice to the pilot, by registered mail or personal service, of the complaint or allegations made against him/her and offer the pilot an opportunity to show compliance with the laws or regulations allegedly violated. Said notice shall be issued pursuant to R.S. 49:955(B) and shall include:

1. a statement of the time, place, and nature of the hearing;

2. a statement of the legal authority and jurisdiction under which the hearing is being held;

3. a reference to the particular sections of the statutes and rules involved;

4. a short and plain statement of the matters asserted.

G. The board may make informal disposition of any investigation or adjudication/hearing by means of stipulation, agreed settlement, consent order or default. If required by law, approval of such informal disposition must be sought from the Office of the Governor before the informal disposition may be deemed final.

H. Any matter set for hearing shall be prosecuted by an independent prosecutor appointed by the board. The independent prosecutor may, in the discretion of the board, be the same party who acted as investigating officer. In no event shall the independent prosecutor be an active member of the board. The independent prosecutor may conduct further investigation and shall prepare and present the matter to the board in such manner as he/she may deem appropriate.

I. Any pilot may be represented in any adjudication/hearing before the board by an attorney at law duly admitted to practice in the state of Louisiana. Following receipt of proper notice of such representation, all further notices, subpoenas or other processes related to the proceedings shall be served on the pilot through his/her designated counsel of record.

J. Any pre-hearing motion shall be referred for decision to the board, who in its discretion, may rule on the motion prior to the hearing date or may defer the matter until the hearing date.

K. All investigations and hearings undertaken as authorized herein above, shall be conducted pursuant to the Administrative Procedure Act, R.S. 49:950 et seq. If any specific provision of this section in any way conflicts with the more general rule of the Administrative Procedure Act, the more specific rule of this section shall govern.

L. The board shall docket and schedule the hearing before the board not less than 10 days nor more than 180 days thereafter; provided, however, that such time may be lengthened or shortened as the board determines may be necessary or appropriate to protect the public interest or upon motion of the investigating officer or respondent/pilot pursuant to a showing of proper grounds.

M. Within 30 days of service of the administrative notice, or such longer time as the board may permit, the respondent/pilot shall provide a written answer the administrative notice, admitting or denying each of the separate allegations of fact and law set forth therein. Any matters admitted by respondent shall be deemed proven and established for purposes of adjudication. In the event that the respondent/pilot does not timely file a response to the administrative notice, all matters asserted therein shall be deemed admitted.

N. All motions or other papers permitted or required to be filed with the board unless otherwise notified in writing.

O. Motions for continuances of hearings, for dismissals of the proceeding and all other pre-hearing motions shall be filed not later than 15 days prior to the hearing. The opposing party shall have seven to respond in opposition. Each pre-hearing motion shall be accompanied by a memorandum which shall set forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor. A motion may be accompanied by an affidavit as necessary to establish facts alleged in support of the motion.

P. If an initial motion for continuance is not opposed, it may be granted by the presiding chairman of the board.

Q. Any pre-hearing motion, other than an unopposed initial motion for continuance of hearing which may be granted by the chairman of the board, shall be referred for decision to the board member designated by the board as the presiding officer of the board designated with respect to the proceeding for ruling. The presiding officer, who shall be a member of the board designated as presiding officer by the board in each matter before the board, in his discretion, may refer any pre-hearing motion to the board for disposition, and any party aggrieved by the decision of a presiding officer on a pre-hearing motion may request that the motion be reconsidered by the entire board.

R. Upon request of any party and upon compliance with the requirements of this Section, any board member shall sign and issue subpoenas in the name of the board requiring the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence at an adjudication hearing.

S. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before the board only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examination, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the board with reference to the value of time employed and the degree of learning or skill required.

T. In any case of adjudication noticed and docketed for hearing, counsel for respondent and independent prosecutor may agree, or the presiding officer may require, that a pre-hearing conference be held among such counsel, or together with the board's independent counsel appointed herein whereof, for the purpose of simplifying the issues for hearing and promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at hearing.

U. Following such pre-hearing conference the parties shall, and without such conference the parties may by agreement, agree in writing on a pre-hearing stipulation which should include:

1. a brief statement from the independent counsel as to what is expected to be shown from the evidence to be presented;

2. a brief statement by respondent as to what the evidence and arguments in defense are expected to show;

3. a list of the witnesses to be called by all parties, together with a brief general statement of the nature of the testimony each such witness is expected to give;

4. any stipulations which the parties may be able to agree upon concerning undisputed claims, facts, testimony, documents or issues; and

5. an estimate of the time required for the hearing.

