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Executive Orders

EXECUTIVE ORDER KBB 04-11

Bond Allocation **C** Parish of East Baton Rouge,
State of Louisiana

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2004 (hereafter "the 2004 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2004 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the parish of East Baton Rouge, state of Louisiana, has requested an allocation from the 2004 Ceiling to finance the acquisition, construction, installation, and equipping of a solid waste disposal facility for Georgia-Pacific Paper and Consumer Products Operation, which will include:

- (a) Through-Air Dried 9TAD towel machine;
- (b) two towel converting lines;
- (c) a fine paper converting line;
- (d) a broke/reclaim system for an existing tissue machine; and

(e) a landfill expansion, located on West Mt. Pleasant Road, city of Zachary, parish of East Baton Rouge, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE, I, KATHLEEN BABINEAUX BLANCO, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2004 Ceiling in the amount shown:

| Amount of Allocation | Name of Issuer | Name of Project |
|----------------------|--|-----------------------------|
| \$14,200,000 | Parish of East Baton Rouge, State of Louisiana | Georgia-Pacific Corporation |

SECTION 2: The allocation granted herein shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2004, provided that such bonds are delivered to the initial purchasers thereof on or before September 10, 2004.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the allocation granted herein was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 14th day of June, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0407#065

EXECUTIVE ORDER KBB 04-12

Bond Allocation **C** Calcasieu Parish Public Trust Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2004 (hereafter "the 2004 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2004 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the Calcasieu Parish Public Trust Authority has requested an allocation from the 2004 Ceiling to be used in connection with a program of financing mortgage loans for single family, owner-occupied residences of low and moderate income first-time home-buyers throughout the parishes of Calcasieu, Cameron, Beauregard, Allen, and Jefferson Davis, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE, I, KATHLEEN BABINEAUX BLANCO, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2004 Ceiling in the amount shown.

| Amount of Allocation | Name of Issuer | Name of Project |
|----------------------|---|---|
| \$10,000,000 | Calcasieu Parish Public Trust Authority | Single Family Mortgage Revenue Bond Series 2004 |

SECTION 2: The allocation granted herein shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2004, provided that such bonds are delivered to the initial purchasers thereof on or before September 21, 2004.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the allocation granted herein was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 23rd day of June, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0407#016

EXECUTIVE ORDER KBB 04-13

Bond Allocation Louisiana Public Facilities Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

- (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2004 (hereafter "the 2004 Ceiling");
- (2) the procedure for obtaining an allocation of bonds under the 2004 Ceiling; and
- (3) a system of central record keeping for such allocations;

WHEREAS, the Louisiana Public Facilities Authority has requested an allocation from the 2004 Ceiling to finance student loans which, if the student meets certain timely payment requirements, will have interest rates below the interest rates established by the United States Department of Education and which

(1) have been made

(a) to residents of the state of Louisiana attending a post-secondary school located within or without the state of Louisiana, or

(b) to an out-of-state resident attending a post-secondary school located within the state of Louisiana;

(2) are guaranteed;

(3) are "eligible student loans" within the meaning of the Higher Education Act of 1965; and

(4) meet certain additional requirements under the financing documents, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

WHEREAS, the governor is committed to making education available to all Louisiana citizens throughout their lifetime and is working to establish a comprehensive statewide lifelong learning program in partnership with Louisiana Public Facilities Authority (hereafter "LPFA") and other organizations; and

WHEREAS, it is expected that, as the lifelong learning program is developed, a portion of the LPFA's SuperTop student loan program will be used to offer low interest or no interest loans as part of said program, in addition to the other benefits currently offered to borrowers by the LPFA;

NOW THEREFORE, I, KATHLEEN BABINEAUX BLANCO, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2004 Ceiling in the amount shown:

| Amount of Allocation | Name of Issuer | Name of Project |
|----------------------|----------------------------------|---|
| \$24,000,000 | Louisiana Public Refunding Bonds | Student Loan Revenue Facilities Authority |

SECTION 2: The allocation granted herein shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2004, provided that such bonds are delivered to the initial purchasers thereof on or before September 24, 2004.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the allocation granted herein was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets

the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of June, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0407#024

EXECUTIVE ORDER KBB 04-14

Bond Allocation Louisiana Public Facilities Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

- (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2004 (hereafter "the 2004 Ceiling");
- (2) the procedure for obtaining an allocation of bonds under the 2004 Ceiling; and
- (3) a system of central record keeping for such allocations;

WHEREAS, the Louisiana Public Facilities Authority has requested an allocation from the 2004 Ceiling to finance student loans which, if the student meets certain timely payment requirements, will have interest rates below the interest rates established by the United States Department of Education and which

- (1) have been made
 - (a) to residents of the state of Louisiana attending a post-secondary school located within or without the state of Louisiana, or
 - (b) to an out-of-state resident attending a post-secondary school located within the state of Louisiana;
- (2) are guaranteed;
- (3) are "eligible student loans" within the meaning of the Higher Education Act of 1965; and
- (4) meet certain additional requirements under the financing documents, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

WHEREAS, the governor is committed to making education available to all Louisiana citizens throughout their lifetime and is working to establish a comprehensive statewide lifelong learning program in partnership with

Louisiana Public Facilities Authority (hereafter "LPFA") and other organizations; and

WHEREAS, it is expected that, as the lifelong learning program is developed, a portion of the LPFA's SuperTop student loan program will be used to offer low interest or no interest loans as part of said program, in addition to the other benefits currently offered to borrowers by the LPFA;

NOW THEREFORE, I, KATHLEEN BABINEAUX BLANCO, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2004 Ceiling in the amount shown:

| Amount of Allocation | Name of Issuer | Name of Issuer |
|----------------------|--------------------------------|------------------------------------|
| \$47,900,000 | Louisiana Public Revenue Bonds | Student Loans Facilities Authority |

SECTION 2: The allocation granted herein shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2004, provided that such bonds are delivered to the initial purchasers thereof on or before September 24, 2004.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the allocation granted herein was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of June, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0407#025

EXECUTIVE ORDER KBB 04-15

Inmate Labor

WHEREAS, during the 1988 Regular Session of the Louisiana Legislature, Act No. 933 was enacted relative to correctional facilities inmate labor;

WHEREAS, Act No. 933, among other things, authorizes the governor to use inmate labor in certain projects or maintenance or repair work; and

WHEREAS, The act further provides that the governor, upon determining that it is appropriate and in furtherance of the rehabilitation and training of inmates, may, by executive order, authorize the use of inmates of a penal or correctional facility owned by the state of Louisiana for necessary labor in connection with a particular project;

NOW THEREFORE I, KATHLEEN BABINEAUX BLANCO, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: In furtherance of the goals of the state of Louisiana of rehabilitating inmates, reducing recidivism,

and reintegrating inmates into society, inmate labor is hereby authorized to build non-denominational chapels at Camp C, Louisiana State Penitentiary, Angola, Louisiana, and Dixon Correctional Institute, Jackson, Louisiana.

SECTION 2: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 2nd day of July, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0407#064

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences

Malathion (LAC 7:XXIII.145)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953 (B), and under the authority of R.S. 3:3203, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached rules and regulations for the application of an ultra low volume insecticide to be applied to cotton fields infested with boll weevils.

The applications of insecticides in accordance with the current concentration regulations have not been sufficient to control or plant bugs. Failure to allow the concentrations in ultra low volume (ULV) malathion applications will allow the plant bugs the opportunity to destroy the cotton during the growing season, effectively destroying the cotton crop. The destruction of the cotton crop or a substantial portion of the cotton crop will cause irreparable harm to the economy of Northern Louisiana and to Louisiana Agricultural producers thereby creating an imminent peril to the health and safety of Louisiana citizens.

This Emergency Rule becomes effective upon the signature of the Commissioner, June 30, 2004, and shall remain in effect for 78 days. This Emergency Rule becomes effective on June 30, 2004 and shall expire at 11:59 p. m. on September 15, 2004.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

Subchapter I. Regulations Governing Application of Pesticides

§145. Fixed Wing Aircraft; Standards for Commercial Aerial Pesticide Applications

A. - A.5.b.xxxvi. ...

c. malathion insecticide applied with the following conditions to control plant bugs in cotton;

i. The Commissioner hereby declares that prior to making any aerial application of ULV malathion to cotton, the aerial owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs ("DPEP") in writing. Upon notification, LDAF shall inspect the aircraft prior to any ULV applications.

ii. Spray shall be applied, handled, and stored in accordance with all conditions specified by State or Federal regulations, including the strict observance of any buffer zones that may be implied.

iii. Aerial applicators shall strictly comply with any and all restrictions or mitigative factors, in regard to sensitive areas, including occupied buildings (churches, schools, hospitals, and homes), lakes, reservoirs, farm ponds, parks, and recreation areas that may be identified by

Commissioner, and such restriction and mitigation are to be strictly complied with and observed by said aerial applicators.

iv. Aerial applicators will adjust flight patterns, to the degree possible, to avoid or minimize flying over sensitive areas. This restriction does not apply to over flight between take-off and the commencement of spray operations, or over flight between termination of spray operations and landing.

v. Aerial applicators shall be alert to all conditions that could cause spray deposit outside field boundaries and use their good faith efforts, including adjustment or termination of operations, to avoid spray deposit outside field boundaries.

vi. Aerial spraying shall not be conducted when wind velocity exceeds 10 m.p.h.

vii. Aerial applicators will terminate application if rainfall is imminent.

viii. Insecticide spray will not be applied in fields where people or animals are present. It is the applicator's responsibility to determine if people are present prior to initiating treatment.

ix. Spraying shall not be conducted in fields where other aircraft are working.

x. All mixing, loading, and unloading will be in an area where an accidental spill can be contained and will not contaminate a stream or other body of water.

xi. All aerial applications of insecticide shall be at an altitude not to exceed five feet above the cotton canopy. However, in fields that are not near sensitive areas, if infield obstructions make the five-foot aerial application height not feasible, then the aerial height may be extended to such height above the cotton canopy as is necessary to clear the obstruction safely.

xii. The aircraft tank and dispersal system must be completely drained and cleaned before loading. All hoses shall be in good condition and shall be of a chemical resistant type.

xiii. Insecticide tank(s) shall be leak-proof and spray booms of corrosion resistant materials, such as stainless steel, aluminum, or fiberglass. Sealants will be tested before use.

xiv. The tank(s) in each aircraft shall be installed so the tank(s) will empty in flight. Sight gauges or other means shall be provided to determine the quantity contained in each tank before reloading.

xv. A drain valve shall be provided at the lowest point of the spray system to facilitate the complete draining of the tanks and system while the aircraft is parked so any unused insecticide can be recovered.

xvi. A pump that will provide the required flow rate at not less than 40 pounds per square inch (psi) during spraying operation to assure uniform flow and proper functioning of the nozzles. Gear, centrifugal or other rotary types, will be acceptable on aircraft with a working speed above 150 miles per hour.

xvii. ULV spraying systems with a pumping capacity that exceeds the discharge calibration rate shall have the bypass flow return to the tank bottom in a manner that prevents aeration and/or foaming of the spray formulation. Pumps utilizing hydraulic drive or other variable speed drives are not required to have this bypass, provided the pump speed is set to provide only the required pressure and the system three-way valve is used for on/off control at full throw position. Any bypass normally used to circulate materials other than the ULV will be closed for ULV spraying.

