

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Boll Weevil Eradication Commission

Boll Weevil Eradication (LAC 7:XV.314, 321 and 327)

In 1997 the Red River Eradication Zone was created for the purpose of establishing a boll weevil eradication program. Nineteen parishes were included in the Red River Eradication Zone. A majority of the cotton producers in the Red River Eradication Zone voted to impose an assessment on each acre of cotton to assist in paying for the eradication program. The assessment for the Red River Eradication Zone for the first 5-year period was set at \$10 per acre for 1997, \$35 per acre for 1998 and \$10 per acre for 1999-2001. At the end of the first five years the cotton producers voted to enter the Red River Maintenance Program. The maintenance program assessment for the 2002 and 2003 was set at \$10 per acre.

In 1999 the Louisiana Eradication Zone was created for the purpose of establishing a boll weevil eradication program in all parishes not included in the Red River Eradication Zone. A majority of the cotton producers in the Louisiana Eradication Zone voted to impose an assessment on each acre of cotton to assist in paying for the eradication program. The assessment for the Louisiana Eradication Zone for the first 5-year period was set at \$15 per acre for 1999-2003.

In September of 2003 the cotton producers in both eradication zones voted to continue the boll weevil eradication program. The cotton producers in both eradication zones also voted to continue the assessment at a maximum assessment of \$6 per acre since both eradication zones would be in similar, if not identical, boll weevil eradication maintenance programs as of 2004.

Because both the Red River Eradication Zone and the Louisiana Eradication Zone are now in similar, if not identical, maintenance programs and the assessment is uniform throughout the state there is no longer a need to maintain two separate zones or to provide for separate assessments in the rules and regulations. For these reasons these Rules and Regulations are being amended for the purpose of combining all parishes in Louisiana into one eradication zone and to establish a uniform assessment throughout the State of Louisiana in accordance with the September 2003 referendum approved by a majority of the cotton producers in the state and to provide for related matters.

These rules are enabled by R.S. 3:1609. Rules 314, 321 and 327 are hereby amended and repromulgated to read as follows.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 3. Boll Weevil

§314. Boll Weevil Eradication Zone: Creation

A. One boll weevil eradication zone is hereby created within the state of Louisiana consisting of all the territory within the state of Louisiana.

B. This boll weevil eradication zone shall be known as the Louisiana Eradication Zone.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 23:195 (February 1997), amended LR 24:2231 (December 1998), LR 30:

§321. Assessments, Payment and Penalties

A. The September 2003 referendum set the maximum annual assessment at \$6 per acre of cotton planted in the state. The annual assessment on cotton producers in the Louisiana Eradication Zone shall be \$6 per acre for each acre of cotton planted in the state. Each cotton producer shall pay his annual assessment to the ASCS office for the parish in which the cotton is planted by the later of July 1 or final certification of the growing season for the crop year in which he plants cotton.

B. A cotton producer may request a waiver of all or part of the assessment for any crop year in which he plants cotton in accordance with the following procedure. The granting of a waiver of all or part of any assessment for a crop year is within the discretion of the commission.

1. A cotton producer requesting a waiver of the assessment for a crop year must submit a written request for a waiver to the commission.

2. The commission must receive the written request, 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 actual receipt of the transmission.

3. 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.

4. 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. The commission shall not consider a written request that is not timely.

5. 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.

6. The commission has the authority to inspect any cotton field in which a cotton producer has claimed to have destroyed the cotton crop. Failure of the cotton producer to allow inspection shall be a violation of these regulations.

C. - H. ...

I. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:20 (January 1995), amended LR 21:669 (July 1995), LR 23:195 (February 1997), LR 24:2231 (December 1998), LR 25:829 (May 1999) amended LR 29:859 (June 2003) amended LR 30:1142 (June 2004), LR 30:

§327. Program Participation

A. All cotton producers growing cotton in Louisiana are required to participate in the boll weevil eradication program in accordance with the Louisiana Boll Weevil Eradication Law and these regulations.

B. Cotton producers shall destroy cotton stalks in every field planted in cotton, on or before December 31 of each crop year. Cotton stalk destruction shall consist of shredding or disking in a manner that destroys standing cotton stalks. Cotton stalks that come up in a failed field must also be destroyed by December 31 of the crop year. Failure to destroy stalks by December 31 of each crop year shall be a violation of these regulations.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 27:280 (March 2001), amended LR 30:

Family Impact Statement

The proposed amendments to rules LAC XV.314, 321, and 327 regarding the Boll Weevil Eradication Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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 August 27, 2004, to Dr. John Andries, Department of Agriculture and Forestry, 5825

Florida Boulevard, Baton Rouge, LA 70806. No preamble concerning the proposed Rules is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Boll Weevil Eradication**

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

There will be no estimated implementation costs or savings to state or local governmental units. The Louisiana Department of Agriculture and Forestry intends to amend regulations regarding Louisiana's boll weevil eradication zones. There were initially two eradication zones created in order to eliminate boll weevils in Louisiana, the Louisiana Eradication Zone and the Red River Eradication Zone. The Boll Weevil Eradication Program has entered the maintenance phase of the program with both zones being identical in their programs. Therefore, the Department has combined both eradication zones into one zone, the Louisiana Eradication Zone.

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

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

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

There will be no effect on costs and/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
Assistant Commissioner
0407#084

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agro-Consumer Services

Petroleum Products Standards (LAC 7:XXXV.301-347)

The Commissioner of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures intends to adopt the following rules and regulations governing specifications for petroleum products, including motor vehicle fuels. These Rules are being adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 3:4608.

Motor vehicle fuels are essential to the community, to industry including agriculture and forestry, and to the welfare of the citizens of Louisiana. The production, distribution and sale of petroleum products, including motor vehicle fuels, which meet established standards, is necessary to protect the consumer and motoring public. Environmental restrictions require that only reformulated gasoline may be sold in East Baton Rouge, West Baton Rouge, Ascension, Livingston and Iberville Parishes.

Additionally, gasoline was produced and sold recently within the state that contained excess levels of elemental

sulfur. The excess levels of elemental sulfur corrode silver in motor vehicle fuel tank sensors resulting in erroneous readings and expensive vehicle repairs. Protection of motorists requires the state to adopt a standard for elemental sulfur and silver corrosion.

This Rule is enabled by R.S. 3:4608, R.S. 3:4618, R.S. 3:4671, R.S. 3:4673, 3:4678, 3:4679, 3:4681, 3:4682, and 3:4683.

Adoption of this Rule terminates rules promulgated by DOTD of LAC Title 73, Part III, Chapter 1, §§101-109, as authorized by Section 4 of Act 38 of the First Extraordinary Session of 1998.

The text of this proposed Rule may be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Petroleum Products Standards**

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

There is estimated to be no implementation costs or savings to state or local governmental units. The Commissioner of Agriculture and Forestry intends to amend Rules and Regulation governing specifications for petroleum products, including motor vehicle fuels. Motor vehicle fuels are essential to the community, to industry including agriculture and forestry, and to the welfare of the citizens of Louisiana. The production, distribution and sale of petroleum products, including motor vehicle fuels, which meet established standards, is necessary to protect the consumer and motoring public. Environmental restrictions require that only reformulated gasoline may be sold in East Baton Rouge, West Baton Rouge, Ascension, Livingston and Iberville parishes. The impending adoption of the reformulated gasoline requirement mandates that the state adopt emergency regulations to update the fuel specifications for the state.

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

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

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

This regulation will not, by itself, have an estimated cost and/or economic benefit to directly affected persons or non-governmental groups. If the courts uphold the mandate by the Environmental Protection Agency requiring sale of reformulated gasoline in the five parish area, that mandate likely will increase the price of gasoline 3 to 5 cents per gallon. This regulation does not mandate that reformulated gasoline be sold. It only establishes a technical specification for such gasoline.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0407#085

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111 Louisiana School,
District, and State Accountability
(LAC 28:LXXXIII.701, 703, 1503, 1705,
3303, 3503, 4101, 4310, and 4317)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111 The Louisiana School, District, and State Accountability System* (LAC 28:LXXXIII). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components. The proposed changes define data correction and the inclusion of Option I Alternative Schools' student data in district accountability, establish a procedure to include newly reconfigured or reconstituted schools in accountability, address school performance scores when test scores are voided, and provide greater flexibility in evaluating the participation of students for subgroup considerations. These changes take advantage of new flexibility in guidance for No Child Left Behind and address situations that were not considered when the accountability policy was initially written.

**Title 28
EDUCATION**

**Part LXXXIII. Bulletin 111 The Louisiana School,
District, and State Accountability System
Chapter 7. Subgroup Component
§701. Subgroup Component Indicators**

A. - 1. ...

1.a. Participation rate test 95 percent of the students within the subgroup participated in the standards-based assessments during the current year, during the current and previous year averaged, or during the current and previous two years averaged; and

1.b. - 6....

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2742 (December 2003), amended LR 30:

§703. Inclusion of Students in the Subgroup Component

A. - 2.b. ...

3. Not exempted from testing due to medical illness, death of the student's family member(s), the student being in protective custody, or the student being identified as LEP and in an English-speaking school for less than one full academic year.

4. Beginning with the fall 2005 accountability results, former LEP students for up to two years after no longer being considered LEP under state rules.

a. These students will not count toward the minimum n for the LEP subgroup and will not be included in the SPS Growth Target adjustment.

B. - E. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 30:

Chapter 15. School Improvement (formerly called Corrective Actions

§1503. Entry into School Improvement

A. Schools shall enter school improvement by three methods of identification.

A.1. - C. ...

D. In the event that test scores are voided at a school due to testing irregularities, the accountability recalculations shall be performed. If applicable, the school shall be placed in the appropriate level of school improvement at the time of recalculation, and all associated remedies shall be applied.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2745 (December 2003), amended LR 30:

Chapter 17. Requirements for Schools in School Improvement (SI)

§1705. School Improvement 4 Requirements

A. - F. ...

G. The LDE will review the changes to school sites due to reconstitution and will consult with the LEA on the effects that the reconstitution will have on rewards and/or school improvement status.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2747 (December 2003), amended LR 30:

Chapter 33. New Schools and/or Significantly Reconfigured Schools

§3303. Reconfigured Schools

A. - B. ...

C. The LDE will review the changes to school sites in the reconfiguration and will consult with the LEA on the effects that the reconfiguration will have on rewards and/or school improvement status.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 30:

Chapter 35. Inclusion of Alternative Education Students

§3503. Option I

A. The score for every alternative education student at a given alternative school shall be returned to ("sent back") and included in the home-based school's and district's accountability calculations for both the SPS and subgroup components. The alternative school itself shall receive a "diagnostic" SPS, not to be used for rewards or corrective actions, if a statistically valid number of students were enrolled in the school at the time of testing.

B. Students included in the GED/Skills Option program will be included in school accountability. They will be required to take the 9th grade Iowa Test or participate in LEAP Alternate Assessment (LAA) while enrolled. All programs will be considered Option I for alternative education purposes, and student attendance, dropout, and test score data will be sent back to the sending high schools and districts for accountability purposes.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 30:

Chapter 41. Data Collection and Data Verification

§4101. Valid Data Considerations

A. ...

B. A test score shall be entered for all eligible students within a given school. For any eligible student who does not take the test, including those who are absent, a score of "0" on the CRT and NRT shall be calculated in the school's SPS. To assist a school in dealing with absent students, the Louisiana Department of Education shall provide an extended testing period for test administration. The only exceptions to this policy are students who were sick, whose family member(s) died, or who were in protective custody during the test and re-testing periods and who have formal documentation for that period.

C. - D.3. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2754 (December 2003), amended LR 30:

Chapter 43. District Accountability

§4310. Subgroup Component AYP

A. - A.1.b.ii.

c. Not exempted from testing due to medical illness, death of the student's family member(s), the student being in protective custody, or the student being identified as LEP and in an English-speaking school for less than one full academic year.

d. Beginning with the fall 2005 accountability results, former LEP students for up to two years after no longer being considered LEP under state rules.

e. These students will not count toward the minimum n for the LEP subgroup and will not be included in the SPS Growth Target adjustment.

2. - 5. ...

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

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

§4317. District Accountability Data Corrections

A. Since data used for district accountability results are derived from school-level data, district accountability data corrections should be handled during the school accountability appeals period, with the exception of summer school results. Data corrections concerning summer school results should be filed within 30 days after the release of summer school test data.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

Family Impact Statement

1. Will the proposed Rule effect the stability of the family? No.
2. Will the proposed Rule effect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule effect the functioning of the family? No.
4. Will the proposed Rule effect family earnings and family budget? No.
5. Will the proposed Rule effect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., September 8, 2004, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

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

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no estimated implementation costs (savings) to state governmental units. The proposed changes define data correction and the inclusion of Option I Alternative Schools' student data in District accountability and provide greater flexibility in evaluating the participation of students for subgroup considerations.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no estimated costs and/or economic benefits to persons or non-governmental groups directly affected.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Marlyn J. Langely,
Deputy Superintendent
Management and Finance
0407#044

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741 Louisiana Handbook For School
Administrators Pre-GED/Skills Option 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 revisions to *Bulletin 741* The 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 revision will afford students the opportunity to complete a full year of instruction by adjusting the age requirement. The proposed action is a result of requests from local education agencies.

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 LR 28:269 (February 2002), LR 28:272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 30:

* * *

Pre-GED/Skills Option Program

A school system shall implement the Pre-GED/Skills Option Program and shall obtain approval from the State Department of Education at least 60 days prior to the establishment of the program. (See High Stakes Testing Policy in Bulletin 1566.)

A program application describing the Pre-GED/Skills Option Program shall be submitted and shall address the following program requirements:

1. Students who shall be 16 years of age or older or who shall turn 16 years of age during the year they are to enroll into the Program and meet one or more of the following criteria:
 - *Shall have failed LEAP 21 English language arts and/or math 8th grade test for one or two years;
 - *Shall have failed English language arts, math, science and/or social studies portion of the GEE;
 - *Shall have participated in alternate assessment;
 - *Shall have earned not more than 5 Carnegie units by age 17, not more than 10 Carnegie units by age 18, or not more than 15 Carnegie units by age 19;
 - *Students with Limited English Proficiency shall be considered eligible for the Pre-GED/Skills Option Program.
2. Enrollment is voluntary and requires parent/guardian consent.
3. Counseling is a required component of the program.
4. The program shall have both a Pre-GED/academic component and a skills/job training component. Traditional Carnegie credit course work may be offered but is not required. Districts are encouraged to work with local postsecondary institutions, youth-serving entities, and/or businesses in developing the skills component.
5. BESE will require the Pre-GED/Skills Option Program to be on a separate site. Exceptions will be considered based on space availability, transportation or a unique issue.
6. Students who complete only the skills section will be given a Certificate of skills completion.
7. Students will count in the October 1st MFP count.
8. Students will be included in School Accountability. While enrolled, they shall be required to take the 9th grade Iowa Test or alternate assessment. All programs will be considered Option 1 for alternative education purposes, and the score for every alternative education student at a given alternative school shall be returned to ("sent back") and included in the home-based school's SPS. (See Standard 20.002.00 of Bulletin 741.)

Refer to the Guidelines and Application Packet provided by the Louisiana Department of Education for the requirements to establish a Pre-GED/Skills Option Program.

* * *

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? Yes.

Interested persons may submit written comments until 4:30 p.m., September 8, 2004, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741 Louisiana Handbook For School Administrators Pre-GED/Skills Option Program

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

The age requirement for the Pre-GED/Skills Option Program has been changed to allow students that turn 16 during the year to enroll in the program. There will be no implementation costs (savings) to state or local governmental units.

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

There will be no effect on revenue collections by state/local governmental units.

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0407#077

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746 Louisiana Standards for State Certification of School Personnel Louisiana Requirements PRAXIS/NTE Scores (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 746 Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. The proposed revision changes Louisiana PRAXIS/NTE requirements for state certification in the secondary areas of agriculture, biology, general science, speech, and technology education, and in the all-level (K-12) area of art. PRAXIS exams will be available for the first time for certification in agriculture, speech, technology education, and art.

The state's new add-on policy governing addition of teaching endorsements to existing certificates allows for passing a PRAXIS exam in lieu of coursework. This policy opens new opportunities for those wishing to add agriculture, speech, technology education, and art.

Title 28

EDUCATION

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

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), LR 28:2505 (December 2002), LR 29:117 (February 2003), LR 29:119 (February 2003), LR 29:121 (February 2003), LR 30:

* * *

Louisiana Requirements & Praxis/NTE Scores

Certification Area	Name of Praxis Test	Content Exam Score	Pedagogy: Principles of Learning & Teaching			
			PLT K-6 (#0522)	PLT 5-9 (#0523)	or	PLT 7-12 (#0524)
Early Childhood PK-3	Elementary Content Knowledge (0014) Effective 6/1/04	147 150	<ul style="list-style-type: none"> • Prior to 6/1/04: PLT K-6 or ECE 0020; • After 5/31/04: Early Childhood Education 0020 (Score 510) 			
Grades 1-5	Elementary Content Knowledge (0014) Effective 6/1/04	147 150	161	---		---
Grades 4-8 Generic	Middle School: Content Knowledge (0146) Not available for certification purposes effective 6/1/04. Middle Grades 4-8 candidates, effective 6/1/04, were required to pass one or more content specific middle grades exams.	150	---	154		---
Grades 4-8 Mathematics	Middle School Mathematics (0069)	148	---	154		---
Grades 4-8 Science*	Middle School Science (0439)	140	---	154		---
	Effective 6/1/2006	145				
	Effective 6/1/2009	150				
Grades 4-8 Social Studies*	Middle School Social Studies (0089)	149	---	154		---
Grades 4-8 English/Language Arts	Middle School English/Language Arts (0049)	TBD	---	154		---
Grades 6-12 Certification Areas						
Agriculture	Agriculture (0700) Effective 7/1/05	510	---	---		161
Biology	Biology & General Science (0030)	580	---	---		161
	Biology: Content Knowledge (0235) Effective 7/1/05	150				
Business	Business Education (0100)	540	---	---		161
	Effective 6/1/04*	570				
Chemistry	Chemistry/Physics/General Science (0070)	530				161
English	English Language, Literature, & Composition: Content Knowledge (0041)	160				
	Pedagogy (0043)	130	---	---		161
Family & Consumer Sciences (formerly Home Economics)	Family & Consumer Sciences (0120)	510	---	---		161
French	French (0170)	520	---	---		161
	French: Content Knowledge (0173) Effective 6/1/04	156				
General Science	Biology & General Science (0030) –OR–	580	---	---		161
	Chemistry/Physics/General Science (0070)	530				
	General Science: Content Knowledge (0435) Effective 7/1/05	156				
German	German (0180)	500	---	---		161
Mathematics	Mathematics (0060)	550	---	---		161
	Mathematics: Content Knowledge (0061)					
	Effective 6/1/04	125				
	Effective 6/1/07	130				
	Effective 6/1/10	135				
Physics	Chemistry/Physics/General Science (0070)	530				161
Social Studies	Social Studies: Content Knowledge (0081)	149	---	---		161
	Interpretation of Materials (0083)	152				
Spanish	Spanish (0190)	540	---	---		161
	Spanish: Content Knowledge (0191) Effective 6/1/04	160				
Speech	Speech Communications (0220)	575	---	---		161
	Effective 7/1/05					
Certification Area	Name of Praxis Test	Content Exam Score	Pedagogy: Principles of Learning & Teaching			
			PLT K-6 (#0522)	PLT 5-9 (#0523)	or	PLT 7-12 (#0524)
Technology Education (formerly Industrial Arts)	Technology Education (0050) Effective 7/1/05	600	---	---		161
Computer Science Earth Science Environmental Science Journalism Latin Marketing (formerly Distributive Education)	At this time, a content area exam is not required for certification in Louisiana.	---	---	---		161

All-Level Areas

Area	Name of Praxis Test	Content Exam Score	Pedagogy: Principles of Learning and Teaching			
			PLT K-6 (#0522)	PLT 5-9 (#0523)	or	PLT 7-12 (#0524)
Grades K-12 Art	Art: Content Knowledge (0133) Effective 7/1/05	155	161	154	or	161
Grades K-12 Dance	None Available***	---	161	154	or	161
Grades K-12 Foreign Languages	French (0170) French: Content Knowledge (0173) Effective 6/1/04	520 156	161	154		161
	German (0180)	500				
	Spanish (0190) Spanish: Content Knowledge (0191) Effective 6/1/04	540 160				
	Music Education (0110) Music: Content Knowledge (0113) Effective 6/1/04	530 151				
Grades K-12 Music	Music Education (0110) Music: Content Knowledge (0113) Effective 6/1/04	530 151	161	154	or	161
Grades K-12 Health and Physical Education	Physical Education (0090) Phys. Education: Content Knowledge (0091) Effective 6/1/04	550 146	161	154	or	161

***At this time, a content area exam is not required for certification in Louisiana.

Special Education Areas

Area	Content Exam	Pedagogy Requirement
Special Education	Not required prior to 6/1/04, except for entry into new Mild/Moderate alternate certification programs	PLT K-6 (161), PLT 5-9 (154) OR PLT 7-12 (161)
Effective 6/1/04		
Early Interventionist	None required at this time; under consideration for future	Education of Exceptional Students: Core Content Knowledge (0353) 143
Hearing Impaired	None required at this time; under consideration for future	Education of Exceptional Students: Core Content Knowledge (0353) 143 Education of Deaf and Hard of Hearing Students (0271) 160
Mild to Moderate Disabilities	Candidate would take content area exam appropriate to certification level CPK-3, 1-5, 4-8, 6-12 (see previous page)	Education of Exceptional Students: Core Content Knowledge (0353) 143 Education of Exceptional Students: Mild to Moderate Disabilities (0542) 141
Severe to Profound Disabilities	None required at this time; under consideration for future	Education of Exceptional Students: Core Content Knowledge (0353) 143 Education of Exceptional Students: Severe to Profound Disabilities (0544) 147
Visual Impairments/ Blind	None required at this time	Education of Exceptional Students: Core Content Knowledge (0353) 143

PRE-PROFESSIONAL SKILLS TESTS

(Required for all Louisiana candidates to enter teacher preparation programs.)

Pre-Professional Skills Test	Test #	Score	Pre-Professional Skills Test	Test #	Score
PPST:RC Pre-Professional Skills Test: Reading	0710	172	Computer-Based Tests (prior to 1/16/02): CBT Reading CBT Writing CBT Mathematics	0711 0721 0731	319 316 315
PPST:WC Pre-Professional Skills Test: Writing	0720	171			
PPST:MC Pre-Professional Skills Test: Mathematics	0730	170			
Computerized PPST (1/16/02 and after) Same passing scores as written PPST:					
Reading	5710	172			
Writing	5720	171			
Mathematics	5730	170			

OTHER AREAS

Certification Area	Name of Praxis Test	Area Test Score
Administration	Educational Leadership: Administration & Supervision (0410)	620

All Praxis scores used for certification must be sent directly from ETS to the State Department of Education electronically, or the original Praxis score report from ETS must be submitted with candidate's application.

Family Impact Statement

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 written comments until 4:30 p.m., September 8, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746 Louisiana Standards for State Certification of School Personnel Louisiana Requirements PRAXIS/NTE Scores

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed revision changes Louisiana PRAXIS/NTE requirements for state certification in the secondary areas of agriculture, biology, general science, speech, and technology education, and in the all-level (K-12) area of art. PRAXIS exams will be available for the first time for certification in agriculture, speech, technology education, and art. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The only costs are those for testing fees applicable to the specific certification areas affected by this change, and only individuals pursuing credentialing in these specific areas would be affected.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0407#048

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746 Louisiana Standards for State Certification of School Personnel Revision to the Highly Qualified HOUSSE Definition to Allow Credit for Experience Earned by "Not New" Teachers (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 746 Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This change in current Bulletin 746 policy amends the Highly Qualified definition for "not new" (experienced) teachers pertaining to Louisiana's High Objective Uniform State Standard of Evaluation (HOUSSE) option. The nature of the change is to allow credit for a teacher's previous work experience as a fully certified teacher, with experience credited as continuing learning units (CLUs) at the rate of three CLUs for each year of successful experience in the content area, with a maximum of 45 CLUs earned through work experience.

Relative to High Objective Uniform State Standard of Evaluation (HOUSSE) option in Louisiana's Highly Qualified definition for "not new" (experienced) teachers, this action recognizes a teacher's content expertise gained through years of practice by allowing credit in the form of continuing learning units (CLUs) for successful work experience as a fully certified teacher.

Title 28

EDUCATION

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§903. Teacher Certification Standards and Regulations**

A. Bulletin 746

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), LR 28:2505 (December 2002), LR 29:117 (February 2003), LR 29:119 (February 2003), LR 29:121 (February 2003), LR 30:

Highly Qualified Teacher in Louisiana

"Not New" Elementary Teacher	
1	Holds elementary school education certificate, a special education certificate that includes elementary school grades, or a special foreign language certificate to teach a specific foreign language in grades K-8; and
2	Does not presently have certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
3	Has passed the Louisiana content-specific elementary education licensing exam; or

4	Holds a valid National Board for Professional Teaching Standards (NBPTS) certification in early childhood, middle childhood, or in a content area basic to the elementary school (e.g., Early Language Arts, Early Mathematics) and is teaching in the NBPTS area of certification; or
5	Has at least 12 semester hours of credit in each of the four core disciplines (English/language arts, including reading and writing; math; science; and social studies); or
Qualifies Under High Objective Uniform State Standard of Evaluation (HOUSSE) for "Not New Elementary Teachers" (By School Year 2005-2006)	
<p>A "not new" teacher who does not meet the requirements of the paragraphs number 3, 4, or 5 above is considered highly qualified if he/she is state certified and teaching in the area of certification and if he/she completes ninety (90) Continuing Learning Units (CLUs) by the end of 2005-2006. A "not new" teacher's previous work experience as a fully certified teacher may be credited as CLUs at the rate of three (3) CLUs for each year of successful experience in the content area, with a maximum of 45 CLUs earned through work experience.</p> <p>*A Continuing Learning Unit (CLU) is a professional development activity that builds capacity for effective, research-based, content focused teaching and learning that positively impacts student achievement. The Louisiana Professional Development Guidance will be used to define the 90 continuing learning units.</p>	

Highly Qualified Teacher in Louisiana

"Not New" Middle School Teachers	"Not New" Secondary School Teachers	
1	<p>Holds a valid teaching certificate appropriate for grades 6-8 (e.g., Elementary Education 1-8, Upper Elementary Education 5-8, Middle School Education); a special education area that includes middle school grades; a secondary academic content area; or special foreign language certificate to teach a specific foreign language in grades K-8; and</p>	<p>Holds certificates for every core academic subject the individual teaches; and</p>
2	<p>Does not presently have certification or licensure requirements waived on an emergency, temporary, or provisional basis; and</p>	<p>Does not presently have certification or licensure requirements waived on an emergency, temporary, or provisional basis; and</p>
3	<p>a) Has passed Louisiana subject-specific licensing exam required for a middle school academic content area or for a secondary (grades 7-12) academic content area that is appropriate to the middle school level, for every core academic subject the individual teaches; OR</p> <p>b) Has the equivalent of an academic major in a content area appropriate to the middle school level, for every core academic subject the individual teaches; OR</p> <p>c) Has earned a master's degree in a pure content area (not in education) for every core academic subject the individual teaches; OR</p> <p>d) Holds a valid National Board for Professional Teaching Standards (NBPTS) certification in a core content area and is teaching in the NBPTS area of certification; or</p>	<p>a) Has passed the Louisiana subject-specific licensing exam required for a secondary (grades 7-12) academic content area, for every core academic subject the individual teaches; or</p> <p>b) Has the equivalent of an academic major in a secondary content area, for every core academic subject the individual teaches; OR</p> <p>c) Has earned a master's degree in a pure content area (not in education) for every core academic subject the individual teaches; OR</p> <p>d) Holds a valid National Board for Professional Teaching Standards (NBPTS) certification in a core content area and is teaching in the NBPTS area of certification; or</p>

Qualifies Under

High Objective Uniform State Standard of Evaluation (HOUSSE)
for "Not New" Middle School and Secondary Teachers
(By School Year 2005-2006)

A "not new" teacher who does not meet the requirements of the paragraphs 3(a), 3(b), 3(c), or 3(d) above is considered highly qualified if he/she is state certified and teaching in the area of certification and if he/she completes ninety (90) Continuing Learning Units (CLUs) by the end of 2005-2006. The teacher certification suspension and revocation policy now in place pertains to criminal offenses and does not include consequences for presentation of fraudulent documentation pertaining to certification. Several recent incidences of fraud have prompted drafting of this separate policy to encompass consequences for presentation of fraudulent documentation.

*A Continuing Learning Unit (CLU) is a professional development activity that builds capacity for effective, research-based, content focused teaching and learning that positively impacts student achievement. The Louisiana Professional Development Guidance will be used to define the 90 continuing learning units.

* * *

Family Impact Statement

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., September 8, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 746 Louisiana Standards for State Certification of School Personnel** **Revision to the Highly Qualified HOUSSE Definition to Allow Credit for Experience Earned by Not New Teachers**

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

This change in current Bulletin 746 policy amends the Highly Qualified definition for "not new" (experienced) teachers pertaining to Louisiana's High Objective Uniform State Standard of Evaluation (HOUSSE) option. The nature of the change is to allow credit for a teacher's previous work experience as a fully certified teacher, with experience credited as continuing learning units (CLUs) at the rate of three (3) CLUs for each year of successful experience in the content area, with a maximum of 45 CLUs earned through work experience. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0407#049

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746 Louisiana Standards for State Certification of School Personnel Suspension and Revocation of Certificates Due to Fraudulent Documentation Pertaining to Certification (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 746 Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. Currently, the teacher certification suspension and revocation policy addresses consequences due to criminal offenses. This new Bulletin 746 policy specifies conditions for suspension and revocation of a teaching certificate due to one's submission of fraudulent documentation pertaining to certification. The policy also specifies conditions under which an appeal can occur.

**Title 28
EDUCATION**

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

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183 (April 1975), amended LR 1:311 (July 1975), LR 1:399 (September 1975), LR 1:541 (December 1975), LR 28:2505 (December 2002), LR 29:117 (February 2003), LR 29:119 (February 2003), LR 29:123 (February 2003), LR 30:

Suspension and Revocation of Certificates Due to Fraudulent Documentation Pertaining to Certification

A Louisiana teaching certificate may be suspended and revoked if a teacher presents fraudulent documentation pertaining to his/her certificate to the State Board of Elementary and Secondary Education or the Department of Education.

Upon determining that a teacher has submitted fraudulent documentation pertaining to his/her teaching certificate, the department shall investigate the matter. Upon confirmation of the information investigated, the department shall notify the teacher by certified mail that his/her certificate has been suspended pending official board action and that a hearing will be conducted by the board to consider revocation.

Such hearing will be limited to the issue of whether or not the document submitted was fraudulent. The teacher shall provide the board with documentation that will refute the fraudulent nature of the document.

The Due Process Committee shall make a recommendation to the full board, based on documentation received from the department and the teacher, whether the teaching certificate should be revoked. The decision of the board shall be transmitted to the local school board and to the teacher affected.