V. Unless otherwise requested by the respondent/pilot, adjudication hearings, shall be conducted in closed session, unless otherwise expressly waived by the respondent/pilot, all as per law.

W. At the hearing, opportunity shall be afforded to all parties to present evidence on all issues of fact and argument on all issues of law and policy involved, to call, examine and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for full and true disclosure of the facts and disposition of the administrative notice.

X. Unless stipulation is made between the parties and approved by the board, providing for other means of recordation, all testimony and other proceedings of an adjudication shall be recorded by a certified stenographer who shall be retained by the board to prepare a written transcript of such proceedings. The cost of the stenographer shall be initially be at the expense of the board; however, and in the event that the respondent/pilot is otherwise suspended, fined, or reprimanded then the respondent/pilot shall be liable for and may be assessed and taxed for all costs. If the respondent/pilot is referred or recommended to the Office of the Governor for action, then the respondent/pilot shall be liable for and may be assessed and taxed for all costs. Any and all witness, expert witness or hearing-related costs may likewise be assessed and taxed as to the respondent/pilot . Witness fees (expert or otherwise) and related hearing costs caused by the respondent/pilot shall be his/her responsibility; in no way whatsoever shall the board be liable for nor responsible for costs or fees caused by the respondent/pilot.

Y. During evidentiary hearing, the presiding officer shall rule upon all evidentiary objections and other procedural questions, but in his discretion may consult with the entire panel in or out of executive session, all as per law. At any such hearing, the board may be assisted by legal counsel, who is independent of the independent prosecutor and who has not participated in the investigation or prosecution of the case.

Z. The record in a case of adjudication shall include, but is not limited to:

1. the administrative notice, notice of hearing, respondent's response to the complaint, if any, subpoenas issued in connection with discovery, and all pleadings, motions, and intermediate rulings;

2. evidence received or considered at the hearing;

3. a statement of matters officially noticed except those so obvious that statement of them would serve no useful purpose;

4. offers of proof, objections, and rulings thereon;

5. proposed findings and exceptions, if any;

6. the decision, opinion, report or other disposition of the case made by the board;

7. findings of fact;

8. conclusions of law.

AA.1. In an adjudication hearing, the board may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the

conduct of their affairs. Effect shall be given to the rules of privilege recognized by law. The board may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written or recorded form.

2. All evidence, including records and documents in the possession of the board which the parties desire the board to consider, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

3. Notice may be taken of judicially cognizable facts and generally recognized technical or scientific facts within the board's knowledge. The board's experience, technical competence and knowledge may be utilized in the evaluation of the evidence.

4. Any member of the board serving as presiding officer in an adjudication hearing shall have the power to and shall administer oaths or affirmations to all witnesses appearing to give testimony, shall regulate the course of the hearing, set the time and place of continued hearings, fix the time for the filing of briefs and other documents, if they are required or requested, and may direct the parties to appear and confer to consider simplification of the issues.

BB.1. The final decision of the board in an adjudication proceeding shall be in writing and shall include findings of fact and conclusions of law, and shall be signed by the presiding officer of the hearing panel on behalf and in the name of the board.

2. Upon issuance of a final decision, a copy thereof shall promptly be served upon all parties of record, or upon respondent personally in the absence of counsel, in the same manner of service prescribed with respect to service of administrative notices.

CC.1. A decision by the board in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board pursuant to written motion filed with the board within 10 days from service of the decision on respondent or on its own motion. A motion for rehearing, reopening, or reconsideration shall be made and served in the form and manner prescribed hereinabove and shall set forth the grounds upon which such motion is based, as provided herein.

2. The board may grant rehearing, reopening, or reconsideration it if is shown that:

a. the decision is clearly contrary to the law and the evidence;

b. the respondent has discovered since the hearing evidence important to the issues which he or she could not have with due diligence obtained before or during the hearing;

c. other issues not previously considered ought to be examined in order to properly dispose of the matter; or

d. there exists other good grounds for further consideration of the issues and the evidence in the public interest.

DD. As per law and as may be levied and as may be recommended, the board shall have the specific authority to recommend imposition of a fine on any pilot, to recommend reprimand or removal from duty any pilot, or to recommend to the governor that the commission of any pilot be suspended or revoked if a pilot is found in violation of any rule or regulation adopted by the board of examiners.