xviii. Spray booms will be equipped with the quantity and type of spray nozzles specified by the Boll Weevil Eradication Program. The outermost nozzles (left and right sides) shall be equal distance from the aircraft centerline and the distance between the two must not exceed three-fourths of the overall wing span measurement. For helicopters, the outermost nozzles must not exceed three-fourths of the rotor span. For both fixed wing and helicopters, the program will accept the outermost nozzles between 60 percent and 75 percent of the wingspan/rotor span. Longer spray booms are acceptable provided modifications are made to prevent the entrapment of air in the portion beyond the outermost nozzle. Fixed wing aircraft not equipped with a drop type spray boom may require drop nozzles in the center section that will position the spray tips into smoother air to deliver the desired droplet size and prevent spray from contacting the tail wheel assembly and horizontal stabilizer. Most helicopters will be required to position the center nozzles behind the fuselage and dropped into smooth air in order to achieve the desired droplet size.

xix. Nozzles, diaphragms, gaskets, etc. will be inspected regularly and replaced when there is evidence of wear, swelling, or other distortion in order to assure optimum pesticide flow and droplet size. Increasing pressure to compensate for restricted flow is unacceptable. A positive on/off system that will prevent dribble from the nozzles is required.

xx. A positive emergency shut-off valve between the tank and the pump, as close to the tank as possible. This valve shall be controllable from the cockpit and supplemented by check valves and flight crew training which will minimize inadvertent loss of insecticide due to broken lines or other spray system malfunction.

xxi. Bleed lines in any point that may trap air on the pressure side of the spraying system.

xxii. An operational pressure gauge with a minimum operating range of 0 to 60 psi and a maximum of 0 to 100 psi visible to the pilot for monitoring boom pressure.

xxiii. A 50-mesh in-line screen between the pump and the boom and nozzle screens as specified by the nozzle manufacturer.

xxiv. Aircraft equipped so nozzle direction can be changed from 45 degrees down and back to straight back when it is necessary to change droplet size.

xxv. All nozzles not in use must be removed and the openings plugged.

xxvi. Nozzle tips for all insecticides shall be made of stainless steel.

xxvii. Aircraft shall have an operational Differentially Corrected Global Positioning System (DGPS) and flight data logging software that will log and display the date and time

of the entire flight from take-off to landing and differentiate between spray-on and spray-off.

xxviii. Aircraft shall have a DGPS with software designed for parallel offset in increments equal to the assigned swath width of the application aircraft. Fixed towers, portable stations, satellite, Coast Guard, or other acceptable methods may provide differential correction. However, the differential signal must cover the entire project area. In fringe areas from the generated signal, an approved repeater may be used. The system shall be sufficiently sensitive to provide immediate deviation indications and sufficiently accurate to keep the aircraft on the desired flight path with an error no greater than 3 feet. Systems that do not provide course deviation updates at one-second intervals or less will not be accepted.

xxix. A course deviation indicator (CDI) or a course deviation light bar (also CDI) must be installed on the aircraft and in a location that will allow the pilot to view the indicator with direct or peripheral vision without looking down. The CDI must be capable of pilot selected adjustments for course deviation indication with the first indication at 3 feet or less.

xxx. The DGPS must display to the pilot a warning when differential correction is lost, the current swath number, and cross-track error. The swath advance may be set manually or automatically. If automatic is selected, the pilot must be able to override the advance mode to allow respraying of single or multiple swaths.

xxxi. The DGPS must be equipped with a software for flight data logging that has a system memory capable of storing a minimum of 3 hours of continuous flight log data with the logging rate set at one second intervals. The DGPS shall automatically select and log spray on/off at one-second intervals while ferry and turnaround time can be two-second intervals. The full logging record will include position, time, date, altitude, speed in M.P.H., cross-track error, spray on/off, aircraft number, pilot, job name or number, and differential correction status. The flight data log software shall be compatible with DOS compatible PC computers, dot matrix, laser, or ink jet printers and plotters. The system must compensate for the lag in logging spray on/off. The system will display spray on/off at the field boundary without a sawtooth effect. Must be capable to end log files, rename, and start a new log in flight.

xxxii. The software must generate the map of the entire flight within a reasonable time. Systems that require five minutes or more to generate the map for a three-hour flight on a PC (minimum a 386 microprocessor with 4 MB of memory) will not be accepted. The flight path must clearly differentiate between spray on and off when viewed on the monitor or the printed hard copy. The software must be capable of replaying the entire flight in slow motion; stopping and restarting the replay at any point during the flight; zooming to any portion of the flight for viewing in greater detail and printing the entire flight or the zoomed-in portion. It must have a measure feature that will measure distance in feet between swaths or any portion of the screen and to be able to determine the exact latitude/longitude at any point on the monitor.

xxxiii. Flight information software provided by the applicator must have the capability to interface with MapInfo (version 3.0 or 4.0). The interface process must be

"user friendly," as personnel will be responsible to operate the system in order to access the information.

xxxiv. Application of ULV malathion shall be at an application rate of 12 oz. per acre with no dilutions or tank mixes.

xxxv. Applications of ULV malathion shall not be made prior to sunrise on June 30, 2004 and shall not be made after sunset on September 15, 2004.

xxxvi. Applications of ULV malathion shall be restricted to seven day intervals.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 21:927 (September 1995), amended LR 26:1964 (September 2000), LR 30:

Bob Odom
Commissioner

0407#027

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Weights and Measures Commission

Petroleum Products **C** Sale of Motor Vehicle Fuels (LAC 7:XXXV.351-365)

The Commissioner of Agriculture and Forestry adopts the following Emergency Rule relating to advertising, offering to sell or sale at retail of motor vehicle fuels in a manner contrary to law. This Rule is adopted in accordance with R.S. 3:4608, R.S. 3:4671, R.S. 3:4679, R.S. 3:4680, R.S. 3:4686, and R.S. 51:421 et seq. and the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act.

Motor vehicle fuels are essential to the community, to industry including agriculture and forestry, and to the welfare of the citizens of Louisiana. The free and fair distribution and sale of motor vehicle fuels is necessary for the economic vitality of this state in general, and of particular industries such as agriculture and forestry. The free and fair distribution and sale of motor vehicle fuels is therefore important to the public welfare.

Advertising, offering to sell or selling of motor vehicle fuels below cost is unfair competition contrary to and violative of the public policy of this state.

Presently there exists within this state advertisements, offers to sell and sales at retail of motor vehicle fuels below cost, which advertisements, offers and sales are unlawful. The advertisements, offers to sell and sales at retail of motor vehicle fuels below cost tend to reduce competition through the elimination of competitors, thereby threatening the free and fair distribution and sale, and thus the supply, of motor vehicle fuels. Maintenance of competition in the sale of motor vehicle fuels is critical to the free and fair distribution and sale of motor vehicle fuels throughout the state. The reduction of competition and harm to the free and fair distribution and sale of motor vehicle fuels constitutes imminent peril to the public welfare.

The Commissioner of Agriculture and Forestry finds that the circumstances described above constitute an imminent peril to the public welfare and that the adoption of a Rule

upon shorter notice than that provided in R.S. 49:953(A) is therefore required.

These emergency regulations become effective upon signature, July 6, 2004, and will remain in effect for a period of one hundred twenty days, unless renewed, or until promulgated as permanent regulations in accordance with the Administrative Procedure Act, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 3. Petroleum Products

Subchapter B. Sale of Motor Vehicle Fuels

§351. Definitions

A. As used in this subchapter, the terms defined in this section have the meanings herein given to them, except where the context expressly indicates otherwise:

Commissioner **C** The Commissioner of Agriculture and Forestry.

Cost to the Retailer **C**

a. the invoice cost, or the replacement cost, of motor vehicle fuels to the retailer, whichever is lower;

i. Less all trade discounts except customary discounts for cash;

ii. Plus, in the following order:

(a). Freight charges not otherwise included in the invoice cost or the replacement cost;

(b). Cartage to the retail outlet if done or paid by the retailer, which cartage cost, in the absence of proof of a lesser cost, shall be three-fourths of one per cent of the cost to the retailer after adding freight charges but before adding cartage and markup; and,

(c). A markup to cover a proportionate part of the cost of doing business, which markup, in the absence of proof of a lesser cost, shall be six per cent of the cost to the retailer after adding freight charges and cartage.

b. In determining *cost to the retailer* in those cases where the retailer buys at wholesale and receives the wholesaler's profits and discounts on motor vehicle fuels to be sold at retail, both a wholesale markup of two per cent and the retail markup of six percent, in the absence of proof of a lesser cost, shall be added to cover a proportionate part of the cost of doing business.

Cost to the Retailer **C** Only bona fide costs. Purchases made by retailers at prices which cannot be justified by prevailing market conditions within this state shall not be used in determining *cost to the retailer*.

Discount **C** Any reduction, direct or indirect, in the price of motor vehicle fuels.

Freight **C** All costs of transportation of motor vehicle fuels from a terminal or other bulk storage facility to the retailer.

Held for Sale **C** That a motor vehicle fuel is stored on the premises of a retailer such that motor vehicle fuel is capable of being sold or dispensed in connection with sales at retail.

Individual **C** person.

Invoice **C** The document evidencing the purchase of motor vehicle fuels by a retailer containing purchase information including the date, quantity, description of product and the actual sale price of each product to the retailer.

Invoice Cost **C** The actual price of motor vehicle fuels purchased by the retailer as set forth in an invoice. In the

event any retailer obtains motor vehicle fuels for resale in a manner that does not generate an invoice, in the absence of proof of a different cost, the invoice cost for such fuel for that retailer shall be the rack average price, for the date the motor vehicle fuel was advertised, offered for sale, or sold at retail for the same motor vehicle fuel product at the rack which is geographically closest to the retailer's outlet. Any allowance offered by any person that effectively reduces the retail cost of motor vehicle fuels to the consumer, including without limitation, rebates, coupons, and other concessions, shall be added to the invoice cost for purposes of determining cost to the retailer.

Motor Vehicle Fuel and Motor Vehicle Fuels Those petroleum products, such as gasoline, diesel fuel, or any other refined hydrocarbon mixture, distributed for use as a fuel in self-propelled vehicles designed primarily for use on public streets, roads and highways.

Person A natural person or legal entity.

Replacement Cost The lowest cost per unit at which the motor vehicle fuels sold or offered for sale could have been bought by the retailer at any time within thirty days prior to the date of sale or the date upon which the motor vehicle fuels are offered for sale by the retailer if bought in the same quantity as the retailer's last purchase of the motor vehicle fuels.

Retailer Any person engaged in the business of making sales at retail within this state of motor vehicle fuels, or if any person is engaged in the business of making sales both at retail and at wholesale, *retailer* shall apply only to the retail portion of the business.

Sell at Retail and Sales at Retail Any transfer for a valuable consideration, made in the ordinary course of trade or in the usual prosecution of the retailer's business, of title to motor vehicle fuels to the purchaser for consumption or use other than resale, further processing or manufacturing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, R.S. 3:4671, R.S. 3:4679, R.S. 3:4680, R.S. 3:4686, and R.S. 51:421 et seq.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission at LR 30:

§353. Prohibition on Below-Cost Sales of Motor Vehicle Fuels at Retail

A. No retailer shall advertise, offer to sell, or sell at retail any motor vehicle fuels at less than cost to the retailer.