A teacher whose certificate has been revoked under the provisions of this Part may apply for reinstatement three years or later after the effective date of the revocation of his/her certificate or three years after the conviction of any felony resulting from the submission of fraudulent documentation, whichever is later. The Due Process Committee of the board may conduct a hearing to determine if all requirements for certification have been successfully completed and whether the person has rehabilitated himself/herself sufficiently to warrant reinstatement of the teaching certificate.

Family Impact Statement

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

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., September 8, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

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

**RULE TITLE: Bulletin 746 Louisiana Standards
for State Certification of School Personnel
Suspension and Revocation of Certificates Due to
Fraudulent Documentation Pertaining to Certification**

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

Currently, the teacher certification suspension and revocation policy addresses consequences due to criminal offenses. This new Bulletin 746 policy specifies conditions for suspension and revocation of a teaching certificate due to one's submission of fraudulent documentation pertaining to certification. The policy also specifies conditions under which an appeal can occur. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

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

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

The proposed changes will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0407#062

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 996 Louisiana Standards for Approval of Teacher Education Programs (LAC 28:XLV.Chapters 1-13)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 996 Louisiana Standards for Approval of Teacher Education Programs* (LAC 28, Part XLV). Proposed revisions to Bulletin 996 are (1) addition of preliminary or second-stage approval for new or reinstated public and private teacher preparation units; (2) change of five-year cycle to seven-year cycle for institutions that have successfully completed at least two National Council for Accreditation of Teacher Education (NCATE) evaluation cycles; and (3) technical changes to the bulletin to update its information. The first change allows a new unit to begin the process of developing teacher education certification programs; to admit students to the new programs; to begin assembling needed documentation for full unit accreditation, per state and NCATE standards; and, after the board has granted second-stage approval to the unit, to recommend students in such programs for certification. The second change approves the NCATE plan to extend the accreditation cycle from five years to seven years for institutions seeking continued accreditation. Institutions seeking first-time accreditation would remain on a five-year

cycle before moving to a seven-year cycle after the second evaluation visit.

This addition to Bulletin 996 addresses the need to provide a procedure for a new or reinstated unit to gain state approval in order to admit candidates, recommend them for state certification, and begin the NCATE accreditation process.

The state is in a Partnership Agreement with NCATE for the accreditation for Louisiana Institutions of Higher Education (IHEs). This change brings the state bulletin into full agreement with the NCATE plan to extend the accreditation cycle to seven years for proven IHEs.

Technical changes will update the language of the bulletin to a current status.

**Title 28
EDUCATION**

**Part XLV. Bulletin 996 Louisiana Standards for
Approval of Teacher Education Programs**

Chapter 1. Introduction

§101. Guidelines

A. Bulletin 996 is intended to guide higher education institutions in the development and review of new programs and existing teacher education programs, to guide visiting committees in their evaluations, and to inform all interested persons of the Louisiana standards for teacher preparation programs and the procedures for program evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1730 (August 2002), amended LR 30:

**§102. Preliminary Approval or Second-Stage Approval
for New or Reinstated Public and Private
Teacher Preparation Units**

A. Preliminary Approval or Second-Stage Approval for New or Reinstated Public and Private Teacher Preparation Units guides private institutions seeking to develop or reinstate a teacher preparation program, and identifies certification procedures for new and reinstated public and private teacher preparation programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§103. The Partnership Agreement

A. In September 1999, the State Board of Elementary and Secondary Education (SBESE) authorized Cecil J. Picard, State Superintendent of Education, to sign the partnership agreement between the state and the National Council for Accreditation of Teacher Education (NCATE). Implementation began in 2000 with visits to Louisiana institutions of higher education. 2004, The NCATE/State Partnership Agreement formalizes current practice and provides the state greater input into the review process. The State Board of Elementary and Secondary Education and the State Department of Education are committed to ensuring that the teachers in Louisiana meet high standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1730 (August 2002), amended LR 30:

§105. Protocol

A. Bulletin 996 contains three parts that are vital to the Teacher Preparation Program Approval Process. Part One includes the Protocol and the Protocol Addendum for First/Probation/Continuing Accreditation for Professional Education Units in the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1731 (August 2002), amended LR 30:

§107. NCATE 2000 Standards ~~C~~ May 11, 2000

A. The National Council for Accreditation of Teacher Education standards (NCATE 2000 Standards: May 11, 2000). The standards selected for state program approvals are identical to the standards prescribed by the National Council for the Accreditation of Teacher Education (NCATE 2000 Standards: May 11, 2000). These standards focus on the overall quality of the professional education unit, with emphases on policies, procedures, candidates, assessment, field experiences, clinical practice, governance, administration, staffing, and resources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1731 (August 2002), amended LR 30:

§109. State Supplement

A. Bulletin 996 contains the Louisiana State Supplement Standards for Teacher Preparation Program Approval, standards that are unique to Louisiana education initiatives. Although particular sections of this bulletin are addressed specifically to the institution or to the visiting committee, it is important for the visiting committee to be familiar with the directions given to the institution, and vice versa. Study and observance of Bulletin 996 by all concerned will greatly facilitate the state program approval and national unit accreditation processes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1731 (August 2002), amended LR 30:

Chapter 2. Preliminary Approval or Second-Stage Approval for New or Reinstated Public and Private Teacher Preparation Units

§201. Preliminary Approval and Second Stage Approval

A. The Louisiana Department of Education staff reviews applications for preliminary approval and for second-stage approval of public and private, new or reinstated teacher education units. When an application is judged satisfactory, a recommendation is made to the State Board of Elementary and Secondary Education (SBESE) for preliminary approval or for second-stage approval.

B. The state may conduct scheduled and/or unscheduled reviews of the teacher education unit, including on-site visits, during the preliminary approval or second-stage approval phase.

C. Public institutions seeking preliminary approval or second-stage approval must submit duplicate documents to the Board of Regents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§203. Application for Preliminary Approval

A. Preliminary approval authorizes the institution to proceed with developing the teacher education unit and programs identified in the request, and to admit candidates to programs under conditions specified in Paragraph 8 below. Preliminary approval does not authorize the recommendation of graduates for certification.

B. The board will grant preliminary approval for a period of one year. At the end of that year, if requested by the institution, the board may grant a one-year extension of preliminary approval. The application for preliminary approval must include the following items:

1. official declaration of intent, with request for approval, in the form of a letter from the head of the institution and or the head of the teacher education unit;

2. evidence of regional accreditation status (e.g. Southern Association of Colleges and Schools);

3. documentation describing general education classes (e.g., number of general education course hours by discipline and catalog course descriptions);

4. documentation describing certification areas to be offered, with required courses to meet state certification requirements, including a core of professional education classes;

5. evidence of collaboration with school districts, including a plan for development of an advisory board of community representatives (PK-16+ Council). The written plan should describe how the council would be used and should name members and/or potential members;

6. evidence to show that the institution's governing structure will accept, respect, include, and support a teacher preparation unit and programs (letter from head of the institution, with budget detail showing funding sources);

7. documentation showing expertise of individuals directed to guide the unit and its programs (vita of the dean or chair, department heads, director of field experiences, faculty, etc.);

8. an articulation agreement to transfer credit hours with another, approved teacher preparation institution that agrees to recommend the new/reinstated institution's candidates for certification, as needed, for continuous progress and program completion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§205. Application for Second-Stage Approval

A. Second-stage approval authorizes the institution to recommend candidates for certification, under limits stipulated in the conditions, for a period of one to three years.

B. Before the termination of second-stage approval, the unit shall present evidence that it has met pre-conditions for full state approval and/or national accreditation or shall request that second-stage approval be extended. The State Board of Elementary and Secondary Education (SBESE) may grant only one such extension, for a period of one year, when problems are identified that require solution prior to application for full state approval and/or national accreditation. The application for second-stage approval must include the following items:

1. a narrative describing the institutional and teacher education unit mission, reflecting the teacher education unit as an integrated and integral part of the university, and reflecting a common mission of all colleges (e.g., College of Education, College of Arts/Sciences, etc.) within the institution responsible for the preparation of teachers. The narrative should specify beliefs that drive the institution and unit and may include the knowledge bases from which these beliefs developed;

2. a written description of the professional education unit that is primarily responsible for the preparation of teachers and other professional educational personnel. This may be a chart or a narrative that specifies all professional education programs offered by the institution and degrees awarded for each program, and an organizational chart showing the unit's relationship to other administrative units within the institution;

3. evidence that a dean, director, or chair is officially designated to represent the unit and has been assigned authority and responsibility for its overall administration and operation (e.g., a job description for the head of the professional education unit);

4. evidence of written policies and procedures that guide unit operation, including policies or procedures pertaining to candidates. This may be submitted as hard copy (e.g., catalogs, handbooks) or as instructions for accessing a website;

5. response to Louisiana Specific Standards/Rules/Guidelines, including Title 17 of the Louisiana Revised Statutes, Sections 7.1, 7.2, to ensure that the unit is meeting state law, that courses reflect content standards, that field experiences are included, that admissions requirements are met, etc.;

6. a description of the unit's system of monitoring and evaluating its candidates, programs, operations, and the performance of its graduates. This will reflect how the unit will assess programs, unit effectiveness, and candidates as well as how the unit will provide follow-up data on its graduates;

7. instrument(s) for assessing candidates for admission to and exit from the teacher preparation program. This would include requirements for entrance to teacher education programs, through transition points, and for successful program completion as well as procedures for remediation, if necessary;

8. full budget report for the implementation of programs, including internal and external sources of funding, and including both hard and soft monies;

9. evidence of submission for state approval of all certification programs offered at the institution. By progressing through the full program approval process, programs will become sanctioned by the Louisiana Department of Education and the Board of Regents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§207. Application by the Unit for Full State Approval and/or for Accreditation by NCATE (National Council for the Accreditation of Teacher Education)

A. The institution's teacher education unit must meet both NCATE and state standards in order to secure state

approval and/or NCATE accreditation. At the time it completes the second-stage approval phase of the approval process, the institution must meet requirements to satisfy NCATE pre-conditions.

B. An institution seeking full NCATE accreditation must submit an "Intent to Seek NCATE Accreditation" form to NCATE. An institution pursuing state approval only must respond to each of the NCATE pre-conditions and submit to Division Director, Teacher Certification and Higher Education, Louisiana Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

Chapter 3. Protocol State Requirements

§301. Adoption of NCATE Standards by Reference

A. The state has adopted the standards prescribed by the National Council for the Accreditation of Teacher Education (NCATE 2000 Standards: May 11, 2000). These standards are available on the NCATE website (www.ncate.org) and from the National Council for the Accreditation of Teacher Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1731 (August 2002), amended LR 30:

§303. First/Continuing/Probation Accreditation for State Program Approval for Professional Education Units in the State of Louisiana

A. Dates of Visit

1. First/Continuing

a. Institutions receive copies of the regulations governing the approval of teacher preparation programs. The regulations require the institution to notify the department of intent to seek approval not less than one year prior to the year in which current state approval will end.

b. Institutions accredited for the first time will remain on the five-year cycle before moving to the seven-year cycle after the second fully-accredited visit.

c. Visits are scheduled from Saturday through Wednesday noon. The Louisiana Department of Education must agree upon the date of the visit.

B. Timelines

1. First/Continuing

a. In Accordance to NCATE Timelines

b. All teacher preparation programs have received the current approval regulations and certification regulations.

C. Preconditions

1. First

a. For state-only visits, Preconditions #1-10 are sent to the LSDE approximately 18 months prior to the on-site visit.

2. First/Continuing/Probation

a. For state approval Preconditions #11 and #12 must be met.

D. Program Review Documents (Program review documents required)

1. First/Probation

a. Two copies of each program review must be submitted to the LSDE at the same time they are submitted to NCATE. For a state-only visit, two copies should be submitted to LSDE.

b. The state coordinates program reviews by national professional education associations with guidelines that have been approved by the Specialty Area Studies Board.

c. A copy of the national review also must be sent to the LSDE. The information will be made available to the Louisiana State Board of Elementary and Secondary Education for review, if requested.

2. Continuing

a. Two copies of each program review and one copy of the national review should be sent to the LSDE. This information will be made available to the Louisiana State Board of Elementary and Secondary Education for review, if requested.

E. Standards

1. First/Continuing/Probation

a. NCATE standards and the Louisiana State Supplement Standards apply to the professional education unit, as per Louisiana State Board of Elementary and Secondary Education.

F. Institutional Report

3. First/Probation

a. The institution responds to NCATE/state standards. For state only visits, a copy of the institutional report, undergraduate and graduate catalog are sent to each member of the state team and to the state consultant.

b. The institutional report must address, in addition to NCATE requirements, the specific Louisiana requirements.

4. Continuing

a. The institution must send one copy of the institutional report to each member of the state team and to the state consultant. The institutional report must address NCATE requirements (if applicable) and the specific Louisiana requirements.

G. Previsit

1. First/Continuing/Probation

a. The state chair meets with LSDE consultants and the institution's unit head and/or designee to plan for the visit. This previsit occurs at the institution within 60 days of the visit.

b. The state chair and state consultant should have received a copy of the institution's report(s) prior to the previsit.

H. Team Members (Joint)

1. First/Continuing/Probation

a. A team is selected from Louisiana's Board of Examiners (BOE) by the coordinator of teacher preparation program approval and the Section Administrator of Teacher Certification and Higher Education. Louisiana regulations require that team members represent a broad background and experience in education. The team must include representatives of Louisiana Education Authorities (LEAs), higher education, and the LSDE and must represent geographic, gender and racial diversity. The institution is given the opportunity to request the withdrawal of any team member for good cause. The LSDE approves or denies the request.

I. Team Size

1. First/Continuing/Probation

a. The total number of team members will be determined jointly by NCATE, (if applicable) and/or by the

LSDE, based on the number of programs to be reviewed. All Louisiana members will be voting members of the team. The state consultant will not vote but will have full rights otherwise.

J. Team Chairs

1. First/Continuing/Probation

a. The coordinator for teacher preparation program approval and the section administrator of certification and higher education appoints the state co-chair. The state co-chair will be responsible for coordinating the writing of findings addressing Louisiana standards, based on information provided by Louisiana team members.

K. Team Decisions

1. First/Continuing/Probation

a. For NCATE/State visits, the Louisiana team members will determine if the specific Louisiana standards have been met and will determine the weaknesses to be cited and recorded for each standard. The team generally uses a consensus process.

b. For state-only visits, the Louisiana team members will vote on both NCATE and state standards to determine if the unit has met standards and if not, the weaknesses to be cited.

L. Team Expenses

1. First /Continuing/Probation

a. The institution is required to cover all travel and maintenance expenses for the members of the Louisiana BOE.

M. Team Training

1. First/Continuing/Probation

a. Louisiana members have successfully completed an LBOE training session in the past six years.

N. Other Team Participants

1. First/Continuing/Probation

a. The state consultant's expenses are covered by the LSDE.

O. On-Site Visit

1. First/Continuing/Probation

a. The NCATE template for on-site visits guides the conduct of the visit as outlined in the *Handbook for First Accreditation Visits* and the *Handbook for Continuing Accreditation Visits*.

b. The state format for an exit interview includes providing information on the rating of the standards with weaknesses cited.

c. For a state-only visit, an exit conference is held before the team departs on Wednesday. The state chair and the state consultant from the LSDE conduct it. The unit head, unit visit coordinator and the president and/or provost may also attend.

P. BOE Team Report

1. First/Continuing/Probation

a. For NCATE/state visits, the state co-chair will compile the state section of the report. A draft of the state report will be mailed to each state member and the state consultant for review and to the institution for its review of any factual errors.

b. For state-only visits, the state chair will compile the entire report. A draft of the team report will be mailed to each team member and the state consultant for review and to the institution for its review of any factual errors. The unit has approximately five days to respond in writing.

c. After receiving the unit's response and making appropriate changes, if necessary, the chair submits the final report, including state standards if joint visit, to LSDE, which then sends two copies of the report to the institution and NCATE (if applicable).

Q. Institutional Rejoinder

1. First/Continuing/Probation

a. The institution must submit two copies of its BOE report rejoinder, addressing all applicable standards, to the LSDE. The institution may, as appropriate, send a written state report rejoinder to the LSDE.

R. Final Action Report

1. First/Continuing/Probation

a. The LSBESE reviews the institutional report and any institutional rejoinders and/or responses. The LSBESE makes the final decision on the approval of the teacher preparation programs (unit) at that institution. The Louisiana Unit Accreditation Board (LUAB) meets to recommend the action to be taken, based on the report and the rejoinder, and LSDE staff takes the action recommendation to LSBESE. The actions that the board can take include full approval, provisional approval, probationary approval, or denial of approval for the unit. A letter from the State Board of Elementary and Secondary Education to the head of the education unit conveys final board action, with a copy to the president of the institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1731 (August 2002), amended LR 30:

§305. Protocol Addendum for Change in State Status of NCATE Accredited Teacher Education Units in Louisiana

A. As a result of action taken by the NCATE Executive Board in October of 1999, an addendum has been included with the State of Louisiana's Partnership Protocol, to reflect actions to be taken by NCATE and the state when a "change in state status" occurs for an NCATE accredited teacher education unit.

1. Notification

a. The state will provide to NCATE a copy of the teacher education standards that describe how status of programs will be determined.

b. Within 30 days, the state will provide NCATE notification of a "change in state status" affecting a Louisiana NCATE-accredited institution.

c. Supporting documentation, pertaining to the decision that leads to a "change in state status," will be provided to NCATE, pending approval by the State Board of Elementary and Secondary Education.

d. As with all institutional actions by the Louisiana State Board of Elementary and Secondary Education, public notice will be given.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1733 (August 2002), amended LR 30:

Chapter 5. Preconditions for Teacher Preparation Program Approval

§501. Requirements of Preconditions

A. The preconditions for teacher preparation program approval are required to assure that any education unit undergoing review has met fundamental criteria that undergird the state's and NCATE's standards for accreditation. An education unit should submit its preconditions report to the Louisiana Department of Education and to NCATE office, if simultaneously pursuing national accreditation, within 18 months of its planned program approval visit. State department personnel and, in the case of national approval, NCATE staff will advise the unit if any additional documentation is required to complete the preliminary process for program approval. Once the preconditions process is complete with notification from the Louisiana Department of Education and/or NCATE, the institution should begin its preparation toward state and/or national accreditation of its teacher preparation program.

B. The state entered into a partnership agreement with the National Council for Accreditation of Teacher Education (NCATE) to conduct joint state program approval and NCATE unit accreditation reviews. The state has adopted and is incorporating by reference Preconditions 1-9 prescribed by NCATE. These standards are available from the NCATE website (www.ncate.org) or from the National Council for Accreditation of Teacher Education.

C. Preconditions #10, #11, and #12 must be met by education units seeking approval.

1. Precondition #10. The institution is an equal opportunity employer and does not discriminate on the basis of race, sex, color, religion, age or handicap (consistent with Section 702 of Title VII of the Civil Rights Act of 1964, which deals with exemptions for religious corporations, with respect to employment of individuals with specific religious convictions).

a. Documentation required:

i. a copy of the institution's official action pledging compliance with nondiscriminatory laws and practice.

2. Precondition #11. Under state legislative authority R.S. 17:7(6), as amended, the unit complies with the qualifications and requirements for the certification of teachers established by the State Board of Elementary and Secondary Education.

a. Documentation required:

i. teacher education handbooks (faculty and student) or university catalog that publishes the unit's policies and procedures regarding but not limited to the following:

(a). procedures for student evaluation and counseling upon first entry into the institution;

(b). 2.20 average on a 4.00 scale as a condition for entrance into a teacher education program;

(c). passage of standardized test for entry into teacher education;

(d). experiences in schools of varied socioeconomic and cultural characteristics;

- (e). instruction on child discipline and the prevention of disruptive behavior in schools;
- (f). reading courses (three hours for secondary , six hours for middle grades, and nine hours for elementary);
- (g). a minimum of 270 clock hours in student teaching with 180 hours of actual teaching;
- (h). a substantial part of 180 hours of actual student teaching on an all day basis;
- (i). 2.50 cumulative grade point average at graduation; and
- (j). evaluation criteria of faculty and timeframes.

3. Precondition #12. The teacher education unit must meet the BESE requirements for certification for each program area offered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1733 (August 2002), amended LR 30:

Chapter 7. NCATE 2000 Unit Standards

§701. Partnership Agreement

A. The state entered into a partnership agreement with the National Council for Accreditation of Teacher Education (NCATE) effective through Fall 2004 to conduct joint state program approval and NCATE unit accreditation reviews. The state has adopted and is incorporating by reference the standards prescribed by NCATE. These standards are available from the NCATE website (www.ncate.org) or from the National Council for Accreditation of Teacher Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1733 (August 2002), amended LR 30:

Chapter 9. Louisiana State Supplement for Teacher Preparation Program Approval

§901. Introduction

A. Each teacher preparation program seeking approval from the Louisiana State Board of Elementary and Secondary Education (LSBESE) is required to incorporate and adhere to the NCATE standards and to track closely the NCATE accreditation process. Each Louisiana university is required to develop a report describing how the unit is addressing the key state initiatives as identified and delimited in the Louisiana State Supplement for Teacher Preparation Program Approval. It is the responsibility of the teacher preparation program to prepare and present a clear description of how it is responding to each of the Louisiana Standards.

B. The rubrics, as listed, develop a continuum of quality regarding a beginning teacher's ability to meet effectively the requirements of the five domains in *The Louisiana Components of Effective Teaching*. The integration of the Louisiana Content Standards is to be evidenced in the teacher education curricula of each teacher education unit. Each teacher education program must show evidence of integration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1733 (August 2002), amended LR 30:

Chapter 11. The Components of Effective Teacher Preparation

Subchapter A. Standard A Candidates Provide Effective Teaching for All Students

§1101. Planning

A. Candidates at both the initial and advanced levels of the Teacher Education Program Provide Effective Instruction and Assessment for All Students

1. The teacher education program provides candidates¹ at both the initial and advanced levels with knowledge and skills in the following planning processes: specifying learner outcomes, developing appropriate activities which lead to the outcomes, planning for individual differences, identifying materials and media for instruction, specifying evaluation strategies for student achievement, and developing Individualized Education Plans (IEPs) as needed.

Unacceptable	Acceptable	Target
Candidates recognize the components of planning and know that they are expected to meet the learning needs of each student.	Candidates demonstrate knowledge of the steps in developing plans to meet the learning needs of each student.	Candidates develop and implement plans as needed to meet the learning needs of each student.

¹Candidates. Individuals admitted to or enrolled in programs for the First preparation of teachers. Candidates are distinguished from students in P-12 school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1734 (August 2002), amended LR 30:

§1103. Management

A. The teacher education program provides candidates at both the initial and advanced levels with knowledge and skills in the management component, which includes maintaining an environment conducive to learning, maximizing instructional time, and managing learner behavior.

Unacceptable	Acceptable	Target
Candidates understand various approaches to classroom/behavior management.	Candidates create a positive learning environment, maximize instructional time, and manage learner behavior.	Candidates create a positive learning environment, maximize instructional time, and manage learner behavior, making adjustments as necessary to meet the learning needs of each student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1734 (August 2002), amended LR 30:

§1105. Instruction

A. The teacher education program provides candidates at both the initial and advanced levels with skills for delivering effective instruction, presenting appropriate content, providing for student involvement, and assessing and facilitating student growth.

Unacceptable	Acceptable	Target
Candidates recognize the components of instruction that meet the learning needs of each student.	Candidates demonstrate use of instructional components that meet the learning needs of each student.	Candidates demonstrate effective instruction that results in positive learning outcomes for each student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2., R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1734 (August 2002), amended LR 30:

§1107. Curriculum

A. The teacher education curricula provide candidates at both the initial and advanced levels with knowledge and skills to effectively incorporate the Louisiana Content Standards in instructional delivery.

Unacceptable	Acceptable	Target
Candidates understand the basic components of the Louisiana Content Standards.	Candidates demonstrate knowledge of the Louisiana Content Standards in lessons for each content area they are preparing to teach.	Candidates implement instruction and assessment reflective of content standards, local curricula, and each student's needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1734 (August 2002), amended LR 30:

§1109. Curriculum—Reading (Specifically but not Exclusively for K-3 Teachers)

A. The teacher education program provides candidates at both the initial and advanced levels with knowledge and skills in the curriculum process.

Unacceptable	Acceptable	Target
Candidates understand the elements of a balanced approach to reading instruction.	Candidates use a balanced approach to reading instruction and assessment in K-3 classrooms.	Candidates effectively use a balanced approach to reading instruction and assessment in K-3 classrooms to impact learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1734 (August 2002), amended LR 30:

§1111. Curriculum—Mathematics (Specifically but not exclusively for K-3 teachers)

A. The teacher education program provides candidates at both the initial and advanced levels with knowledge and skills in the curriculum process.

Unacceptable	Acceptable	Target
Candidates understand the elements of reform mathematics.	Candidates use reform mathematics content and pedagogy in providing instruction.	Candidates effectively use reform mathematics content and pedagogy in instruction and assessment, including the use of manipulatives and/or the application of content to real life situations, resulting in improved student learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1735 (August 2002), amended LR 30:

§1113. Technology

A. The teacher education program provides candidates at both initial and advanced levels with skills to plan and deliver instruction that integrates a variety of software, applications, and related technologies appropriate to the learning needs of each student.

Unacceptable	Acceptable	Target
Candidates understand how to use technology.	Candidates create and use instruction and assessment that integrate technology into the curriculum.	Candidates effectively integrate technology into the curriculum with instruction and assessment that result in improved student learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1735 (August 2002), amended LR 30:

§1115. Professional Development

A. The teacher education program provides candidates at both the initial and advanced levels with information and skills for planning professional self-development.

Unacceptable	Acceptable	Target
No evidence exists that candidates were exposed to the need for ongoing professional development.	Candidates plan and pursue professional development activities required by the university and/or First employing school system.	Candidates develop an individualized professional development plan based upon their self-assessment, reflection, and long term professional goals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1735 (August 2002), amended LR 30:

§1117. School Improvement

A. The teacher education program provides candidates at both the initial and advanced levels with preparatory

experiences in school improvement that includes taking an active role in school decision-making and creating relevant partnerships.

Unacceptable	Acceptable	Target
Candidates understand the processes of school improvement.	Candidates review and are familiar with school improvement efforts at the school and district levels.	Candidates participate in school improvement efforts by serving on committees and forming partnerships with community groups.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1735 (August 2002), amended LR 30:

Subchapter B. Standard B Candidates and/or Graduates of Teacher Education Programs Participate in the Accountability and Testing Process

§1119. School and District Accountability System

A. The Teacher Education Program provides candidates at both the initial and advanced levels with knowledge and skills regarding the utilization of the Louisiana School and District Accountability System (LSDAS).

Unacceptable	Acceptable	Target
Candidates understand the basic components of the LSDAS.	Candidates investigate documents, data, and procedures used in LSDAS.	Candidates take an active role in the school growth process as related to the LSDAS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1735 (August 2002), amended LR 30:

§1121. Testing

A. The teacher education program provides candidates at both the initial and advanced levels with information on the Louisiana Educational Assessment Program (LEAP 21) to enhance their testing and measurement practices related to learning and instruction.

Unacceptable	Acceptable	Target
Candidates understand the basic components of the Louisiana Educational Assessment Program (LEAP 21).	Candidates plan and implement instruction that correlates with LEAP 21.	Candidates interpret LEAP 21 test data and apply results to impact student achievement positively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1735 (August 2002), amended LR 30:

Chapter 13. Identifications of Acronyms

§1301. Acronyms

A. Listed below are the full identifications of acronyms used in this publication:

- ACT American College Test;
- AFT American Federation of Teachers;
- BOE Board of Examiners;
- BOR Board of Regents;

- CEO Chief Executive Officer;
- K-3 Kindergarten through 3rd grade;
- LEAP 21 Louisiana Educational Assessment Program for the 21st century;
- LSBESE Louisiana State Board of Elementary and Secondary Education;
- LSDAS Louisiana School and District Accountability System. LSDAS's intent is to establish a systematic approach to assessing instructional effectiveness of schools and districts based primarily upon student achievement;
- LSDE Louisiana State Department of Education;
- LUAB Louisiana Unit Accreditation Board;
- NCATE National Council for the Accreditation of Teacher Education;
- NEA National Education Association;
- P-12 Pre-kindergarten through 12th grades;
- UAB Unit Accrediting Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1736 (August 2002), amended LR 30:

Family Impact Statement

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

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., September 8, 2004, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 996 Louisiana Standards for Approval of Teacher Education Programs

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

Proposed revisions to Bulletin 996 are (1) addition of preliminary or second-stage approval for new or reinstated public and private teacher preparation units; (2) change of five-year cycle to seven-year cycle for institutions that have successfully completed at least two National Council for Accreditation of Teacher Education (NCATE) evaluation

cycles; and (3) technical changes to the bulletin to update its information. The first change allows a new unit to begin the process of developing teacher education certification programs; to admit students to the new programs; to begin assembling needed documentation for full unit accreditation, per state and NCATE standards; and, after the Board has granted Second-Stage Approval to the unit, to recommend students in such programs for certification. The second change approves the NCATE plan to extend the accreditation cycle from five years to seven years for institutions seeking continued accreditation. Institutions seeking first-time accreditation would remain on a five-year cycle before moving to a seven-year cycle after the second evaluation visit. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

There are no estimated costs. It is possible there will be a cost reduction to institutions that convert to the seven-year evaluation cycle.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0407#063

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1179 Driver Education, Traffic Safety, and Administrative Guide for Louisiana Schools (LAC 28.XXXI.511)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1179 Driver Education, Traffic Safety, and Administrative Guide for Louisiana Schools* (LAC 28.XXXI). H.B. 129, Act 312, requires that at least 30 minutes of instruction relative to organ and tissue donation be added to the Drivers Education Curriculum.

**Title 28
EDUCATION**

**Part XXXI. Bulletin 1179 Driver Education, Traffic Safety, and Administrative Guide for Louisiana Schools
Chapter 5. Administrative Policies**

§511. SBESE Regulations Governing Driver Education

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

c. The Driver Education and/or Training Course(s) must be comprised of classroom and laboratory instructional phases meeting the following standards.

i. Classroom Instruction. This phase of instruction:

(a). must be offered for a minimum of 30.5 clock hours (with no more than five clock hours of instruction to be given during any 24 hour period);

A.1.c.i.(b). - A.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1221 (July 1999), amended LR 30:

Family Impact Statement

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

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

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

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

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

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

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit comments until 4:30 p.m., September 8, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

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

RULE TITLE: Bulletin 1179 Driver Education, Traffic Safety, and Administrative Guide for Louisiana Schools

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

The estimated cost for implementation is \$300.00.

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

It is anticipated that there will be no effect on Revenue Collection of state of local governmental units.

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

It is anticipated that there will be no cost or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that there will be no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0407#078

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1196 Louisiana Food and Nutrition Programs,
Policies of Operation
(LAC 28:XLIX.1105, 1503, 1509, 1511, and 1517)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1196 Louisiana Food and Nutrition Programs, Policies of Operation* (LAC 28:XLIX). Bulletin 1196 is the policy manual designed to provide useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding and operation of the Child Nutrition Programs in Louisiana. This is an update of Federal and State policies.