EE. The authority established in these rules is in addition to and in no way limits the authority of the board to seek to remove a pilot from duty pursuant to the provisions of R.S. 34:1041 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

Interested persons may submit written comments no later than 4:30 p.m. on March 12, 2003 to Robert A. Barnett, Executive Director, 3900 River Road, Suite 5, Jefferson, LA 70121.

Henry G. Shows, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Standards of Conduct and Investigations

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

There is no cost to these boards nor the state of Louisiana for this Rule change and implementation. All expenses, if any, are paid by the NOBRA Pilot Association, as per law. All funds paid by the NOBRA Pilot Association are generated by pilot fees paid by shipping concerns and industry members.

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.

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

This Rule change may result in an increase in costs for those river pilots who must retain an attorney for representation in a disciplinary hearing for whomever violates any of these rules and regulations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Any river pilot who violates these rules and regulations may be subject to fines, reprimands and/or commission revocation.

Robert A. Barnett	Robert E. Hosse
Executive Director	General Government Section Director
0302#020	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of State Police

Motor Carrier Safety and Hazardous Materials
(LAC 33:V.10303)

The Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, proposes to amend LAC 33:V.10303 pertaining to Motor Carrier Safety and Hazardous Material requirements to restate the revision date of the previously adopted parts of

49 CFR and to update the titles of the various parts as authorized by R.S. 32:1501 et seq.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 2. Department of Public Safety and Corrections C Hazardous Materials
§10303. Federal C Motor Carrier Safety and Hazardous Materials

A. The following federal motor carrier safety regulations and hazardous materials regulations promulgated by the United States Department of Transportation, revised as of October 1, 2002 and contained in the following parts of 49 CFR as now in effect or as hereafter amended, are made a part of this Chapter.

Hazardous Material Regulations	
Part 171	General Information, Regulations, and Definitions
Part 172	Hazardous Materials Table, Special Provisions, and Hazardous Materials Communications, Emergency Response Information, and Training Requirements
Part 173	Shippers C General Requirements for Shipments and Packagings
Part 177	Carriage by Public Highways
Part 178	Specifications for Packagings
Part 180	Continuing Qualification and Maintenance of Packagings
Motor Carrier Safety Regulations	
Part 382	Controlled Substances and Alcohol Use and Testing
Part 383	Commercial Driver's License Standards; Requirements and Penalties
Part 385	Safety Fitness Procedures
Part 390	Federal Motor Carrier Safety Regulations; General
Part 391	Qualifications of Drivers
Part 392	Driving of Commercial Motor Vehicles
Part 393	Parts and Accessories Necessary for Safe Operation
Part 395	Hours of Service of Drivers
Part 396	Inspection, Repair, and Maintenance
Part 397	Transportation of Hazardous Materials; Driving and Parking Rules

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17:1115 (November 1991), LR 19:351 (March 1993), LR 10:58 (January 1994), LR 24:956 (May 1998), LR 24:2321 (December 1998), LR 29:

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 earning 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. These Rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rules.

Interested persons may submit written comments to Paul Schexnayder, P.O. Box 66614, Mailslip #B-4, Baton Rouge, LA 70896. Written comments will be accepted through March 15, 2003.

Chris Keaton
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Motor Carrier Safety and Hazardous Materials

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

There should be no additional costs incurred, nor savings realized, as a result of the adoption of these Rules.

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

There should be no effect on revenue as a result of these Rules.

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

There should be no costs or economic benefits to any person or group, as a result of these Rules. The proposed Rule changes simply indicate the version, by revision date, of the federal regulations previously adopted by reference.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These Rules should not affect competition or employment.

Christopher Keaton	Robert E. Hosse
Undersecretary	General Government Section Director
0302#047	Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

Natural Resources: Severance Tax
Definition of Payout
(LAC 61:I.2903)

Under the authority of R.S. 47:633, 47:648.3, and 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.2903.A to clarify the definition of *payout*.