B. When motor vehicle fuels are advertised, offered for sale, or sold with one or more other items at a combined price, or are advertised, offered as a gift, or given with the sale of one or more items, or are advertised, offered, or sold with a gift of one or more items, each and all of the items shall for the purposes of this subchapter be considered advertised, offered for sale, or sold, and the price of the motor vehicle fuels for the purposes of this subchapter shall include the cost of the other items to the retailer. In the absence of proof of a lesser cost, the cost of the other items to the retailer shall be determined in the same manner as "cost to the retailer" of motor vehicle fuels is determined in this subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, R.S. 3:4671, R.S. 3:4679, R.S. 3:4680, R.S. 3:4686, and R.S. 51:421 et seq.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission at LR 30:

§355. Exemptions

A. The provisions of this subchapter shall not apply to sales at retail where motor vehicle fuels are:

1. sold in bona fide clearance sales, if advertised, marked, and sold as such;
2. being discontinued and are advertised, marked and sold as such;
3. sold upon the final liquidation of any business;
4. sold for charitable purposes or to relief agencies;
5. sold on contract to departments of the government or governmental institutions;
6. sold in good faith to meet that competition which permits a competitor to sell at a lesser price where such competitor is able to do so without violating the terms and conditions of this subchapter;
7. sold by any officer acting under the order or direction of any court;
8. sold by the manufacturer or producer thereof; or
9. sold as medicants, germicides, insecticides or cleaning fluids.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, R.S. 3:4671, R.S. 3:4679, R.S. 3:4680, R.S. 3:4686, and R.S. 51:421 et seq.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission at LR 30:

§357. Burdens and Presumptions

A. Upon proof being made at any adjudicatory hearing that a person has advertised, offered to sell, or sold motor vehicle fuels at retail at less than cost to the retailer plus applicable taxes, such person shall be presumed to be in violation of this subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, R.S. 3:4671, R.S. 3:4679, R.S. 3:4680, R.S. 3:4686, and R.S. 51:421 et seq.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission at LR 30:

§359. Recordkeeping and inspection of records

A.1. Each retailer, dealer, distributor, marketer, jobber, importer, or refiner of motor vehicle fuels or any person performing one or more of those functions shall keep a full and complete record of motor vehicle fuels received, used, sold, or held for sale within this state by him, including but not limited to the following:

- a. invoices, bills of lading, and other pertinent records and papers that document or establish the cost to the retailer as defined in §351 of this subchapter;
- b. records of all measurements of the retailer's inventory of motor vehicle fuels; and
- c. records of all motor vehicle fuels pump or dispenser totalizer readings.

2. The records shall be kept for a period of three years from the end of the calendar year in which they were created. The records shall be kept in a manner that permits prompt access to all such records and shall be kept in a manner that facilitates the determination by audit of the cost to the retailer as defined in §351 of this Subchapter. In order

to enforce the provisions of this subchapter, the commissioner may from time to time audit the books and records of retailers, dealers, distributors, marketers, jobbers, importers, or refiners of motor vehicle fuels and each shall permit access to the records described in this section for such audit during normal business hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, R.S. 3:4671, R.S. 3:4679, R.S. 3:4680, R.S. 3:4686, and R.S. 51:421 et seq.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission at LR 30:

§361. Suspension of Right to do Business

A. A violator of the provisions of §353 of this subchapter may have his right to engage in the business of making sales at retail within this state of motor vehicle fuels suspended in addition to any civil penalty that may be imposed by the commissioner. For a first or second offense, the violator's right to continue or engage in the business of making sales at retail within this state of motor vehicle fuels at the place of business involved may be suspended for not less than one week nor more than six months. For any subsequent offense, the violator's right to engage in said business may be suspended for not less than three months nor more than twelve months. This suspension shall extend only to the individual guilty of the offense, unless the person is acting as an agent for a principal who knew of and participated in the violation, or knowing of the violation, acquiesced therein. The suspension shall extend to the right to use the filling station and all tanks, pumps, containers or equipment located at that station for the same period of time. However, if the violator does not own the property or equipment, and is merely renting, leasing or borrowing it, or is acting as agent for another, the suspension will extend to the owner or principal only if the owner or principal knew, or had good reason to know, of the violation. The commissioner has authority on motion in court to take a rule against the retailer, to show cause in not less than two nor more than ten days, inclusive of holidays after the service thereof, why said retailer should not be ordered to cease from further pursuit of business as retailer for the aforesaid period. Violations of the injunction shall be considered as a contempt of court and punished according to law. These motions shall be tried out of term and in chambers, and always by preference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, R.S. 3:4671, R.S. 3:4679, R.S. 3:4680, R.S. 3:4686, and R.S. 51:421 et seq.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission at LR 30:

§363. Monetary Penalty; Adjudicatory Hearing Required; Cost of Adjudicatory Hearing; Court Enforcement of Rulings; Injunctive Relief; Stipulated Resolution; Service

A. A violator of any provisions of this subchapter shall be subject to a civil penalty of not more than five hundred dollars for each act of violation. Each day on which a violation occurs shall be a separate offense.

B. Penalties may be assessed only by a ruling of the commissioner based upon an adjudicatory hearing held in accordance with the provisions of the Administrative Procedure Act

C. In addition to civil penalties, the commissioner may assess the proportionate costs of the adjudicatory hearing against the offender. The commissioner shall determine the amount of costs to be assessed.

D. The commissioner may institute civil proceedings to enforce his rulings in the district court for the parish in which the violation occurred.

E. The commissioner may institute civil proceedings seeking injunctive relief to restrain and prevent the violation of the provisions of this Chapter in the district court for the parish in which the violation occurred.

F. Nothing contained in this Part shall limit the right of the commissioner to offer any stipulated resolution of any alleged violation.

G. All notices including notices of adjudicatory hearings and service of subpoenas shall be served upon the agent for service of process, an officer, the principal owner, a manager or an employee of the entity to be noticed or served and, once served in accordance herewith said notice or service, shall be valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, R.S. 3:4671, R.S. 3:4679, R.S. 3:4680, R.S. 3:4686, and R.S. 51:421 et seq.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission at LR 30:

§365. Severability clause

A. If any provision of this subchapter is declared invalid for any reason by a final judgment of a court of competent jurisdiction, that declaration shall not affect the validity of the remaining provisions of this subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, R.S. 3:4671, R.S. 3:4679, R.S. 3:4680, R.S. 3:4686, and R.S. 51:421 et seq.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission at LR 30:

Bob Odom
Commissioner

0407#076

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Weights and Measures Commission

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

The Commissioner of Agriculture and Forestry adopts the following Emergency Rule relating to specifications for petroleum products, including motor vehicle fuels. This rule is adopted in accordance with R.S. 3:4608, R.S. 3:4671, R.S. 3:4673, R.S. 3:4678, R.S. 3:4679, R.S. 3:4681, R.S. 3:4682, and R.S. 3:4683 and the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act.

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, that meet established standards are 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 pending implementation of the reformulated gasoline requirement mandates that the state adopt emergency regulations to update the petroleum product specifications for the state.

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.

The Commissioner of Agriculture and Forestry finds that the circumstances described above constitute an imminent peril to the public welfare and that the adoption of a rule upon shorter notice than that provided in R.S. 49:953(A) is therefore required.

These emergency regulations become effective upon signature, June 22, 2004, and will remain in effect for a period of 120 days, unless renewed, or until these regulations are promulgated as permanent regulations in accordance with the Administrative Procedure Act, whichever occurs first.

Title 7

AGRICULTURE AND FORESTRY

Part XXXV. Agro-Consumer Services

Chapter 3. Petroleum Products

Subchapter A. Standards

§301. Definitions

A. As used in this Subchapter, the terms defined in this Section have the meanings herein given to them, except where the context expressly indicates otherwise.

ASTM or ASTM International—the national voluntary consensus standards organization formed for the development of standards on characteristics and performance of materials, products, systems, and services, and the promotion of related knowledge.

Antiknock Index or AKI—the arithmetic average of the Research Octane Number (RON) and Motor Octane Number (MON): $AKI = (RON+MON)/2$. In addition to anti-knock index, this value is called by a variety of names including: octane rating, posted octane, and $(R+M)/2$ octane.

Automotive Fuel Rating—the automotive fuel rating required under federal law.¹ The automotive fuel rating for gasoline is the antiknock index. The automotive fuel rating for alternative liquid fuels consists of the common name of the fuel and the disclosure of the amount, expressed as a minimum percentage, by volume of the principal component of the fuel.

Automotive Gasoline or Automotive Gasoline-Oxygenate Blend—a type of fuel suitable for use in automotive spark-ignition internal combustion engines and also commonly used in marine and non-automotive applications.

Aviation Gasoline—a type of gasoline suitable for use as a fuel in an aviation spark-ignition internal combustion engine.

Aviation Turbine Fuel—a refined middle distillate suitable for use as a fuel in an aviation gas turbine internal combustion engine.

Base Gasoline—all components other than ethanol in a blend of gasoline and ethanol.

Biodiesel—a blend consisting of diesel fuel and a substantial amount of esterified animal fats and/or vegetable oil(s).

Cetane Index—an approximation of the cetane number of distillate diesel fuel, which does not contain a cetane improver additive, calculated from the density and distillation measurements.

Cetane Number—a numerical measure of the ignition performance of a diesel fuel obtained by comparing it to reference fuels in a standardized engine test.

Diesel Fuel—a refined middle distillate suitable for use as a fuel in a compression-ignition (diesel) internal combustion engine.

Distillate—any product obtained by condensing the vapors given off by boiling petroleum or its products.

EPA—the United States Environmental Protection Agency.

E85 Fuel Ethanol—a blend of ethanol and hydrocarbons of which the ethanol portion is nominally 75 to 85 volume percent denatured fuel ethanol.

Engine Fuel—any liquid or gaseous matter used for the generation of power in an internal combustion engine.

Engine Fuels Designed for Special Use—engine fuels designated by the commissioner as requiring registration. These fuels normally do not have ASTM or other national consensus standards applying to their quality or usability; common special fuels are racing fuels and those intended for agricultural and other off-road applications.

Ethanol or Denatured Fuel Ethanol—nominally anhydrous ethyl alcohol meeting ASTM D 4806 standards. It is intended to be blended with gasoline for use as a fuel in a spark-ignition internal combustion engine.

Fuel Oil—refined oil middle distillates, heavy distillates, or residues of refining, or blends of these suitable for use as a fuel for heating or power generation, the classification of which shall be defined by ASTM D 396-02a.

Gasoline—a volatile mixture of liquid hydrocarbons generally containing small amounts of additives suitable for use as a fuel in a spark-ignition internal combustion engine.

Gasoline-Alcohol Blend—a fuel consisting primarily of gasoline and a substantial amount (more than 0.35 mass percent of oxygen, or more than 0.15 mass percent of oxygen if methanol is the only oxygenate) of one or more alcohols.

Gasoline-Oxygenate Blend—a fuel consisting primarily of gasoline along with a substantial amount (more than 0.35 mass percent of oxygen, or more than 0.15 mass percent of oxygen if methanol is the only oxygenate) of one or more oxygenates.

Kerosene or Kerosine—a refined middle distillate suitable for use as a fuel for heating or illuminating, the classification of which shall be defined by ASTM D 3699-03.

Lead Substitute—an EPA-registered gasoline additive suitable, when added in small amounts to fuel, to reduce or prevent exhaust valve recession (or seat wear) in automotive spark-ignition internal combustion engines designed to operate on leaded fuel.

Lead Substitute Engine Fuel—for labeling purposes, a gasoline or gasoline-oxygenate blend that contains a "lead substitute."

Leaded—for labeling purposes, any gasoline or gasoline-oxygenate blend that contains more than 0.013 g of lead per liter (0.05 g lead per U.S. gal).²

Low Sulfur—low sulfur diesel fuel that meets ASTM D 975-03 standards, e.g., Grade Low Sulfur No. 1-D or Grade Low Sulfur No. 2-D.

Low Temperature Operability—a condition that allows the uninterrupted operation of a diesel engine through the continuous flow of fuel throughout its fuel delivery system at low temperatures. Fuels with adequate low temperature operability characteristics have the ability to avoid wax precipitation and clogging in fuel filters.

Lubricity—a qualitative term describing the ability of a fluid to affect friction between surfaces and wear to surfaces in relative motion under load.