Title 28

EDUCATION

Part XLIX. Bulletin 1196 Louisiana Food and Nutrition Programs, Policies of Operation

Chapter 11. Personnel

§1105. Provisional Child Nutrition Program

Director/Supervisor

A. A special provisional certificate, which went into effect January 1, 1977, may be issued to an individual employed as acting CNP director or supervisor. This certificate will be valid for one year and renewable each year thereafter upon presentation of six semester hours of applicable credit toward completion of all requirements for permanent certification as a CNP director/supervisor.

B. Special provisional certificates shall be issued only to persons with a baccalaureate or master's degree in Family and Consumer Science (Home Economics), Institutional Management, Nutrition, Dietetics, Business Administration, Food Technology, Public Health Nutrition, or other health related fields from a regionally accredited institution of higher education. This certificate does not authorize the holder to perform any services in the school system of Louisiana other than to act as a CNP director/supervisor. Payment from school food service funds shall be made only for CNP directors/supervisors and acting supervisors who meet all of the foregoing certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2163 (December 2001), amended LR 30:

Chapter 15. Procurement

§1503. Procurement Systems

A. Competitive Sealed Bids (Formal)

1. All purchases of materials and supplies exceeding the aggregate sum of \$20,000 must be formally bid. Aggregate is defined as the dollar value of items purchased from a single source for a bid period: for example, quotations are obtained on a food item for a two-month period, but the foods are ordered weekly during that period. No weekly invoices total \$20,000, but the total invoices during the two-month period are over \$20,000. In this example, the aggregate amount is the value of all items purchased during the two-month period, so the item must be formally bid.

2. Breaking up purchases with the intent of circumventing formal advertising procedures is contrary to federal procurement regulations. Any change in the SFAs normal purchasing practices resulting in the aggregate amount purchased becoming less than \$20,000 must be documented for review and audit purposes.

3. SFAs may divide schools into districts, but assigning each district to a local vendor is prohibited. This practice would not allow open and free competition. Schools may be divided into districts to organize deliveries efficiently, but an adequate number of vendors must be allowed to submit price quotations for any or all of the districts.

4. Act No. 349, 1974 of state law requires every SFA to follow formal bid procedures for the purchase of milk and milk products for use in its schools regardless of dollar value.

5. Formal bid procedure requires formal advertising with adequate purchasing descriptions, sealed bids and public bid openings. The SFA desiring to let a contract for the purchase of materials or supplies shall in its resolution providing for the contract or purchase and for the advertisement of bids designate the time and place that the bids will be received and shall at that time and place publicly open the bids and read them aloud.

a. - e.iii. ...

f. Awarding Other than Low Bid

i. Causes for selecting a bid higher than the lowest bid might be the following.

(a). The item or service bid is not responsive to the specifications, to the invitation to bid, or to the general instructions.

(b). The bidder is not responsible. Vendor integrity has been documented by the vendor's record of past performance.

(c). The financial and technical resources of the bidder are not adequate.

(d). There is evidence of noncompliance with public policy (EEO, EPA, etc.).

ii. A SFA should document on the bid evaluation sheet the reason the lowest bid was not accepted. If the bid is not responsive, the SFA should document what requirement it did not meet. If the SFA knows that a vendor is not responsible, every effort should be made to disqualify the vendor prior to the issuing of invitations to bid. This action would prevent the possibility of having to decline a low bid.

5.g. - 6.d. ...

B. Small Purchase Procedures (price quotes)

1. Small purchase procedures may be used when:

a. the aggregate amount does not exceed \$20,000.00; and/or

b. the purchases are for highly perishable materials.

2. Purchases of materials and supplies for which the aggregate amount does not exceed \$20,000 shall be made by obtaining an adequate number of price quotations. The adequate number of price quotations for any items purchased under small purchase procedures that must be obtained is determined by local market conditions. Regardless of dollar value, the SFA must have open and free competition. If in a small rural parish there are only two produce vendors that provide service to the area, two quotes may be sufficient. However, in a larger metropolitan area where there are six

produce vendors, all six should be given an opportunity to submit price quotations.

3. Price quotes can be oral or written. At least three telephone, handwritten or facsimile quotations must be obtained for materials and supplies costing less than \$20,000. A written confirmation of the accepted offer shall be obtained and made part of the purchase file. If quotations lower than the accepted quotations are received, the reasons for their rejection shall be recorded in the purchase file. All written documentation must be maintained on file for three years after final payments have been made for the federal fiscal year to which they pertain.

3.a. - 4. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2183 (December 2001), amended LR 29:2032 (October 2003), LR 30:

§1509. Other Procurement Methods

A. - D.1.a. . . .

E. Purchasing from a Sole Source/Single Source

1. Several methods can be used when purchasing from a sole or single source. A SFA can use small purchase procedures by soliciting quotes when the aggregate amount is under \$20,000. Documentation of contacts must be maintained. Competitive sealed bids (formal advertising) must be used when the aggregate amount is over \$20,000. If the aggregate amount of a purchase exceeds \$20,000, a SFA must go through the regular bidding process even if only one source is known. If only one bid was received, documentation would be available from the single source. If no bids were received, the SFA must re-bid or consider cooperative (piggyback) purchasing, or state bid contract. Non-competitive negotiation may also be used if the other methods have failed. The decision to use non-competitive negotiation must be adequately justified in writing and available for audit and review.

E.2. - G.1. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2186 (December 2001), amended LR 29:2033 (October 2003), LR 30:

§1511. Diversion of Commodities for Processing

A. Federal and state procurement regulations must be followed when contracting for the processing of commodities. All contracts exceeding the sum of \$20,000 shall be advertised and awarded to the lowest responsible bidder. Purchases less than \$20,000 shall be made by obtaining no fewer than three telephone, facsimile or hand written quotations. Bids shall be accepted only from approved USDA commodity processors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2187 (December 2001), amended LR 29:2033 (October 2003), LR 30:

§1517. Contract Provisions

A. - E.1. 3. . . .

F. Multi-Year Contract

1. The multi-year method of contracting is used when a special production of definite quantities of supplies for more than one fiscal period is necessary to meet needs most effectively, but funds are available only for the initial fiscal

period. A multi-year contract is also appropriate when it is in the best interest of the SFA to obtain uninterrupted services extending over more than one fiscal period, when the performance of such services involves high start-up costs, or when a changeover of service contractors involves high phase in/phase out costs during a transition period.

2. When a multi-year contract is used by the SFA, the contract shall include a clause stating that the multi-year contract will be cancelled if funds are not appropriated or otherwise made available to support the continuation of performance in any fiscal period following the first year.

G. Extending a Contract

1. Extension of a contract into the next bid period can be granted only under special circumstances. Since extending a bid period is a modification of the contract, the SFA must perform some form of cost or price analysis. Because circumstances that would justify a bid extension are unlikely, it is required that the SFA contact the state agency for permission should a need for a contract extension arise.

H. Energy Conservation Provision

1. Contracts will recognize mandatory standards and policies relating to energy efficiency contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act P.L. 94-163.

I. Termination Provisions for Contracts over \$20,000

1. All contracts over \$20,000 must contain suitable provisions for termination by the grantee including the manner that the termination will be effected and the basis for settlement. In addition, such contracts shall describe the conditions under which the contract may be terminated for default because of circumstances beyond the control of the contractor.

J. Equal Opportunity Provision for Contracts over \$20,000

1. All contracts over \$20,000 must contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations 40 CFR Part 60.

K. Clean Air and Water Provisions for Contracts over \$100,000

1. All contracts over \$100,000 shall contain a provision that requires compliance with all applicable standards, orders, or requirements issued under §306 of the Clean Air Act 42 USC 1857(h), §508 of the Clean Water Act 33 USC 1368, Executive Order 11738, and Environmental Protection Agency regulations 40 CFR Part 15 that prohibit the use under nonexempt federal contracts, grants, or loans of facilities included on the EPA list of Violating Facilities. The provision shall require reporting of violations to USDA and to the USEPA Assistant Administrator for Enforcement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education. LR 27:2188 (December 2001), amended LR 30:

Family Impact Statement

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

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

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

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

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

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit comments until 4:30 p.m., September 8, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 1196 Louisiana Food and Nutrition Programs, Policies of Operation**

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

There is no estimated costs (savings) to state or local governmental units. This is a revision of Bulletin 1196 which has incorporated all Federal and State policy changes which have already been implemented by the sponsors. There will be no costs due to the fact the Bulletin will be on the Website and can be downloaded.

The State Board of Elementary and Secondary Education estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the Louisiana Register is approximately \$544.00. Funds are currently budgeted for this purpose.

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
0407#047

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1196 Louisiana Food and Nutrition Programs,
Policies of Operation (LAC 28:XLIX.3301)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1196 Louisiana Food and Nutrition Programs, Policies of Operation* (LAC 28:XLIX). Bulletin 1196 is the policy manual designed to

provide useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding and operation of the Child Nutrition Programs in Louisiana. This is an update of Federal and State policies.

This action will repeal §944.A from LAC 28:I and incorporate it into Bulletin 1196, §3301. Purpose.

Title 28

EDUCATION

Part XLIX. **Bulletin 1196 Louisiana Food and Nutrition Programs, Policies of Operation** Chapter 33. **Financial Management and Accounting for Child and Adult Care Food Program Family Day Care Homes (FDCH)**

§3301. Purpose

A. Child Care Registration for Participants in the Child and Adult Care Food Program. In compliance with R.S. 46:1441.4.B, the following rules and regulations are hereby established to carry out the provisions of this Chapter for those family child day care homes and group child day care homes which participate in the federal Child and Adult Care Food Program.

1. Definitions. As established by R.S. 1441.1 and as used in these rules and regulations, the following definitions shall apply unless the context clearly states otherwise.

Child A person who has not reached the age of 13 years. The words *child* and *children* are used interchangeably in this Chapter.

Child and Adult Care Food Program The federal nutrition reimbursement program as funded by the federal Department of Agriculture through the Department of Education.

Department The Department of Health and Hospitals or the Department of Social Services or the Department of Education in accordance with 7 CFR Part 226, as indicated by the context.

Family Child Day Care Home Any place, facility, or home operated by any institution, society, agency, corporation, person or persons, or any other group for the primary purpose of providing care, supervision, and/or guidance of six or fewer children.

Group Child Day Care Home Any place, facility, or home operated by any institution, society, agency, corporation, person or persons, or any other group for the primary purpose of providing care, supervision, and/or guidance of seven but not more than 12 children.

Sponsoring Agency Any private, public, for profit or nonprofit corporation, society, agency, or any other group approved by or contracted with the Department of Education to coordinate family child day care homes and group child day care homes participating in the federal Child and Adult Care Food Program.

2. All Group Child Day Care Homes which participate in the Child and Adult Care Food Program (CACFP) shall be licensed through the Department of Social Services in accordance with the provisions of R.S. 46:1401-1424.

3. All Family Child Day Care Homes which participate in the Child and Adult Care Food Program (CACFP) shall be registered through the Department of Education according to the following criteria:

a. the facility shall be the private residence of the child care provider;

b. the provider shall enter into the required program agreement with a Department of Education-approved CACFP sponsor;

c. the provider shall attend a minimum of one sponsor-conducted training session per year;

d. no more than six children shall be in attendance at the facility;

e. the facility shall be inspected and approved in accordance with R.S. 46:1441. Inspection criteria shall be as follows:

i. matches, lighters and other sources of ignition shall be kept out of reach of children;

ii. portable electric heaters shall be of an approved type, shall be equipped with a tilt switch and shall be located away from combustibles;

iii. at least one smoke detector shall be properly installed, located and maintained;

iv. protective receptacle covers shall be installed in all areas occupied by children under five years of age;

v. every room used for sleeping, living, or dining purposes shall have at least two means of escape, at least one which is a door or stairway providing a means of unobstructed travel to the outside of the building. If the home has burglar bars, the burglar bars shall have either release latches or keys in the locks during all hours of child care. If the home has doors with dead bolt locks, the dead bolt locks shall have keys inserted in the locks during all hours of child care. If the home has jalousie windows which do not meet size requirements, the rooms shall not be used for sleeping during any hours of child care;

vi. stairways shall be maintained free of storage items;

vii. every closet door shall be designed to permit the opening of the locked door from inside the closet;

viii. every bathroom door lock must be designed to permit the opening of the locked door from the outside in an emergency. The opening device must be readily accessible;

ix. a properly charged portable fire extinguisher (minimum 2A) must be readily accessible;

x. the hot water heater shall be properly installed;

xi. the facility shall have adequate lighting and ventilation;

xii. unvented fuel-fired room heaters shall be used only in rooms in which a window is raised;

xiii. flammable liquids shall be properly stored;

xiv. combustibles shall be stored away from heating units or water heaters;

xv. wiring, fixtures and appliances in the facility shall be safe;

xvi. the facility shall have an adequate water supply and a working sewerage system;

xvii. the facility shall be clean and free of insect and rodent infestation;

xviii. garbage shall be disposed of properly; and

xix. the temperature of the refrigerator shall be maintained at or below 45°F. (A thermometer shall be left in the refrigerator for at least 10 minutes to achieve an accurate reading); and

f. The facility inspection as referenced in §3301.A.3.e above shall be conducted annually. However, facilities which are complying with applicable procedures to renew registration may participate in the CACFP during the

renewal process unless the Department of Education has information which indicates that renewal will be denied.

B. Federal Child and Adult Care Food Program (CACFP) funds are provided to assist state agencies through grants and other means to initiate, maintain, and expand nonprofit food service programs for children or adult participants in nonresidential institutions that provide care. The CACFP home-based program is called the Family Day Care Home (FDCH) Program.

C. This Chapter summarizes the most frequently referenced elements of the federal regulations that govern the FDCH program financial management, and stipulates the state agency's financial management policies. This Chapter exists to assure that costs charged to nonprofit food service provided principally to enrolled participants; and where applicable, to assure that costs claimed for reimbursement under the CACFP are allowable, necessary, and reasonable for effective and efficient operation of the program; and to assist institutions in developing the accounting information needed to comply with the requirements of the CACFP.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2208 (December 2001), amended LR 30:

Family Impact Statement

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

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

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

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

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

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit comments until 4:30 p.m., September 8, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 1196 Louisiana Food and Nutrition Programs, Policies of Operation**

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

There is no estimated costs (savings) to state or local governmental units. This is a revision of Bulletin 1196 which has incorporated all Federal and State policy changes which have already been implemented by the sponsors. There will be no costs due to the fact the Bulletin will be on the Website and can be downloaded.

The State Board of Elementary and Secondary Education estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the Louisiana

Register is approximately \$408.00. Funds are currently budgeted for this purpose.

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0407#046

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of Student Financial Assistance Tuition Trust Authority

Student Tuition and Revenue Trust (START Saving)
Program Allocation of Earnings Enhancements
(LAC 28:VI.307)

The Louisiana Tuition Trust Authority announces its intention to amend its START Savings Program rules (R.S. 17:3091 et seq.)

Title 28 EDUCATION

Part VI. Student Financial Assistance Higher Education Savings

Chapter 3. Education Savings Account

§307. Allocation of Earnings Enhancements

A. - G.2. ...

H. Frequency of Allocation of Earnings Enhancements to Education Savings Accounts. Earnings enhancements will be allocated annually, posted to the accounts as of December 31 of the year earned and reported to account owners before March 31 following the allocation.

I. - J.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Office of Student Financial Assistance, Tuition Trust Authority LR 23:715 (June 1997), amended LR 24:1271 (July 1998), LR 25:1794 (October 1999), LR 26:1263 (June 2000), LR 26:2263 (October 2000), LR 27:37 (January 2001), LR 27:1880 (November 2001), LR 28:779 (April 2002), LR 30:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., August 10, 2004 to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9292.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Student Tuition and Revenue Trust (START Saving) Program Allocation of Earnings Enhancements

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

There are no implementation costs or savings to state or local governmental units as a result of these changes.

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

No impact on revenue collections to the Office of Student Financial Assistance is anticipated to result from these changes.

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. The rule change does not effect or cause a change in the interest rates paid for deposits and earnings enhancements, but rather reports the actual rates of earnings achieved by the investments of the State Treasurer. The incorporation of these interest rates in the rule is required by R.S. 17:3095(g)(2).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment resulting from these measures.

George Badge Eldredge
General Counsel
0407#080

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Office of Financial Institutions

Limitations on Investments in Premises and Fixed Assets
(LAC 10:I.1101)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:121(B)(1), 6:646(A)(1)(a), and 6:822(3)(e), the Commissioner of the Office of Financial Institutions gives notice of intent to adopt a Rule providing for limitations on investments in premises and fixed assets held by a bank, savings bank, savings and loan association, or credit union.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

Part I. Financial Institutions

Chapter 11. Premises

§1101. Holding of Property for Premises Purposes

A. Definitions:

New Institution Any bank, savings bank, savings and loan association, or credit union that has been chartered by this office for less than three years.

Premises and Fixed Assets The net book value of all land, buildings, leasehold improvements, and furniture, fixtures, and equipment used by the institution to conduct its

business or held for future expansion. Additionally, this amount shall include any assets related to a capital lease and shall not include other real estate owned.

Tier 1 Capital as defined in Part 325 of the Federal Deposit Insurance Corporation's Rules and Regulations for banks and savings banks and Part 567 of the Office of Thrift Supervision's Rules and Regulations for savings and loan associations.

Net Worth as defined in Section 702.2(f) of the National Credit Union Administration's rules and regulations for credit unions.

B. Limitation:

1. Without the prior approval of the commissioner, no bank, savings bank, or savings and loan association shall invest more than 50 percent of its tier 1 capital plus the allowance for loan and lease losses in premises and fixed assets, and no credit union shall invest more than 50 percent of its net worth plus the allowance for loan and lease losses. For new institutions, the limitation shall be 45 percent.

AUTHORITY NOTE: Promulgated in accordance with R. S. 6:121(B)(1), 6:646(A)(1)(a) and 6:822(3)(e).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions LR 30:

Family Impact Statement

The proposed Rule will have no adverse fiscal or economic impact, nor will it adversely impact family formation, stability, or autonomy.

All interested persons are invited to submit written comments on this proposed Rule no later than 4:30 p.m., August 20, 2004, to Gary L. Newport, General Counsel, Office of Financial Institutions, Post Office Box 94095, Baton Rouge, LA 70804-9095, or by hand delivery to 8660 United Plaza Boulevard, Second Floor, Baton Rouge, LA 70809.

John Ducrest, CPA
Commissioner

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

**RULE TITLE: Limitations on Investments in
Premises and Fixed Assets**

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

We do not expect any implementation costs associated with this proposed rule. We are incorporating into rule the long-standing policy of this office which limits, based on a percentage of capital and the allowance account, the amount a bank, savings bank, savings and loan association, or credit union may invest in premises and fixed assets.

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

There will be no effect on the revenue collections of state or local governmental units. No aspect of the rule will have the effect of either increasing or decreasing revenue collections of state or local governmental units.

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

There will be no costs or economic benefits to directly affected persons or non-governmental groups. These changes merely bring into rule already existing limitations on banks, savings banks, savings and loan associations, and credit unions.

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

There should be no effect on competition or employment as a result of the implementation of this rule.

John Ducrest, CPA
Commissioner
0407#083

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

Licensure; Investigations; Continuing
Education; and Anesthesia
(LAC 46:XXXIII.301, 306, 507,
710, 1204, 1506, 1611, and 1613)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.301, 306, 507, 710, 1204, 1506, 1611, and 1613. No preamble has been prepared.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Profession

Chapter 3. Dentists

§301. Advertising and Soliciting by Dentists

A. - C.8. ...

D. Definitions

Prosthodontics the dental specialty pertaining to the diagnosis, treatment planning, rehabilitation and maintenance of the oral function, comfort, appearance and health of patients with clinical conditions associated with missing or deficient teeth and/or maxillofacial tissues using biocompatible substitutes.

E. - H.4. ...

5. Repealed.

I. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Dentistry, December 1970, amended 1971, amended and promulgated LR 13:179 (March 1987), amended by the Department of Health and Hospitals, Board of Dentistry, LR 15:966 (November 1989), LR 18:739 (July 1992), LR 20:657 (June 1994), LR 21:567 (June 1995), LR 22:23 (January 1996), LR 22:1215 (December 1996), repromulgated LR 23:199 (February 1997), amended LR 23:1524 (November 1997), LR 25:509 (March 1999), LR 25:1476 (August 1999), LR 26:690 (April 2000), LR 27:1890 (November 2001), LR 28:1776 (August 2002), LR 28:2512 (December 2002), LR 30:

**§306. Requirements of Applicants for Licensure by
Credentials**

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing:

1. the applicant has satisfactorily passed an examination administered by the Louisiana State Board of

Dentistry testing the applicant's knowledge of the Louisiana Dental Practice Act and the jurisprudence affecting same;

2. - 18. ...

19. is free of any communicable or contagious disease, including but not limited to Human Immunodeficiency Virus, Hepatitis B Virus, and Hepatitis C Virus, and provide a notarized certificate of health from a medical doctor relative to his physical and mental condition; and

A.20. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:1114 (June 1998), LR 25:513 (March 1999), LR 26:692 (April 2000), LR 26:2612 (August 2000), repromulgated LR 27:1893 (November 2001), amended LR 28:1777 (August 2002), LR 30:

Chapter 5. Dental Assistants

§507. High School Diploma Requirement

A. Effective January 1, 1998, all applicants for expanded duty dental assistant certificate confirmation shall present satisfactory documentation evidencing their graduation from an accredited high school or receipt of a general equivalency diploma (GED) or providing satisfactory documentation showing that the applicant has a composite score of 18 or higher on the American College Test or a score of 870 or higher on the Scholastic Aptitude Test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1116 (June 1998), amended LR 30:

Chapter 7. Dental Hygienists

§710. Administration of Local Anesthesia for Dental Purposes

A. - D. ...

E. A dental hygienist who has been licensed and trained in a course equivalent to §710.B and C to administer local anesthesia in another state may qualify, at the discretion of the board, to be permitted to administer local anesthesia in Louisiana by presenting written documentation of such licensure and training to the board and documentation of experience in the previous two years and by gaining approval of the board through the interview process. Factors to be considered are whether the dental hygienist had satisfactorily completed a course at a dental hygiene school approved by the Commission on Dental Accreditation or by having successfully completed a continuing education course in local anesthesia comparable to the requirements set forth in §710.B and C.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1292 (July 1998), amended LR 25:1476 (August 1999), LR 26:1613 (August 2000), repromulgated LR 27:1894 (November 2001), amended LR 27:1892 (November 2001), LR 28:1779 (August 2002), LR 30:

Chapter 12. Prevention of Hepatitis B Virus, Hepatitis C Virus, and Human Immunodeficiency Virus

§1204. Investigations

A. ...

B. Unannounced inspections of dental offices may be conducted when bona fide complaints have been received regarding non-adherence to Federal Centers for Disease Control guidelines or other issues involving sanitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8), R.S. 37:1746 and R.S. 37:1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:742 (July 1992), amended LR 21:572 (June 1995), LR 30:

Chapter 15. Anesthesia/Analgesia Administration

§1506. Pediatric Enteral Anesthesia

A. In order to receive a permit to administer pediatric enteral anesthesia, the dentist shall:

1. have emergency equipment and drugs available in an emergency kit or crash cart which is immediately available to the dental operatory where the sedation procedure is being performed. These kits must include the necessary drugs and equipment to resuscitate a non-breathing unconscious patient and sustain life while the patient is being transported. There should be a list in each kit of the contents and a record of when the contents were checked. The following drugs should be available in the kit:

- a. epinephrine;
- b. vasopressor;
- c. corticosteroid;
- d. bronchodilator;
- e. appropriate drug antagonists;
- f. antihistaminic;
- g. anticholinergic;
- h. coronary artery vasodilator;
- i. anticonvulsant;
- j. oxygen;
- k. 50 percent dextrose or other antihypoglycemic;

2. a working pulse oximeter;

3. proper record keeping mechanism in addition to a controlled substance log;

4. an accurate scale.

B. Drugs for conscious sedation must be administered in a dental office and the patient must be observed by a qualified office staff member with training and credentials to perform the specific tasks concomitant with the procedure being administered. Continuous monitoring with pulse oximetry must be initiated with early signs of conscious sedation and continued until the patient is alert. A precordial, pretracheal stethoscope shall be utilized to assist intraoperatively in the monitoring of heart and respiratory rates. A sphygmomanometer shall be immediately available and utilized throughout the procedure.

C. Satisfactory completion of a board approved course.

D. For those licensees who have received permits to administer pediatric enteral anesthesia prior to the effective date of this Rule, said licensee shall satisfactorily complete a board approved course in the administration of pediatric enteral anesthesia before the permit is renewed concurrently with the license renewal. However, a grace period of one hundred eighty days after the renewal of one's license shall be granted to the licensee if good cause can be shown that a course was not available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:793.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 30:

Chapter 16. Continuing Education Requirements

§1611. Continuing Education Requirements for Relicensure of Dentists

- A. - F. ...
- G. Repealed.
- H. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 21:569 (June 1995), LR 22:24 (January 1996), LR 22:1216 (December 1996), LR 23:1526 (November 1997), LR 24:1117 (June 1998), LR 25:510 (March 1999), LR 26:489 (March 2000), LR 30:

§1613. Continuing Education Requirements for Relicensure of Dental Hygienists

- A. - F. ...
- G. Repealed.
- H. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 21:570 (June 1995), LR 22:24 (January 1996), LR 22:1217 (December 1996), LR 23:1526 (November 1997), LR 24:1118 (June 1998), LR 25:510 (March 1999), LR 26:489 (March 2000), LR 30:

Interested persons may submit written comments on these proposed Rule changes to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Licensure; Investigations; Continuing Education; and Anesthesia

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be a cost of approximately \$100 in FY 05 to the Louisiana State Board of Dentistry for dissemination of these Rule changes.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no estimated economic benefit to directly affected persons or nongovernmental groups. There will be an indeterminate cost to directly affected persons who will have to take a continuing education course to prove they are adequately trained to administer pediatric enteral sedation and will be required to utilize a pulse oximeter in administration of pediatric oral sedation. As continuing education is a

requirement of the Louisiana State Board of Dentistry, there will be no impact on that cost.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden
Executive Director
0407#026

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Examiners for Speech Language
Pathology and Audiology**

Speech Pathology and Audiology
(LAC 46:LXXV.Chapters 1-7)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 37:2656 vesting the Louisiana Board of Examiners for Speech-Language Pathology and Audiology with the responsibility for administration of the provisions of that Chapter, and to establish licensure and other necessary administrative fees, and granting the power to adopt and promulgate rules with respect thereto, the Board of Examiners for Speech-Language Pathology and Audiology finds that it is necessary to revise and amend provisions of the rules, regulations and procedures relative to fees charged to its licensees, providing for the licensure of doctoral candidates of audiology and implementing an Impaired Professional Program for its licensees. This action is necessary in order to maintain the financial integrity of the board for the plan year beginning July 1, 2004, and in subsequent years. Accordingly, the Board of Examiners for Speech-Language Pathology and Audiology hereby gives notice of intent to adopt the following Rule to become effective November 1, 2004.

The proposed Rule has no known impact on family formation, stability, or autonomy.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXV. Speech Pathology and Audiology

Chapter 1. General Rules

§103. Definitions

A. As used in these regulations, the following terms and phrases, which have not already been defined in Title 37, Louisiana Revised Statutes, Section 2651-2666, shall have the meanings specified.

Aides—Individuals not licensed by the Louisiana Board of Examiners for Speech-Language Pathology and Audiology, who after appropriate training, perform tasks that are prescribed, directed, and supervised by speech-language pathologists or audiologists licensed in accordance with R.S. 37:2659(A). Licensed speech-language pathologists and licensed audiologists are legally, ethically, and morally responsible for the services provided by aides working under their direction.

Assistant Licensee—An individual who meets the qualifications established by R.S. 37:2659(D)(1), (2), and works under the direct supervision of a licensed speech-

language pathologist and performs only those duties specified in §107.

Autonomous Practice The independent practice of audiology or speech-language pathology and is restricted to individuals who hold a license that does not require supervision. By virtue of academic training, clinical practicum, and work experience, licensed audiologists and licensed speech-language pathologists are uniquely qualified to engage in the independent practice of the professions.

Direct Patient/Client Contact Practicum experience obtained during performance of a clinical activity with the patient/client.

Direct Supervision On-site, in-view observation and guidance during performance of a clinical activity which includes but cannot be limited to the utilization of alternative methods to obtain knowledge of a supervisee's clinical work.

Full-Time Employment/Experience A minimum of 30 clock hours per week.

Grace Period The period in which an applicant may be employed while an initial application for licensure is being considered by the board. The grace period cannot exceed 60 days from the date that the application is acknowledged to have been received by the board.

Graduate Training Clinical Practicum Hours A combination of undergraduate and graduate clinical practicum hours that culminate with a graduate degree or its equivalent.

Hearing Screening Pure-tone air conduction screening, and screening tests of auditory function such as tympanometry, otoacoustic emissions (OAE) and auditory brainstem response (ABR) testing, for the purpose of the initial identification and/or referral of individuals with suspected hearing problems and/or middle ear pathology.

License Renewal Period The period of time that begins July 1, and ends on June 30, of the following calendar year.

Nine Months of Full-Time Supervised Postgraduate Professional Nine calendar months.

On-Site In-View Observation The supervisor observing the licensee engaging in a specified clinical activity with his/her patient/client. The supervisor shall accomplish this task either by being physically present in the room or through the use of a live video monitor.

Part-Time Employment/Experience Less than 30 clock hours per week.

Provisional Assistant Licensee An individual who meets the qualifications established in R.S. 37: 2659(E) and works under the direct supervision of a licensed speech-language pathologist and performs only those duties specified in §107. This person has completed a minimum of 100 of 225 supervised clinical practicum hours and is working to complete the remaining hours on-the-job and/or through a regionally accredited educational institution or its cooperating programs.

Supervised On-the-Job Training Only those hours which have been supervised on-site, in-view and documented on the form provided by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:705 (October 1988), amended LR 22:346 (May 1996), LR 27:197 (February 2001), LR 28:1781 (August 2002), LR 30:

§105. Designations

A. Individuals licensed by the Louisiana Board of Examiners for Speech-Language Pathology and Audiology may use the following designations when listing their credentials:

1. L-SLP Speech-Language Pathologist
2. L-AUD Audiologist
3. PL-AUD Provisional Audiologist
4. PL-SLP Provisional Speech-Language Pathologist
5. R-SLP Restricted Speech-Language Pathologist

B. Speech-Language Pathology Assistants and Provisional Speech-Language Pathology Assistants shall list their full license title when listing their credentials, e.g., B.A., SLP Assistant.

1. When signing formal and informal professional documents, Speech-Language Pathology Assistants and Provisional Speech-Language Pathology Assistants shall write their full license title, e.g., B.A., Speech-Language Pathology Assistant. Speech-Language Pathology Assistants and Provisional Speech-Language Pathology Assistants shall always identify themselves as such in professional interactions.

C. Titles and academic credential designations must represent earned degrees obtained through regionally accredited university programs. When listing credentials, licensees should sequentially list their name, educational designation, license designation, and professional certification, e.g., M.A., L-SLP, CCC-SLP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:346 (May 1996), amended LR 27:197 (February 2001), LR 30:

§107. Qualifications for Licensure

A. Coursework Requirements: Audiology License and Provisional Audiology License. The applicant shall submit official transcripts from one or more regionally accredited colleges or universities evidencing completion of at least 75 semester credit hours of post-baccalaureate coursework for applicants who began a doctoral program after January 1, 1998.