Revised Statute 47:633(7)(c)(iii), 47:633(9)(d)(v), and 47:648.3 allow severance tax suspensions for horizontal, deep, and new discovery wells. The suspensions are limited to 24 months or until payout of the well cost, whichever comes first. Payout occurs when gross revenue from the well less royalties and operating costs directly attributable to the well equal the well cost as approved by the Office of Conservation. Because payout of the well cost triggers the end of the severance tax suspension, the computation should be uniform for all taxpayers. This proposed amendment

clarifies that operating costs do not include any costs that were included in the well cost approved by the Office of Conservation.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 29. Natural Resources: Severance Tax
§2903. Severance Taxes on Oil; Distillate, Condensate or Similar Natural Resources; Natural Gasoline or Casinghead Gasoline; Liquefied Petroleum Gases and Other Natural Gas Liquids; and Gas

A. Definitions

* * *

Payout—the payout of the well cost for a horizontal well as referred to in R.S. 47:633(7)(c)(iii), a deep well as referred to in R.S. 47:633(9)(d)(v), and a new discovery well as referred to in R.S. 47:648.3 occurs when gross revenue from the well, less royalties and operating costs directly attributable to the well, equals the well cost as approved by the Office of Conservation. Operating costs are limited to those costs directly attributable to the operation of the exempt well, such as direct materials, supplies, fuel, direct labor, contract labor or services, repairs, maintenance, property taxes, insurance, depreciation, and any other costs that can be directly attributed to the operation of the well. Operating costs do not include any costs that were included in the well cost approved by the Office of Conservation.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:633, 47:648.3, and 47:1511.

HISTORICAL NOTE: Adopted by the Department of Revenue, Severance Tax Division, August 1974, amended and promulgated LR 3:499 (December 1977), amended LR 20:1129 (October 1994), repromulgated LR 20:1299 (November 1994), amended by the Department of Revenue, Severance Tax Division, LR 23:1167 (September 1997), LR 24:2321 (December 1998), amended by the Department of Revenue, Policy Services Division, LR 29:

Interested persons may submit data, views, or arguments, in writing to Jennifer Davis, Policy Services Division, Department of Revenue, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, March 26, 2003. A public hearing will be held on Thursday, March 27, 2003 at 10 a.m. in the River Room 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Natural Resources: Severance TaxC Definition of Payout

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

Implementation of this proposed amendment, which clarifies the definition of payout, will have no implementation costs or savings to state or local governmental units.

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 the proposed amendment.

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

Implementation of this proposed amendment should have no impact on the costs or economic benefits of directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed amendment should have no effect on competition or employment.

Cynthia Bridges	H. Gordon Monk
Secretary	Staff Director
0302#043	Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services
Office of Community Services

Refugee Resettlement Program
(LAC 67:V.Chapter 5)

By the authority granted to the secretary of the Department of Social Services in R.S. 36:474(3) and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Community Services (DSS/OCS), hereby provides notice of its intent to establish regulations governing the Refugee Resettlement Program which was formerly administered by the Department of Social Services, Office of Family Support. Additionally, the DSS/OCS proposes to implement policy developed in response to changes in 45 CFR 400 revised October 1, 2000, and specifically, to the change in 45 CFR 400.56-63 regarding services to public/private Refugee Cash Assistance (RCA) recipients.

The Refugee Resettlement Program is funded by the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement. The program includes three components: Refugee Cash Assistance, Refugee Medical Assistance and Refugee Social Services. The DSS/OCS will deliver the Refugee Cash Assistance and Social Services components. The Department of Social Services, Office of Family Support and the Department of Health and Hospitals shall deliver Refugee Medical Assistance via Memorandum of Understanding with DSS/OCS and each other.

Title 67
SOCIAL SERVICES
Part V. Office of Community Services
Subpart 2. Community Services
Chapter 5. Refugee Resettlement Program
Subchapter A. Goals and Services
§501. Authority

A. The state of Louisiana administers the Refugee Resettlement Program through the Department of Social Services, Office of Community Services in accordance with

federal regulations including 45 CFR 400. The Office of Community Services is responsible for the administration and delivery of services through direct provision, memoranda of understanding with other state agencies, and, purchase of services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:

§503. Program Goals

A. The Refugee Resettlement Program is designed to effectively resettle refugees and to promote economic self-sufficiency for refugees within the shortest possible time after their entrance into the state. Those considered for receipt of the Refugee Resettlement Program services and benefits include individuals with the following Immigration and Naturalization Services statuses:

1. refugees;
2. asylees;
3. Cuban and Haitian entrants;
4. certain Amerasians from Vietnam; and
5. victims of a severe form of trafficking who receive certification from the Office of Refugee Resettlement.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:

§505. Program Services

A. Services provided in the Refugee Resettlement Program are defined in the Louisiana State Plans for the Administration of the Refugee Resettlement Program and the Public Private Partnership/Refugee Cash Assistance Program which comply with 45 CFR 400 as amended. There are three components of the Refugee Resettlement Program. They are: Refugee Cash Assistance, Refugee Medical Assistance and Refugee Social Services.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:

Subchapter B. Refugee Cash Assistance

§507. Application, Eligibility, and Incentive Bonuses for Refugee Cash Assistance

A. Application. The Office of Community Services will administer a Public Private Partnership/Refugee Cash Assistance program by contracting with local private resettlement agencies to provide direct cash assistance to eligible refugee clients. Any individual wishing to apply for benefits may do so. A determination of eligibility must be made within 30 days of the date of application.

B. Eligibility

1. General eligibility requirements for refugee cash assistance is limited to those who:

a. are new arrivals to the United States whose residence in the country is within the Refugee Cash Assistance (RCA) eligibility period determined by the Office of Refugee Resettlement Director;

b. are asylees recently granted asylum whose time since the date being granted asylum is within the RCA eligibility period determined by the Office of Refugee Resettlement Director;

c. are ineligible for TANF and SSI;

d. meet immigration status and identification requirements in Subpart D of 45 CFR Part 400, or who are the dependent children of, and part of the same family unit as, individuals who meet the requirements, subject to the limitation in Sec. 400.208 with respect to non-refugee children;

e. are not full-time students in institutions of higher education, as defined by the Office of Refugee Resettlement Director;

f. are residents of Louisiana in the jurisdiction of the local resettlement agency handling the application; and,

g. meet the following financial eligibility requirements.

2. Financial eligibility requirements are as follows.

a. The family unit will have gross income at or below 200 percent of the federal poverty level.

b. There will be a total earned income disregard for the first four months of their time eligibility period.

c. There will be a $200 earned income disregard for the fifth month through the last month of their eligibility period.

3. Incentive Bonuses

a. Incentive bonuses will be available to eligible individuals up to a capped maximum of the standard payment amount times the months of the established eligibility period and are as follows:

i. a $200 one time bonus per eligible individual for accepting a full time job and staying on that job for at least 10 working days ($100 bonus for part time employment);

ii. a $200 one time bonus per eligible individual for remaining employed on the nintieth day after being placed in a job and the 90 day retention date must be within the period of eligibility;

iii. an employable eligible individual may have the local resettlement agency make payment toward the cost of driving lessons, up to $200, to an accredited driving instruction school, if driving lessons are needed by the individual, the individual is eligible to apply for a valid driver's license, and learning to drive is part of the employability plan for the individual.

C. Participants receiving RCA will also be eligible to receive employment, language training, and related support services under the Refugee Social Services Program.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:

§509. Amount of Refugee Cash Assistance

A. The cash assistance standard payment amounts per month for the period of eligibility are as follows.

Size of Family Unit	Payment Amount
1	$260
2	$335
3	$400
4	$455
Incremental	$50

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:

§511. Mandatory Participation in Employment Services

A. All non-exempt eligible members of a family unit must participate in an employment plan developed by the local resettlement agency in conjunction with the non-exempt eligible member in order to be eligible for cash assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:

Subchapter C. Refugee Medical Assistance

§513. Eligibility and Furnishing of Services for Refugee Medical Assistance

A. The Office of Community Services will administer Refugee Medical Assistance (RMA) in accordance with program regulations for Title XIX of the Social Security Act as reflected in the Louisiana approved Medicaid and SCHIP State Plans. Eligibility requirements for RMA will be in accordance with 45 CFR 400.94, 400.100-104. If a refugee who is receiving RMA receives earnings from employment, the earnings shall not affect the refugee's continued medical assistance eligibility. RMA services will be delivered by the Office of Family Support (OFS) and the Department of Health and Hospitals (DHH) through Memoranda of Understanding. The OFS will conduct the eligibility determination and the DHH will administer the provision of medical services.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:

Subchapter D. Refugee Social Services

§515. Application, Eligibility, and Furnishing of Refugee Social Services

A. Applications for services must be completed for all individuals and households who are referred for services or request services under this program prior to the delivery of services. Application forms should be completed as soon as possible after the initial request or referral for services but no later than 30 calendar days after the request or referral.