M100 Fuel Methanol—nominally anhydrous methyl alcohol, generally containing small amounts of additives, suitable for use as a fuel in a compression-ignition internal combustion engine.

M85 Fuel Methanol—a blend of methanol and hydrocarbons of which the methanol portion is nominally 70 to 85 volume percent.

Motor Octane Number or MON—a numerical indication of a spark-ignition engine fuel's resistance to knock obtained by comparison with reference fuels in a standardized ASTM D 2700 Motor Method engine test.

Oxygen Content of Gasoline—the percentage of oxygen by mass contained in a gasoline.

Oxygenate—an oxygen-containing, ashless, organic compound, such as an alcohol or ether, which can be used as a fuel or fuel supplement.

Reformulated Gasoline—a volatile mixture of liquid hydrocarbons and oxygenates meeting the reformulated gasoline requirements of the Clean Air Act Amendments of 1990 and suitable for use as a fuel in a spark-ignition internal combustion engine.

Research Octane Number or RON—a numerical indication of a spark-ignition engine fuel's resistance to knock obtained by comparison with reference fuels in a standardized ASTM D 2699 Research Method Engine Test.

SAE—the Society of Automotive Engineers, a technical organization for engineers, scientists, technicians, and others in positions that cooperate closely in the engineering, design, manufacture, use, and maintainability of self-propelled vehicles.

Substantially Similar—the EPA's "Substantially Similar" rule, Section 211 (f) of the Clean Air Act [42 U.S.C. 7545 (f)].

Thermal Stability—the ability of a fuel to resist the thermal stress that is experienced by the fuel when exposed to high temperatures in a fuel delivery system.

Total Alcohol—the aggregate total in volume percent of all alcohol contained in any fuel defined in this Subchapter.

Total Oxygenate—the aggregate total in volume percent of all oxygenates contained in any fuel defined in this Subchapter.

Unleaded, when used in conjunction with *engine fuel* or *gasoline*—any gasoline or gasoline-oxygenate blend to which no lead or phosphorus compounds have been intentionally added and which contains not more than 0.013 gram of lead per liter (0.05 g lead per U.S. gal) and not more

than 0.0013 gram of phosphorus per liter (0.005 g phosphorus per U.S. gal).

Wholesale Purchaser Consumer—any person who is an ultimate consumer of gasoline, fuel methanol, fuel ethanol, diesel fuel, biodiesel, fuel oil, kerosene, aviation turbine fuel, or aviation gasoline and who purchases or obtains the product from a supplier and receives delivery of that product into a storage tank.

¹16 CFR Part 306, adopted pursuant to 15 U.S.C. 2801, et seq.

²NOTE: EPA defines leaded fuel as one which contains more than 0.0013 g of phosphorus per liter (0.005 g per U.S. gal), or any fuel to which lead or phosphorus is intentionally added.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§303. Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends

A. Gasoline and gasoline-oxygenate blends sold, offered for sale, or distributed in Louisiana shall meet the following requirements.

1. ASTM D 4814-03a, as approved November 1, 2003 and published December 2003 by ASTM International, "Standard Specification for Automotive Spark-Ignition Engine Fuel," except that volatility standards for unleaded gasoline blended with ethanol shall not be more restrictive than those adopted under the rules, regulations, and Clean Air Act waivers of the U.S. Environmental Protection Agency.¹ Gasoline blended with ethanol shall be blended under any of the following three options:

a. the base gasoline used in such blends shall meet the requirements of ASTM D 4814-03a; or

b. the blend shall meet the requirements of ASTM D 4814-03a; or

c. the base gasoline used in such blends shall meet all the requirements of ASTM D 4814-03a except distillation, and the blend shall meet the distillation requirements of the ASTM specification.

2. Blends of gasoline and ethanol shall not exceed the ASTM D 4814-03a vapor pressure standard by more than 1.0 pounds per inch.

3. The Antiknock Index (AKI) shall not be less than the AKI posted on the product dispenser or as certified on the invoice, bill of lading, shipping paper, or other documentation.

4. The minimum motor octane number shall not be less than 82 for gasoline with an AKI of 87 or greater.

5. Silver strip classification of 0 or 1 (Table 1) as determined by Energy Institute test method IP 227/99 "Determination of Corrosiveness to Silver of Aviation Turbine Fuels—Silver Strip Method."

6. Gasoline and gasoline-oxygenate blends sold as "leaded" shall contain a minimum of 0.013 gram of lead per liter (0.05 g per U.S. gal).

7. Gasoline and gasoline-oxygenate blends sold as "lead substitute" gasoline shall contain a lead substitute which provides protection against exhaust valve seat recession equivalent to at least 0.026 gram of lead per liter (0.10 g per U.S. gal).

a. Upon the request of the commissioner, the lead substitute additive manufacturer shall provide documentation to the commissioner that demonstrates that

the treatment level recommended by the additive manufacturer provides protection against exhaust valve seat recession equivalent to or better than 0.026 gram per liter (0.1 g per U.S. gal) lead. The commissioner may review the documentation and approve the lead substitute additive before such additive is blended into gasoline. This documentation shall consist of:

i. test results as published in the Federal Register by the EPA Administrator as required in Section 211(f)(2) of the Clean Air Act; or

ii. until such time as the EPA Administrator develops and publishes a test procedure to determine the additive's effectiveness in reducing valve seat wear, test results and description of the test procedures used in comparing the effectiveness of 0.026 gram per liter lead and the recommended treatment level of the lead substitute additive shall be provided.

8. Blending. Leaded, lead substitute, and unleaded gasoline-oxygenate blends shall be blended according to the EPA "substantially similar" rule or an EPA waiver for unleaded fuel.

9. Gasoline or gasoline-oxygenate blends sold or delivered to consumers in Louisiana shall meet all the foregoing specifications and, in addition, shall have on all retail pumps a posted Antiknock Index. The Antiknock Index of the gasoline or gasoline-oxygenate blend shall not be less than the Antiknock Index posted on the pump.

¹For referenced ASTM standards, visit the ASTM website, www.astm.org, or contact ASTM Customer Service at service@astm.org. For Annual Book of ASTM Standards volume information, refer to the standard's Document Summary page on the ASTM website. Copies of referenced ASTM standards may be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959, Tel: (610) 832-9500, Fax: (610) 832-9555 or may be inspected at the Division of Weights and Measures, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§305. Standard Fuel Specifications for Diesel Fuel

A. Diesel fuel sold, offered for sale, or distributed in Louisiana shall meet the following requirements:

1. ASTM D 975-03, "Standard Specification for Diesel Fuel Oils," approved May 10, 2003 and published July 2003 by ASTM International.¹

2. All diesel fuels identified on retail dispensers, bills of lading, invoices, shipping papers, or other documentation with terms such as premium, super, supreme, plus, or premier must conform to the following requirements.

a. Cetane Number. A minimum cetane number of 47.0 as determined by ASTM Standard Test Method D 613.

b. Low Temperature Operability. A cold flow performance measurement which meets the ASTM D 975-03 tenth percentile minimum ambient air temperature charts and maps by either ASTM Standard Test Method D 2500 (Cloud Point) or ASTM Standard Test Method D 4539 (Low Temperature Flow Test or LTFT). Low temperature operability is only applicable October 1 - March 31 of each year.

c. Thermal Stability. A minimum reflectance measurement of 80 percent as determined by ASTM Standard Test Method D 6468 (180 minutes, 150 °C).

d. Lubricity. A maximum wear scar diameter of 520 microns as determined by ASTM D 6079. If a single test of more than 560 microns is determined, a second test shall be conducted. If the average of the two tests is more than 560 microns, the sample does not conform to the requirements of this Part.

¹For referenced ASTM standards, visit the ASTM website, www.astm.org, or contact ASTM Customer Service at service@astm.org. For Annual Book of ASTM Standards volume information, refer to the standard's Document Summary page on the ASTM website. Copies of referenced ASTM standards may be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959, Tel: (610) 832-9500, Fax: (610) 832-9555 or may be inspected at the Division of Weights and Measures, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§307. Standard Fuel Specifications for Aviation Turbine Fuels

A. Aviation Turbine Fuels sold, offered for sale, or distributed in Louisiana shall meet the specifications of ASTM D 1655-03, "Standard Specification for Aviation Turbine Fuels," approved August 10, 2003 and published September 2003 by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§309. Standard Fuel Specifications for Aviation Gasoline

A. Aviation Gasoline sold, offered for sale, or distributed in Louisiana shall meet the specifications of ASTM D 910-03, "Standard Specification for Aviation Gasoline," approved July 10, 2003 and published August 2003 by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§311. Standard Fuel Specifications for Fuel Oils

A. Fuel Oils sold, offered for sale or distributed in Louisiana shall meet the specifications of ASTM D 396-02a, "Standard Specification for Fuel Oils," approved November 10, 2002 and published November 2002 by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§313. Standard Fuel Specifications for Kerosene

A. Kerosene (Kerosine) sold, offered for sale, or distributed in Louisiana shall meet the specifications of ASTM D 3699-03, "Standard Specification for Kerosine," approved June 10, 2003 and published August 2003 by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§315. Standard Specifications for Ethanol

A. Ethanol intended for blending with gasoline sold, offered for sale, or distributed in Louisiana shall meet the specifications of ASTM D 4806-03, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel," approved June 10, 2003 and published August 2003 by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§317. Standard Fuel Specifications for Fuel Ethanol

A. E85 Fuel Ethanol sold, offered for sale, or distributed in Louisiana shall meet the specifications of ASTM D 5798-99, "Standard Specification for Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines" approved December 10, 1999 and published February 2000 by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§319. Standard Fuel Specifications for Fuel Methanol

A. M85 Fuel Methanol sold, offered for sale or distributed in Louisiana shall meet the specifications of ASTM D 5797-96, "Standard Specification for Fuel Methanol M70-M85 for Automotive Spark Ignition Engines," approved April 10, 1996 and published June 1996 by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§321. Classification and Method of Sale of Petroleum Products

A. When gasoline, gasoline-oxygenate blends, reformulated gasoline, M85 and M100 fuel methanol, E85 and E100 fuel ethanol, biodiesel, diesel fuel, kerosene, aviation gasoline, aviation turbine fuels, or fuel oils are sold, an invoice, bill of lading, shipping paper, or other documentation must accompany each delivery other than a retail sale. This documentation must identify the quantity, the name of the product, the particular grade of the product, the applicable automotive fuel rating, oxygenate type and content (if applicable), the name and address of the seller and buyer, and the date and time of the sale. This documentation must be retained at the retail establishment for a period not less than one year. The sale of any product under any grade name that indicates to the purchaser that it is of a certain Antiknock Index or ASTM grade shall not be permitted unless the Antiknock Index or ASTM grade indicated in the grade name is consistent with the value and meets the requirements of this Subchapter.

B. All retail dispensing devices must identify conspicuously the type of product, the particular grade of the

product, and the applicable Antiknock Index (AKI). The device shall automatically show on its face the initial zero condition and the quantity delivered (up to the nominal capacity). However, the first 0.03 L (or 0.009 gal.) of a delivery and its associated total sales price need not be indicated. In the event of a power loss, the information needed to complete any transaction in progress at the time of the power loss (such as the quantity and unit price, or sales price) shall be determinable for at least 15 minutes at the dispenser or at the console if the console is accessible to the customer. The device memory shall retain information on the quantity of fuel dispensed and the sales price totals during power loss. The primary indicating elements, and primary recording elements if the device is equipped to record, shall be readily returnable to a definite zero indication. However, a key-lock operated or other self-operated device may be equipped with cumulative indicating or recording elements, provided that it is also equipped with a zero-return indicating element. It shall not be possible to return primary indicating elements or primary recording elements beyond the correct zero position.