B. Coursework Requirements: Audiology License and Provisional Audiology License. The following coursework requirements apply to applicants who began a master's program after January 1, 1994.

1. The applicant shall submit official transcripts from one or more regionally accredited colleges or universities evidencing completion of at least 75 semester hours of coursework which constitutes a well-integrated program that includes at least:

- a. 6 semester credit hours in biological/physical sciences and mathematics;
- b. 6 semester credit hours in behavioral and/or social sciences;
- c. 15 semester credit hours in basic human communication processes to include the anatomic and physiologic bases, the physical and psychophysical bases, and the linguistic and psycholinguistic aspects.

2.a. Thirty-six semester credit hours of professional coursework in audiology; 30 of which shall be in courses for which graduate credit was received;*

b. a maximum of 6 academic semester credit hours associated with clinical practicum may be counted toward the minimum of 30 semester credit hours of professional coursework.

*If seeking licensure in both speech-language pathology and audiology, at least 15 graduate level semester hours in each area are required.

C. Coursework Requirements: Audiology License and Provisional Audiology License. The following coursework requirements apply to applicants who began a master's program prior to January 1, 1994.

1. The applicant shall submit official transcripts from one or more regionally accredited colleges or universities evidencing completion of at least 60 semester hours of coursework which constitutes a well-integrated program that includes at least 12 semester credit hours in basic human communication processes to include the anatomic and physiologic bases, the physical and psychophysical bases, and the linguistic and psycholinguistic aspects.

2.a. Thirty semester credit hours of professional coursework in audiology:*

- i. 6 in hearing disorders and hearing evaluation;
- ii. 6 in habilitative/rehabilitative procedures;
- iii. 6 semester credit hours in speech-language pathology.

b. Twenty-one of the 30 semester credit hours shall be in courses for which graduate credit was received.

c. A maximum of 6 academic semester credit hours associated with clinical practicum may be counted toward the minimum of 30 semester credit hours of professional coursework, but those hours may not be used to satisfy the minimum of 6 semester credit hours in hearing disorders/evaluation, 6 hours in habilitative/rehabilitative procedures, or 6 hours in speech-language pathology, or the 21 graduate credits in the professional area for which the license is sought.

*If seeking licensure in both speech-language pathology and audiology, at least 15 graduate level semester hours in each area are required.

D. Coursework Requirements: Speech-Language Pathology License and Provisional Speech-Language Pathology License. The applicant shall submit official transcripts from one or more regionally accredited colleges or universities evidencing completion of 75 semester credit hours from an accredited speech-language pathology program for applicants who began a graduate program after January 1, 2004.

E. Coursework Requirements: Speech-Language Pathology License and Provisional Speech-Language Pathology License. The following coursework requirements apply to applicants who began a master's program between January 1, 1994 and January 1, 2004.

1. The applicant shall submit official transcripts from one or more regionally accredited colleges or universities evidencing completion of at least 75 semester hours of coursework which constitutes a well-integrated program that includes at least:

- a. 6 semester credit hours in biological/physical sciences and mathematics;
- b. 6 semester credit hours in behavioral and/or social sciences;

c. 15 semester credit hours in basic human communication processes to include the anatomic and physiologic bases, the physical and psychophysical bases, and the linguistic and psycholinguistic aspects.

2.a. Thirty-six semester credit hours of professional coursework in speech-language pathology; 30 of which shall be in courses for which graduate credit was received;*

b. a maximum of 6 academic semester credit hours associated with clinical practicum may be counted toward the minimum of 30 semester credit hours of professional coursework.

* If seeking licensure in both speech-language pathology and audiology, at least 15 graduate level semester hours in each area are required.

F. Coursework Requirements: Speech-Language Pathology License and Provisional Speech-Language Pathology License. The following coursework requirements apply to applicants who began a master's program prior to January 1, 1994.

1. The applicant shall submit official transcripts from one or more regionally accredited colleges or universities evidencing completion of at least 60 semester hours of coursework which constitutes a well-integrated program that includes at least 12 semester credit hours in basic human communication processes to include the anatomic and physiologic bases, the physical and psychophysical bases, and the linguistic and psycholinguistic aspects.

2.a. Thirty semester credit hours of professional coursework in speech-language pathology: *

- i. 6 in speech disorders;
- ii. 6 in language disorders;
- iii. 6 in audiology.

b. Twenty-one of the 30 semester credit hours shall be in courses for which graduate credit was received.

c. A maximum of 6 academic semester credit hours associated with clinical practicum may be counted toward the minimum of 30 semester credit hours of professional coursework, but those hours may not be used to satisfy the minimum of 6 semester credit hours in speech disorders, 6 hours in language disorders, or 6 hours in audiology, or the 21 graduate credits in the professional area for which the license is sought.

*If seeking licensure in both speech-language pathology and audiology, at least 15 graduate level semester hours in each area are required.

G. Coursework Requirements: Speech-Language Pathology Assistant and Provisional Speech-Language Pathology Assistant

1. A bachelor's degree in speech-language pathology from a regionally accredited institution fulfills the coursework requirements of the board.

2. If the bachelor's degree is not in speech-language pathology, the degree program should include the following core coursework. A total of 39 hours shall be obtained in the following areas. Thirty-six of the hours are required and are designated by an asterisk (*).

3. Basic Requirements:
 - a. Educational and/or Psychological Tests and Measurements* 3 semester hours
 - b. Psychology/Sociology/Multicultural Studies (some combination)* 6 semester hours

4. Basic Professional Courses:
 - a. American Phonetics* 3 semester hours
 - b. Anatomy and Physiology of the Speech and Hearing Mechanism* 3 semester hours
 - c. Normal Speech and Language Acquisition (to include Cultural and Regional Variations)* 3 semester hours
 - d. Clinical Methods and Procedures in Speech-Language-Hearing Therapy* 3 semester hours
5. Speech and Language Disorders:
 - a. Survey of Exceptionalities/Introduction to Communication Disorders* 3 semester hours
 - b. Articulation Disorders* 3 semester hours
 - c. Language Disorders* 3 semester hours
 - d. Disorders of Rhythm (to include Stuttering) 3 semester hours
 - e. Voice Disorders 3 semester hours
 - f. Diagnostic Processes in Communication Disorders 3 semester hours
 - g. Clinical Practicum in Communication Disorders* 3 semester hours
(additional credit may be obtained as an elective)
6. Hearing and Hearing Disorders:
 - a. Introduction to Audiology* 3 semester hours
 - b. Aural Rehabilitation 3 semester hours
 - c. Introduction to Education of the Hearing Impaired 3 semester hours

H. Equivalency Requirements: Speech-Language Pathology, Provisional Speech-Language Pathology, Audiology or Provisional Audiology License

1. Individuals who do not possess a graduate degree in either speech-language pathology or audiology but wish to obtain a license through the equivalency process shall meet the coursework, practicum and examination requirements for the area in which licensure is sought as defined in the board's rules entitled Coursework Requirements: Audiology License and Provisional Audiology License; Coursework Requirements: Speech-Language Pathology License and Provisional Speech-Language Pathology License; Clinical Practicum Hour Requirements and Examination Requirement.

I. Clinical Practicum Hour Requirements. An individual shall submit official documentation from a regionally accredited educational institution or its cooperating programs, verifying supervised clinical practicum hours as follows.

1. Speech-Language Pathology and Provisional Speech-Language Pathology Licenses
 - a. 400 clinical practicum hours if graduate program began after January 1, 2004;
 - b. 375 clinical practicum hours if graduate program began between January 1, 1994 and January 1, 2004;
 - c. 300 clinical practicum hours if graduate program began prior to January 1, 1994.
2. Audiology and Provisional Audiology Licenses

- a. 1820 clinical practicum hours if the graduate program began after January 1, 2005, 375 hours of which must have been obtained through direct patient/client contact;

- b. 375 clinical practicum hours if graduate program began between January 1, 1994 and January 1, 2005;

- c. 300 clinical practicum hours if graduate program began prior to January 1, 1994.

3. Speech-Language Pathology Assistant License

- a. 225 clinical practicum hours are required, the first 100 of which shall have been obtained through a regionally accredited educational institution or its cooperating programs. Of the 100 hours obtained through a regionally accredited educational institution, 75 shall be obtained with direct patient/client contact, and the remaining 25 hours may be obtained through observation of testing and therapy. It is recommended that the direct patient/client contact hours be obtained in at least two practicum sites with one site being a public school setting. The first 75 hours of direct patient/client contact shall be obtained in the following categories:
 - i. minimum of 20 hours in speech disorders;
 - ii. minimum of 20 hours in language disorders;
 - iii. the remaining 35 hours may be obtained in the areas of speech, language or hearing disorders. It is recommended that a minimum of 20 hours be in articulation.
- b. The remaining 125 hours may have been obtained on-the-job and/or through a regionally accredited educational institution or its cooperating programs.

4. Provisional Speech-Language Pathology Assistant License
 - a. A minimum of 100 clinical practicum hours which have been obtained through a regionally accredited educational institution or its cooperating programs as defined in §107.I.3 is required.

- b. The additional 125 hours required to upgrade to the Speech-Language Pathology Assistant License shall be obtained within three years of the date of issuance of the provisional assistant license and may be obtained by completing the remaining hours on-the-job and/or through a regionally accredited educational institution or its cooperating programs. Supervised on-the-job training which counts toward upgrading the license status will only be accepted from the date that the application for license is acknowledged to have been received by the board.

- c. A provisional speech-language pathology assistant may surrender his/her license if unable to find employment in the area of speech-language pathology and may defer the remaining time of the three-year period to complete the licensure requirements.
 - i. If the licensee has never worked as a provisional speech-language pathology assistant, a notarized statement shall be submitted to the board office.
 - ii. If the licensee is not currently employed as a provisional speech-language pathology assistant a letter specifying date of termination from the last employer shall be submitted to the board office with Form 200, to verify supervision to the date of termination.

J. Postgraduate Professional Experience

1. A graduate-level audiologist or speech-language pathologist must submit verification of nine months of full-

time postgraduate professional experience or its full-time equivalent.

2. An individual who holds a doctorate in audiology and has completed 75 semester credit hours of post-baccalaureate coursework from a regionally accredited audiology program, and has completed the clinical practicum requirement as specified in §107.I.2.a, fulfills the requirement for a supervised postgraduate professional employment experience.

K. Examination Requirement: Speech-Language Pathology License, Provisional Speech-Language Pathology License, Audiology License, Provisional Audiology License

1. The board recognizes only the Educational Testing Service's specialty area examinations for speech-language pathology and audiology as the licensure examination for speech-language pathology and/or audiology.

2. The passing score for the speech-language pathology area examination is a minimum score of 600.

3. The passing score for the audiology area examination is a minimum score of 600.

4. The examination requirement shall be waived upon request by any applicant who is currently certified by the State Board of Elementary and Secondary Education as a specialist of speech-language pathology and who is currently employed in a school setting.

L. Restricted License Qualifications

1. In order to reinstate a restricted license to practice speech-language pathology held prior to August 15, 1995, an applicant shall:

a. hold a bachelor's degree with a major in speech pathology, together with a current Type A B, or C teaching certificate issued by the State Board of Elementary and Secondary Education or their equivalent as determined by the State Board of Elementary and Secondary Education certifying the applicant as a specialist of speech, language and hearing; and

b. submit evidence of completion of his/her clock hours of supervised, direct clinical experience with persons having a variety of communication disorders. This experience shall be obtained through a training institution or its cooperating programs;

c. be permitted to practice in Louisiana only while under the direct supervision of a Louisiana Licensed Speech-Language Pathologist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:346 (May 1996), LR 27:197 (February 2001), repromulgated LR 27:1690 (October 2001), amended LR 28:1781 (August 2002), LR 30:

§109. Application Procedures

A. An application for a license to practice speech-language pathology and/or audiology in Louisiana shall be made on forms supplied by the board.

B. Official transcripts shall be sent to this board directly from the college or university from which the academic requirements were earned.

C. Documentation of supervised clinical practicum hours shall be submitted on university forms and signed by a clinical supervisor or director.

D. The initial license fee submitted to this board shall be paid by certified check, cashier's check or money order. Only renewal fees may be paid by personal check.

E. Speech-language pathologists, assistants and/or audiologists who have held a license in another state, shall provide official verification of their licensure status in each state.

F. Documentation of nine months of postgraduate professional employment/experience shall be submitted directly to the board in writing on official agency letterhead.

G. Documentation of nine months of postgraduate professional employment/experience, a passing score on the Educational Testing Service's specialty area examination, and verification of supervised clinical practicum hours may be waived for individuals who submit verification that they hold the Certificate of Clinical Competence from the American Speech-Language-Hearing Association.

H. Postgraduate professional employment/experience which counts toward upgrading the license status, will only be accepted from the date that a licensee's application is acknowledged to have been received by the board.

I. While an application for a license is being considered by the board, the applicant may be employed as a speech-language pathologist, audiologist or speech-language pathology assistant for a period not longer than 60 days from the date that their application is acknowledged to have been received by the board. In no event may the applicant be employed as a speech-language pathologist, audiologist or speech-language pathology assistant after the application has been denied.

J. An applicant may be granted only one 60-day period to work while his/her initial application is being processed. No additional grace period may be granted to an applicant.

K. Individuals holding an unrestricted speech-language pathology or audiology license from another state shall be allowed to practice in Louisiana for five consecutive days upon proof of current licensure submitted to the board office 10 days prior to the scheduled activity.

L. When there is probable cause to believe that an applicant practiced illegally in Louisiana as a speech-language pathologist, speech-language pathology assistant and/or audiologist, the board may offer a consent agreement and order which will grant the individual a license, subject to the following specified terms and conditions.

1. Within 90 days of the date of the consent agreement and order, the applicant shall take and pass an open book examination regarding R.S. 37:2650-2666, the board's rules, regulations and procedures, and ethical questions or within 10 months of the date of the consent agreement and order, the applicant shall complete not fewer than five hours of continuing education in the area of ethics.

a. Open book test fee shall be \$30. The retest fee shall be \$10 per section.

b. Applicants have 4 1/2 hours to complete all sections of the test.

c. The open book examination or any section may be re-taken anytime within the 90 days.

d. The applicant may be required to appear before the board following completion of the continuing education in ethics to answer questions regarding the continuing education.

e. Notice of the consent order and agreement shall be published in the LBESPA newsletter.

f. If the applicant fails to successfully complete all requirements set forth in the above paragraphs within 90 days, the applicant's license shall be suspended without further notice until the board receives and accepts documentation of the applicant's completion of the consent order and agreement requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:352 (May 1996), LR 27:199 (February 2001), LR 28:1974 (September 2002), LR 30:

§111. Licensure by Reciprocity

A. The board may waive the examination for applicants who present proof of current licensure in another state with standards equivalent to those of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:354 (May 1996), LR 30:

§113. Additional Requirements for International Applicants/Speakers of English as a Second Language

A. Any document required to be submitted to this board with an application for a license shall be in the English language, or accompanied by a certified translation thereof into the English language.

B. As a condition of the board's consideration of the license application of a graduate of a foreign college or university, the applicant shall provide the board with an evaluation of the applicant's transcript from an approved credentials evaluation agency. A list of approved agencies, and their addresses, may be obtained from the board.

C. Because the essence of the practice of speech-language pathology and audiology is communication, an applicant whose primary language is not English shall submit a passing score on a nationally recognized English proficiency examination, and make a personal appearance before the board or its designees before a license may be issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:354 (May 1996), LR 27:201 (February 2001), LR 30:

§115. Requirements to Upgrade License

A. The provisional speech-language pathology or provisional audiology licensee who has not passed the examination at the time of initial licensure shall submit the following to upgrade his/her license status:

1. an official copy of a passing score on the educational testing service area examination;
2. verification of nine months of full-time postgraduate professional employment/experience or its part-time equivalent in the field the license is held;
3. proof of supervision through date of upgrade (Form 100);
4. upgrade fee of \$30.

B. The provisional speech-language pathology or provisional audiology licensee who has not completed the nine months of postgraduate professional employment/experience at the time of initial licensure shall submit the following to upgrade his/her license status:

1. verification of nine months of full-time postgraduate professional employment/experience or its part-time equivalent in the field the license is held;
2. proof of supervision through date of upgrade (Form 100);
3. upgrade fee of \$30.

C. The provisional speech-language pathology assistant shall submit the following to upgrade his/her license status:

1. proof of 225 supervised clinical practicum hours shall be on file in the board's office;
2. upgrade fee of \$30.

D. The restricted speech-language pathology or restricted audiology licensee who holds a master's degree or its equivalent in speech-language pathology or audiology shall submit the following documents to upgrade their license:

1. an official copy of a passing score on the educational testing service area examination;
2. verification of nine months of post-graduate professional employment/experience or its part-time equivalent in the field in which the license is held;
3. proof of supervision through date of upgrade (Form 100);
4. upgrade fee of \$30.

E. Restricted speech-language pathology licensees who hold a bachelor's degree who wish to change their status to a provisional speech-language pathology license shall submit an application for license and meet the requirements of R.S. 37:2659(B).

F. Speech-language pathology assistant licensees who wish to change their status to a provisional speech-language pathology license shall submit an application for license and meet the requirements of R.S. 37:2759(B).

G. Postgraduate professional employment/experience which counts toward upgrading the license status will only be accepted from the date that the licensee's application was acknowledged to have been received by the board.

H. Audiologists who hold an audiology license but are completing the coursework or practicum requirements for registration as a dispenser shall follow the supervision requirements as specified in §129, and shall submit the board's Form 100 at the time of renewal. The board's Form 100 and the upgrade fee shall be submitted to upgrade license status.

I. It is the responsibility of the licensee to submit the documents and make a written request for upgrade of his/her license status. Licensees shall complete all supervision requirements consistent with the license held and immediately thereafter submit appropriate supervision forms to the board office along with a written request for license upgrade and the upgrade fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:349 (May 1996), amended LR 27:197 (February 2001), LR 28:1971 (September 2002), LR 30:

§117. Duties: Speech-Language Pathology Assistant License and Provisional Speech-Language Pathology Assistant License

1. All duties performed by the assistant speech-language pathology licensee or provisional speech-language pathology assistant licensee shall be supervised in accordance with the rules and regulations specified by the board. Caseload assignments shall be consistent with the knowledge base and training of the licensee for the performance of the following tasks:

a. conduct speech-language screenings and assessments without interpretation, following specified protocols as approved by the supervising speech-language pathologist. All screening and assessment reports shall be cosigned and interpreted by the supervising speech-language pathologist;

b. perform hearing screenings limited to a pass/fail determination, for the purpose of initial identification of disorders, following specified protocols as approved by the supervising speech-language pathologist;

c. provide direct treatment which is within the level of training and experience as determined by the supervising speech-language pathologist to a caseload of patients/clients who demonstrate communication disorders. Supervision of treatment shall be in accordance with the rules and regulations specified by the board;

d. follow treatment plans or protocols as approved by the supervising speech-language pathologist. Documentation of the supervising speech-language pathologist's approval shall be kept on file prior to implementation of treatment plans or protocols;

e. document patient/client progress toward meeting established objectives as stated in the treatment plan, and report this information to the supervising speech-language pathologist;

f. schedule activities, prepare charts, records, graphs, or otherwise display data;

g. perform checks and maintenance of equipment;

h. speech-language pathology assistants may participate in parent conferences, case conferences, interdisciplinary team conferences, research projects, in-service training, and public relations programs. Provisional speech-language pathology assistants may participate in these activities only with the supervising speech-language pathologist.

2. Duties Outside the Scope of Practice of a Speech-Language Pathology Assistant or Provisional Speech-Language Pathology Assistant

a. The speech-language pathology assistant licensee and provisional speech-language pathology assistant shall not:

i. perform clinical tasks without the knowledge and approval of the supervising speech-language pathologist;

ii. interpret test results;

iii. work with a communication or related disorder unless s/he has had sufficient coursework with appropriate supervised practicum in that area obtained through a regionally accredited educational institution or its cooperating programs;

iv. provide patient/client or family counseling;
v. select and/or discharge patients/clients for services without the approval of the supervising speech-language pathologist;

vi. disclose clinical or confidential information either orally or in writing to anyone not designated by the supervising speech-language pathologist and without the authorization of the patient/client or their designee;

vii. make referrals for additional services without the approval of the supervising speech-language pathologist;

viii. participate in Individualized Family Service Plan (IFSP) meetings without the supervising speech-language pathologist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 30:

§119. Fees

A. The board collects the following fees, which are non-refundable. Fees for initial licenses are payable only by cashier's check or money order.

1. Initial Louisiana license for:

a. Speech-Language Pathologist	\$125
b. Audiologist	\$125
c. Audiologist to include hearing aid dispensing	\$150
d. Provisional Speech-Language Pathologist	\$125
e. Restricted Speech-Language Pathologist	\$125
f. Provisional Audiologist	\$125
g. Provisional Audiologist to include hearing aid dispensing	\$150
h. Speech-Language Pathology Assistant	\$125
i. Provisional Speech-Language Pathology Assistant	\$125
j. Dual License Fee	\$225
k. Dual License Fee to include hearing aid dispensing	\$250

2. Renewal of license submitted on or before June 30, of each year for:

a. Speech-Language Pathologist	\$65
b. Audiologist	\$65
c. Audiologist to include hearing aid dispensing	\$75
d. Provisional Speech-Language Pathologist	\$65
e. Restricted Speech-Language Pathologist	\$65
f. Provisional Audiologist	\$65
g. Provisional Audiologist to include hearing aid dispensing	\$75
h. Speech-Language Pathology Assistant	\$65
i. Provisional Speech-Language Pathology Assistant	\$65
j. Dual License	\$90
k. Dual License to include hearing aid dispensing	\$100

3. Delinquent Renewal Fee submitted between July 1 and July 31, of each year for:

- a. Speech-Language Pathologist \$130
- b. Audiologist \$130
- c. Audiologist to include hearing aid dispensing \$150
- d. Provisional Speech-Language Pathologist \$130
- e. Restricted Speech-Language Pathologist \$130
- f. Provisional Audiologist \$130
- g. Provisional Audiologist to include hearing aid dispensing \$150
- h. Speech-Language Pathology Assistant \$130
- i. Provisional Speech-Language Pathology Assistant \$130
- j. Dual License \$180
- k. Dual License to include hearing aid dispensing \$200

4. Delinquent Renewal Fee submitted between August 1 and October 31, of each year for:

- a. Speech-Language Pathologist \$260
- b. Audiologist \$260
- c. Audiologist to include hearing aid dispensing \$280
- d. Provisional Speech-Language Pathologist \$260
- e. Restricted Speech-Language Pathologist \$260
- f. Provisional Audiologist \$260
- g. Provisional Audiologist to include hearing aid dispensing \$300
- h. Speech-Language Pathology Assistant \$260
- i. Provisional Speech-Language Pathology Assistant \$260
- j. Dual License \$360
- k. Dual License to include hearing aid dispensing \$400

5. Registration fee for audiologists to dispense hearing aids \$30.

6. Upgrade of provisional speech-language pathologist, provisional audiologist, speech-language pathology assistant or provisional speech-language pathology assistant \$30.

7. Address listing-all licensees \$25.

8. Brochures/Pamphlets \$0.10 ea. plus postage and handling.

9. Continuing Education Pre-Approval Fee for Corporations or Individuals Who Are Not LBESPA Licensees \$50.

10. Fax transmission \$3 for first page; \$1 each additional page.

11. Mailing labels \$0.05 per label plus postage and handling.

12. NSF or returned check \$25.

13. Open book test fee \$30:

- a. open book retest fee, per section \$10.

14. Publications to include law, rules, etc. \$5 ea. plus postage and handling.

15. Re-issuance of license certificate \$25.

16. Subpoena within East Baton Rouge Parish \$50:

a. subpoena plus \$32 per mile outside East Baton Rouge Parish \$50.

17. Verification of license (written) \$5.

18. Video rental \$15 per tape for 2 weeks:

- a. \$30 for 2-tape set for 2 weeks;
- b. late return fee \$10 per tape;
- c. late 30 days or more cost of tape;
- d. video catalog \$5.

19. An additional fee will be charged for on-line renewal in accordance with state treasury rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:350 (May 1996), LR 27:197 (February 2001), repromulgated LR 27:1691 (October 2001) amended LR 30:

§121. License Renewals

A. All licenses shall be renewed annually by June 30, to avoid delinquent renewal fees.

B. Initial licenses issued during the last quarter of the fiscal year, i.e., April, May, and June, will not be required to be renewed during that fiscal year. No continuing education hours will be required of the licensee for that period.

C. Licensees shall list on their renewal form the licensees and aides that they are supervising, i.e., provisional speech-language pathologists, provisional audiologists, restricted speech-language pathologists, restricted audiologists, speech-language pathology assistants, or provisional speech-language pathology assistants.

D. It is the licensee's continuing obligation to keep the board informed of his/her current mailing address.

E. Licensees shall participate in continuing professional education activities of at least 10 clock hours for each license period, July 1 through June 30, in accordance with §123.

F. Retired status is granted to speech-language pathologists and audiologists who are retired and do not practice speech-language pathology or audiology during the fiscal year, July 1 through June 30.

1. These licensees shall complete the affidavit on the continuing education report and submit it at the time of licensure renewal.

2. Retired licensees may retain their license by payment of the annual renewal fee. In order to resume the practice of speech-language pathology or audiology, retired licensees shall demonstrate completion of five clock hours of continuing education in the area of licensure for each year that retired status was maintained (maximum of 25 hours).

3. The licensee may submit the required five hours of continuing education each year he/she is retired or submit all of the hours the year he/she returns to work in the profession.

G. Licensees who hold a license requiring supervision and who are not working in the field of speech-language pathology and/or audiology shall submit a notarized statement at the time of license renewal attesting to the fact that they did not work in the profession during the license period.

H. Delinquent Renewal

1. Delinquent requests for renewals will be accepted by the board through October 31, provided the delinquent

renewal fee is paid in accordance with §119.C and D, and the continuing education summary form is submitted.

2. A licensee whose license lapsed on November 1, and applies to reinstate prior to the following June 30, is required to submit a completed application, proof of continuing education, initial license fee and delinquent renewal fee in accordance with §119.A and D and §123.

3. A licensee whose license lapsed on November 1, and applies for reinstatement after June 30, of the following year, is subject to the initial license fee and the requirements of §121.I.3.

I. Conditional Renewal

1. Licensees who previously held a full, valid license which was obtained under the grandfather clause of Act 260 of the 1978 Regular Session of the Louisiana Legislature, whether delinquent or lapsed, for a period not to exceed five years, shall be eligible for licensure renewal or reinstatement upon meeting the continuing education requirement and submitting the appropriate renewal fee in accordance with §119. If the license has lapsed for a period of more than five years, applicants shall reapply in accordance with the requirements enumerated in R.S. 37:2651 et seq., as amended by Act 892 of the 1995 Regular Session of the Louisiana Legislature.

2. Licensees who previously held a restricted license which was obtained under Act 260 of the 1978 Regular Session of the Louisiana Legislature, whether delinquent or lapsed, shall be eligible for licensure renewal or reinstatement, upon meeting the continuing education requirement and submitting the appropriate renewal fee as required in accordance with §119 and §123.

3. Licensees who allow their license to lapse (November 1) shall submit documentation of completion of five clock hours of continuing education (maximum of 25 hours) in the area of licensure for each year that the license has lapsed in addition to meeting the license requirements enumerated in R.S. 37:2650 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:351 (May 1996), LR 27:198 (February 2001), LR 28:1972 (September 2002), LR 30:

§123. Continuing Education Requirements

A. Each licensee shall complete continuing professional education activities of at least 10 clock hours each license period, July 1 through June 30.

B. Of the 10 hours, five shall be in the area of licensure (practice of audiology or speech-language pathology), and five may be in areas related to the professions of audiology and speech-language pathology.

C. Audiologists who register as dispensing audiologists shall insure that at least three of the total 10 hours are in areas directly related to hearing aid dispensing, such as business/practice management, marketing, aural habilitation/rehabilitation, diagnostic assessment, characteristics of hearing aids and their application, etc.

D. Dual licensees shall complete 15 hours per year with a minimum of five hours in speech-language pathology and five hours in audiology; the remaining five may be in areas related to the professions of audiology and speech-language pathology.

E. Continuing Education events occurring in the month of June, will be accepted for the collection period in which they occur or they may be counted in the following collection period which begins on July 1. Hours from one event may not be divided between two collection periods.

F. In the case of extenuating circumstances, when the licensee does not fulfill the continuing education requirements, the licensee shall submit a written request for extension to the board for consideration.

G. Continuing Education hours accrued during the applicant's grace period will be accepted.

H. The graduated scale for the collection of continuing education hours is based on the date an applicant receives his/her initial license.

License Received	Hours Required
April, May, June	0
January, February, March	3
October, November, December	6
July, August, September	10

I. Acceptable continuing education sponsors and activities:

1. board-sponsored activities (maximum of 10 hours);
2. workshops in the area of communication disorders sponsored by individual professional practitioners and/or professional organizations such as American Academy of Audiology, American Speech-Language-Hearing Association, Louisiana Speech-Language-Hearing Association, Speech Pathologists and Audiologists in Louisiana Schools, Louisiana Society for Hearing Aid Specialists, etc. (maximum of 10 hours);
3. meetings of related professional organizations (e.g., Council for Exceptional Children, Orton Dyslexia Society) (maximum of 10 hours);
4. college courses in the area of licensure taken for credit or official audit (three semester hours or six quarter hours = 10 hours of continuing education);
5. distance learning (video conferences, telephone seminars and Internet courses sponsored by individual private practitioners, universities, schools, clinics, state agencies, hospitals, professional organizations, or related professional organizations) (maximum of 10 hours);
6. workshops and in-services that are university, school, clinic, hospital or state agency sponsored (maximum of 5 hours in a related area, maximum of 10 hours if in the area of licensure);
7. publication of articles in a peer-reviewed journal for the year in which they are published (5 hours);
8. scientific or educational lectures to include presentations such as poster sessions given by the licensee (maximum of 5 hours);
9. the presenting licensee may count 1 1/2 times the value of a workshop the first time it is presented to allow for preparation time (Example: a three hour workshop = 4 1/2 hours.) The workshop will count for the actual hour value for each subsequent presentation of the same workshop;
10. teaching at the college level in the area of communication disorders is not acceptable.

J. Pre-Approval Policy

1. Pre-approval is required for continuing education events that do not meet the requirements as listed under §123.I.1-10, and pre-approval of continuing education

events is required in those situations where it is unclear whether or not the topic is relevant to the profession or will further a professional's expertise in a particular area.

2. The licensee shall request pre-approval (minimum of 30 days in advance) of self-study activities, or other appropriate activities.

3. Licensees who elect to attend university classes/courses in speech-language pathology and/or audiology without payment of the university fee shall submit a self-study plan for pre-approval from the Louisiana Board of Examiners for Speech-Language Pathology and Audiology to receive continuing education credits.

4. Self-study activities in the area of communication disorders:

a. audio or video tapes (maximum of 5 hours);

b. reading of journal articles that contain self-examination questions at the end. Articles shall be submitted for pre-approval (maximum of 5 hours).

5. Publication of diagnostic and/or therapeutic materials (maximum of 5 hours).

K. Recording of Continuing Education Activities

1. Licensees shall record all continuing education activities as prescribed by the board—and submitted at the time of renewal.