B. To be eligible for social services, an applicant must provide proof in the form of documentation issued by the Immigration and Naturalization Service of one of the following statuses under the Immigration and Nationality Act as a condition of eligibility:

1. paroled as a refugee or asylee under Section 212(d)(5);

2. admitted as a refugee under Section 207;

3. granted asylum under Section 208;

4. admitted as a Cuban or Haitian Entrant in accordance with requirements in 45 CFR part 401;

5. admitted as an Amerasian from Vietnam pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 as contained in Section 101(e) of Public Law 100-202 and amended by the 9th proviso under Migration and Refugee Assistance in Title II of the Foreign Operation, Export Financing, and Related program Appropriations Acts, 1989, (Public Law 100-461 as amended).

C. Recipients of employment services and language training services must be 16 years of age or older and not full-time students in elementary or secondary school, except that such a student may be provided services in order to obtain part-time or temporary (e.g. summer) employment while a student or full-time permanent employment upon completion of schooling.

D. Services to be provided include:

1. employment services which are defined as the provision of assistance for individuals to obtain and maintain suitable paid employment;

2. English as a Second Language(ESL) which is defined as the provision of formal or informal English instruction with emphasis on survival and/or vocational English or assistance in obtaining such from other established English programs;

3. Social Adjustment Services which are defined as the provision of therapeutic, educational, cultural and social enrichment activities to promote acculturation and inter/intra personal functioning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:

A public hearing on the proposed Rule will be held on Thursday, March 27, 2003 at the Catholic Community Services Conference Room, 1900 South Acadian Thruway, Baton Rouge, LA, beginning at 2 p.m.

All interested persons are invited to submit written comments on the proposed regulations to Steve Thibodeaux, Office of Community Services, P.O. Box 57149, New Orleans, LA 70157. Such written comments must be received by 4:30 p.m. on March 28, 2003.

Copies of the State Plan for the Administration of the Refugee Resettlement Program and Public Private Partnership/Refugee Cash Assistance Program may be obtained by calling to request copies and then picking them up at the OCS State Office, Contracts and Eligibility Services Section, 333 Laurel Street, Room 810, Baton Rouge (225) 342-2763 or at the OCS Orleans Regional Office, Contracts and Eligibility Services Section, 1010 Common Street, Room 1419, New Orleans (504) 568-8958.

Gwendolyn P. Hamilton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Refugee Resettlement Program

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

The cost of implementing the revised Public Private Partnership/Refugee Cash Assistance Program will be cost neutral to the state of Louisiana. The amount of funding for the refugee cash assistance program is expected to increase as the Public Private Partnership/Refugee Cash Assistance program has increased benefits for participants and incorporates case management services as part of the program, but those costs will be paid from federal funds for which the state will be fully reimbursed. The Refugee Resettlement Program is 100 percent federally funded and receives grants from the United States Department of Health and Human Services, Administration for

Children and Families (DHHS/ACF), Office of Refugee Resettlement for Cash, Medical, and Administrative expenses, for Refugee Social Services, and for special discretionary programs. The state was encouraged by the federal Office of Refugee Resettlement to implement the program indicating that services under this program would be delivered in a more effective manner.

There are no costs or saving to local governmental units.

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

The proposed Rule includes the transfer of federal funding from the Department of Social Services, Office of Family Support (DSS/OFS) to the Department of Social Services, Office of Community Services (DSS/OCS) as DSS/OCS will assume administration for refugee cash assistance. Refugee cash assistance was previously administered by the DSS/OFS.

There is no effect on revenue collection of local governmental units.

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

Recipient refugee families will receive direct economic benefits in the form of cash assistance and in the potential of increased earnings. The nongovernmental refugee resettlement agencies will enter into agreements that will provide funding for the provision of the services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule should improve the employment potential for refugees and improve the quality of employees for businesses that hire refugees. The proposed Rule should have no effect on competition.

Carmen D. Weisner	H. Gordon Monk
Assistant Secretary	Staff Director
0302#055	Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services
Office of Family Support

Refugee Cash Assistance (RCA) Program
(LAC 67:III.Chapters 35 and 37)

The Department of Social Services, Office of Family Support, proposes to repeal Title 67, Part III, Chapters 35 and 37, the Refugee Cash Assistance Program.