C. A computing or money-operated device shall be able to display on each face the unit price at which the device is set to compute or to dispense. Whenever a grade, brand, blend, or mixture is offered for sale from a device at more than one unit price, then all of the unit prices at which that product is offered for sale shall be displayed or shall be capable of being displayed on the dispenser using controls available to the customer prior to the delivery of the product. It is not necessary that all of the unit prices for all grades, brands, blends, or mixtures be simultaneously displayed prior to the delivery of the product. This Subsection shall not apply to fleet sales, other contract sales, or truck refueling sales (e.g., sales from dispensers used to refuel trucks).

D. A device shall be able to display conspicuously on each side the identity of the product being dispensed. A device designed to dispense more than one grade, brand, blend, or mixture of product also shall be able to display on each side the identity of the grade, brand, blend, or mixture being dispensed.

E. A computing device shall compute the total sales price at any single-purchase unit price (i.e., excluding fleet sales, other price contract sales, and truck stop dispensers used only to refuel trucks) for which the product being measured is offered for sale at any delivery possible within either the measurement range of the device or the range of the computing elements, whichever is less. The analog sales price indicated for any delivered quantity shall not differ from a mathematically computed price (quantity x unit price = total sales price) by an amount greater than the value in Paragraph E.1. The values of the graduated intervals representing money values on a computing type device shall be no greater than those in Paragraph E.1. Money-Value Divisions and Maximum Allowable Variations for Money-Value Computations on Mechanical Analog Computers. A computing type device with digital indications shall comply with the requirements of Paragraph E.1 and the total price computation shall be based on quantities not exceeding 0.05 L for devices indicating in metric units and 0.01 gal. intervals for devices indicating in inch-pound units. If a system is equipped with auxiliary indications, all indicated

money value divisions of the auxiliary element shall be identical with those of the primary element.

1. Money-Value Divisions and Maximum Allowable Variations for Money-Value Computations on Mechanical Analog Computers

| Unit Price | | Money Value Division | Maximum Allowable Variation | |
|-------------------------------|--------------------------------|----------------------|-----------------------------|------------|
| From | To and including | | Design Test | Field Test |
| 0 | \$0.25/liter or \$1.00/gallon | 1¢ | ± 1¢ | ± 1¢ |
| \$0.25/liter or \$1.00/gallon | \$0.75/liter or \$3.00/gallon | 1¢ or 2¢ | ± 1¢ | ± 2¢ |
| \$0.75/liter or \$3.00/gallon | \$2.50/liter or \$10.00/gallon | 1¢ or 2¢ | ± 1¢ | ± 2¢ |
| \$0.75/liter or \$3.00/gallon | \$2.50/liter or \$10.00/gallon | 5¢ | ± 2 ½¢ | ± 5¢ |

F. When a product or grade is offered for sale at more than one unit price through a computing device, the selection of the unit price shall be made prior to delivery using controls on the device or other customer-activated controls except for dispensers used exclusively for fleet sales, other price contract sales, and truck refueling, e.g., truck stop dispensers used only to refuel trucks. A system shall not permit a change to the unit price during delivery of product. When a delivery is completed, the total price and quantity for that transaction shall be displayed on the face of the dispenser for at least five minutes or until the next transaction is initiated by using controls on the device or other customer-activated controls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4672, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§323. Automotive Gasoline and Automotive Gasoline-Oxygenate Blends

A. All dispensing devices for automotive gasoline and automotive gasoline-oxygenate blends shall post the Antiknock Index in accordance with applicable federal regulations (16 CFR Part 306, adopted 44 FR 19169, as amended 58 FR 41372-4, 59 FR 48798, 61 FR 54549, and 61 FR 55840).

B. The term "leaded" shall only be used when the fuel meets specification requirements of §303.A.5.

C. Each dispensing device from which gasoline or gasoline-oxygenate blends containing a lead substitute is dispensed shall display the following legend: "Contains Lead Substitute." The lettering of this legend shall not be less than 12 mm (1/2 in) in height and the color of the lettering shall be in definite contrast to the background color to which it is applied.

D. Each dispensing device from which gasoline or gasoline-oxygenate blends that contain lead in amounts sufficient to be considered "leaded" gasoline or lead substitute engine fuel are sold shall be equipped with a nozzle spout having a terminal end with an outside diameter of not less than 23.63 mm (0.930 in).

E. It is prohibited to use specific terms to describe a grade of gasoline or gasoline-oxygenate blend unless it

meets the minimum Antiknock Index requirement shown in Paragraph E.1: Minimum Antiknock Index Requirements.

1. Minimum Antiknock Index Requirements

| Term | Minimum Antiknock Index |
|-------------------------------|-------------------------|
| Premium, Super, Supreme, High | 91 |
| Midgrade, Plus | 89 |
| Regular Leaded | 88 |
| Regular, Unleaded | 87 |

F. The retailer shall be provided at the time of delivery of the fuel, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of the predominant oxygenate or combination of oxygenates present in concentrations sufficient to yield an oxygen content of at least 1.5 mass percent in the fuel. Where mixtures of only ethers are present, the fuel supplier may identify either the predominant oxygenate in the fuel (i.e., the oxygenate contributing the largest mass percent oxygen) or, alternatively, use the phrase "contains MTBE or other ethers." In addition, any gasoline containing more than 0.15 mass percent oxygen from methanol shall be identified as "with" or "containing" methanol. This documentation is only for dispenser labeling purposes; it is the responsibility of any potential blender to determine the total oxygen content of the engine fuel before blending.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§325. Diesel Fuel

A. Diesel Fuel sold, offered for sale, or distributed in Louisiana shall be identified by grades No. 1-D, No. 1-D (low sulfur), No. 2-D, No. 2-D (low sulfur), or No. 4-D. Each retail dispenser of diesel fuel shall be labeled according to the grade being dispensed except the words "low sulfur" are not required.

B. These labels shall be located on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position, in a type at least 12 mm (1/2 in) in height and 1.5 mm (1/16 in) stroke (width of type).

C. Before or at the time of delivery of premium diesel fuel, the retailer or the wholesale purchaser consumer shall be provided on an invoice, bill of lading, shipping paper, or other documentation a declaration of all performance properties that qualifies the fuel as premium diesel fuel as required in §305.A.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§327. Aviation Turbine Fuels

A. Aviation turbine fuels sold, offered for sale, or distributed in Louisiana shall be identified by Jet A, Jet A-1, or Jet B.

B. Each dispenser or airport fuel truck dispensing aviation turbine fuels shall be labeled in accordance with the "Standard for Aircraft Fuel Servicing," NFPA Standard 407, 2001 Edition.¹

C. Each aircraft fuel-servicing vehicle shall have a sign on each side and the rear to indicate the product. The sign shall have letters at least 3 inches (75 mm) high of color sharply contrasting with its background for visibility. It shall show the word "FLAMMABLE" and the name of the product carried, such as "JET A," "JET B," "GASOLINE," or "AVGAS."

¹National Fire Protection Association. A copy of the standard may be obtained from the NFPA web page www.nfpa.org or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Ma. 02169-7471, Telephone (617) 770-3000, Fax (617) 770-0700.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§329. Aviation Gasoline

A. Aviation gasoline sold, offered for sale, or distributed in Louisiana shall be identified by Grade 80, Grade 100, or Grade 100LL.

B. Each dispenser or airport fuel truck dispensing aviation gasoline shall be labeled in accordance with the "Standard for Aircraft Fuel Servicing," NFPA Standard 407, 2001 Edition.¹

C. Each aircraft fuel-servicing vehicle shall have a sign on each side and the rear to indicate the product. The sign shall have letters at least 3 inches (75 mm) high of color sharply contrasting with its background for visibility. It shall show the word "FLAMMABLE" and the name of the product carried, such as "JET A," "JET B," "GASOLINE," or "AVGAS."

¹National Fire Protection Association. A copy of the standard may be obtained from the NFPA web page www.nfpa.org or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Ma. 02169-7471, Telephone (617) 770-3000, Fax (617) 770-0700.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§331. Fuel Oils

A. Fuel Oil sold, offered for sale, or distributed in Louisiana shall be identified by the grades of No. 1, No. 2, No. 4 (Light), No. 4, No. 5 (Light), No. 5 (Heavy), or No. 6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§333. Kerosene (Kerosine)

A. Kerosene sold, offered for sale, or distributed in Louisiana shall be identified by the grades No. 1-K or No. 2-K.

B. Each retail dispenser of kerosene shall be labeled as 1-K Kerosene or 2-K Kerosene. In addition, No. 2-K dispensers shall display the following legend: "Warning - Not Suitable For Use In Unvented Heaters Requiring No. 1-K." The lettering of this legend shall not be less than 12 mm (1/2 in) in height by 1.5 mm (1/16 in) stroke; block style letters and the color of lettering shall be in definite contrast to the background color to which it is applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§335. Fuel Ethanol

A. Fuel ethanol sold, offered for sale, or distributed in Louisiana shall be identified by the capital letter E followed by the numerical value volume percentage of ethanol.

B. Each retail dispenser of fuel ethanol shall be labeled with the capital letter E followed by the numerical value volume percent denatured ethanol and ending with the word "ethanol", e.g., "E85 Ethanol."

C. Fuel ethanol shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§337. Fuel Methanol

A. Fuel methanol sold, offered for sale, or distributed in Louisiana shall be identified by the capital letter M followed by the numerical value volume percentage of methanol.

B. Each retail dispenser of fuel methanol shall be labeled by the capital letter M followed by the numerical value volume percent and ending with the word "methanol", e.g., "M85 Methanol."

C. Fuel methanol shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§339. Retail Storage Tanks

A. No water phase greater than 6 mm (1/4 in), as determined by an appropriate detection paste, is allowed to accumulate in any tank utilized in the storage of gasoline-alcohol blend, aviation gasoline, and aviation turbine fuel.

B. Water shall not exceed 50 mm (2 in) in depth when measured with water indicating paste in any tank utilized in the storage of biodiesel, diesel, gasoline, gasoline-ether blends, and kerosene sold at retail except as required in Subsection A.

C. The fill connection for any petroleum product storage tank or vessel supplying engine-fuel devices shall be permanently, plainly, and visibly marked as to the product contained.

D. When the fill connection device is marked by means of a color code, the color code shall be conspicuously displayed at the place of business.

E. Each retail location shall maintain on file a calibration chart or other means of determining the volume of each regulated product in each storage tank and the total capacity of such storage tank(s). This information shall be supplied immediately to the commissioner or his designee on request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4672, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§341. Sampling

A. The commissioner or his designee may obtain samples of any and all petroleum products provided for in this Subchapter that are sold, offered for sale, distributed, or

used in this state. The samples may be taken from any commercial weighing or measuring device used in the sale or distribution of petroleum products, from any tank or other container used in the transporting of such products, or from any tank or other container containing petroleum products intended for distribution or use in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4678, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§343. Nonconforming Product

A. When the analysis of a sample of a petroleum product performed in conformity with the provisions of this Subchapter discloses that the product from which the sample was taken does not conform to the specifications fixed by this Subchapter, it is the duty of the commissioner to immediately serve notice on the manufacturer, distributor or seller that the product must not be sold in the state. If the petroleum product is in the process of transportation and has not yet been delivered to the consignee or retailer, the commissioner or his designee may immediately notify the consignor of the result of the test and instruct said consignor to withdraw the product from sale in this state. Failure on the part of the consignor to obey these orders shall constitute a violation of this Subchapter.