2. The board may request, through random audit, verification of clock hours submitted, including information regarding content and attendance. A percentage will be audited each year as a means of evaluating compliance with the continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:351 (May 1996), amended LR 27:199 (February 2001), LR 28:1973 (September 2002), LR 30:

§125. Supervision Requirements for Restricted License, Provisional Speech-Language Pathology License and Provisional Audiology License

A. Restricted licensees, provisional speech-language pathology licensees and provisional audiology licensees are required to undergo direct supervision by a licensed speech-language pathologist or audiologist, licensed in the area in accordance with R.S. 37:2659.A. An individual may not be supervised by a provisional licensee, restricted licensee, or assistant licensee.

B. Restricted licensees, provisional speech-language pathology licensees and provisional audiology licensees must submit a supervisory agreement signed by the supervisor and supervisee as prescribed by the board. The form must be submitted to the board by the supervisee within 30 days of employment and submitted annually at the time of renewal. If there is a change in supervisor(s) at any time, a new supervisory agreement must be submitted to the board within 30 days of the change in supervision. If there are multiple supervisors for the same supervisee, all supervisors must sign the supervisory agreement.

C. Speech-language pathologists or audiologists may share the supervision responsibility for Provisional or Restricted licensees, but each supervising speech-language pathologist or audiologist shall complete and submit the necessary supervision forms.

D. The direct supervision of the licensee, whether employed full-time or part-time, shall include 12 monitoring activities annually.

1. At least four shall be on-site, in-view observations divided between the areas of diagnostics and management. Alternative methods may include conferences, audio and videotape recordings, review of written records, staffings and discussions with other persons who have participated in the licensee's training.

2. For 12-month employees, one on-site, in-view observation shall be conducted each quarter.

3. For nine-month employees, two on-site, in-view observations shall occur in each semester.

E. Documentation of supervision shall be submitted annually at the time of license renewal on Form 100 provided by the board.

F. Licensees shall complete all supervision requirements consistent with the license held and immediately thereafter submit appropriate supervision forms to the board office along with a written request for license upgrade and the upgrade fee.

G. Licensees who are not working in the field of speech-language pathology and/or audiology and who hold a license requiring supervision, shall submit a notarized statement at the time of license renewal attesting to the fact that they did not work in the profession during the license period.

H. All costs of supervision shall be borne by the licensee or his/her employer, but in no event will those costs be borne by the board.

I. When supervision requirements have not been met in accordance with §125.D.1-3, licensees shall complete additional months of supervision to replace months of incomplete supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:352 (May 1996), LR 27:199 (February 2001), LR 28:1974 (September 2002) LR 30:

§127. Supervision Requirements for Speech-Language Pathology Assistant and Provisional Speech-Language Pathology Assistant

A. The supervision requirements specified in these guidelines are minimum requirements. It is the responsibility of the speech-language pathologist to design and provide a supervision system that protects patient/client care and maintains the highest possible standards of quality. The supervising speech-language pathologist should assign only those tasks for which the assistant has been trained.

B. Speech-language pathology assistants and provisional speech-language pathology assistants must submit a supervisory agreement signed by the supervisor and supervisee as prescribed by the board. The form must be submitted to the board by the supervisee within 30 days of employment and submitted annually at the time of renewal. If there is a change in supervisor(s) at any time, a new supervisory agreement must be submitted to the board within 30 days of the change in supervision. If there are multiple supervisors for the same supervisee, all supervisors must sign the supervisory agreement.

C. Speech-language pathologists may share the supervision responsibility for speech-language pathology assistants or provisional speech-language pathology assistants, but each supervising speech-language pathologist shall complete and submit the necessary supervision forms.

D. Treatment for the patient/client served remains the responsibility of the supervisor. Therefore, the level of supervision required is considered the minimum level necessary for the supervising speech-language pathologist to maintain direct contact with the patient/client.

E. Assistants who are not working in the field of speech-language pathology shall submit a notarized statement at the time of license renewal attesting to the fact that they did not work in the profession during the license period.

F. Although more than one speech-language pathologist may provide supervision of an assistant licensee and provisional assistant licensee, at no time may a licensed speech-language pathologist supervise or be listed as a supervisor for more than three assistant or provisional assistant licensees. When multiple supervisors are used, the supervisors are encouraged to coordinate and communicate with each other.

G. Documentation of supervision shall be submitted annually at the time of license renewal on Form 200 provided by the board.

H. The supervising speech-language pathologist shall be readily available for consultation with the assistant licensee. This includes personal contact, telephone, pager, or other means of communication.

I. Supervision Requirements for the Speech-Language Pathology Assistant

1. A minimum of one clock hour of on-site, in-view supervision shall be completed each week for each licensee.

2. A minimum of one clock hour of alternative supervision methods shall be completed each week for each licensee. These methods should include, but are not limited to:

- a. specifying protocols for speech-language screenings and assessments conducted by the assistant licensee;
- b. specifying protocols for hearing screenings conducted by the assistant licensee;
- c. approving treatment plans or protocols and documenting approval;
- d. monitoring patient/client progress toward meeting established objectives;
- e. monitoring, scheduling, charting and data collection;
- f. directing maintenance of equipment;
- g. directing research projects, in-service training and public relations programs;
- h. conducting telephone conferences.

3. If circumstances prohibit a supervisor from completing the minimum supervision requirements (§127.I.1 and 2) in a given week, the remaining supervision may be completed the following week in conjunction with the required supervision hours for that week.

4. When the supervising speech-language pathologist is unavailable for supervision for an extended period of time, arrangements shall be made for another qualified supervisor or the speech-language pathology assistant shall be transferred to other duties.

5. Speech-Language Pathology Assistant Full-Time and Part-Time Supervision Requirements

Hours Worked	Required Supervision On-Site, In-View	Required Supervision Alternative Method
21-40 hours	1 hour/week	1 hour/week
20 hours or less	1 hour/every 2 weeks	1 hour/every 2 weeks

6. Assistant licensees shall be supervised only by a speech-language pathologist licensed under the provisions of R.S. 37:2659(A) with the exception of hearing screenings which may be supervised by an audiologist, licensed under the provisions of R.S. 37:2659. An individual may not be supervised by a provisional licensee or restricted licensee.

J. Supervision Requirements for the Provisional Speech-Language Pathology Assistant

1. A minimum of three clock hours of on-site, in-view supervision shall be completed each week for each licensee.

2. A minimum of two clock hours of alternative supervision methods shall be completed each week for each licensee.

3. These methods should include, but are not limited to:

- a. specifying protocols for speech-language screenings and assessments conducted by the assistant licensee;
- b. specifying protocols for hearing screenings conducted by the assistant licensee;
- c. approving treatment plans or protocols and documenting approval;
- d. monitoring patient/client progress toward meeting established objectives;
- e. monitoring scheduling, charting and data collection;
- f. directing maintenance of equipment;
- g. directing research projects, in-service training and public relations programs;
- h. conducting telephone conferences.

4. If extenuating circumstances prohibit a supervisor from completing the minimum supervision requirements (§127.J.1 and 2) in a given week, the remaining supervision may be completed the following week in conjunction with the required supervision hours for that week.

5. When the supervising speech-language pathologist is out for an extended period of time, arrangements shall be made for another qualified supervisor or the provisional speech-language pathology assistant shall be transferred to other duties.

6. When supervision requirements have not been met, in accordance with §127.J.1 and 2, licensees shall complete additional months of supervision to replace months of incomplete supervision.

7. Provisional speech-language pathology assistant full-time and part-time supervision requirement:

Hours Worked	Required Supervision On-Site, In-View	Required Supervision Alternative Method
21-40 hours	3 hours/week	2 hours/week
20 hours or less	1.5 hours/every 2 weeks	1 hour/every 2 weeks

8. Provisional assistant licensees shall be supervised by a speech-language pathologist licensed under the provisions of R.S. 37:2659(A) with the exception of hearing

screenings which may be supervised by an audiologist, licensed under the provisions of R.S. 37:2659. An individual may not be supervised by a provisional licensee or a restricted licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:353 (May 1996), LR 27:200 (February 2001), repromulgated LR 27:1691 (October 2001), amended LR 30:

§129. Hearing Aid Dispensing

A. Audiologists who dispense hearing aids shall meet the coursework and practicum requirements for dispensing as specified in R.S. 37:2650 et seq., and shall register their intent to do so at the time of each license renewal.

1. Dispensing audiologists shall pay an initial registration fee of \$30 and an annual renewal fee of \$25 in addition to the fees charged for licensure renewal.

2. Dispensing audiologists shall affix an annual registration seal to the displayed audiology license.

B. Audiologists who hold a provisional audiology license shall be supervised by a licensed, registered dispensing audiologist while completing the postgraduate professional employment/experience requirements for full licensure.

C. Audiologists who hold an audiology license but are completing the coursework or practicum requirements for registration as a dispenser shall follow the supervision requirements as specified in §125 and shall submit the board's Form 100 at the time of renewal. The board's Form 100 shall be submitted to upgrade the license status.

D. Audiologists who dispense hearing aids shall maintain annual calibration records on audiometric equipment.

E. Audiologists who dispense hearing aids shall meet the minimum continuing education requirements for license renewal with at least three of the required 10 hours in areas specifically related to hearing aids and/or the dispensing of hearing aids.

F. Audiologists who dispense hearing aids shall comply with the following guidelines.

1. Audiologists shall conduct a pre-purchase evaluation that includes:

- a. a case history;
- b. an otoscopic examination;
- c. a basic audiological test battery, including:
 - i. pure tone air and bone conduction testing;
 - ii. speech reception threshold;
 - iii. word recognition testing;
 - iv. appropriate tolerance testing;
 - v. middle ear measurements when indicated.

2. Audiologists shall provide the consumer with a minimum 30-day trial period on all new hearing aids purchased.

3. Audiologists shall inform the consumer of the total cost of the hearing aid, including any fees for returning the aid at the end of the trial period.

4. Audiologists shall conduct a post-fitting evaluation that includes functional gain measurements and/or real ear measurements unless the patient's physical conditions prohibits accomplishment of these procedures.

5. Audiologists who engage in the fitting or selling of hearing aids shall deliver to each person supplied with a

hearing aid, a bill of sale which shall contain the dispenser's signature, address and license number, together with a description of the make, model and serial number of the hearing aid and the amount charged. The bill of sale shall also indicate whether the hearing aid is new, used, or reconditioned.

G. Audiologists who meet the qualifications for licensure as an audiologist and who were exempt under R.S. 37:2464(A) as part of their employment with a state health agency may register as dispensing audiologists by presenting proof of employment and dispensing experience in that job setting.

H. Audiologists who meet the qualifications for licensure as an audiologist but lack the coursework and practicum requirements necessary for registration as a dispenser may fulfill the requirements by completing nine months of postgraduate professional employment/experience under the supervision of a licensed dispensing audiologist, and by proof of the successful completion of a study course by the National Institute for Hearing Instruments Studies, or its equivalent. Equivalency for National Institute for Hearing Instruments Studies is defined as:

1. an individualized program of study that shall include:

a. hearing aid technology and dispensing courses sponsored by hearing aid manufacturers to include a minimum of 15 clock hours;

b. workshops in the area of hearing aid technology and dispensing sponsored by professional organizations or individual practitioners to include a minimum of 15 clock hours;

c. successful completion of university coursework in the area of hearing aid technology and dispensing; or

d. programs of independent study consisting of a minimum of 15 clock hours in the area of hearing aid technology and dispensing.

2. Any individualized program of study shall be submitted to the board a minimum of 30 days in advance for pre-approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:353 (May 1996), amended LR 27:201 (February 2001), LR 28:1975 (September 2002), LR 30:

§131. Qualifications and Duties of Aides

A. Speech-language pathologists and audiologists are legally, ethically, and morally responsible for the services provided by aides working under their direction.

B. Requirements for the use of aides follow.

1. A licensed speech-language pathologist or audiologist may utilize an aide who meets the following qualifications. The aide shall:

- a. be of good moral character;
- b. be at least 18 years old;
- c. possess appropriate communication skills;
- d. have a high school diploma or G.E.D.

2. The supervising speech-language pathologist or audiologist is responsible for determining that the aide is qualified and prepared for the duties which s/he will be assigned. It is recommended that the aide be afforded continuing education opportunities. Appropriate areas of training may include:

- a. normal processes in speech, language and hearing;
- b. disorders of speech, language and hearing;
- c. record-keeping and data compilation;
- d. utilization of equipment and materials;
- e. professional ethics and their application to the aide's duties;
- f. administration of hearing screening tests.

C. Supervision

1. The licensed speech-language pathologist or audiologist shall provide periodic direct observation for each aide at least once per month during the initial year of the aide's employment. Speech-language pathology aides are required to undergo direct supervision by a licensed speech-language pathologist, licensed in the area in accordance with R.S. 37:2659(A). Audiology aides are required to undergo direct supervision by a licensed audiologist, licensed in the area in accordance with R.S. 37:2659(A). Speech-language pathology aides and audiology aides may not be supervised by a provisional licensee, restricted licensee, or assistant licensee.

2. The direct observation in subsequent years shall be established by the supervising speech-language pathologist or audiologist on an individual basis but shall be no less than once every three months.

3. The supervising speech-language pathologist or audiologist shall be readily available for consultation with the aide at all times.

4. Documentation of on-site, in-view supervision shall be maintained by the supervising speech-language pathologist or audiologist and shall be submitted to the board upon request.

5. The supervising speech-language pathologist or audiologist shall report to the board at the time of licensure renewal, the names and employment locations of aides.

D. The speech-language pathology aide may engage in activities limited to those that are planned and directed by the supervising speech-language pathologist. Providing that the preparation, training, and supervision are appropriate, the following tasks may be assigned to speech-language pathology aides:

- 1. setting up room and equipment;
- 2. clearing room and storing equipment;
- 3. preparing materials (such as making copies, typing forms) for use by the speech -language pathologist;
- 4. checking equipment to determine if the equipment is performing adequately;
- 5. transporting patients/clients to and from sessions;
- 6. assisting with field trips;
- 7. performing hearing screenings limited to pure-tone air conduction screening and screening tympanometry;
- 8. recording, charting, graphing, or otherwise displaying objective data relative to the patient's/client's performance.

E. The audiology aide may engage in activities limited to those that are planned and directed by the supervising audiologist. Providing that the preparation, training, and supervision are appropriate, the following tasks may be assigned to audiology aides:

- 1. setting up room and equipment;
- 2. clearing room and storing equipment;

- 3. preparing materials (such as making copies, typing forms) for use by the audiologist;
- 4. checking equipment to determine if the equipment is performing adequately;
- 5. transporting patients/clients to and from sessions;
- 6. assisting with field trips;
- 7. performing hearing screening tests and pure-tone air conduction threshold tests without interpretation;
- 8. recording, charting, graphing, or otherwise displaying objective data relative to the patient/client's performance.

F. Only the speech-language pathologist or audiologist shall exercise independent judgment in the provision of professional services. Specifically, the speech-language pathologist or audiologist may not delegate any of the following to the aide:

- 1. speech-language screening;
- 2. evaluation, diagnosis, or therapy with individuals with speech, language or hearing disorders;
- 3. interpretation of test results or discussion of confidential information despite the fact that this information may have been requested by the patient/client, parent or referring agency;
- 4. performance of any procedure for which the aide has not been trained.

G. Exemption. Aides employed on or before April 1996 may continue to operate under the provisions of Chapter 3, §§301-305 of the *Louisiana Register* 16:409 (May 1990) of the Louisiana Board of Examiners for Speech Pathology and Audiology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 16:409 (May 1990), amended LR 22:355 (May 1996), LR 27:201 (February 2001), LR 28:1781 (August 2002), LR 30:

§133. Disciplinary Actions

A. This board may refuse to issue, may suspend or revoke a license for the practice of speech-language pathology or audiology or otherwise discipline an applicant or licensee, upon finding that the applicant or licensee has violated any provisions of R.S. 37:2650 et seq., or any of the rules or regulations promulgated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), LR 22:354 (May 1996), LR 28:1975 (September 2002), LR 30:

Chapter 3. Impaired Practitioner Program

§301. Purpose and Scope

A. Upon voluntary disclosure or proof that an applicant or licensee has provided professional services while under the influence of alcohol or has used narcotic or controlled dangerous substances or other drugs in excess of therapeutic amounts or without valid medical indication, the board may offer the applicant or licensee the Impaired Practitioner Program in order to receive or renew the professional license. Participation in the program may be required as a prerequisite to initial application for licensure or continued practice in accordance with the conditions of any consent order, compliance hearing, or adjudication hearing.

B. The board may utilize its discretionary authority to require or exclude specific components of this program for participants based upon determination of the nature and severity of the impairment. Participation in the Impaired Practitioner Program may consist of all or part of the following components:

1. a substance abuse assessment performed by a qualified, licensed health care professional within a prescribed period of time;

2. monitoring, including drug/alcohol screenings, with results submitted to the board, for a specified period of time. The frequency of screening and a deadline for submission of the screening results will also be specified. The name of the monitoring agency shall be submitted as requested by the board. Monitoring shall continue for a period of up to 36 months, as specified by the board;

3. suspension of the license or other action specified by the board upon receipt of any positive, unexplained screening results during the monitoring period;

4. mandatory weekly attendance at Alcoholics Anonymous or Narcotics Anonymous for a specified period of time. Submission of a monthly log which meets the board's specifications will be required:

a. a monthly log must be submitted to and received by the board before the final business day of the month following completion of the required meetings. It is the licensee's responsibility to ensure that these logs are properly completed and received by the board by the designated date;

b. the monthly log requires documentation of the first name and first initial of the last name of the sponsor, and meeting dates and times;

5. therapy for substance abuse by a licensed, health care professional;

6. supervision of the licensee by a board-approved speech-language pathologist or audiologist at a frequency and duration determined by the board;

7. penalties for noncompliance as determined by the board.

C. The licensee will be responsible for executing all required releases of information and authorizations required for the board to obtain information from any monitor, treatment or service provider concerning the licensee's progress and participation in the program.

D. The applicant or licensee will bear the financial burden for all costs incurred in complying with the terms of this program including but not limited to therapy, assessments, supervision, drug/alcohol screens, and reproduction of treatment or other records.

E. The licensee shall notify the board office by telephone within 48 hours and in writing within five days of any changes of licensee's home address, telephone number, employment status, employer, supervisor, and/or change in practice at a facility.

F. In the event that a licensee relocates to another jurisdiction, the licensee will within five days of relocating be required to either enroll in the other jurisdiction's impaired practitioner program and have the reports required under the agreement sent to the board, or if the other jurisdiction has no impaired practitioner program, the licensee will notify the licensing board of that jurisdiction that the licensee is impaired and enrolled in the Louisiana

program. In the event the licensee fails to do so, the license will be suspended.

G. Violation of the terms or conditions of the program may result in the immediate suspension of the individual's license to practice or other penalties for noncompliance.

H. The board will, to the full extent permissible, maintain an agreement or consent order relating to the licensee's participation in the Impaired Practitioner Program as a confidential matter. The board retains the discretion to share information it deems necessary with those persons providing evaluation/assessment, therapy, treatment, supervision, monitoring or drug/alcohol testing or reports. Violation of any terms, conditions or requirements contained in any consent order, or board decision can result in a loss of the confidential status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 30:

Chapter 5. Procedural Rules

§501. Investigation of Complaints

A. The board is authorized to receive complaints against licensees, applicants, or other persons engaging in practices which violate or are alleged to violate the provisions of R.S. 37:2650 et seq.

B. Any complaint bearing on a licensee's professional competence, conviction of a crime, unauthorized practice, mental competence, neglect of practice, or violation of state law or ethical standards where applicable to the practice of speech-language pathology or audiology shall be submitted to the board.

C. Complaints shall be in writing and signed by the complainant.

D. Once a written complaint is received, the board shall initiate a review of the allegations contained therein. The board may dispose of the complaint informally through correspondence or conference with the licensee and/or the complainant, which may result in a consent order. If the licensee stipulates to the complaint and waives her/his right to a formal hearing, the board may impose appropriate sanctions without delay. If the board finds that a complaint cannot be resolved informally, the written complaint shall be forwarded to the board's designated investigator for investigation. The board shall at that time notify the licensee, by certified mail, return receipt requested, of the investigation.

E. The board's designated investigator shall have authority to investigate the nature of the complaint through conference and correspondence directed to those parties or witnesses involved. The board's designated investigator shall send the involved licensee notice by certified mail, return receipt requested, of the investigation containing a short summary of the complaint and a list of any questions the designated investigator may direct to the licensee relative to the complaint. All subsequent letters to the involved licensee, all letters to the complainant, or any other witness, shall be sent with a designation "personal and confidential" clearly marked on the outside of the envelope.

F. The designated investigator shall conclude the investigation as quickly as possible, without compromising thoroughness. Unless good cause is shown by the designated

investigator satisfactory to the board, which may extend the time for the investigation, the investigation and recommendations to the board shall be delivered to the board within 60 days of the date that the designated investigator first received the assignment from the board.

G. The designated investigator shall report to the board and make a recommendation for either proceeding to an informal hearing, a formal hearing, or for a dismissal of the complaint. When the designated investigator's recommended action may lead to denial, suspension, or revocation of a license, the board shall convene a formal adjudication hearing. The designated investigator may determine that the licensee's explanation satisfactorily answers the complaint and may recommend to the board that the matter be dismissed. The recommended remedial action or dismissal of the complaint shall be forwarded to the complainant and to the licensee.

H. The designated investigator may also recommend that the complaint be resolved by a consent order approved by the board and entered into by the licensee.

I. If the designated investigator's recommendation for an informal hearing is accepted by the board, the designated investigator shall notify the licensee of the time, date, and place of the informal hearing and of the issues to be discussed. The licensee shall appear on a voluntary basis. The licensee shall be advised that the hearing will be informal, no attorneys will be present, and no transcript of the hearing will be made. Any witnesses who testify will not be placed under oath, and no subpoenas will be issued. The licensee shall be informed that any statements made at the informal hearing will not be used or introduced at a formal hearing, unless all parties consent. If the licensee notifies the designated investigator that s/he does not wish an informal hearing, or if the licensee fails or refuses to attend an informal hearing, the informal hearing shall not be held. In that event, the board shall initiate a formal disciplinary hearing.

J. The designated investigator shall recommend to the board the initiation of a formal disciplinary hearing if the investigation discloses any of the following: the complaint is sufficiently serious to require a formal adjudication; the licensee fails to respond to the correspondence by the designated investigator concerning the complaint; the licensee's response to the designated investigator discloses that further action is necessary; an informal hearing is held but does not resolve all of the issues; or the licensee refuses to comply with the recommended remedial action.

K. The designated investigator shall submit any recommended action to the board in brief, concise language, without any reference to the particulars of the investigation, to any findings of fact or any conclusions of law arrived at during the investigative process.

L. The board shall have the authority to delegate to the designated investigator any alleged violations of the Speech-Language Pathology and Audiology Act, R.S. 37:2650 et seq., and any alleged violations of any and all rules and regulations adopted by the board pursuant thereto, prior to board action on those alleged violations. If requested by the board, the designated investigator shall submit to the board the complete investigation file. Final authority for appropriate action rests solely with the board.

M. At no time shall the designated investigator investigate any case as authorized by the board where the investigator has any personal or economic interest in the outcome of the investigation, or is personally related to or maintains a close friendship with the complainant, the licensee, or any of the witnesses involved. In such event, the designated investigator shall immediately notify the board, who shall appoint a substitute investigator for disposition of that particular case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:373 (April 1991), amended LR 22:356 (May 1996), LR 30:

§503. Compliance Hearings

A. The board shall provide a compliance hearing to a rejected applicant for licensure provided that the rejected applicant requests a compliance hearing in writing within 30 days of the receipt of the notice of rejection. The applicant's request for a compliance hearing shall state with specificity the reason(s) why the application should be accepted.

B. A licensee whose license has lapsed for non-payment of renewal fees shall be entitled to a compliance hearing provided that the licensee requests one in writing within 10 days after receipt of the notice for the lapsed license, or, in the event that the licensee did not receive notice of the lapsed license, within 30 days of the date upon which the license would have lapsed by operation of law.

C. The purpose and intent of the compliance hearing is to provide a forum for the applicant or licensee to present documentary evidence, in the form of affidavits, public records, official records, letters, etc., along with testimony under oath to establish that the applicant or licensee does, in fact, meet the lawful requirements for issuance of a license or the retention of the license. The board shall have the authority to administer oaths, hear the testimony, and conduct the hearing. The applicant or licensee may be represented by counsel, or may represent her/himself.

D. In any compliance hearing, the burden of proof shall rest with the applicant or licensee to establish that s/he meets the criteria for licensure or that her/his license was timely renewed.

E. Within 30 days after the compliance hearing, the board shall forward its final decision, including specific reasons therefore, by certified mail, return receipt requested, to the applicant or licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:374 (April 1991), amended LR 22:357 (May 1996), LR 27:201 (February 2001), LR 30:

§505. Formal Disciplinary Hearings

A. If, after completion of the investigation, the board determines that the circumstances may warrant the withholding, denial, suspension, or revocation of a license, or other disciplinary action, the board shall initiate a formal disciplinary hearing. The board shall promptly notify the attorney general who is authorized and directed to appear on behalf of the state. The hearing shall convene in the parish in which the board is domiciled. The hearing shall be held before the board only after the involved licensee is given at

least 30 days notice by certified mail, return receipt requested. The notice shall include the following:

1. a statement of the date, time, place, and nature of the hearing;
2. a statement of the legal authority and jurisdiction under which the hearing is to be held;
3. a reference to the particular sections of the statute and/or rules involved;
4. a short and plain statement enumerating the charges;
5. a statement advising the licensee of her/his right to be represented by legal counsel;
6. the names of the members of the hearing panel.

B. If the board is unable to state the charges in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved, thereafter, upon written request, a more definite and detailed statement shall be furnished.

C. The board shall arrange for a certified shorthand reporter to make an accurate recording of all testimony presented and all documents entered into evidence at the hearing. A party wishing to file documents into evidence shall provide the court reporter with a copy marked for identification as an exhibit and shall provide copies to each member of the hearing panel, the board's legal counsel, opposing counsel, as well as counsel for any joined parties, and/or any unrepresented parties.

D. By bringing a complaint, the complainant waives the privilege of confidentiality for the purpose of the formal disciplinary hearing.

E. The rules of evidence, authority to administer oaths, issue subpoenas, conduct discovery, and control confidential privileged information shall apply to the formal disciplinary hearing in the form specified by R.S. 37:2656, 2663, the rules and regulations promulgated by this board, and as specified in the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

F. It is the licensee's continuing obligation to keep the board informed of her/his whereabouts. Accordingly, if notice of the hearing cannot be delivered by mail because of a licensee's change of address and the new address is not provided to the board, the board may hold the hearing in the licensee's absence, after making reasonable efforts to obtain the licensee's new address.

G. Within 15 days of the licensee's receipt of notice, s/he may file a written answer to the notice, denying some or all of the charges, or offering any explanation or asserting whatever defense s/he deems applicable.

H. The board shall have discretion to consolidate one or more cases for hearing involving the same or related parties or substantially the same questions of fact or law. The board may also grant separate hearings if a joint hearing may be prejudicial to one or more of the parties. If hearings are to be consolidated, notice shall be given to all parties in advance of the hearing.

I. The presiding officer shall consider a motion to modify or quash any subpoena issued in connection with the hearing, provided that such motion is filed by certified mail, return receipt requested, with the board at its registered office not later than three days prior to the hearing date or the date scheduled for the deposition, if the subpoena was issued in connection with a deposition. Possible grounds to

quash or limit the subpoena include, but are not limited to: testimony on material protected by privilege or state regulation or other law; burdensomeness that would not be justified in light of the evidence important to the case; undue hardship on a witness; vagueness; immateriality.

J. The burden of proof at a formal disciplinary hearing rests with the attorney general who is bringing the charge before the board. No sanction shall be imposed or order issued, except upon consideration of the entire record, as supported by and in accordance with reliable, probative, and substantial evidence. The standard of proof in all hearings before the board and for any review or examination of evidence provided by R.S. 49:957 or 958, shall be carried by a preponderance of the evidence.

K. If the board finds by a preponderance of the evidence that the withholding, denial, suspension, or revocation of a license, or other disciplinary action is warranted, the board shall sanction said individual according to the provisions of R.S. 37:2662(B):

1. refuse to issue a license;
2. refuse to renew a license;
3. issue a private letter of reprimand or concern;
4. issue a public letter of reprimand or concern;
5. require restitution of costs and expenses incurred by the board related to the enforcement of R.S. 37:2650 et seq.;
6. impose probationary conditions;
7. impose a fine for each violation not to exceed \$1,000.00 per violation;
8. suspend a license;
9. revoke a license;
10. restrict the license by limiting or reducing the scope of practice; and/or
11. otherwise discipline a licensee.

L. A final decision or order adverse to a party in an adjudication proceeding shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Parties shall be notified by the board, either personally or by certified mail, return receipt requested, of any decision or order. Upon request, a copy of the decision or order shall be mailed to each party and to her/his attorney of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:374 (April 1991), amended LR 22:357 (May 1996), LR 30:

§507. General Procedural Rules for Hearings

A. The board is empowered to issue subpoenas upon receipt of a written request from the licensee or attorney general at least 15 days in advance of any scheduled hearing. The board shall issue said subpoenas upon receipt of said written request and receipt of any and all fees for subpoenas as provided for in §119.A.16 promulgated by the board.

B. The board may petition a court of competent jurisdiction for a contempt rule to show cause when there is a failure to comply with a subpoena.

C. The board shall elect from its membership a person to act as presiding officer of the hearing. The presiding officer shall have the power to regulate the discovery process; hold pre-hearing conferences for the simplification or settlement

of issues; convene the hearing; place witnesses under oath; take action necessary to maintain order; rule on motions and procedural questions arising prior to, during or after the hearing; rule on objections and admissibility of evidence; call recesses or adjourn the hearing; and prescribe and enforce general rules of conduct and decorum. The other board members may not delegate their decision making and fact finding duties to the presiding officer, nor shall the presiding officer have any greater weight in the decision making process than any other board member. The board's findings of fact and conclusions of law shall be signed by a majority of the hearing panel finding those facts and conclusions of law. Any member of the hearing panel disagreeing with those findings and conclusions may also file a dissent in the record with her/his decisions therefore.

D. Any board member having reason to believe that s/he is biased against one of the parties in the proceeding, or has a personal interest in the outcome of the proceeding, shall immediately notify the other board members and request to be disqualified. Any party to a hearing may file with the board an affidavit requesting a disqualification of a board member from the formal hearing because of the board member's bias or personal interest. As soon as possible, but no later than the beginning of the hearing, the majority of the board shall pass upon any request for disqualification. The concerned board member shall not participate in the deliberation of the board on the issue of disqualification, and shall not vote on the issue. If the board determines that there is no merit to the request for disqualification, the board shall proceed with the hearing. Any doubt concerning the fitness of a board member shall be resolved in favor of disqualification. In the event disqualification occurs, the board shall immediately request the governor to appoint a board member pro tem to replace the disqualified member for the hearing in progress only.