The Refugee Cash Assistance (RCA) Program was adopted by the Department of Social Services in December 1991 and has been administered by the Office of Family Support since its implementation. The program's purpose is to assist refugees who do not meet the eligibility requirements for Family Independence Temporary Assistance Program, Supplemental Security Income, and Medicaid programs by providing them with cash assistance payments for up to eight months after the refugee's arrival in the United States.

Pursuant to options offered to states by the United States Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement through regulations at 45 CFR Part 400, the agency has opted to provide services for RCA through a public/private partnership whereby the state will contract with refugee resettlement agencies that will provide refugee cash assistance benefits. The program, Public Private Partnership/Refugee Cash Assistance Program, will be administered through contracts with various resettlement agencies. These local resettlement agencies are current providers for the Refugee Social Services Program which is administered by the Office of Community Services (OCS). Therefore, in order to allow the agency responsible for the initial resettlement of refugees to directly handle their application for cash assistance benefits, administration of the RCA Program will be transferred to OCS. OCS has promulgated rules to establish regulations governing the program under Title 67, Part V, of the Louisiana Administrative Code effective January 1, 2003.

Repeal of Part III, Chapters 35 and 37 was effected January 1, 2003 by a Declaration of Emergency which was published in the January 2003 issue of the *Louisiana Register*.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 7. Refugee Cash Assistance

Chapter 35. Administration

§3501. Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with applicable sections of 45 CFR.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:1226 (December 1991), repealed LR 29:

Chapter 37. Application, Eligibility and Furnishing Assistance

Subchapter A. Coverage and Conditions of Eligibility

§3701. Eligibility Determination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400(E), R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:353 (February 1998), repealed LR 29:

§3703. Eligibility Periods

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.202.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:954 (October 1991), LR 18:22 (January 1992), repealed LR 29:

§3704. Application Time Limit and Initial Payment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:353 (February 1998), repealed LR 29:

§3705. Coverage and Conditions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.62(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:401 (May 1984), repealed by the Department of Social Services, Office of Family Support, LR 24:353 (February 1998).

§3707. Resources

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.61.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:354 (February 1998), repealed LR 29:

§3708. Income

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.61.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:354 (February 1998), repealed LR 29:

§3709. Ineligibility Based on Lump Sum Income

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.61.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:354 (February 1998), repealed LR 29:

§3710. Earned Income Deductions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.61 and 233.20(a)(11).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:354 (February 1998), repealed LR 29:

Family Impact Statement

This Rule will have no impact on the stability and functioning of the family or on parental rights and will have no impact on the budget of the affected family as the program will continue under the administration of the Office of Community Services.

Interested persons may submit written comments by March 31, 2003 to Ann S. Williamson, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA, 70804-9065. She is the responding authority to inquiries regarding this proposed Rule.

Gwendolyn P. Hamilton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Refugee Cash Assistance (RCA) Program

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

Based on the first four months of FY 02/03 spending, the proposed Rule which repeals the Refugee Cash Assistance Program will result in savings to the Office of Family Support of an estimated $4,212 in federal funds. However, these monies will be transferred to the Office of Community Services for distribution to eligible refugees in the form of cash benefits. The program is funded through the United States Department of Health and Human Resources, Administration for Children and Families, Office of Refugee Resettlement. The only implementation cost for this Rule is an estimated $160 for publishing the notice and final Rule. This cost is routinely included in the agency's annual budget.

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

The Rule will increase revenue collections for the Office of Community Services (OCS) by an estimated $4,212 (transferred from OFS) as the program will now be administered by OCS. The revenue collections of local governmental units will not be affected.

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

The repeal of RCA by the Office of Family Support will not affect those refugees receiving cash benefits as they will continue to be eligible as long as all other eligibility requirements are met. The Rule will not result in any costs to persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule will have no impact on competition and employment.

Gwendolyn P. Hamilton
Secretary
0302#064

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services
Office of Family Support

TANF Initiatives
(LAC 67:III.5501, 5503, 5505, 5513, 5515, 5517 and 5519)

In accordance with R.S.49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to repeal LAC 67:III, Subpart 15, Chapter 55, §§5503, 5515, 5517, and 5519 and to amend §§5501, 5505, and 5513.

Pursuant to Act 13 of the 2002 Regular Session and Act 12 of the 2001 Regular Session of the Louisiana Legislature, the agency has established numerous programs known collectively as the TANF Initiatives with the intention of furthering the goals of the federal Temporary Assistance for Needy Families Block Grant. The agency has provided funding through Memoranda of Understanding and contracts to several state agencies and other entities for implementation and administration of these programs which provide services to families with minor children in order to meet one of the four TANF goals.