B. If the petroleum product is not in the process of transportation, but is exposed or offered for sale or distribution, the commissioner or his designee may, by written order, stop the sale or distribution of this product. The retailer or distributor upon whom a stop-sale order is served is prohibited from exposing for sale, selling, or distributing this product until formally released by order of the commissioner. The stop-sale order given by the commissioner must apply only to that product and may not be extended to cover other petroleum products sold or distributed by a retail dealer or distributor which are found to conform to specifications fixed under the provisions of this Subchapter.

C. When the commissioner or his designee issues a written order to stop the offering for sale, sale, or distribution of a particular product which is maintained at a terminal or bulk plant facility, the terminal or bulk storage plant shall immediately notify all customers that received those product(s) and make any arrangements necessary to replace or adjust to specifications those product(s). The terminal or bulk storage plant shall also immediately notify the commissioner of those customers, their business locations, and the quantity of product delivered to each location. A release from a stop-sale order will be issued only after the commissioner or his designee has agreed upon final disposition of the product. Confirmation of disposition of products shall be made available in writing to the commissioner. Specific variations or exemptions may be made for fuels used for blending purposes or designed for special equipment or services and for which it can be demonstrated that the distribution will be restricted to those uses.

D. The commissioner or his designee may placard or seal any pump, dispenser, tank or container which contains a nonconforming product or which would dispense a petroleum product that does not conform to the appropriate specification in this Subchapter. No person shall deface,

remove, or obscure any placard or seal posted or placed by the commissioner or his designee or act in any manner so as to interfere with or obstruct the commissioner or his designee in the discharge of his duties under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4678, 4680, 4681, 4682, and 4683.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§345. Product Registration

A. All engine fuels designed for special use that do not meet ASTM specifications or standards set out in this Subchapter shall be registered with the commissioner, on forms prescribed by the commissioner, 30 days prior to when the registrant wishes to engage in sales. The registration form shall include all of the following information.

1. Identity—business name, address(es), and telephone number(s).

2. Address—mailing address if different than business address.

3. Business Type—type of ownership of the distributor or retail dealer, such as an individual, partnership, association, trust, corporation, or any other legal entity or combination thereof.

4. Signature—an authorized signature, title, and date for each registration.

5. Product Description—product brand name and product description.

6. Product Specification—a product specification sheet shall be attached.

B. Registration is subject to annual renewal.

C. Renewal of a registration is required 30 days prior to any changes in the information required by Subsection A.

D. The commissioner may decline to register any product that actually or by implication would deceive or tend to deceive a purchaser as to the identity or the quality of the engine fuel.

E. Transferability—the registration is not transferable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4678, 4680, 4681, 4682, and 4683.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

§347. Test Methods and Reproducibility Limits

A. ASTM Standard Test Methods referenced for use within the applicable Standard Specification shall be used to determine the specification values for enforcement purposes.

B. Reproducibility Limits

1. When determining the Antiknock Index acceptance or rejection of a gasoline sample, the AKI reproducibility limits as outlined in ASTM D 4814 Appendix X1 shall be utilized for enforcement purposes.

2. The reproducibility limits of the ASTM standard test method used for each test performed shall be utilized for enforcement purposes, except as indicated in Paragraph 1 above.

3. Dispute Resolution. In the event of a dispute over a reported test value, the guidelines presented in the specifications of ASTM D 3244, "Standard Practice for Utilization of Test Data to Determine Conformance with Specifications," shall be used to determine the acceptance or rejection of the sample.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Weights and Measures Commission, LR 30:

Bob Odom
Commissioner

0407#013

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Expedited Penalty Agreement
(LAC 33:I.801, 803, 805, and 807)(OS054E1)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allow the Department of Environmental Quality to use emergency procedures to establish rules, and of R.S. 30:2011 and 2074, which allow the department to establish standards, guidelines, and criteria, to promulgate rules and regulations, and to issue compliance schedules, the secretary of the department hereby declares that an emergency action is necessary in order to implement expedited penalty agreements. This is a renewal of Emergency Rule OS054E, which was effective on March 10, 2004, and published in the *Louisiana Register* on March 20, 2004.

This Emergency Rule will abate the delay in correcting minor and moderate violations of the Environmental Quality Act. Delays in enforcement reduce the effectiveness of the action, utilize unnecessary resources, and slow down the enforcement process. In the past three years alone, the Enforcement Division has received 8,139 referrals and has issued 4,259 actions. Currently strained budget and resource issues pose imminent impairment to addressing minor and moderate violations. This Rule will provide an alternative penalty assessment mechanism that the department may utilize, at its discretion, to expedite penalty agreements in appropriate cases. The report to the Governor by the Advisory Task Force on Funding and Efficiency of the Louisiana Department of Environmental Quality recommended this action as a pilot program. The legislature approved the report and passed Act 1196 in the 2003 Regular Session allowing the department to promulgate rules for the program. This Emergency Rule allows the operation of the pilot program to commence immediately, without the delay and inflexibility of a permanent rule. It will also allow the department to gather information to formulate a long-term rule and to evaluate the environmental and public health benefits and the social and economic costs of such a program in order to justify these requirements for the permanent rule.

This Emergency Rule is effective on July 8, 2004, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first. For more information concerning OS054E1 you may contact the Regulation Development Section at (225) 219-3550.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 8. Expedited Penalty Agreement

§801. Definitions

Qualifying Permit Parameter For the purposes of these regulations: total organic carbon (TOC), chemical oxygen demand (COD), dissolved oxygen (DO), 5-day biochemical oxygen demand (BOD₅), 5-day carbonaceous biochemical oxygen demand (CBOD₅), total suspended solids (TSS), fecal coliform, and/or oil and grease.

Expedited Penalty Agreement A predetermined penalty assessment issued by the department and agreed to by the respondent, which identifies violations of minor or moderate gravity as determined by LAC 33:I.705, caused or allowed by the respondent and occurring on specified dates, in accordance with R.S. 30:2025(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2025(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 30:

§803. Purpose

A. The purpose of this Chapter is to provide an alternative penalty assessment mechanism that the department may utilize, at its discretion, to expedite penalty assessments in appropriate cases. This Chapter:

1. addresses common violations of minor or moderate gravity;
2. quantifies and assesses penalty amounts for common violations in a consistent, fair, and equitable manner;
3. ensures that the penalty amounts are appropriate, in consideration of the nine factors listed in R.S. 30:2025(E)(3)(a);
4. eliminates economic incentives for noncompliance for common minor and/or moderate violations; and
5. ensures expeditious compliance with environmental regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2025(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 30:

§805. Applicability

A. *Limit of Penalty Amount.* The total penalty assessed for the expedited penalty agreement shall not exceed \$1,500 for one violation or \$3,000 for two or more violations per penalty assessed.

B. *Departmental Discretion.* The secretary of the department or his designee, at his sole discretion, may propose an expedited penalty agreement for any violation described in LAC 33:I.807.A and considered in accordance with Subsection E of this Section. The expedited penalty agreement shall specify that the respondent waives any right to an adjudicatory hearing or judicial review regarding violations identified in the signed expedited penalty agreement. The respondent must concur with and sign the expedited penalty agreement in order to be governed by this Chapter and R.S. 30:2025(D).

C. Notification to the Respondent. The expedited penalty agreement shall serve as notification to the respondent of the assessed penalty amount for the violations identified on the specified dates.

D. Certification by the Respondent. By signing the expedited penalty agreement, the respondent certifies that all cited violations in the expedited penalty agreement have been or will be corrected, and that the assessed penalty amount has been or will be paid, within 30 days of receipt of the expedited penalty agreement.

E. Nine Factors for Consideration. An expedited penalty agreement may be used only when the following criteria for the nine factors for consideration are satisfied.

1. The History of Previous Violations or Repeated Noncompliance. The violation identified in the expedited penalty agreement is not the same as or similar to a violation identified in any compliance order, penalty assessment, settlement agreement, or expedited penalty agreement issued by the department within the previous two years.

2. The Nature and Gravity of the Violation. The violation identified is considered to be minor or moderate with regard to its nature and gravity.

a. The violation identified in the expedited penalty agreement deviates somewhat from the requirements of statutes, regulations, or permit; however, the violation exhibits at least substantial implementation of the requirements.

b. The violation identified is isolated in occurrence and limited in duration.

c. The violation is easily identifiable and corrected.

d. The respondent concurs with the violation identified and agrees to correct the violation identified and any damages caused or allowed by the identified violation within 30 days of receipt of the expedited penalty agreement.

3. The Gross Revenues Generated by the Respondent. By signing the expedited penalty agreement, the respondent agrees that sufficient gross revenues exist to pay the assessed penalty and correct the violation identified in the expedited penalty agreement within 30 days of receipt of the expedited penalty agreement.

4. The Degree of Culpability, Recalcitrance, Defiance, or Indifference to Regulations or Orders. The respondent is culpable for the violation identified, but has not shown recalcitrance, defiance, or extreme indifference to regulations or orders. Willingness to sign an expedited penalty agreement and correct the identified violation within the specified timeframe demonstrates respect for the regulations and a willingness to comply.

5. The Monetary Benefits Realized Through Noncompliance. The respondent's monetary benefit from noncompliance is not considered to be significant with regard to the violation identified. The respondent's monetary benefit from noncompliance for the violation identified shall not exceed the assessed penalty amount for the violation identified. The intent of these regulations is to eliminate economic incentives for noncompliance.

6. The Degree of Risk to Human Health or Property Caused by the Violation. The violation identified does not present actual harm or substantial risk of harm to the environment or public health. The violation identified is isolated in occurrence or administrative in nature, and the

violation identified has no measurable detrimental effect on the environment or public health.

7. Whether the Noncompliance or Violation and the Surrounding Circumstances Were Immediately Reported to the Department and Whether the Violation or Noncompliance Was Concealed or There Was an Attempt to Conceal by the Person Charged. Depending upon the type of violation, failure to report may or may not be applicable to this factor. If the respondent concealed or attempted to conceal any violation, the violation shall not qualify for consideration under these regulations.

8. Whether the Person Charged Has Failed to Mitigate or to Make a Reasonable Attempt to Mitigate the Damages Caused by the Noncompliance or Violation. By signing the expedited penalty agreement, the respondent states that the violation identified and the resulting damages, if any, have been or will be corrected. Violations considered for expedited penalty agreements are, by nature, easily identified and corrected. Damages caused by any violation identified are expected to be nonexistent or minimal.

9. The Costs Of Bringing and Prosecuting an Enforcement Action, Such as Staff Time, Equipment Use, Hearing Records, and Expert Assistance. Enforcement costs for the expedited penalty agreement are considered minimal. Enforcement costs for individual violations are covered with the penalty amount set forth for each violation in LAC 33:I.807.

F. Schedule. The respondent must return the signed expedited penalty agreement and payment for the assessed amount to the department within 30 days of the respondent's receipt of the expedited penalty agreement. If the department has not received the signed expedited penalty agreement and payment for the assessed amount by the close of business on the thirtieth day after the respondent's receipt of the expedited penalty agreement, the expedited penalty agreement may be withdrawn at the department's discretion.

G. Extensions. The department, at its discretion, may grant one 30-day extension in order for the respondent to correct the violation cited in the expedited penalty agreement. In order to receive an extension, the respondent must submit a request, in writing, and satisfactorily demonstrate to the department that compliance with the cited violation is technically infeasible or impracticable within the initial 30-day period for compliance.

H. Additional Rights of the Department

1. If the respondent signs the expedited penalty agreement, but fails to correct the violation identified, pay the assessed amount, or correct any damages caused or allowed by the cited violation within the specified timeframe, the department may issue additional enforcement actions including, but not limited to, a civil penalty assessment and may take any other action authorized by law to enforce the terms of the expedited penalty agreement.