E. The parties to the hearing are urged, but not required, to confer prior to the hearing, through their respective counsel, or personally, to attempt to reduce or simplify the issues to be heard. The board shall honor any stipulations arrived at between the parties as proven facts at the hearing. The purpose at the pre-hearing conference is to insure that the hearing is not unusually delayed by receiving testimony or other evidence on matters which are not seriously in dispute between the parties.

F. The procedures to be followed in conducting the hearing governing the order of the proceedings are contained in Chapter 12 of the Disciplinary Action Manual For Occupational Licensing Boards prepared by the Louisiana Department of Justice, 1979, through the office of the attorney general. A copy of the chapter will be provided to any interested party involved with the hearing upon receipt by the board of a written request therefore.

G. Parties may conduct discovery pursuant to the Administrative Procedure Act, R.S. 49:950 et seq. Said discovery shall not unduly delay the hearing before the board.

H. For good cause shown, the board has discretion to extend or continue the time set for the hearing for such reasons as ill health, inability to obtain counsel, the complexities of the case, or such other matters deemed by the board to constitute good cause.

I. Upon request by either the licensee or the attorney general, witnesses shall be sequestered and not allowed in the hearing chambers during the hearing or permitted to discuss their testimony with other witnesses prior to the conclusion of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:374 (April 1991), amended LR 22:358 (May 1996), LR 27:201 (February 2001), LR 28:1975 (September 2002), LR 30:

§509. Rehearing

A. A decision or order in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board within 10 days from the date of its entry. The grounds for such action shall be either that:

1. the decision or order is clearly contrary to the law and the evidence;
2. the party has discovered since the hearing evidence important to the issues which s/he could not have with due diligence obtained before or during the hearing;
3. there is a showing that issues not previously considered should be examined in order to properly dispose of the matter; or
4. there is other good ground for further consideration of the issues and the evidence in the public interest.

B. The petition of a party for rehearing, reconsideration, or review and the order of the board granting it, shall set forth the grounds which justify such action. Nothing in this rule shall prevent rehearing, reopening, or reconsideration of a matter by this board in accordance with other statutory provisions applicable to the board, or, at any time, on the ground of fraud practiced by the prevailing party or of procurement of the order by perjured testimony or fictitious evidence. On reconsideration, reopening, or rehearing, the matter shall be heard by the board. The hearing shall be confined to those grounds upon which the reconsideration, reopening, or rehearing was ordered. If an application for rehearing shall be timely filed, the period within which judicial review, under the applicable statute, must be sought, shall run from the final disposition of such application.

C. If a petition for rehearing, reconsideration, or review is granted, the decision of the board is not final and therefore is not implemented until a decision is reached after the rehearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:374 (April 1991), amended LR 22:359 (May 1996), LR 30:

§511. The Case Record

A. The case record shall include the following, plus other material that the board considers desirable to obtain:

1. all papers filed and served in the proceedings;
2. all motions filed, answers or objections thereto, and all decisions of the board in response to the motions;
3. all documents and other evidence accepted as evidence at the hearing;
4. statements of matters officially noticed;
5. notices required by statutes or rules, including notice of the hearing;

6. affidavits of service or receipts for mailing of process or other evidence of service;
7. stipulations, settlement agreements, or consent orders;
8. records of matters agreed upon at the pre-hearing conference;
9. orders of the board and its final decision;
10. actions taken subsequent to the decision, including requests for reconsideration and rehearing;
11. a transcript of the proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:359 (May 1996), LR 30:

§513. Declaratory Orders

A. Any party or person deemed to be governed by or under the jurisdiction of the Speech-Language Pathology and Audiology Act, R.S. 37:2650 et seq., may apply to the board for a declaratory order or ruling in order to determine the applicability of a statutory provision, rule of this board, or ethical consideration of this board, to said party or person. The board shall issue the declaratory order or ruling in connection with the request by majority vote of the board, signed and mailed to the requesting party. The board may seek an opinion of legal counsel or the attorney general in connection with the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:359 (May 1996), LR 30:

§515. Judicial Review

A. A person who is aggrieved by a final decision or order in an adjudication proceeding is entitled to judicial review whether or not s/he has applied to the board for rehearing. A preliminary, procedural, or intermediate board action or ruling is immediately reviewable if review of the final board decision would not provide an adequate remedy and would inflict irreparable injury.

B. Proceedings for review shall be instituted by filing a petition in the Nineteenth Judicial District Court for the Parish of East Baton Rouge within 30 days after mailing of notice of the final decision by the board or, if rehearing is requested, within 30 days after the decision thereon. Copies of the petition shall be served upon the board and all parties of record.

C. The filing of the petition does not itself stay enforcement of the board decision. The board may grant, or the reviewing court may order, a stay upon appropriate terms.

D. Within 30 days after the service of the petition on the board or within further time allowed by the court, the board shall transmit to the reviewing court a certified copy of the entire record of the proceeding under review. By stipulation of all parties, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs.

E. If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the board, the court may order that the additional

evidence be taken before the board upon conditions determined by the court. The board may modify its finding and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

F. The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the board, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and shall receive written briefs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:359 (May 1996), LR 30:

§517. Appeals

A. An aggrieved party may obtain a review of any final judgment of the Nineteenth Judicial District Court by appeal to the Court of Appeal for the First Circuit. The appeal shall be taken as in other civil cases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:360 (May 1996), LR 30:

Chapter 7. Code of Ethics

§701. Preamble

A. The Code of Ethics of the Louisiana Board of Examiners for Speech-Language Pathology and Audiology specifies professional standards that allow for the proper discharge of professionals' responsibilities to those served and that protect the integrity of the profession.

B. Any action that violates the spirit and purpose of this code shall be considered unethical. Failure to specify any particular responsibility or practice in this Code of Ethics shall not be construed as denial of the existence of such responsibilities or practices.

C. Principles of Ethics, aspirational and inspirational in nature, form the underlying moral basis for the Code of Ethics. Individuals shall observe these principles as affirmative obligations under all conditions of professional activity.

D. Rules of Ethics are specific statements of minimally acceptable professional conduct or of prohibitions and are applicable to all individuals.

E. Rules of Ethics

1. Principle of Ethics I: Licensees shall honor their responsibility to hold paramount the welfare of persons they serve and provide professional services with honesty and compassion and shall respect the dignity, worth, and rights of those served.

a. Individuals shall use every resource, including referral when appropriate, to ensure that high-quality service is provided and shall not accept or offer benefits or items of personal value for receiving or making referrals.

b. Individuals shall not discriminate in the delivery of professional services on the basis of race or ethnicity, gender, age, religion, national origin, sexual orientation, or disability.

c. Individuals shall fully inform the persons they serve of the nature and possible effects of services rendered and products dispensed.

d. Individuals shall evaluate the effectiveness of services rendered and of products dispensed and shall provide services or dispense products only when benefits can reasonably be expected.

e. Individuals shall not guarantee the results of any treatment or procedure, directly or by implication; however, they may make a reasonable statement of prognosis.

f. Individuals may practice by telecommunication (i.e., telepractice, telehealth, e-health) provided they hold the appropriate licensure for the jurisdiction in which the service is rendered and delivered.

g. Individuals shall maintain adequate records of professional services rendered and products dispensed and shall allow access to these records when appropriately authorized.

h. Individuals shall not reveal, without authorization, any professional or personal information about the person served professionally, unless required by law to do so, or unless doing so is necessary to protect the welfare of the person or of the community.

i. Individuals shall not charge for services not rendered, nor shall they misrepresent, in any fashion, services rendered or products dispensed.

j. Individuals shall not carry out teaching, or research activities in a manner that constitutes an invasion of privacy, or that fails to inform persons fully about the nature and possible effects of these activities, affording all persons informed free-choice and participation.

k. Individuals whose professional services are adversely affected by substance abuse or other health-related conditions shall seek professional assistance and, where appropriate, withdraw from the affected areas of practice.

l. Individuals shall not engage in sexual activity with a patient/client or students over whom they exercise professional authority.

2. Principle of Ethics II: Individuals shall honor their responsibility to achieve and maintain the highest level of professional competence.

a. Individuals shall provide all services competently. Individuals shall engage in only those aspects of the professions that are within the scope of their competence, considering their level of education, training and experience.

b. Individuals shall hold the appropriate qualifications for the area(s) in which they are providing or supervising professional services.

c. Individuals shall continue their professional development throughout their careers.

d. Individuals shall provide appropriate supervision and assume full responsibility for services delegated to assistants or aides. Individuals shall not delegate any service requiring professional competence to persons unqualified.

e. Individuals shall neither provide services nor supervision of services for which they have not been properly prepared, nor permit services to be provided by any of their staff who are not properly prepared.

f. Individuals shall ensure that all equipment used in the provision of services is in proper working order and is properly calibrated.

3. Principle of Ethics III: Individuals shall honor their responsibility to the public by promoting public understanding of the professions, by supporting the

development of services designed to fulfill the unmet needs of the public, and by providing accurate information in all communications involving any aspect of the professions.

a. Individuals shall not misrepresent their credentials, competence, education, training or experience.

b. Individuals shall not participate in professional activities that constitute a conflict of interest.

c. Individuals shall not misrepresent diagnostic information, services rendered, or products dispensed, or engage in any scheme or maneuver to defraud in connection with obtaining payment or reimbursement for such services or product.

d. Individuals' statements to the public shall provide accurate information about the nature and management of communication disorders, about the professions, and about professional services.

e. Individuals' statements to the public - advertising, announcing and marketing their professional services, reporting research results, and promoting products - shall adhere to prevailing professional standards and shall not contain misrepresentations.

4. Principle of Ethics IV: Individuals shall honor their responsibilities to the professions and their relationships with colleagues, students, and members of allied professions. Individuals shall uphold the dignity and autonomy of the professions, maintain harmonious interprofessional and intraprofessional relationships, and accept the professions' self-imposed standards.

a. Individuals shall prohibit anyone under their supervision from engaging in any practice that violates the Code of Ethics.

b. Individuals shall not engage in dishonesty, fraud, deceit, misrepresentation, harassment, or any form of conduct that adversely reflects on the professions or on the individual's fitness to serve persons professionally.

c. Individuals shall assign credit only to those who have contributed to a publication, presentation, or product. Credit shall be assigned in proportion to the contribution and only with the contributor's consent.

d. Individuals' statements to colleagues about professional services, research results, and products shall adhere to prevailing professional standards and shall contain no misrepresentations.

e. Individuals shall not provide professional services without exercising independent professional judgment, regardless of referral source or prescription.

f. Individuals shall not discriminate in their relationships with colleagues, students, and members of allied professions on the basis of race or ethnicity, gender, age, religion, national origin, sexual orientation, or disability.

g. Individuals shall not violate these principles and rules, nor attempt to circumvent them.

h. Individuals shall inform the board of any violations of this Code of Ethics.

i. Individuals shall cooperate fully with the board on matters of professional conduct relative to this Code of Ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language

Pathology and Audiology, LR 17:370 (April 1991), amended LR 22:360 (May 1996), LR 30:

Interested persons may present their views, in writing, to Richard N. Burt, Administrator, Board of Examiners for Speech-Language Pathology and Audiology, 18550 Highland Road, Suite B, Baton Rouge, LA 70809, until 4:30 p.m. on August 26, 2004.

A public hearing will be held on Thursday, August 26, 2004, from 5 p.m. until 6 p.m., at the Office of the Board of Examiners for Speech-Language Pathology and Audiology, 18550 Highland Road, Baton Rouge, LA 70809. Interested persons may appear and present their views at that time.

Richard N. Burt
Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Speech Pathology and Audiology**

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

It is anticipated that \$7,000 in printing costs will be incurred with the publishing of the proposed rule in FY 05. The board has sufficient self-generated funds available to implement the proposed rule.

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

It is estimated that revenue collections of the board will increase annually by approximately \$50,000. No other state and local governmental units will be affected. This proposed rule change will also provide for the licensure of audiologists who have attained the designation of Doctor of Audiology, as well as providing for an Impaired Professional Program to assist affected members of the above classifications.

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

The proposed rules will increase the fees for licensed audiologists and speech-language pathologists (approximately 3,200) from \$5 to \$60 for various licensure requirements, including upgrades, initial licenses, dual license fees, and delinquent renewal fees. The proposed fees will increase collections of the board by approximately \$50,000 in FY 05 and subsequent fiscal years.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment should not be affected.

Richard N. Burt
Administrator
0407#041

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Pharmacy**

Pharmacy Technicians (LAC 46:III.Chapters 8 and 9)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to repeal the entire contents of Chapter 8 and adopt the proposed Rule.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 8. Repealed

Chapter 9. Pharmacy Technicians

§901. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section:

ACPE Accreditation Council for Pharmacy Education.

Pharmacist Preceptor An individual who is currently licensed as a pharmacist by the board, meets certain qualifications as established by the board, and is responsible for the instructional training of pharmacy technician candidates.

CPE Continuing pharmaceutical education, as part of a postgraduate educational program to enhance professional competence.

CPE unit A standard of measurement adopted by the ACPE for the purpose of accreditation of CPE programs. One CPE unit is equivalent to 10 credit hours.

Pharmacy Technician An individual, certified by the board, who assists in the practice of pharmacy under the direct and immediate supervision of a Louisiana-licensed pharmacist.

Pharmacy Technician Candidate An individual not yet certified as a pharmacy technician by the board who is:

a. an individual who possesses a valid registration, is satisfactorily progressing in a board-approved structured program, and is working under the supervision of a pharmacist preceptor for the purpose of obtaining practical experience for certification as a pharmacy technician by the board; or

b. an individual who possesses a valid registration, has successfully completed a board-approved structured program, and is awaiting examination.

Structured Program Systematic instruction in pharmacy related functions in a board-approved pharmacy technician training program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 30:

§903. Pharmacy Technician Candidates

A. Registration

1. Qualifications

a. All pharmacy technician candidates shall register with the board; failure to do so may result in disciplinary action by the board.

b. The candidate shall be at least 18 years of age, as evidenced by a valid and legible copy of a birth certificate or other appropriate credential.

c. The candidate shall be of good moral character and non-impaired.

d. The candidate shall be a graduate from a high school approved by a state department of education, or shall possess an equivalent degree of education, as evidenced by a valid and legible copy of a diploma, transcript, or other appropriate credential.

e. Exceptions

i. A pharmacist or pharmacist intern whose board credential has been denied, suspended, revoked, or restricted

for disciplinary reasons by any board of pharmacy shall not be a pharmacy technician candidate or pharmacy technician.

ii. A pharmacist or pharmacist intern whose board credential is lapsed shall not be a pharmacy technician candidate or pharmacy technician until such lapsed credential is recalled through non-disciplinary board action.

2. Issuance and Maintenance

a. Upon receipt of a properly completed application, appropriate fee, proof of enrollment in a board-approved structured program, and any other documentation required by the board, the board may issue a Pharmacy Technician Candidate Registration to the applicant.

b. The board reserves the right to refuse to issue, recall, or discipline a registration for cause.

c. The registration shall expire 18 months after the date of issuance, and it shall not be renewable.

d. A pharmacy technician candidate shall notify the board, in writing, no later than 10 days following a change of mailing address. The written notice shall include the candidate's name, registration number, and old and new addresses.

e. A pharmacy technician candidate shall notify the board, in writing, no later than 10 days following a change in either training program site or location(s) of employment. The written notice shall include the candidate's name, registration number, and name, address, and permit numbers for old and new training program sites or employers.

B. Structured Program

1. All structured programs shall meet competency standards as established by the board.

2. The curriculum of the structured program shall be composed of the elements contained in the *Pharmacy Technician Training Program Minimum Competencies*, as approved by the board.

3. The structured program shall notify the board when a pharmacy technician candidate is no longer satisfactorily progressing in the program.

4. The structured program shall provide an appropriate credential to the candidate who has successfully completed the program.

C. Practical Experience

1. The candidate shall possess a registration prior to earning any practical experience in a pharmacy.

2. The candidate's registration shall be conspicuously displayed in the prescription department.

3. The candidate shall wear appropriate attire and be properly identified as to name and candidate status while on duty in the prescription department.

4. A candidate shall not work in a permitted site that is on probation with the board, or with a pharmacist who is on probation with the board.

5. The candidate's registration shall evidence his authority to earn a minimum of 600 hours of practical experience in a pharmacy, under the supervision of a pharmacist preceptor, in satisfaction of the requirements for pharmacy technician certification. Of the required minimum 600 hours, not less than 200 hours shall be earned during and as part of a structured program.

6. A candidate may receive board credit for a maximum of 50 hours per week.

7. Hours of practical experience earned by a candidate shall expire one year after the expiration date of the registration.

D. Examination

1. A board-approved technician examination shall consist of integrated pharmacy subject matter and any other disciplines the board may deem appropriate in order to permit the candidate to demonstrate his competency. The candidate shall achieve a passing score, as determined by the board.

2. Re-examination

a. Following the first or second unsuccessful attempt of an examination, the candidate may be permitted to retake that examination.

b. Following the third unsuccessful attempt of an examination, the candidate shall wait one year after the date of the last examination to retake that examination. If the candidate fails to wait the prescribed one year period, the board may delay any future certification until that one year period has elapsed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), repromulgated LR 19:1025 (August 1993), amended LR 23:1307 (October 1997), LR 30:

§905. Pharmacy Technician Certificate

A. Qualifications

1. An applicant for a pharmacy technician certificate shall be at least 18 years of age, as evidenced by a valid and legible copy of a birth certificate or other appropriate credential.

2. An applicant shall be of good moral character and non-impaired.

3. An applicant shall demonstrate the following educational competencies:

a. shall be a graduate from a high school approved by a state department of education, or shall possess an equivalent degree of education, as evidenced by a valid and legible copy of a diploma, transcript, or other appropriate credential; and

b. shall have successfully completed a board-approved structured program for pharmacy technician education and training, as evidenced by a valid and legible copy of the appropriate credential from that program.

4. An applicant shall demonstrate evidence of at least 600 hours of practical experience under the supervision of a pharmacist preceptor, using a form supplied by the board.

5. An applicant shall demonstrate successful completion of a board-approved technician examination, as evidenced by a valid and legible copy of the appropriate credential.

B. Issuance and Maintenance

1. Upon receipt of a properly completed and notarized application, properly executed preceptor affidavit(s), copies of valid and legible credentials, and the appropriate fee, and following verification that all requirements have been satisfied, the board may issue a pharmacy technician certificate to the applicant for the current renewal period.

2. The board reserves the right to refuse to issue, recall, or discipline a certificate for cause.

3. The annual renewal shall expire and become null and void on June 30 of each year.

a. The board shall mail, no later than May 1 of each year, an application for renewal to all pharmacy technicians to the address of record.

b. The completed application, along with the appropriate fee, shall be submitted to the board by June 30 of each year.

c. A pharmacy technician shall not assist in the practice of pharmacy in Louisiana with an expired renewal.

d. An application for an expired pharmacy technician renewal, along with the appropriate fee, shall be submitted to the board's Reinstatement Committee for consideration.

4. A pharmacy technician shall notify the board, in writing, no later than 10 days following a change of mailing address. The written notice shall include the technician's name, certificate number, and old and new addresses.

5. A pharmacy technician shall notify the board, in writing, no later than 10 days following a change in location(s) of employment. The written notice shall include the technician's name, certificate number, and name, address, and permit numbers for old and new employers.

6. Upon written request of any certified pharmacy technician in active military service of the United States or any of its allies, the board may waive the requirement for the annual renewal of the certificate, including fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), repromulgated LR 19:1025 (August 1993), LR 30:

§907. Scope of Practice

A. Pharmacy technician candidates and pharmacy technicians may assist the pharmacist by performing those duties and functions assigned by the pharmacist while under his direct and immediate supervision.

1. The ratio of candidates to pharmacists on duty shall not exceed one to one at any given time.

2. The ratio of technicians to pharmacists on duty shall not exceed two to one at any given time.

B. Pharmacy technician candidates and pharmacy technicians shall not:

1. receive verbal initial prescription orders;

2. give or receive verbal transfers of prescription orders;

3. interpret prescription orders;

4. compound high-risk sterile preparations in Category II, as defined by the United States Pharmacopeia (USP), or its successor;

5. counsel patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 30:

§909. Continuing Education

A. A minimum of one ACPE or board-approved CPE unit, or 10 credit hours, shall be required each year as a prerequisite for annual renewal of a pharmacy technician certificate. Such CPE units shall be credited in the 12-month period prior to the expiration date of the certificate.

B. Certified pharmacy technicians shall maintain copies of their individual records of personal CPE activities at their

primary practice site for at least 2 years, and shall present them when requested by the board.

C. If judged appropriate by the board, some or all of the required number of hours may be mandated on specific subjects. When so deemed, the board shall notify all certified pharmacy technicians prior to the beginning of the renewal year in which the CPE is required.

D. Complete compliance with CPE rules is a prerequisite for renewal of a pharmacy technician certificate.

1. Non-compliance with the CPE requirements shall be considered a violation of R.S. 37:1241(A)(2) and shall constitute a basis for the board to refuse annual renewal.

2. The failure to maintain an individual record of personal CPE activities, or falsifying CPE documents, shall be considered a violation of R.S. 37:1241(A)(22).

3. The inability to comply with CPE requirements shall be substantiated by a written explanation, supported with extraordinary circumstances, and submitted to the board for consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17:779 (August 1991), repromulgated LR 19:1025 (August 1993), amended LR 23:1308 (October 1997), LR 30:

§911. Impairment

A. Pharmacy technician candidates and pharmacy technicians shall be non-impaired.

B. Pharmacy technician candidates and pharmacy technicians who have knowledge that a pharmacist, pharmacist intern, pharmacy technician candidate, or pharmacy technician is impaired shall notify the board of that fact.

C. Pharmacy technician candidates and pharmacy technicians shall be subject to a medical evaluation for impairment by a board-approved addictionist, as authorized by the Louisiana Pharmacy Practice Act, R.S. 37:1161 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17:779 (August 1991), repromulgated LR 19:1025 (August 1993), amended 23:1308 (October 1997), LR 30:

Family Impact Statement

1. The effect on the stability of the family. Implementation of this proposed Rule will have no known effect on the stability of the family.

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

3. The effect on the functioning of the family. Implementation of this proposed Rule will have no known effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of this proposed Rule will have no known effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of this proposed Rule will have no known effect on the behavior and personal responsibility of children.

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

Interested persons may submit written comments to Malcolm J. Broussard, Louisiana Board of Pharmacy, 5615 Corporate Blvd., Suite 8-E, Baton Rouge, LA 70808-2537. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, August 26, 2004 at 9:00 a.m. in the Board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for receipt of all written comments is 4:00 p.m. that day.

Malcolm J. Broussard
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pharmacy Technicians**

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

It is estimated that implementation of the proposed rule will cost the agency \$3,800 (\$800 for printing notice of intent and final rule, plus \$3,000 for printing and postage costs for updates to the pharmacy law book) during FY 04-05. The agency has sufficient self-generated funds available to implement the proposed rule.

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

There is no fee for a pharmacy technician candidate registration. There is no change in the fee for a pharmacy technician certificate. No change in revenue collection is anticipated as a result of the proposed rule.

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

The proposed rule will require new pharmacy technician candidates to enroll in a board-approved pharmacy technician education and training program prior to receiving their registration from the board. Current pharmacy technician candidates will not be affected by the proposed rule. Since the board anticipates the list of approved providers to include state-licensed educational institutions as well as corporate employers, it is not possible to estimate any potential costs of educational programs. The requirement to earn 600 hours of practical experience under the authority of the registration is an increase of 100 hours from the current rule. The proposed rule will also lengthen the validity of the registration from 12 months to 18 months, to provide additional time to earn the additional required hours of practical experience. The examination requirement will not change. The application fee and process for pharmacy technician certification will not change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimable effect on competition or employment in the public or private sector.

Malcolm J. Broussard
Executive Director
0407#075

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Physical Therapy Examiners**

Practice (LAC 46:LIV.306)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., that the Louisiana State Board of Physical Therapy Examiners (board), pursuant to the authority vested in the board by the Physical Therapy Practice Act, R.S. 37:2401–2422 intends to amend Title 46, Subpart 2, Chapter 3, Subchapter A of its administrative Rules to address Physical Therapy Services Without Prescriptions or Referrals. These Rules are intended to facilitate and implement the provisions of R.S. 37:2410.D-D.(5)(a). They are meant as practical guidelines, while maintaining flexibility in the rendering of physical therapy services, without eliminating the opportunity for oversight and supervision.

The proposed Rule amendment is set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part LIV. Louisiana State Board of Physical Therapy
Examiners
Subpart 2. Practice**

Chapter 3. Practice

Subchapter A. General Provisions

**§306. Physical Therapy Services without Prescription
or Referral**

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

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

Children An individual or individuals under the age of 21 years.

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

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

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

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

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

a. perform an initial screening to determine whether treatment or wellness/preventative services are indicated. The therapist shall inform the individual of the screening results and make recommendations for follow-up with the appropriate health care provider if needed;

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

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

1. *Health Care Provider* is a person licensed to practice medicine, surgery, dentistry, podiatry or chiropractic, a licensed Nurse Practitioner, as defined in R.S. 37:913.1.(d), or a licensed Physician Assistant, as defined in R.S. 37:1360.22(5);

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 30:

Family Impact Statement

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

1. There is no effect on the stability of the family.
2. There is no effect on the authority and rights of parents regarding the education and supervision of their children.

3. There is no effect on the functioning of the family.
4. There will be a cost and time savings on family earnings and family budget due to the fact that the patient will not have to return to the physician for referral for physical therapy services.

5. There is no effect on the behavior and personal responsibility of children.

6. There will be an effect on the ability of the family to perform the function as contained in the proposed Rule as the patient can seek care from a physical therapist without referral as long as they meet criteria for plan of care.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., August 9, 2004 to Cheryl Gaudin, Executive Director, Louisiana State Board of Physical Therapy Examiners, 104 Fairlane Drive, Lafayette, LA 70507, or fax to 337-262-1054 or email to cgaudin@laptboard.org.

Pat Adams, PT
Chairman

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

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

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

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Pat Adams
Chairman
0407#089

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Veterinary Medicine

Professional Conduct; Partnerships, Corporations, and Limited Liability Companies (LAC 46:LXXXV.1015)

The Louisiana Board of Veterinary Medicine proposes to amend and adopt LAC 46:LXXXV.1015 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1511 et seq. This text is being amended to clarify the legal guidelines and specifics for franchise arrangements and ownership of veterinary practices. The proposed Rule amendment has no known impact on family formation, stability, and autonomy as described in R.S. 49:972. The proposed amendment to the rules is set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 10. Professional Conduct

§1015. Partnerships, Corporations, and Limited Liability Companies

A. ...

B. For a franchise arrangement to be legally permissible, it cannot provide control to the franchisor (defined as an entity not licensed by the board to practice veterinary medicine in Louisiana) of the franchisee's business or its veterinary medical practice (defined as a veterinarian licensed by the board). Accordingly, the following criteria must be satisfied for a franchise arrangement to be legally valid in Louisiana:

1. the non-licensed entity shall not receive royalties, compensation, fees, reimbursement, or any other type of payment based upon a percentage of the revenue whether gross or net, from the Louisiana licensed veterinarian;

2. the Louisiana licensed veterinarian shall be able to purchase inventory, supplies, products, drugs, and medications from suppliers and manufacturers of his own choosing in good faith and at arms length;

3. the Louisiana licensed veterinarian shall be responsible for compliance with all standards and requirements set forth in the Louisiana Veterinary Practice Act, the board's rules, and other applicable laws;

4. the Louisiana licensed veterinarian shall make all business and practice decisions and will be held accountable for such decisions in accordance with the Louisiana Veterinary Practice Act, the board's rules, and other applicable laws;

5. the Louisiana licensed veterinarian's professional relationship with his client and patient shall be personal and direct;

6. the Louisiana licensed veterinarian shall specifically comply with all requirements of the Louisiana Veterinary Practice Act, the board's rules, and other applicable laws regarding the use of business names, marketing and advertising;

7. the Louisiana licensed veterinarian may contract with a non-licensed entity to provide consultant services regarding marketing, advertising, computer software/hardware technology, etc. for systems support, however, such relationship must be in compliance with the criteria set forth herein, as well as in compliance with the Louisiana Veterinary Practice Act, the board's rules, and other applicable laws; and

8. the non-licensed entity shall not receive money, value in kind, or anything of value, including but not limited to rental fees in excess of fair market value, as compensation or payment for consultative services for systems support in an amount or manner which may be viewed as an attempt to circumvent this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:229 (March 1990), amended LR 25:1628 (September 1999), LR 30:

Interested parties may submit written comments to Wendy D. Parrish, Administrative Director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801, or by facsimile to (225) 342-2142. Comments will be accepted through the close of business on August 18, 2004. If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on Thursday, August 26, 2004, at 1 p.m. at the office of the Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, Louisiana.

Wendy D. Parrish
Administrative Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Professional Conduct; Partnerships, Corporations, and Limited Liability Companies**

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

There will be no costs or savings to state or local governmental units, except for those associated with publishing the amendment (estimated at \$150 in FY 2005). Licensees will be informed of this rule change via the board's regular newsletter or other direct mailings, which result in minimal costs to the Board.

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

There will be no effect on revenue collections of state or local governmental units as no increase in fees will result from the amendment.

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Wendy D. Parrish
Administrative Director
0407#042

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Safe Drinking Water Program
(LAC 51:XII.101, 301, and Chapter 17)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health and Hospitals, Office of Public Health (DHH-OPH) intends to amend Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51). These amendments are necessary in order that DHH-OPH may be able to maintain primacy (primary enforcement authority) from the United States Environmental Protection Agency (USEPA) over public water systems within Louisiana. USEPA requires state primacy agencies to adopt state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C. §300f, et seq.) primary implementing regulations (40 CFR Part 141).

In 1991, the USEPA adopted the federal Lead and Copper Rule (56 FR 26459-26564, June 7, 1991). Later in 1991 (56 FR 32113, July 15, 1991) and again in 1992 (57 FR 28788-28789, June 29, 1992), the USEPA adopted corrections to the federal Lead and Copper Rule. In 1994, DHH-OPH adopted USEPA's 1991 Lead and Copper Rule and the 1991 and 1992 federal corrections as a state rule by reference (see LR 20:545, May 20, 1994). Later in 1994, the USEPA

adopted technical corrections to the federal Lead and Copper Rule (59 FR 33862-33864, June 30, 1994). In 2000, DHH-OPH adopted USEPA's 1994 technical corrections as a state rule by reference (LR 26:1037, May 20, 2000). Since then, the USEPA has deemed it necessary to make some minor, yet substantive, revisions to its Lead and Copper Rule. The USEPA accomplished these minor revisions to its Lead and Copper Rule by promulgating a rule in the *Federal Register* dated January 12, 2000 (Volume 65, Number 8, pages 1949 through 2015), which is entitled "National Primary Drinking Water Regulations for Lead and Copper; Final Rule." This Rule is commonly referred to as the Lead and Copper Rule Minor Revisions (LCRMRs). The federal LCRMRs became effective on April 11, 2000. These changes require DHH-OPH to amend its state drinking water Rule relative to lead and copper so that it is equivalent to the amended federal lead and copper Rule.