The agency is proposing the following changes in order to clarify the goals of some programs and to prevent the duplication of services between others. Section 5501, Starting Points Early Childhood Development Program and §5505, Nonpublic Schools Early Childhood Development Program are being amended to clarify the TANF goals being met by the services provided. Additionally, the agency proposes to repeal the following initiatives to avoid duplicating services: §5503 Emergency Energy Assistance, §5515 Job Skills Program, §5517 Project Metamorphosis, and §5519 Concordia Correctional Life Skills Pre-Release Program at the Concordia Parish Detention Facility. Section 5503, Emergency Energy Assistance, was replaced by §5557, Energy Assistance Program for Low-Income Families (published as a Final Rule in the November 2002 issue of the *Louisiana Register*). Sections 5515, 5517, and 5519 are administered by the Department of Public Safety and Corrections and became final with the publication of the Rule in the February 2002 issue of the *Louisiana Register*. The services provided by these programs are being combined and incorporated into §5507, Adult Education, Basic Skills Training, Job Skills Training and Retention Services Program. Section 5513, Project Return will be known as Post-Release Skills Program and will offer the same services as before, to released offenders who are parents of a minor child. The TANF goal that encourages the formation and maintenance of two-parent families will continue to be met by the services offered through this program.

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives
Chapter 55. TANF Initiatives
§5501. Starting Points Early Childhood Development Program

A. ...

B. These services meet the TANF goal of encouraging the formation and maintenance of two-parent families by providing at-risk families with quality early childhood education to 4-year-old children, as well as providing support to the parents in obtaining higher literacy levels, crisis intervention, and positive parenting skills resulting in greater financial and familial stability. Children placed in quality education programs at an early age are more likely to become contributing members of society by developing responsible behaviors and an interest in learning that will eventually lead to graduation. These services also meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births by providing high quality pre-school programs for at-risk children which have been shown to result in more positive outcomes relative to academic achievement, resistance to substance abuse and other criminal activities, lower levels of teen pregnancy, and good mental health.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:2265 (December 2001), amended LR 29:

§5503. Emergency Energy Assistance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:103 (January 2002), repealed LR 29:

§5505. Nonpublic School Early Childhood Development Program

A. ...

B. These services meet the TANF goals to encourage the formation and maintenance of two-parent families and to reduce the incidence of out-of-wedlock births by placing children in learning environments at the pre-school level to foster an interest in learning, increase literacy levels, and increase the likelihood of developing responsible behavior.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:350 (February 2002), amended LR 29:

§5513. Post-Release Skills Program

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Department of Public Safety and Corrections to fund transitional services to former offenders.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by reducing the rate of recidivism. This goal will be accomplished by providing nonmedical substance abuse treatment and counseling, GED and academic enhancement, training in conflict resolution and communication skills, job training, and job placement assistance.

C. Eligibility for services is limited to released offenders who are parents or caretaker relatives of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:351 (February 2002), amended LR 29:

§5515. Job Skills Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:351 (February 2002), repealed LR 29:

§5517. Project Metamorphosis

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:351 (February 2002), repealed LR 29:

§5519. Concordia Correctional Life Skills Pre-Release Program at the Concordia Parish Detention Facility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:351 (February 2002), repealed LR 29:

Family Impact Statement

This Rule will have no impact on the stability and functioning of the family or on parental rights and will have no impact on the budget of the affected family as the services offered by the amended and repealed initiatives will remain the same.

All interested persons may submit written comments through March 27, 2003, to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA, 70804-9065.

A public hearing on the proposed Rule will be held on March 27, 2003, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in

advance of the hearing. For assistance, call 225-342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: TANF Initiatives

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

There are no associated costs to state or local governmental units for repealing the TANF Initiatives at §§5503, 5515, 5517, and 5519 and amending the initiatives at §§5501, 5505, and 5513 except for the minimal cost of publishing rulemaking that is approximately $240. There are no savings to state or local governmental units.

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

The proposed Rule will have no impact on revenue collections of state or local governmental units.

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

There is no immediate cost or economic benefit to any persons or non-governmental groups. However, the TANF Initiative Programs have a long-term goal of improving the economic situations of the targeted families.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule will have no impact on competition and employment.

Ann S. Williamson
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