2. If the respondent does not agree to and sign the expedited penalty agreement, the department may notify the respondent that a formal civil penalty is under consideration. The department may then pursue formal enforcement action against the respondent in accordance with R.S. 30:2025(C), 2025(E), 2050.2, and 2050.3.

I. Required Documentation. The department shall not propose any expedited penalty agreement without an affidavit, inspection report, or other documentation to

establish that the respondent has caused or allowed the violation to occur on the specified dates.

J. Evidentiary Requirements. Any expedited penalty agreement issued by the department shall notify the respondent of the evidence used to establish that the respondent has caused or allowed the violation to occur on the specified dates.

K. Public Enforcement List. The signed expedited penalty agreement is a final enforcement action of the department and shall be included on the public list of enforcement actions referenced in R.S. 30:2050.1(B)(1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2025(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 30:

§807. Types of Violations and Expedited Penalty Amounts

A. The types of violations listed in the following table may qualify for coverage under this Chapter; however, any violation listed below, which is identified in an expedited penalty agreement, must also meet the conditions set forth in LAC 33:I.805.E.

| Expedited Penalties | | | |
|--|---------------------|--------|----------------|
| Violation | Citation | Amount | Frequency |
| ALL MEDIA | | | |
| Failure to provide timely notification for the unauthorized discharge of any material that exceeds the reportable quantity but does not cause an emergency condition | LAC 33:I.3917.A | \$300 | per day |
| Failure to provide timely written notification for the unauthorized discharge of any material that exceeds the reportable quantity but does not cause an emergency condition | LAC 33:I.3925.A | \$300 | per day |
| AIR QUALITY | | | |
| 40 CFR Part 70 General Permit conditions (Part K, L, M, or R): failure to timely submit any applicable annual, semiannual, or quarterly reports | LAC 33:III.501.C.4 | \$500 | per occurrence |
| Failure to submit an Annual Criteria Pollutant Emissions Inventory in a timely and complete manner when applicable | LAC 33:III.919 | \$500 | per occurrence |
| Failure to submit an Annual Toxic Emissions Data Inventory in a timely and complete manner when applicable | LAC 33:III.5107 | \$500 | per occurrence |
| Stage II Vapor Recovery | | | |
| Note: LAC 33:III.2132 is only applicable to subject gasoline dispensing facilities in the parishes of Ascension, East Baton Rouge, West Baton Rouge, Iberville, Livingston, and Pointe Coupee. | | | |
| Failure to have at least one person trained as required by the regulations | LAC 33:III.2132.C | \$300 | per occurrence |
| Failure to post operating instructions on each pump | LAC 33:III.2132.E | \$100 | per occurrence |
| Failure to maintain equipment | LAC 33:III.2132.F | \$100 | per occurrence |
| Failure to tag defective equipment "out of order" | LAC 33:III.2132.F.3 | \$500 | per occurrence |
| Failure to maintain records on-site | LAC 33:III.2132.G | \$300 | per inspection |

| Expedited Penalties | | | |
|---|-----------------------------|--------|----------------|
| Violation | Citation | Amount | Frequency |
| Failure to use and/or diligently maintain, in proper working order, all air pollution control equipment installed at the site | LAC 33:III.905 | \$100 | per occurrence |
| SOLID WASTE | | | |
| Waste Tires | | | |
| Storage of more than 20 whole tires without authorization from the administrative authority | LAC 33:VII.10509.B | \$200 | per occurrence |
| Transporting more than 20 tires without first obtaining a transporter authorization certificate | LAC 33:VII.10509.C | \$200 | per occurrence |
| Storing tires for greater than 365 days | LAC 33:VII.10509.E | \$200 | per occurrence |
| Failure to maintain all required records for three years on-site or at an alternative site approved in writing by the administrative authority | LAC 33:VII.10509.G | \$200 | per occurrence |
| Failure to obtain a waste tire generator identification number within 30 days of commencing business operations | LAC 33:VII.10519.A | \$300 | per occurrence |
| Failure to accept one waste tire for every new tire sold unless the purchaser chooses to keep the waste tire | LAC 33:VII.10519.B | \$100 | per occurrence |
| Failure to remit waste tire fees to the state on a monthly basis as specified | LAC 33:VII.10519.D | \$100 | per occurrence |
| Failure to post required notifications to the public | LAC 33:VII.10519.E | \$100 | per occurrence |
| Failure to list the waste tire fee on a separate line on the invoice so that no tax will be charged on the fee | LAC 33:VII.10519.F | \$100 | per occurrence |
| Failure to keep waste tires or waste tire material covered as specified | LAC 33:VII.10519.H | \$200 | per occurrence |
| Failure to segregate waste tires from new or used tires offered for sale | LAC 33:VII.10519.M | \$200 | per occurrence |
| Failure to provide a manifest for all waste tire shipments containing more than 20 tires | LAC 33:VII.10533.A | \$200 | per occurrence |
| Failure to maintain completed manifests for three years and have them available for inspection | LAC 33:VII.10533.D | \$200 | per occurrence |
| Failure to collect appropriate waste tire fee for each new tire sold | LAC 33:VII.10519.C, 10535.B | \$200 | per occurrence |
| WATER QUALITY | | | |
| Failure to properly operate and maintain a facility: | | | |
| 1. Failing to provide disinfection at any applicable sewage treatment plant | LAC 33:IX.2701.E | \$200 | per occurrence |
| 2. Failing to operate/maintain backup or auxiliary systems within a treatment system | LAC 33:IX.2701.E | \$200 | per occurrence |
| 3. Failing to implement adequate laboratory controls and quality assurance procedures | LAC 33:IX.2701.E | \$200 | per occurrence |
| 4. Allowing excessive solids to accumulate within a treatment system | LAC 33:IX.2701.E | \$200 | per occurrence |
| 5. Allowing sample holding times to expire before analyzing any sample and failing to follow approved methods when collecting and analyzing samples | LAC 33:IX.2701.J.4 | \$200 | per occurrence |

| Expedited Penalties | | | |
|--|----------------------|--------|---------------------------------------|
| Violation | Citation | Amount | Frequency |
| Failure to sample any permit parameter in accordance with an LPDES permit | LAC 33:IX.2701.A | \$100 | per permit parameter |
| Failure to submit Discharge Monitoring Reports (DMRs): | | | |
| 1. Failing to submit DMRs, for any outfall, required by any LPDES individual permit | LAC 33:IX.2701.L.4.a | \$200 | per submittal (per outfall) |
| 2. Failing to submit DMRs, for any outfall, required by any LPDES general permit | LAC 33:IX.2701.L.4.a | \$100 | per submittal (per outfall) |
| Exceedance of LPDES permit effluent limitations: | | | |
| 1. Exceeding the daily maximum or weekly average concentration permit limit for any qualifying permit parameter | LAC 33:IX.2701.A | \$150 | per permit parameter (per exceedance) |
| 2. Exceeding a monthly average concentration permit limit for any qualifying permit parameter | LAC 33:IX.2701.A | \$300 | per permit parameter (per exceedance) |
| 3. Exceeding a daily maximum or weekly average mass loading permit limit for any qualifying permit parameter | LAC 33:IX.2701.A | \$200 | per permit parameter (per exceedance) |
| 4. Exceeding a monthly average mass loading permit limit for any qualifying permit parameter | LAC 33:IX.2701.A | \$400 | per permit parameter (per exceedance) |
| 5. Discharging effluent outside of the permitted range for pH (grab samples only) | LAC 33:IX.2701.A | \$150 | per grab sample (per exceedance) |
| Failure to develop and/or implement a Spill Prevention and Control Plan (SPC): | | | |
| 1. Failing to develop an SPC plan for any applicable facility | LAC 33:IX.905 | \$500 | per occurrence |
| 2. Failing to implement any component of an SPC plan | LAC 33:IX.905 | \$100 | per occurrence |
| UNDERGROUND STORAGE TANKS | | | |
| Failure to register existing or new USTs containing regulated substances | LAC 33:XI.301.A-B | \$300 | per occurrence |
| Failure to certify and provide required information on the department's approved registration form | LAC 33:XI.301.B.1-2 | \$300 | per occurrence |
| Failure to notify the Office of Environmental Services, Permits Division within 30 days after selling a UST system or acquiring a UST system; failure to keep a current copy of the registration form on-site or at the nearest staffed facility | LAC 33:XI.301.C.1-3 | \$300 | per occurrence |
| Failure to provide corrosion protection to tanks and/or piping that routinely contain regulated substances using one of the specified methods | LAC 33:XI.303.A.1-2 | \$300 | per occurrence |
| Failure to provide spill and/or overflow prevention equipment as specified | LAC 33:XI.303.A.3 | \$300 | per occurrence |

| Expedited Penalties | | | |
|--|---------------------|--------|----------------|
| Violation | Citation | Amount | Frequency |
| Failure to upgrade existing UST systems to new system standards as specified | LAC 33:XI.303.B | \$300 | per occurrence |
| Failure to pay fees by the required date | LAC 33:XI.307.D | \$200 | per occurrence |
| Failure to report, investigate, and/or clean up any spills and overfills | LAC 33:XI.501.B | \$500 | per occurrence |
| Failure to continuously operate and maintain corrosion protection to the metal components of portions of the tank and piping that routinely contain regulated substances and are in contact with the ground | LAC 33:XI.503.A | \$300 | per occurrence |
| Failure to have UST systems equipped with cathodic protection systems inspected for proper operation as specified | LAC 33:XI.503.B | \$300 | per occurrence |
| Failure to inspect UST systems with impressed current cathodic protection systems every 60 days to ensure that the equipment is running properly | LAC 33:XI.503.C | \$200 | per occurrence |
| Failure to comply with recordkeeping requirements | LAC 33:XI.503.D | \$200 | per occurrence |
| Failure to meet requirements for repairs to UST systems | LAC 33:XI.507 | \$300 | per occurrence |
| Failure to follow reporting requirements, maintain required information, and/or keep records at the UST site and make them immediately available or keep them at an alternative site and provide them within 24 hours after a request | LAC 33:XI.509 | \$300 | per occurrence |
| Failure to use a method or combination of methods of release detection described in LAC 33:XI.701 for all new or existing tank systems and/or failure to notify the Office of Environmental Compliance when a leak detection method indicates that a release may have occurred | LAC 33:XI.703.A.1-2 | \$500 | per occurrence |
| Failure to satisfy the additional requirements for petroleum UST systems as specified | LAC 33:XI.703.B | \$200 | per occurrence |
| Failure to maintain release detection records | LAC 33:XI.705 | \$100 | per occurrence |
| Failure to report any suspected release to the Office of Environmental Compliance within 24 hours after becoming aware of the occurrence | LAC 33:XI.707 | \$500 | per occurrence |

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2025(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 30:

Mike D. McDaniel, Ph.D.
Secretary

0407#038

DECLARATION OF EMERGENCY

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

Early Periodic Screening, Diagnosis and Treatment
KidMed Services
(LAC 50:XV.6701)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby adopts LAC 50:XV.6701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) KidMed Services under the Medicaid Program. The administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires national standards for electronic health care transactions and national identifiers for providers, health plans, and employers (*Federal Register*, Volume 65, Number 160). In compliance with HIPAA requirements, the Bureau promulgated an emergency rule to require Medicaid providers performing EPSDT preventive screening services to submit specific information regarding KidMed services.

This action is being taken to avoid federal sanctions by complying with the mandates of the Health Insurance Portability and Accountability Act. (*Louisiana Register*, Volume 29, Number 12). This Emergency Rule is being promulgated to continue the provisions contained in the December 20, 2003 Rule.