In 2004, the USEPA realized a general need to make yet other technical corrections to the National Primary Drinking Water Regulations (40 CFR Parts 141). The USEPA accomplished the adoption of such technical corrections by promulgating a rule in the *Federal Register* dated June 29, 2004 (Volume 69, Number 124, pages 38850 through 38857), which is entitled "National Primary Drinking Water Regulations: Minor Corrections and Clarification to Drinking Water Regulations; National Primary Drinking Water Regulations for Lead and Copper." Certain of these amendments are proposed to be adopted herein to keep DHH-OPH's definition of "National Primary Drinking Water Regulations" current including, but not limited to, an amendment which corrects the federal Lead and Copper Rule relative to the delivery of public education materials [(40 CFR 141.85(c)(2)(iii)] when a lead action level has been exceeded.

A public water system (PWS) is classified as either a community water systems (CWSs), a non-transient non-community water systems (NTNCWSs), or a transient non-community water systems (TNCWSs). Definitions/examples of CWSs, NTNCWSs, and TNCWSs may be found in R.S. 40:5.8. This proposed Rule is only applicable to CWSs and NTNCWSs.

For CWS and NTNCWs the compliance date under the federal LCRMRs was April 11, 2000. The major reason for this proposed amendment to Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51) is to adopt an amended state Lead and Copper Rule which contains the provisions of the new LCRMRs. The Rule proposes to add a new Chapter 17 to Part XII entitled "Lead and Copper Rule."

As stated by the USEPA, the general purposes of the LCRMRs are to eliminate unnecessary requirements, streamline and reduce the reporting burden, and to assist in promoting consistent implementation on a national level.

In addition, the proposed Rule clarifies the requirements of §301.A and B by specifically making reference to the recently adopted Chapter 13 (Stage I Disinfectants and Disinfection Byproducts Rule) and to the proposed Chapter 17 (Lead and Copper Rule). This particular change is not considered substantive since §377.A already requires compliance with the *National Primary Drinking Water Regulations*, as this term has been defined in LAC 51:XII.

For the reasons set forth above, Part XII (Water Supplies) of the Louisiana State Sanitary Code is proposed to be amended as follows:

Title 51

PUBLIC HEALTH SANITARY CODE

Part XII. Water Supplies

Chapter 1. General

§101. Definitions

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows:

* * *

National Primary Drinking Water Regulations **C**

a. drinking water regulations promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f et seq., and as published in the July 1, 2000 edition of the *Code of Federal Regulations*, Title 40, Part 141 (40 CFR 141), less and except:

i. Subpart **H** Filtration and Disinfection (40 CFR 141.70 through 40 CFR 141.75);

ii. Subpart **M** Information Collection Requirements (ICR) for Public Water Systems (40 CFR 141.140 through 40 CFR 141.144);

iii. Subpart **P** Enhanced Filtration and Disinfection (40 CFR 141.170 through 141.175); and

iv. Subpart **Q** Public Notification of Drinking Water Violations (40 CFR 141.201 through 141.210, including Appendices A, B, and C to Subpart Q of Part 141);

b. 40 CFR 141 drinking water regulation amendments promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f et seq., and as published in the *Federal Register* dated January 16, 2001 (Volume 66, Number 10, pages 3769 through 3780), less and except:

i. any amendments contained therein applicable to 40 CFR 141.70 through 141.75; and

ii. any amendments contained therein applicable to 40 CFR 141.170 through 141.175;

c. 40 CFR 141 drinking water regulation amendments promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f et seq., and as published in the *Federal Register* dated February 12, 2001 (Volume 66, Number 29, page 9903); and

d. 40 CFR 141 drinking water regulation amendments promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f et seq., and as published in the *Federal Register* dated June 29, 2004 (Volume 69, Number 124, pages 38855 and 38856), less and except:

i. any amendments contained therein applicable to 40 CFR 141.25 through 141.26;

- ii. any amendments contained therein applicable to 40 CFR 141.70 through 141.75;
 - iii. any amendments contained therein applicable to 40 CFR 141.170;
 - iv. any amendments contained therein applicable to 40 CFR Part 141, Subpart Q, Appendices A and B; and
 - v. any amendments contained therein applicable to 40 CFR 141.502 through 570.
- e. When "Subpart H" or "Subpart P" is used within the actual text of the drinking water regulations cited in Subparagraphs a, b, c, or d of this Paragraph (definition), "LAC 51:XII.Chapter 11" shall be substituted therein.

* * *

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with R.S. 36:254 (B)(7), R.S. 40:4 (A)(8), R.S. 40:5 (2)(3)(5)(6)(17)(20), and R.S. 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1318 (June 2002), amended LR 28:2513 (December 2002), amended LR 30:1194 (June 2004), amended LR 30:

Chapter 3. Water Quality Standards

§301. Mandatory Water Quality Standards for Public Water Systems

A. Each public water supply shall comply with the maximum contaminant levels, maximum residual disinfectant levels, and treatment technique requirements as prescribed and as applicable in the National Primary Drinking Water Regulations, the Louisiana Total Coliform Rule (Chapter 9 of this Part), the Louisiana Surface Water Treatment Rule (Chapter 11 of this Part), the Louisiana Stage I Disinfectants and Disinfection Byproducts Rule (Chapter 13 of this Part), and the Louisiana Lead and Copper Rule (Chapter 17 of this Part). The state health officer, upon determining that a risk to human health may exist, reserves the right to limit exposure to any other contaminant. Further, each public water supply should comply with the National Secondary Drinking Water Regulations. Treatment to remove questionable characteristics shall be approved by the state health officer.

B. Each public water supply shall comply with the monitoring and analytical requirements specified in the National Primary Drinking Water Regulations, the Louisiana Total Coliform Rule (Chapter 9 of this Part), the Louisiana Surface Water Treatment Rule (Chapter 11 of this Part), the Louisiana Stage I Disinfectants and Disinfection Byproducts Rule (Chapter 13 of this Part), and the Louisiana Lead and Copper Rule (Chapter 17 of this Part), as applicable.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 (B)(7), R.S. 40:4 (A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1321 (June 2002), amended LR 30:

Chapter 17. Lead and Copper Rule

§1701. General

A. Pursuant to a revision of the definition of *National Primary Drinking Water Regulations* published in the March 20, 1994 *Louisiana Register* (LR 20:545), the Department of Health and Hospitals (DHH) Office of Public Health (OPH) initially adopted by reference the United States

Environmental Protection Agency's (USEPA) federal Lead and Copper Rule (LCR) as published in the *Federal Register* dated June 7, 1991 (Volume 56, Number 110, pages 26547 through 26564), including the federal Lead and Copper Rule corrections as published in the *Federal Registers* dated July 15, 1991 (Volume 56, Number 135, page 32113) and June 29, 1992 (Volume 57, Number 125, pages 28788 through 28789). Pursuant to another revision of the definition of *National Primary Drinking Water Regulations* published in the May 20, 2000 *Louisiana Register* (LR 26:1037) and the provisions of paragraph 12:026 (now §377), further technical corrections [as published in the *Federal Register* dated June 30, 1994 (Volume 59, Number 125, page 33862 through 33864)] to the federal Lead and Copper Rule were adopted by DHH-OPH. Pursuant to yet another DHH-OPH revision of the definition of *National Primary Drinking Water Regulations*, anticipated to be published in the October 20, 2004 *Louisiana Register* (LR 30) and the provisions of §377 of this Part, the DHH-OPH adopted by reference the USEPA federal Lead and Copper Rule Minor Revisions (LCRMRs) as published in the *Federal Register* dated January 12, 2000 (Volume 65, Number 8, pages 2003 through 2014) as well as additional technical corrections to the Lead and Copper Rule as published in the *Federal Register* dated June 29, 2004 (Volume 69, Number 124, pages 38855 through 38857). The regulations in this Chapter are promulgated in order to clarify the State's discretionary decisions allowed by the federal requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

§1703. Certification of Sampling Sites for Compliance Monitoring

A. Community and non-transient non-community water systems shall complete and submit a DHH-OPH certification form listing each site selected for compliance monitoring and the site's associated tier level (tier 1 sampling site, tier 2 sampling site, or tier 3 sampling site) as well as whether or not the site is served by a lead service line. The various tier levels are defined in 40 CFR 141.86(a). Such systems shall additionally certify that a materials evaluation of the system was completed as per the requirements of 40 CFR 141.86(a) and shall, based upon such information, indicate whether or not the system has any lead service lines in use. The date of completion of the materials evaluation shall be indicated as well on the certification form. If any lead service lines are in use, an approximate number shall be indicated on the certification form. The certification form referred to in this Section shall be signed by the certified operator of the water system and shall be submitted to the state health officer at least 14 business days prior to the commencement of compliance monitoring. Upon request, a copy of any documents, information, or other data relative to the material evaluation or tier selection shall be provided to the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

Family Impact Statement

Completed and submitted with this Notice of Intent in accordance with R.S. 49:953(A)(1)(a)(viii) and 972.

1. The effect on the stability of the family. No known impact.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. No known impact.

3. The effect on the functioning of the family. No known impact.

4. The effect on family earnings and family budget. No known impact.

5. The effect on the behavior and personal responsibility of children. No known impact.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. No known impact on the family or local governmental units.

DHH-OPH will conduct a public hearing at 10 a.m. on Tuesday, August 24, 2004, in Room 118 of the Blanche Appleby Computer Complex Building (on the Jimmy Swaggart Ministries Campus), 6867 Bluebonnet Boulevard, Baton Rouge, LA. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

In addition, all interested persons are invited to submit written comments on the proposed Rule. Such comments must be received no later than Friday, August 27, 2004 at COB, 4:30 p.m., and should be addressed to R. Douglas Vincent, Chief, Engineering Services Section, Center for Environmental Health, Office of Public Health, 6867 Bluebonnet Blvd., Box 3, Baton Rouge, LA 70810, or faxed to (225) 765-5040.

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

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Safe Drinking Water Program**

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

The Department of Health and Hospitals-Office of Public Health (DHH-OPH) will have to pay a total of approximately \$680 in FY04-2005 funds to the Office of the State Register to have the Notice of Intent and the final rule published in the *Louisiana Register*. No staffing costs to DHH-OPH are anticipated since existing staffing is currently sufficient to implement the rule as proposed.

On May 20, 1994, DHH-OPH adopted the USEPA's 1991 Lead and Copper Rule (LCR) by reference. Such federal rule was published on June 7, 1991 in the Federal Register (56 FR 26459-26564). On August 6, 1996, the federal Safe Drinking Water Act Amendments of 1996 (SDWAAs of 1996) were promulgated by the U.S. Congress (Pub. L. 104-182). The goal of such amendments, among other things, as stated in Section 3 (Findings) of Pub. L. 104-182 is that "The Congress finds that--... (8) more effective protection of public health requires--(A) a Federal commitment to set priorities that will allow scarce Federal, State, and local resources to be targeted toward the drinking water problems of greatest public health concern; ...". In part to conform with the intent of the SDWAAs of 1996, the USEPA promulgated the Lead and Copper Rule Minor

Revisions (LCRMRs) on January 12, 2000 (65 FR 1949-2015) to lessen the monitoring (sampling) burden on public water systems (PWSs).

Since DHH-OPH's adoption of the 1991 federal LCR, the agency has used its discretion in allowing some PWSs deemed to be of a low public health risk to go to reduced triennial monitoring for lead and copper at an earlier stage than technically allowed by the 1991 federal LCR. The reason for such departure from the federal LCR requirements was due to limited state resources. The federal LCRMRs essentially enacts on a federal level a common sense approach to lead and copper monitoring that DHH-OPH has been allowing under its state discretionary powers since 1991. In fact, the federal LCRMRs go beyond what DHH-OPH has been allowing since adoption of this rule by DHH-OPH will allow certain qualifying PWSs of low public health risk to obtain what is called a "monitoring waiver" for lead and copper. PWSs receiving a monitoring waiver would only be required to monitor for lead and copper once every nine years.

The owners/managers/operators of PWSs that qualify for and obtain a monitoring waiver based upon the Monitoring Waivers for Small Systems portion of the Rule may find an economic benefit from the rule since such systems have to currently sample at a frequency of at least triennially. The economic benefit would be in that the system would not have to incur the labor and non-labor costs that are associated with compliance with the LCR on a semiannual, annual, or triennial basis. Due to the various criteria which must be met prior to issuance of such waivers, the amount of savings to the PWSs would be on a case-by-case basis.

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

It is estimated that 914 of the approximately 1317 PWSs affected by the proposed Rule are governmentally owned. Local governmental units which own, manage, and/or operate a PWS may find an economic benefit if they are able to otherwise obtain a waiver under the Monitoring Waivers for Small Systems portion of the Rule. The PWS customers would likely pay a lower water bill if the system is able to obtain a monitoring waiver rather than having to incur the labor and non-labor costs that are normally required on at least a triennial basis. Due to the various criteria which must be met prior to issuance of such waivers, the amount of savings to the PWSs would be on a case-by-case basis.

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

The owners/managers/operators of Public Water Systems (PWSs) that qualify for and obtain a monitoring waiver based upon the Monitoring Waivers for Small Systems portion of the Rule may find an economic benefit from the Rule. The economic benefit would be in that the system would not have to incur the labor and non-labor costs that are associated with compliance with the LCR on a semiannual, annual, or triennial basis. Due to the various criteria which must be met prior to issuance of such waivers, the amount of savings to the PWS would be on a case-by-case basis.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact is expected on competition and employment.

Sharon Howard
Assistant Secretary
0407#073

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Intermediate Care Facilities for the Mentally Retarded
Standards for Payment
(LAC 50:II.10303, 10307, and 10375-10383)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:II.10303 and 10307; and adopts LAC 50:II.10375-10383 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, Office of the Secretary, Bureau of Health Services Financing adopted a rule on October 20, 1989 which established the reimbursement methodology for private intermediate care facilities for the mentally retarded (ICF-MR) (*Louisiana Register*, Volume 15, Number 10). The bureau subsequently promulgated a rule in April 1999 that established the standards for payment for ICF-MR (*Louisiana Register*, Volume 25, Number 24). House Resolution 104 of the 1997 Regular Session of the Louisiana Legislature requested that the department investigate the feasibility of changing the reimbursement methodology for ICF-MR. House Concurrent Resolution 257 of the 1997 Regular Session of the Louisiana Legislature requested that the department study a new level of care determination process. In compliance with these resolutions, the bureau amended the October 20, 1989 rule to adopt the Inventory for Client and Agency Planning (ICAP) and the "Louisiana Level of Need" (LA LONS) instruments for use in developing individualized rates for ICF-MR residents (*Louisiana Register*, Volume 30, Number 4). The bureau now proposes to amend the April 1999 rule for standards for payment for ICF-MRs for use with ICAP and LA LONS.

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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing effective January 1, 2005, amends the standards for payment for intermediate care facilities for the mentally retarded.

**Title 50
PUBLIC HEALTH MEDICAL ASSISTANCE
Part II. Medical Assistance
Subpart 3. Standards for Payment
Chapter 103. Standards for Payment for Intermediate
Care Facilities for the Mentally Retarded
Subchapter A. Forward, Definitions and Acronyms
§10303. Definitions and Acronyms Specific to Mental
Retardation and Other Developmental
Disabilities**

A. - C. ...

Acuity Factor Can adjustment factor which will modify the direct care portion of the Inventory for Client and Agency Planning (ICAP) rate based on the ICAP level for each resident.

Administrative and Operating Costs Include:

- a. in-house and contractual salaries;
- b. benefits;
- c. taxes for administration and plant operation maintenance staff;
- d. utilities;
- e. accounting;
- f. insurances;
- g. maintenance staff;
- h. maintenance supplies;
- i. laundry and linen;
- j. housekeeping; and
- k. other administrative type expenditures.

Capital Costs Include:

- a. depreciation;
- b. interest expense on capital assets;
- c. leasing expenses;
- d. property taxes; and
- e. other expenses related to capital assets.

Care Related Costs Include in-house and contractual salaries, benefits, taxes, and supplies that help support direct care but do not directly involve caring for the patient and ensuring their well being (e.g., dietary and educational). Care related costs would also include personal items, such as clothing, personal hygiene items (soap, toothpaste, etc), hair grooming, etc.

Direct Care Costs Consist of all costs related to the direct care interaction with the patient. *Direct care costs* include:

- a. in-house and contractual salaries;
- b. benefits; and
- c. taxes for all positions directly related to patient care, including:
 - i. medical;
 - ii. nursing;
 - iii. therapeutic and training;
 - iv. ancillary in-house services; and
 - v. recreational.

ICAP Inventory for Client and Agency Planning A standardized instrument for assessing adaptive and maladaptive behavior and includes an overall service score. This ICAP service score combines adaptive and maladaptive behavior scores to indicate the overall level of care, supervision or training required.

ICAP Service Level Ranges from 1 to 9 and indicates the service need intensity. The lower the score the greater is the client need.

ICAP Service Score Indicates the level of service intensity required by an individual, considering both adaptive and maladaptive behavior.

Index Factor This factor will be based on the *Skilled Nursing Home without Capital Market Basket Index* published by Data Resources Incorporated or a comparable index if this index ceases to be published.

Pass through Cost Component includes the provider fee.

Peer Group The administrative and operating per diem rate and the capital per diem rate are tiered based on peer group size. Peer groups are as follows:

- a. 1-32 beds;
- b. 33 or more beds.

Rate Year A one-year period corresponding to the state fiscal year from July 1 through June 30.

Rebasing Recalculation of the per diem rate components using the latest available audited or desk reviewed cost reports.

Support Levels Describe the levels of support needed by individuals with mental retardation and other developmental disabilities. The five descriptive levels of service intensity using the ICAP assessment are summarized in Subparagraphs a-e below.

a. **Intermittent** Supports on an as needed basis. Characterized as episodic in nature, the person does not always need the support(s), or short-term supports needed during life-span transition (e.g., job loss or an acute medical crisis). Intermittent supports may be high or low intensity when provided.

b. **Limited** Supports characterized by consistency over time, time-limited but not of an intermittent nature, may require fewer staff members and less costs than more intense levels of support (e.g., time-limited employment training or transitional supports during the school to adult provided period).

c. **Extensive** Supports characterized by regular involvement (e.g., daily) in at least some environment (such as work or home) and not time-limited (e.g., long term support and long-term home living support).

d. **Pervasive** Supports characterized by their constancy, high intensity; provided across environments; potential life-sustaining nature. Pervasive supports typically involve more staff members and intrusiveness than do extensive or time-limited supports.

e. **Pervasive Plus** A time-limited specific assignment to supplement required Level of Need services or staff to provide life sustaining complex medical care or to supplement required direct care staff due to dangerous life threatening behavior so serious that it could cause serious physical injury to self or others and requires additional trained support staff to be at "arms length" during waking hours.

f. The relationship between the service level and service score for ICAP support levels is as follows.

ICAP Service Level	ICAP Service Score	ICAP Support Levels
		Pervasive +
1	1-19	Pervasive
2	20-29	Extensive
3	30-39	
4	40-49	
5	50-59	Limited
6	60-69	
7	70-79	
8	80-89	Intermittent
9	90+	

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 Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:676 (April 1999), LR 30:

Subchapter B. Participation

§10307. Payments

- A. - B.10. ...
- C. - C.3. Repealed.

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 Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:682 (April 1999), LR 30:

Subchapter H. Reimbursement

§10375. Costs Reports

A. Intermediate Care Facilities for the Mentally Retarded (ICFs-MR) are required to file annual cost reports to the bureau in accordance with bureau instructions as follows.

1. Each ICF-MR is required to report all reasonable and allowable costs on a regular facility cost report including any supplemental schedules designated by the bureau.

2. Separate cost reports must be submitted by central/home offices and habilitation programs when costs of those entities are reported on the facility cost report.

B. Cost reports must be prepared in accordance with cost reporting instructions adopted by the bureau using definitions of allowable and nonallowable cost contained in the Medicare provider reimbursement manual unless other definitions of allowable and nonallowable cost are adopted by the bureau.

1. Each provider shall submit an annual cost report for fiscal year ending June 30. The cost reports shall be filed within 90 days after the state's fiscal year ends.

2. Exceptions. Limited exceptions for extensions to the cost report filing requirements will be considered on an individual facility basis upon written request from the provider to the director of the Rate and Audit Review Section, Bureau of Health Services Financing. Providers must attach a statement describing fully the nature of the exception request. The extension must be requested by the normal due date of the cost report.

C. Direct Care Floor

1. The per diem direct care floor for providers not receiving a pervasive plus supplement is established at 90 percent of the per diem direct care cost component of the payment rate.

2. For providers receiving pervasive plus supplements, the direct care floor is established at 95 percent of the per diem direct care payment and the pervasive plus supplement.

3. Effective with cost report periods beginning on or after July 1, 2006, a comparison will be made between each facility's direct care cost and the direct care floor.

4. If the direct care cost the facility incurred on a per diem basis is less than the per diem direct care floor, the facility shall remit to the bureau the difference between these two amounts times the number of Medicaid days paid during

the cost reporting period. This remittance shall be included with the cost report.

5. Upon completion of desk reviews or audits, facilities will be notified by the bureau of any changes in amounts due based on audit or desk review adjustments.

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 30:

§10377. Rate Determination

A. Resident per diem rates are calculated based on information reported on the cost report. ICF-MR facilities will receive a rate for each resident. The rates are based on cost components appropriate for an economic and efficient ICF-MR providing quality service. The resident per diem rates represent the best judgment of the state to provide reasonable and adequate reimbursement required to cover the costs of economic and efficient ICF-MR facilities.

B. The cost data used in setting base rates will be from the latest available audited or desk reviewed cost reports. For rate periods between rebasing, the rates will be trended forward using the index factor contingent upon appropriation by the Legislature.

C. For dates of service on or after January 1, 2005, a resident's per diem rate will be the sum of:

1. direct care per diem rate;
2. care related per diem rate;
3. administrative and operating per diem rate;
4. capital rate; and
5. provider fee.

D. Determination of Rate Components

1. The direct care per diem rate shall be a set percentage over the median adjusted for the acuity of the resident based on the ICAP, tiered based on peer group. The direct care per diem rate shall be determined as follows.

a. Median Cost. The direct care per diem median cost for each ICF-MR facility is determined by dividing the facility's total direct care costs reported on the cost report by the facility's total days during the cost reporting period. Direct care costs for providers in each peer group are arrayed from low to high and the median (50th percentile) cost is determined for each peer group.

b. Median Adjustment. The direct care component shall be adjusted to 105 percent of the direct care per diem median cost in order to achieve reasonable access to care.

c. Inflationary Factor. These costs shall be trended forward from the midpoint of the cost report period to the midpoint of the rate year using the index factor.

d. Acuity Factor. Each of the ICAP levels will have a corresponding acuity factor. The median cost by peer group, after adjustments, shall be further adjusted by the acuity factor (or multiplier) as follows.

ICAP Support Level	Acuity Factor (Multiplier)
Pervasive	1.35
Extensive	1.17
Limited	1.00
Intermittent	.90

2. The care related per diem rate shall be a statewide price at a set percentage over the median and shall be determined as follows.

a. Median Cost. The care related per diem median cost for each ICF-MR facility is determined by dividing the facility's total care related costs reported on the cost report by the facility's actual total resident days during the cost reporting period. Care related costs for all providers are arrayed from low to high and the median (50th percentile) cost is determined.

b. Median Adjustment. The care related component shall be adjusted to 105 percent of the care related per diem median cost in order to achieve reasonable access to care.

c. Inflationary Factor. These costs shall be trended forward from the midpoint of the cost report period to the midpoint of the rate year using the index factor.

3. The administrative and operating per diem rate shall be a statewide price at a set percentage over the median, tiered based on peer group. The administrative and operating component shall be determined as follows.

a. Median Cost. The administrative and operating per diem median cost for each ICF-MR facility is determined by dividing the facility's total administrative and operating costs reported on the cost report by the facility's actual total resident days during the cost reporting period. Administrative and operating costs for all providers are arrayed from low to high and the median (50th percentile) cost is determined.

b. Median Adjustment. The administrative and operating component shall be adjusted to 103 percent of the administrative and operating per diem median cost in order to achieve reasonable access to care.

c. Inflationary Factor. These costs shall be trended forward from the midpoint of the cost report period to the midpoint of the rate year using the index factor.

4. The capital per diem rate shall be a statewide price at a set percentage over the median, tiered based on peer group. The capital per diem rate shall be determined as follows:

a. Median Cost. The capital per diem median cost for each ICF-MR facility is determined by dividing the facility's total capital costs reported on the cost report by the facility's actual total resident days during the cost reporting period. Capital costs for providers of each peer group are arrayed from low to high and the median (50th percentile) cost is determined for each peer group.

b. Median Adjustment. The capital cost component shall be adjusted to 103 percent of the capital per diem median cost in order to achieve reasonable access to care.

c. Inflationary Factor. Capital costs shall not be trended forward.

d. The provider fee shall be calculated by the department in accordance with state and federal rules.

E. Re-basing of rates will occur at least every three years utilizing the most recent audited and/or desk reviewed cost reports.

F. Adjustments to the Medicaid daily rate may be made when changes occur that eventually will be recognized in updated cost report data (such as a change in the minimum wage or FICA rates). These adjustments would be effective

until such time as the data base used to calculate rates fully reflect the change. Adjustments to rates may also be made when legislative appropriations would increase or decrease the rates calculated in accordance with this rule. The secretary of the Department of Health and Hospitals makes the final determination as to the amount and when adjustments to rates are warranted.

G. A facility requesting a pervasive plus rate supplement shall bear the burden of proof in establishing the facts and circumstances necessary to support the supplement in a format and with supporting documentation specified by the DHH Pervasive Plus Committee.

1. The DHH Pervasive Plus Committee shall make a determination of the most appropriate staff required to provide requested supplemental services.

2. The amount of the pervasive plus supplement shall be calculated using the Louisiana Civil Service pay grid for the appropriate position as determined by the DHH Pervasive Plus Committee and shall be the 25th percentile salary level plus 20 percent for related benefits times the number of hours approved.

3. Should a provider be granted a pervasive plus supplement for the provision of complex medical care, the median facility minutes of nursing, by peer group, as calculated from the annual *Intermediate Care Facility For Persons With Mental Retardation Survey Report* and adjusted using the acuity factors contained in §10377.D.1.d will not be included in the calculation of the amount of the supplement.

4. Should a provider be granted a pervasive plus supplement to supplement required direct staff, the weekly hours of direct care staff provided in the base direct care component of the per diem rate adjusted using the acuity factors contained in §10377.D.1.d will not be included in the calculation of the amount of the supplement.

H. DHH Pervasive Plus Committee. Requests for Pervasive Plus must be reviewed and approved by the DHH Pervasive Plus Committee. The committee shall be made up of the following:

1. the director of the health standards section or his/her appointee;

2. the section chief of rate and audit review section or his/her appointee;

3. the assistant secretary for the Office for Citizens with Developmental Disabilities or his/her appointee.

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 30:

§10379. ICAP Requirements

A. An ICAP must be completed for each recipient of ICF-MR services upon admission and while residing in an ICF-MR in accordance with departmental regulations. Providers must keep all copies of the ICAP protocol and computer scored summary sheets in the recipient's file.

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 30:

§10381. ICAP Monitoring

A. ICAP scores and assessments will be subject to review by DHH and its contracted agents. The reviews of ICAP submissions include, but are not limited to:

1. reviews when statistically significant changes occur within an ICAP submission or submissions;
2. random selections of ICAP submissions;
3. desk reviews of a sample of ICAP submissions; and
4. on-site field reviews of ICAPs.

B. When an ICAP score is found to be inaccurate during an annual survey, the surveying agency shall notify the rate and audit review section of the need for a rate change. The new rate will be applied effective the first day of the month following the survey.

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 30:

§10383. Exclusions from Database

A. Providers with disclaimed audits and providers with cost reports for other than a 12-month period will be excluded from the database used to calculate the rates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

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, August 25, 2004 at 9:30 am in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Intermediate Care Facilities for the Mentally Retarded Standards for Payment

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

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state general fund other than cost of promulgation for SFY 2004-2005. It is anticipated that \$1,224 (\$612 SGF and \$612 FED) will be expended in SFY 2004-2005 for the state administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for SFY 2004-2005. It is anticipated that \$612 will be expended in SFY 2004-2005 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This rule proposes to amend the standards of payment for Private Intermediate Care Facilities for the Mentally Retarded (ICF-MR) (approximately 450) using the Inventory for Client and Agency Planning (ICAP) instrument to measure individual level of needs and is formulated to provide the necessary monetary resources to meet those needs. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for SFY 2004-2005, SFY 2005-2006 and SFY 2006-2007.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Ben A. Bearden
Director
0407#056

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Labor
Office of the Secretary**

Customized Training Fund
(LAC 40:XVI.101, 105, 109, 111)

Notice is hereby given, in accordance with R.S. 49:950 et seq. that the Louisiana Department of Labor, pursuant to authority vested in the department by R.S. 23:1514 and in accordance with applicable provisions of the Administrative Procedure Act, proposes to amend and reenact Rules governing the workforce development training account, LAC 40:XVI.101, 105, 109, 111 and 113 to permit monitoring by a private entity, to remove the restriction that employers may receive training funds only once in a 24-month period, to allow for training programs to extend to 3 years with approval of the secretary, to provide that no single employer or consortium may receive more than 10 percent of available program funds in a fiscal year, to eliminate the requirement that training contracts funded by the workforce development training account be approved by the governor, to require for cost/price/performance analyses from applicants who use private training providers only in instances when such information is needed, to limit program reimbursements to expenses incurred after the contract is signed by the Secretary of Labor, to provide for resolution of contract controversies by the commissioner of administration pursuant to R.S. 39:1524 and 39:1525, and to allow courses for credit under the Small Business Employee Training Program.

Title 40

LABOR AND EMPLOYMENT

Part XVI. Customized Training

Chapter 1. Workforce Development Training Fund

§101. Definitions

* * *

Monitoring Entity—A public or private entity contracted or selected to monitor the compliance of a contractee with the terms and conditions of a training award contract.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, LR 25:1142 (June 1999), amended LR 26:1629 (August 2000), LR 29:2497 (November 2003), amended by the Office of the Secretary, LR 30:

§105. Criteria

A. ...

B. No single employer or consortium shall receive more than 10 percent of the total funds available to the program during a fiscal year. An employer with multiple operations sites and a single unemployment insurance tax identification number shall be limited to a single application which may encompass training at the various sites, so long as the amount awarded under the application does not exceed the maximum award amount. When an employer has more than one site and each site maintains a different unemployment insurance tax identification number, the employer may apply for a separate training awarded under each tax identification number.

C. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, LR 25:1143 (June 1999), amended LR 26:1629 (August 2000), LR 28:2203 (October 2002), LR 29:2498 (November 2003), amended by the Office of the Secretary, LR 30:

§109. Submission and Review Procedure

A. ...

B. If any applicant is submitting an application in conjunction with a private training provider, the applicant may be required to submit a cost/price/performance analysis on a form provided by LDOL at the time the application is submitted.

C.1. Upon determination that an application meets the eligibility criteria for this program and is deemed to be beneficial to the well-being of the state, LDOL staff will then make a recommendation to the secretary. The application will then be reviewed by and is subject to the approval of the secretary.

2. A copy of the application shall be sent to the executive director of the Louisiana Workforce Commission.

3. The secretary will issue a letter of commitment to the applicant within five working days of approving the application.

4. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, LR 25:1143 (June 1999), amended LR 26:1630 (August 2000), LR 29:2498 (November 2003), amended by the Office of the Secretary, LR 30:

§111. General Award Provisions

A. Award Contract

1. - 4. ...

5. Funds may be used for training programs extending up to two years in duration, or up to three years upon approval of the secretary.

B. - B.3.g ...

C. Conditions for Disbursement of Funds

1. Funds will be available on a reimbursement basis following submission of original invoices to LDOL to the attention of the Incumbent Worker Training Program Manager, Office of Workforce Development by mail or hand delivery. Only funds spent on the project after the secretary signs the contract will be considered eligible for reimbursement. LDOL shall make a determination regarding an invoice within 15 working days after receipt of the invoice and will make payment within 15 working days of approval of said invoice. Certain invoices that need priority attention shall be clearly marked "priority" and LDOL shall make a good faith effort to expedite the processing of such invoices. Invoices regarding the purchase of equipment must be accompanied by documentation confirming delivery.

2. - 3. ...

D. Compliance Requirements

1. - 3.a. ...

b. If after review of the appeal, the secretary renders a decision that is adverse to the appellant, then the matter shall be subject to review by the commissioner of administration pursuant to R.S. 39:1524 and 39:1525.

4. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, LR 25:1143 (June 1999), amended LR 26:1630 (August 2000), amended by the Office of the Secretary, LR 30:

§113. Small Business Employee Training Program

A. - G. ...

1. taking a class, either non-credit or credit, at an educational institution under the policy or direct management authority of the Board of Regents;

G.2. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development LR 29:2499 (November 2003), amended by the Office of the Secretary, LR 30:

Family Impact Statement

1. The effect on the stability of the family. The proposed amendments to the rules on the Worker Training Fund/Customized Training Fund will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. The proposed amendments to the rules on the Worker Training Fund/Customized Training Fund will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. The proposed amendments to the rules on the Worker Training Fund/Customized Training Fund will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. The proposed amendments to the rules on the Worker Training Fund/Customized Training Fund will have no effect on family earnings and budget.

5. The effect on the behavior and personal responsibility of children. The proposed amendments to the rules on the Worker Training Fund/Customized Training Fund will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. The family or local government is not able to perform the functions contained in the proposed amendments to the rules on the Worker Training Fund/Customized Training Fund.

Interested persons may submit comments in writing to Jim Henderson, Special Assistant to the Secretary, Office of the Secretary, P.O. Box 94094, Baton Rouge, LA 70804-9094 or by fax at (225) 342-7664. All comments must be submitted by 4:30 p.m. on August 25, 2004. A public hearing will be held on Thursday, August 26, 2004 at 10 a.m. at the Department of Labor, 1001 North 23rd St., in the large First Floor Annex Building Conference Room, Baton Rouge, LA 70802.

John Warner Smith
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Customized Training Fund

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

There will be no implementation costs or savings to state or local governmental units as a result of these administrative Rule changes. Act 1053 of the 1997 Regular Legislative Session established the Workforce Training Account. During the 1999 Regular Session, the Louisiana Legislature increased the appropriation into this account from \$6 million to \$50 million. These proposed Rule changes do not change the amount appropriated to the account. The changes will permit monitoring by a private entity, remove the restriction that employers may receive training funds only once in a 24-month period, provide that no single employer or consortium may receive more than 10 percent of available program funds in a fiscal year, eliminate the requirement that training contracts funded by the workforce development training account be approved by the governor, require cost/price/performance analyses from applicants who use private training providers only in instances when such information is needed, limit program reimbursements to expenses incurred after the contract is signed by the secretary of labor, and provide for resolution of contract controversies by the commissioner of administration pursuant to R.S. 39:1524 and 39:1525.

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

There will be no direct effect on revenue collections of state or local governmental units as a result of these Rule amendments.

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

There is no estimated cost to directly affected persons or nongovernmental units as a result of these changes. The changes may economically benefit employers by permitting them to receive training under the program more frequently.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule changes should not significantly effect competition and employment among those awarded grants for customized training. However, successful applicants who are awarded training funds, compared to entities that do not receive the funds, may gain some advantage. Employees of organizations benefiting from awards should be better trained, more productive and more efficient.

John Warner Smith
Secretary
0407#069

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Self-Exclusion (LAC 42:III.304)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:III.304 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 42
LOUISIANA GAMING**

Part III. Gaming Control Board

Chapter 3. Compulsive and Problem Gambling

§304. Self-Exclusion

A. - D.6. ...

b. Administrative hearings regarding or related to self-excluded persons shall be closed to the public and any record created or evidence introduced in conjunction with such hearings shall be maintained confidential and not made available for public inspection.

E. - G.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 28:1990 (September 2002), amended LR 30:

Family Impact Statement

Pursuant to the provisions of R.S. 49:953.A, the Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:III.304.

It is accordingly concluded that amending LAC 42:III.304 would appear to have a positive yet inestimable impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect of family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 326-6500, and may submit comments relative to these proposed rules, through August 9, 2004, to 1885 North Third Street, Suite 500, Baton Rouge, LA 70802.

H. Charles Gaudin
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Self-Exclusion**

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

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

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 government units.

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

No significant costs and/or economic benefit to directly affected persons or nongovernmental groups is estimated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect on competition or employment is estimated.

H. Charles Gaudin
Chairman
0407#090

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Suspension and Denial of Renewal of Drivers' Licenses
(LAC 61:I.1355)

Under the authority of R.S. 47:296.2 and 1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1355 pertaining to the suspension and denial of renewal of a taxpayer's driver's license for failure to pay individual income tax.

Revised Statute 47:296.2, entitled *Suspension and Denial of Renewal of Drivers' Licenses*, provides a mechanism for suspending and denying the renewal of a taxpayer's driver's license if the Department of Revenue has a final and nonappealable assessment or judgment against an individual in excess of \$1,000. This proposed regulation provides the procedures necessary to administer the provisions of this statute.

Title 61
REVENUE AND TAXATION

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

Chapter 13. Income: Personal

**§1355. Suspension and Denial of Renewal of Drivers'
Licenses**

A. An individual's driver's license will be suspended and the renewal denied if the Department of Revenue has a final and nonappealable individual income tax assessment or judgment against the individual in excess of \$1,000 exclusive of penalty, interest, costs, and other charges.

B. Exceptions

1. If the taxpayer has filed for bankruptcy, then the provisions of this regulation will not apply.

2. An assessment or judgment will not be considered final and nonappealable for purposes of this regulation if, for the applicable tax period:

- a. the taxpayer is in litigation with the department;
- b. the taxpayer is being audited by the department;

or

- c. correspondence is pending.

C. Responsibilities

1. The Department of Revenue is responsible for the following:

- a. properly identifying the affected taxpayer;
- b. accurately notifying the Department of Public Safety and Corrections, Office of Motor Vehicles, of the taxpayer's identity; and
- c. timely notifying the Department of Public Safety and Corrections, Office of Motor Vehicles, if the taxpayer pays the assessment or judgment and regains eligibility for a driver's license.

2. The Department of Public Safety and Corrections, Office of Motor Vehicles, is responsible for the following:

- a. suspending or denying the renewal of a driver's license once notified of a taxpayer's identity by the Department of Revenue; and
- b. issuing or renewing drivers' licenses to taxpayers who have paid their tax debts once notified of this fact by the Department of Revenue.

D. Taxpayer Notification

1. The Department of Revenue must notify the taxpayer before the notice of driver's license suspension or denial is sent to the Department of Public Safety and Corrections, Office of Motor Vehicles.

- a. The notice will inform the taxpayer that their driver's license will be suspended or renewal denied until full payment of the final and nonappealable assessment or judgment is made or until the taxpayer enters into an installment agreement with the Department of Revenue.
- b. The notice will be mailed to the address on record.

2. If, after notification, a taxpayer enters into an installment agreement with the Department of Revenue and later defaults on the agreement, no further notice to the taxpayer by the Department of Revenue will be required and the notice of driver's license suspension or denial will be sent to the Department of Public Safety and Corrections, Office of Motor Vehicles.

E. Notification to the Department of Public Safety and Corrections, Office of Motor Vehicles

1. The Department of Revenue will notify the Department of Public Safety and Corrections, Office of Motor Vehicles, of the name, driver's license number, and date of birth of the taxpayer for whom the driver's license is required to be suspended or renewal denied.

2. The suspension and denial will remain in effect until the Department of Public Safety and Corrections, Office of Motor Vehicles, is notified otherwise by the Department of Revenue.

3. The Department of Revenue will notify the Department of Public Safety and Corrections, Office of Motor Vehicles, of the name, driver's license number, and date of birth of the taxpayer for whom the driver's license is to be issued or renewed.

4. Notifications may be by secured electronic transmission or by magnetic tapes, cartridges, or other electronic media.

5. Notifications will be made weekly unless circumstances warrant a more frequent time schedule, such as the circumstances described in Subsection F.

F. If the taxpayer pays the assessment or judgment in person, notice will be given to the Department of Public Safety and Corrections, Office of Motor Vehicles, to remove the suspension or denial of the renewal of the taxpayer's driver's license from their records. Notice to the Department of Public Safety and Corrections, Office of Motor Vehicles, will be effected by the presentation of a letter from the secretary or the secretary's designee to the Office of Motor Vehicles indicating that the assessment or judgment has been paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:296.2 and 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 30:

Family Impact Statement

1. The effect on the stability of the family. Implementation of this proposed Rule will have no effect on the stability of the family.

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

3. The effect on the functioning of the family. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of this proposed Rule will have no effect on family earnings and family budget.

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

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

Interested persons may submit data, views, or arguments, in writing to Cindy Pugh, 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. Tuesday, August 24, 2004. A

public hearing will be held at 10:00 a.m. on Wednesday, August 25, 2004, in the River Room Conference Room on the 7th Floor of the LaSalle Building at 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges
Secretary

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

**RULE TITLE: Suspension and Denial of Renewal of
Drivers' Licenses**

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

Acts 2003, No. 453 enacted R.S. 47:296.2, entitled *Suspension and Denial of Renewal of Drivers' Licenses*, to provide a mechanism for suspending and denying the renewal of a taxpayer's driver's licenses if the Department of Revenue has a final and nonappealable individual income tax assessment or judgment against an individual in excess of \$1,000. This proposed regulation provides the procedures necessary to administer the provisions of this statute.

Implementation of this proposed regulation will result in first-year computer programming costs for the Department of Revenue and the Department of Public Safety, Office of Motor Vehicles of \$35,000 and \$7,200, respectively. Succeeding years' administrative costs for both agencies should be minimal.

There will be no implementation costs for local governmental units.

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

This proposed regulation may result in an indeterminable increase in state general funds due to the payment of delinquent tax collections and an indeterminable decrease in the Department of Public Safety, Office of Motor Vehicles' self-generated funds due to the denial of licenses.

Implementation of this proposed regulation will increase State General Fund revenue to the extent that delinquent taxpayers pay past due taxes to prevent suspension of driver's licenses. The amount of assessment or judgment must be for more than \$1,000 in individual income tax, exclusive of penalty, interest, costs and other charges before a driver's license can be denied. It is estimated that 19,830 taxpayers owe past due taxes of \$1,000 or more and whose debt has become final and collectible by distraint. If only 500 of these taxpayers (2.5 percent of the total) were encouraged to pay their taxes due, over \$500,000 of revenue would be received in tax, penalty, and interest. Over time, it is reasonable to expect the revenue gains to decline as compliance is encouraged. It is not possible to determine the number of taxpayers who will actually pay past due taxes to prevent denial of a driver's license.

The impact on the Department of Public Safety, Office of Motor Vehicles' fees cannot be calculated for the same reason, but they would be expected to decline somewhat to the extent licenses are denied. These losses should get smaller over time, as well, as tax compliance is encouraged and fewer license denials occur.

There will be no impact on revenue collections of local governmental units.

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

This proposed regulation allows for suspending and denying the renewal of an individual's driver's license if the Department of Revenue has a final and nonappealable assessment or judgment against an individual in excess of

\$1,000. Tax debtors will be required to pay their debts before the license can be issued or renewed.

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

This proposed regulation will have no effect on competition or employment

Cynthia Bridges
Secretary
0407#070

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Alligator Snapping Turtles ~~C~~Recreational and Commercial
Harvest; Prohibitions (LAC 76:XV.101)

The Department of Wildlife and Fisheries and Wildlife and Fisheries Commission do hereby advertise their intent to place a moratorium on the commercial harvest from the wild of alligator snapping turtles.

Title 76

WILDLIFE AND FISHERIES

Part XV. Reptiles And Amphibians

Chapter 1. Guidelines

**§101. Recreational and Commercial Harvests;
Prohibitions**

A. - F.2. ...

G. Turtle Rules and Regulations

1. - 1.e. ...

2. Alligator Snapping Turtle (*Macrolemys
temmincki*)

a. Commercial Take Prohibited. No person shall commercially take, possess, sell, purchase, trade, barter, or exchange alligator snapping turtles, their eggs, or any parts thereof. Except that nothing herein shall prohibit the legal commercial sale, and possession of alligator snapping turtles by licensed turtle farmers as provided in R.S. 56:632 et seq. and R.S. 3:2358.1 et seq. which were legally acquired prior to the effective date of this closure or imported legally into this state which have proper records as provided for in 56:637.

b. Recreational Take and Possession Limit. There shall be no size limit on recreationally taken alligator snapping turtles (*Macrolemys temmincki*). Basic recreational fishing license is required as provided in R.S. 56:632.1. No person shall take or possess an alligator snapping turtle taken with commercial gear. No person shall take or possess in the field more than one alligator snapping turtle (*Macrolemys temmincki*), per boat or vehicle per day. Certified zoos, aquariums, universities, research and nature centers will be exempted from take limits.

H. - J.4.g. ...

K. Whoever violates the provisions of this Rule shall be fined not less than \$25 nor more than \$100, or imprisoned for not less than 30 days, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), (13), (15) and (25), R.S. 56:23, and R.S. 56:632.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 20:1135 (October 1994), amended LR 30:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to Brandt Savoie, Fur and Refuge Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, September 2, 2004.

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Bill A. Busbice, Jr.
Chairman
Dwight Landreneau
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Alligator Snapping
Turtles ~~Commercial and~~
Commercial Harvest; Prohibitions**

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

There will be no state or local governmental implementation costs or savings associated with this proposed rule change.

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

There will be no change to revenue collections of state or local governmental units associated with this proposed rule change.

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

The proposed rule change will affect a small number of commercial fishermen, amphibian/reptile collectors, wholesale/retail dealers and licensed turtle farmers. Commercial fishermen and amphibian/reptile collectors will be unable to harvest wild alligator snapping turtles for commercial purposes. Wholesale/retail dealers and licensed turtle farmers will no longer be able to purchase wild alligator snapping turtles harvested in Louisiana to stock their farms or sell to their customers. The actual amount of impact will vary by individual depending on the quantity harvested and/or traded. Based on reported trip ticket information, the total dockside value of alligator snapping turtles harvested in 2003 amounted to \$11,416, or \$346 per commercial fishermen. Thus, the impact on receipts and/or income is anticipated to be very small.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not expected to effect competition and employment in the public or private sector.

Janice A. Lansing
Undersecretary
0407#052

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Deer Programs (DMAP) and (LADT)
(LAC 76:V.111 and 119)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the regulations for participation in the Deer Management Assistance Program (DMAP) and Landowner Antlerless Deer Tag Program (LADT).

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§111. Rules and Regulations for Participation in the Deer Management Assistance Program

A. The following rules and regulations shall govern the Deer Management Assistance Program.

1. Application Procedure

a. Application for enrollment of a new cooperator in the Deer Management Assistance Program (DMAP) must be submitted to the Department of Wildlife and Fisheries by August 1. Application for the renewal enrollment of an active cooperator must be submitted to the Department of Wildlife and Fisheries annually by September 1.

b. Each application for a new cooperator must be accompanied by a legal description of lands to be enrolled and a map of the property. Renewal applications must be accompanied by a legal description and map only if the boundaries of the enrolled property have changed from records on file from the previous hunting season. This information will remain on file in the appropriate regional office. The applicant must have under lease or otherwise control a minimum of 500 acres of contiguous deer habitat of which up to 250 acres may be agricultural lands, provided the remainder is in forest and/or marsh. Private lands within Wildlife Management Area boundaries shall be enrolled in DMAP regardless of size.

c. Each cooperator will be assessed a \$25 enrollment fee and \$0.05/acre for participation in the program. DMAP fees must be paid by invoice to the Department of Wildlife and Fisheries Fiscal Section prior to September 15.

d. An agreement must be completed and signed by the official representative of the cooperator and submitted to the appropriate regional wildlife office for his approval. This agreement must be completed and signed annually.

e. Boundaries of lands enrolled in DMAP shall be clearly marked and posted with DMAP signs in compliance with R.S. 56:110 and the provisions of R.S. 56:110 are only applicable to property enrolled in DMAP. DMAP signs shall be removed if the land is no longer enrolled in DMAP. Rules and regulations for compliance with R.S. 56:110 are as follows.

i. The color of DMAP signs shall be orange. The words DMAP and Posted shall be printed on the sign in letters no less than 4 inches in height. Signs may be constructed of any material and minimum size is 11 1/4" x 11 1/4".

ii. Signs will be placed at 1000 foot intervals around the entire boundary of the property and at every entry point onto the property.

f. By enrolling in the DMAP, cooperators agree to allow department personnel access to their lands for management surveys, investigation of violations and other inspections deemed appropriate by the department. The person listed on the DMAP application as the contact person will serve as the liaison between the DMAP Cooperator and the department.

g. Each cooperator that enrolls in DMAP is strongly encouraged to provide keys or lock combinations annually to the Enforcement Division of the Department of Wildlife and Fisheries for access to main entrances of the DMAP property. Provision of keys is voluntary; however, the cooperator's compliance will ensure that DMAP enrolled properties will be properly and regularly patrolled.

2. Tags

a. A fixed number of special tags will be provided by the department to each cooperator in DMAP to affix to deer taken as authorized by the program. These tags shall be used only on DMAP lands for which the tags were issued.

b. All antlerless deer taken shall be tagged, including those taken during archery season, muzzleloader, and on either-sex days of gun season.

c. Each hunter must have a tag in his possession while hunting on DMAP land in order to harvest an antlerless deer. The tag shall be attached through the hock in such a manner that it cannot be removed before the deer is transported. The DMAP tag will remain with the deer so long as the deer is kept in the camp or field, is in route to the domicile of its possessor, or until it has been stored at the domicile of its possessor, or divided at a cold storage facility and has become identifiable as food rather than as wild game. The DMAP number shall be recorded on the possession tag of the deer or any part of the animal when divided and properly tagged.

d. Antlerless deer harvest on property enrolled in DMAP does not count in the season bag limit for hunters.

e. All unused tags shall be returned by March 1 to the regional wildlife office which issued the tags.

3. Records

a. Cooperators are responsible for keeping accurate records on forms provided by the department for all deer harvested on lands enrolled in the program. Mandatory information includes tag number, sex of deer, date of kill, name of person taking the deer, hunting license number (transaction number, authorization number, lifetime number or date of birth for under 16 and over 59 years of age) and biological data (age, weight, antler measurements, lactation) as deemed essential by the Department of Wildlife and Fisheries Deer Section. Biological data collection must meet quality standards established by the Deer Section. Documentation of mandatory information shall be kept daily by the Cooperator. Additional information may be requested depending on management goals of the cooperator.

b. Information on deer harvested shall be submitted by March 1 to the regional wildlife office handling the particular cooperator.

c. The contact person shall provide this documentation of harvested deer to the department upon

request. Cooperators who do not have a field camp will be given 48 hours to provide this requested documentation.

B. Suspension and Cancellation of DMAP Cooperators

1. Failure of the cooperator to follow these rules and regulations may result in suspension and cancellation of the program on those lands involved. Failure to make a good faith attempt to follow harvest recommendations may also result in suspension and cancellation of the program.

a. Suspension of Cooperator from DMAP. Suspension of the cooperator from DMAP, including forfeiture of unused tags, will occur immediately for any misuse of tags, failure to tag any antlerless deer, or failure to submit records to the department for examination in a timely fashion. Suspension of the cooperator, including forfeiture of unused tags, may also occur immediately if other DMAP rules or wildlife regulations are violated. Upon suspension of the cooperator from DMAP, the contact person may request a Department of Wildlife and Fisheries hearing within 10 working days to appeal said suspension. Cooperation by the DMAP Cooperator with the investigation of the violation will be taken into account by the department when considering cancellation of the program following a suspension for any of the above listed reasons. The cooperator may be allowed to continue with the program on a probational status if, in the judgment of the department, the facts relevant to a suspension do not warrant cancellation.

b. Cancellation of Cooperator from DMAP. Cancellation of a cooperator from DMAP may occur following a guilty plea or conviction for a DMAP rule or regulation violation by any individual or member hunting on the land enrolled in DMAP. The cooperator may not be allowed to participate in DMAP for one year following the cancellation for such guilty pleas or conviction. Upon cancellation of the cooperator from DMAP, the contact person may request an administrative hearing within 10 working days to appeal said cancellation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:204 (February 1991), amended LR 25:1656 (September 1999), LR 26:2011 (September 2000), LR 30:

§119. Rules and Regulations for Participation in the Landowner Antlerless Deer Tag Program

A. The following rules and regulations shall govern the Landowner Antlerless Deer Tag (LADT) Program.

1. Eligibility: The following landowners or lessees are eligible to participate in this program.

a. Licensed Deer Farmers authorized to hunt deer by Department of Agriculture and Forestry and Department of Wildlife and Fisheries (LDWF).

b. Landowners or lessees with less than 500 acres who have verified deer depredation problems and have met all of the requirements of LDWF as stated in the Nuisance Deer Management Program and who are dependent upon this commercial crop as a major source of income.

c. Landowners with 40 acres or more enrolled in the Louisiana Forest Stewardship Program and who have a written wildlife management plan on file with LDWF.

d. Landowners or lessees with 40 or more contiguous acres of forested or marsh land.

2. Application Procedure

a. Application for enrollment in the Landowner Antlerless Deer Tag Program must be submitted to the Regional Office, Deer Program personnel, or Forest Stewardship Program personnel of LDWF prior to September 1. The application will become an official agreement between the applicant and LDWF.

b. Each applicant will be assessed a \$25 administrative processing fee which must be paid prior to October 1. Applicant must identify the enrolled property on a Louisiana road atlas that will be kept on file in the Region Office.

c. By enrollment in this program the applicant agrees to allow LDWF personnel access to their land for management surveys, investigations of violations and other inspections deemed appropriate by the department.

d. Boundaries of lands enrolled in the LADT program shall be clearly marked and posted with LADT or DMAP signs. Signs will be placed at 1000 foot intervals around the entire boundary of the property and at every point onto the property. Signs shall be removed if the land is no longer enrolled in the program. The color of the LADT sign shall be white, with the words LADT and Posted printed on the sign in letters no less than four inches. The minimum sign size is 11 1/4" x 11 1/4".

3. Tags

a. A fixed number of Landowner Antlerless Deer Tags will be provided by the department to each applicant that must be attached to each antlerless deer harvested during the regular deer season. These tags can be used only on the land for which they were issued and must be attached to all antlerless deer killed during the entire deer season including special either-sex days. Tag allotment for each applicant will be determined by Deer Program personnel.

b. The total harvest of antlerless deer is restricted to that number of antlerless deer for which tags were issued. Once the number of antlerless deer for which tags were issued have been killed, all deer hunting will then be for bucks-only, even though there may be either-sex days later in the season for the Area at large. No additional tags will be issued to the applicant.

c. Each hunter must have the Landowner Antlerless Deer Tag in his possession while hunting on the property for which the tag was issued and immediately upon kill of an antlerless deer, the hunter must tag the animal through the hock. The deer must be tagged before it is transported from the site of kill and the tag will remain with the deer while the hunter is in route to his domicile. The tag number will be recorded on the possession tag for the deer or any part(s) of the animal when divided and properly tagged among other individuals.

d. Antlerless deer harvested on property enrolled in LADT does not count in the season bag limit for hunters.

4. Records

a. Approved applicants will keep daily records for all deer harvested as required by LDWF personnel. This information along with any unused tags will be submitted to the Regional Office, the Deer Program, or Forest Stewardship Program personnel by March 1. Information will include: Date of kill; Name of hunter; Social Security number of hunter; Hunting license # of hunter, if applicable; Sex of animal; Landowner Antlerless Tag Number.

Additional biological information from harvested deer may be required of some applicants for management purposes.

b. Approved applicants will provide documentation of harvested deer during the season to Department personnel upon request. Applicants will be given 48 hours to provide this requested information.

5. Cancellation of Program

a. Failure of the approved applicant or other persons permitted to hunt on this property to follow these rules and regulations may result in cancellation of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 26:2011 (September 2000), amended LR 27:1935 (November 2001), LR 30:

Family Impact Statement

In accordance with Act Number 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit written comments of the proposed Rule to Dave Moreland, Administrator, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000 no later than 4:30 p.m., Thursday, September 2, 2004.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Bill A. Busbice, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Deer Programs (DMAP) and (LADT)

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

There will be no state or local governmental implementation costs or savings associated with this proposed rule change.

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

State revenue collections are estimated to decrease by \$36,282 in FY 04-05, \$33,782 in FY 05-06 and \$31,282 in FY 06-07 due to the proposed rule change. Revenue collections of local governmental units will not be effected.

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

Cooperators currently enrolled in the voluntary Deer Management Assistance Program (DMAP) and Landowner Antlerless Deer Tag (LADT) program, as well as hunters who harvest deer on property enrolled in these programs, will be impacted by the proposed rule change. They will be required to

collect additional information for all deer harvested on their property. In addition, LADT cooperators will be required to clearly mark and post signs that meet certain specifications on their property. These changes will increase the cooperator's costs of participating in these programs.

Some hunters will benefit from the proposed rules changes, since any antlerless deer harvested on properties enrolled in these programs will not be counted in their season bag limit. Cooperators will benefit by being able to choose the level of deer management that is required to meet their management objectives. Both programs issue a number of deer tags that allow cooperators to harvest antlerless deer on their property so as to produce high quality deer for harvest and minimize the impact of property damages caused by high deer population. DMAP requires the collection of more biological data that assist in managing not only the deer population but also the health of the population.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment in the public and private sectors.

Janice A. Lansing
Undersecretary
0407#050

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Spotted Seatrout Management Measures (LAC 76:VII.341)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend a Rule, LAC 76:VII.341, modifying the existing Rule. Authority for adoption of this Rule is included in R.S. 56:6(25)(a) and 56:326.3. Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery §341. Spotted Seatrout Management Measures

A. Commercial Season; Quota; Permits

1. The commercial season for spotted seatrout whether taken from within or without Louisiana state waters shall remain closed until January 2 of each year, when it shall open and remain open through July 31 of each year, or until the quota is reached, or on the date projected by the staff of the Department of Wildlife and Fisheries that the quota will be reached, whichever comes first.

2. The commercial quota for spotted seatrout shall be 1,000,000 pounds for each fishing season.

3. Permits

a. The commercial taking of spotted seatrout is prohibited except by special nontransferable Spotted Seatrout Permit issued by the Department of Wildlife and Fisheries at the cost of \$100 for residents of this state and \$400 for those who are nonresidents. This permit, along with other applicable licenses, authorizes the bearer to sell his spotted seatrout catch.

b. No person shall be issued a license or permit for the commercial taking of spotted seatrout unless that person meets all of the following requirements.

i. The person shall provide proof that he purchased a valid Louisiana commercial saltwater gill net license in any two of the years 1995, 1994, and 1993.

ii. The person shall show that he derived more than 50 percent of his earned income from the legal capture and sale of seafood species in any two of the years 1995, 1994, and 1993. Proof of such income shall be provided by the applicant using any of the methods listed below.

(a). Method 1. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return including all attachments (i.e. Schedule C of federal form 1040, form W-2, etc.), which has been certified by the Internal Revenue Service (IRS).

(b). Method 2. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return including all attachments (i.e. Schedule C of federal form 1040, form W-2, etc.), which has been filed and stamped **Received** at a local IRS office accompanied by a signed cover letter acknowledging receipt by the IRS.

(c). Method 3. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a signed copy of his federal tax return including all attachments (i.e. Schedule C of federal form 1040, form W-2, etc.) along with an IRS stamped transcript and IRS signed cover letter. Transcripts are available at local IRS offices.

iii. The Socioeconomic Section of the Department of Wildlife and Fisheries, Office of Management and Finance, will review the submitted tax return information and determine applicant's eligibility as defined by R.S. 56:325.3 D(1)(b).

iv. The person shall not have applied for or received any assistance pursuant to R.S. 56:13.1(C).

v. The applicant shall not have been convicted of any fishery-related violations that constitute a class three or greater violation.

c. No person shall receive more than one permit or license to commercially take spotted seatrout.

d. No person shall qualify for a charter boat fishing guide license and a spotted seatrout permit during the same licensure period.

B. General Provisions. The commercial closure shall apply to spotted seatrout taken, landed or possessed on the water whether taken from within or without Louisiana waters. Effective with the closure, no person shall commercially harvest, take, land or possess spotted seatrout in excess of a recreational limit in Louisiana. Effective with the commercial closure no person shall sell, barter, trade, exchange, purchase or attempt to sell, barter, trade, exchange or purchase spotted seatrout. Nothing herein shall prohibit the purchase, sale, barter or exchange of spotted seatrout off the water by licensed commercial dealers taken during any open period or which are legally imported into the state if appropriate records are properly maintained in accordance with R.S. 56:306.5 and R.S. 56:306.6 and those that are required to do so shall be properly licensed in accordance with R.S. 56:303, 56:306 or 56:306.1.

AUTHORITY NOTE: Promulgated in accordance with Act Number 157 of the 1991 Regular Session of the Louisiana Legislature, R.S. 56:6(25)(a), R.S. 56:325.3, R.S. 56:326.3, Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.3, and Act 1164 of the 2003 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:199 (February 1992), amended LR 22:238 (March 1996), LR 24:360 (February 1998), LR 26:2333 (October 2000), LR 30:

Interested persons may submit comments relative to the proposed Rule to Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Friday, September 3, 2004.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Bill A. Busbice, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Spotted Seatrout Management Measures**

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

There will be no state or local governmental implementation costs. Enforcement of the proposed rule will be carried out using existing staff and funding levels.

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

There will be no effect on revenue collections to state or local governmental units from the proposed rule.

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

Commercial spotted seatrout fishermen and commercial seafood industry business operators will be directly affected by the proposed rule change. The rule provides for a longer fishing season, prohibits a person from holding both a charter boat fishing guide license and a spotted seatrout permit in the same license period, and defines allowable commerce activities regarding spotted seatrout taken during the closed and open season.

No additional permits, fees, workload or paperwork will occur from the proposed rule change. Setting the fishing season when spotted seatrout are most abundant and increasing the commercial fishing season length, provides the potential to increase the annual commercial harvest of spotted seatrout, which could result in increased receipts and/or income to commercial spotted seatrout fishermen and other seafood industry operations (seafood dealers, processors, retailers, restaurants, etc.). The degree of impact on receipts and/or income resulting from this rule change will depend of the quantity of spotted seatrout harvested and the market price received.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

A slight increase in employment may result in the private sector due to the anticipated increase in spotted seatrout landings caused by the establishment of a longer fishing season. No effect on competition in the public or private sectors or employment in the public sectors is anticipated.

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