Effective August 18, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following procedures for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) KidMed Services in order to conform to HIPAA requirements.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 67. KidMed

§6701. General Provisions

A. All providers of Early and Periodic Screening, Diagnosis and Treatment (EPSDT) preventive screening services shall be required to submit information to the Medicaid Program regarding recipient immunizations, referrals and health status.

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:

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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

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

0407#054

DECLARATION OF EMERGENCY

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

Medicaid Eligibility Medically Needy Program
Incurred Deductions

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2002-2003 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid Program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule promulgating the Medicaid Eligibility Manual in its entirety by reference in May of 1996 (*Louisiana Register*, Volume 22, Number 5). The department provides Medicaid coverage under the Medically Needy Program that is optional under Title XIX of the Social Security Act Section 1902(a)(10) and 42 CFR Subpart D Section 435.300. The Medically Needy Program includes those individuals or families who meet all AFDC or SSI related categorical requirements and whose income is within the Medically Needy Income Eligibility Standard. It also includes those individuals or families whose resources fall within the categorical limits, but whose income is above the Medically Needy Income Eligibility Standard. These individuals or families having income in excess of the Medically Needy Income Eligibility Standard can reduce excess income by incurring medical and/or remedial care expenses. This method used for determining eligibility is referred to as spend-down. A state may choose to exclude from incurred expenses those bills for services furnished more than three months before the Medicaid application is filed for initial eligibility. A state is required to deduct any current payment on such excluded expenses.

In compliance with Executive Order MJF 02-29, the bureau amended the policy governing the consideration of incurred expenses in the eligibility determination process for the Medically Needy Program (*Louisiana Register*, Volume 29, Number 1). The bureau promulgated an Emergency Rule that amended the January 1, 2003 Emergency Rule to clarify the policy governing the consideration of incurred expenses in the eligibility determination process for the Medically Needy eligibility group. This action is being taken to avoid a budget deficit in the medical assistance programs. (*Louisiana Register*, Volume 29, Number 1). This Emergency Rule is being promulgated to continue the provisions contained in the April 20, 2004 Rule.

Emergency Rule

Effective August 19, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing deductions for incurred medical expenses in the eligibility determination process for the Medically Needy eligibility group. Those bills for necessary medical and remedial services furnished more than three months before the Medicaid application is filed will be excluded as an incurred expense. Current payments on excluded expenses will be allowed as an incurred expense. The first budget period for the Medically Needy will begin the first month in the three-month period prior to the date of application in which the applicant received covered services.

Implementation of this Emergency 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 at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

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

0407#053

DECLARATION OF EMERGENCY

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

Personal Care Services Long Term
(LAC 50:XV.12901-12913)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.12901-12913 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a Rule to establish the provisions governing coverage of personal care services as

an optional service under the Medicaid State Plan (*Louisiana Register*, Volume 29, Number 6). The bureau amended the June 20, 2003 Rule to clarify covered services, revise the recipient qualifications and define the term "legally responsible relative" (*Louisiana Register*, Volume 29, Number 10). The bureau promulgated an emergency rule that amended the June 20, 2003 Rule and the October 1, 2003 Emergency Rule to establish provisions governing when a recipient may change personal care service providers and staffing requirements for personal care services agencies. In addition, the bureau amended the general provisions, standards for participation and the place of service requirements contained in the June 20, 2003 Rule (*Louisiana Register*, Volume 30, Number 4). This Emergency Rule is being promulgated to amend provisions contained in the April 20, 2004 Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring that services are performed by qualified personnel.

Effective August 19, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the June 20, 2003 Rule and April 20, 2004 Emergency Rule governing personal care services to establish provisions governing when a recipient may change personal care service providers and staffing requirements for personal care services agencies. In addition, the bureau proposes to amend the general provisions, standards for participation and the place of service requirements contained in the June 20, 2003 Rule.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long Term

§12901. General Provisions

A.

B. An assessment shall be performed for every recipient who requests personal care services. This assessment shall be utilized to identify the recipient's long term care needs, preferences, the availability of family and community supports and to develop the plan of care. The Minimum Data Set-Home Care (MDS-HC) System will be used as the basic assessment tool. However, other assessment tools may be utilized as a supplement to the MDS-HC to address the needs of special groups within the target population.

C. Authorization. Personal care services (PCS) shall be authorized by the Bureau of Health Services Financing or its designee. The Bureau or its designee will review the completed assessment, supporting documentation from the recipient's primary physician, plan of care and any other pertinent documents to determine whether the recipient meets the medically necessity criteria for personal care services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:911 (June 2003), amended LR 30:

§12903. Covered Services

A. Personal care services are defined as those services that provide assistance with the distinct tasks associated with the performance of the activities of daily living (ADL) and the instrumental activities of daily living (IADL). Assistance may be either the actual performance of the personal care

task for the individual or supervision and prompting so the individual performs the task by him/herself. ADLs are those personal, functional activities required by an individual for continued well-being, health and safety. ADLs include tasks such as:

A.1. - C. ...

D. Constant or intermittent supervision and/or sitter services are not a component of personal care services.

E. The performance of complex and non-complex medical procedures is not a component of personal care services. If the recipient's physician delegates the performance of medical procedures and the agency agrees to furnish these tasks, the agency must accept all liability for their employee's performance of medical tasks. The agency must have a current, signed and dated statement from the recipient's physician stating what medical procedures are being delegated.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:

§12905. Recipient Qualifications

A. Personal care services shall be available to recipients who are 65 years of age or older, or 21 years of age or older and disabled. Disabled is defined as meeting the disability criteria established by the Social Security Administration.

B. Personal care services for elderly or disabled recipients must meet medical necessity criteria as determined by the Bureau of Health Services Financing and must be prior authorized by the Bureau or its designee. Personal care services are medically necessary if the recipient:

1. meets the medical standards for admission to a nursing facility, including all Preadmission Screening and Annual Resident Review (PASARR) requirements; and

2. is able, either independently or through a responsible representative, to participate in his/her care and direct the services provided by the personal care services worker. A responsible representative is defined as the person designated by the recipient to act on his/her behalf in the process of accessing and/or maintaining personal care services; and

3. faces a substantial possibility of deterioration in mental or physical condition or functioning if either home and community-based services or nursing facility services are not provided in less than 120 days. This criterion is considered met if:

a. the recipient is in a nursing facility and could be discharged if community-based services were available;

b. is likely to require nursing facility admission within the next 120 days; or

c. has a primary caregiver who has a disability or is over the age of 70.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:

§12907. Recipient Rights

A. - A.9.

B. Changing Providers. Recipients may request to change PCS providers without cause once after each three

month service authorization period. Recipients may request to change PCS providers with good cause at any time during the service authorization period. Good cause is defined as the failure of the provider to furnish services in compliance with the service plan. Good cause shall be determined by the bureau or its designee.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:

§12909. Standards for Participation

A. - B.2. ...

3. ensure that a criminal background check is performed for all direct care and supervisory staff and that the results are maintained in each employee's personnel record.

a. The criminal background check must be performed by the Office of the State Police or an agency authorized by the Office of the State Police.

i. The agency may make an offer of temporary employment to an individual pending the results of the criminal background check. In such instances, the worker shall perform his/her duties under the direct supervision of a permanent employee or in the presence of a member of the recipient's immediate family or of a care giver designated by the immediate family;

4. ensure that the direct care staff is qualified to provide personal care services. Assure that all new staff satisfactorily completes an orientation and training program in the first 30 days of employment;

5. - 10. ...

11. have proof of general liability insurance of at least \$200,000. The certificate holder shall be the Department of Health and Hospitals; and

12. maintain an office in each DHH administrative region in which it proposes to provide services. The agency must obtain a separate license from the Department of Social Services and a separate Medicaid provider number for each region in which it provides services. Consideration shall be given to an agency's request to provide services in one parish that is adjacent to its designated service region if the agency's main office is within a 50-mile radius of the selected parish's borderline.

a. Each office must have hours of operation that conform to the customary operating hours for similar businesses in the local community and have written provisions for emergency contact that include a toll-free telephone line with 24-hour accessibility. The written policy governing emergency contact shall be made available to recipients and staff.

b. Each office must house the case records and billing documentation for the individuals served by that office.

c. Each office must also house the personnel and payroll records for all of the employees who are assigned to that office.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:

§12911. Staffing Requirements

A. Personal care services agencies participating in the Medicaid Program must ensure that all staff providing direct care to the recipient meets the qualifications for furnishing personal care services. The PCS worker shall demonstrate empathy toward the elderly and persons with disabilities, an ability to provide care to these recipients, and the maturity and ability to deal effectively with the demands of the job. In addition, all supervisors of direct care staff must meet the qualifications set forth in this §12911.

B. Personal Care Services Worker Qualifications

1. Age. The worker must be at least 18 years old or older at the time the offer of employment is made. Verification of age must be maintained in each employee's personnel record.

2. Education and Experience. All PCS workers must meet one of the following minimum education and experience qualifications:

- a. a high school diploma or general equivalency diploma (GED); or
- b. a trade school diploma in the area of human services; or
- c. documented, verifiable experience providing direct care services to the elderly and/or persons with disabilities.

3. The PCS worker must have the ability to read and write in English as well as to carry out directions promptly and accurately.

C. Restrictions. A legally responsible relative is prohibited from being the paid PCS worker for a family member. Legally responsible relative is defined as the parent of a minor child, foster parent, curator, tutor, legal guardian or the recipient's spouse.

D. Supervisor Qualifications

1. Education and Experience. PCS supervisory staff must meet one of the following minimum education and experience qualifications. A PCS supervisor must:

a. have a bachelor's degree from an accredited college or university in one of the following human service-related fields:

- i. social work;
- ii. psychology;
- iii. sociology;
- iv. physical therapy;
- v. occupational therapy;
- vi. recreational therapy; or

counseling; and

b. have two years of paid experience in a human service-related field providing direct services to the elderly and/or persons with disabilities; or

NOTE: Thirty hours of graduate level course credit in any of the referenced human service-related fields may be substituted for the one year of required paid experience.

c. be a licensed registered nurse (RN) or a licensed practical nurse (LPN) with one year of paid experience as a RN or LPN providing direct services to the elderly and/or persons with disabilities; or

d. have a high school diploma or GED and five years of paid experience providing direct care services to the elderly and/or persons with disabilities.

E. Supervisory Responsibilities

1. The supervisor shall be responsible for assessing PCS workers' job performance, reviewing client cases,

providing constructive feedback, and assisting staff to resolve problems and to provide services in a more effective manner using the following methods:

a. routine (at least quarterly) face-to-face meetings with each PCS worker; and

b. periodic (at least quarterly) unannounced visits to the recipient's residence to monitor service delivery and compliance with the plan of care and service plan.

2. Each supervisor shall be responsible for the supervision of no more than 15 PCS workers.

F. Training. Training for PCS workers and supervisors must be provided or arranged for by the personal care services agency at its own expense.

1. A minimum of eight hours of orientation must be provided to new direct care and supervisory employees within one week of employment. The orientation provided to staff shall include, but is not limited to:

- a. agency policies and procedures;
- b. staff duties and responsibilities;
- c. ethics and confidentiality;
- d. record keeping;
- e. a description of the population served by the agency; and
- f. a discussion of issues related to providing care for these individuals, including physical and emotional problems associated with aging and disability.

2. New direct care staff must also receive training in cardiopulmonary resuscitation (CPR) and basic first aid within one week of employment. A current, valid certification for CPR and first aid may be accepted as verification of training.

3. A minimum of 16 hours of training must be furnished to new employees within 30 days of employment. The PCS agency training curriculum must, at a minimum, include the following components:

- a. communication skills;
- b. observation, reporting and documentation of the recipient status and the care or service furnished;
- c. basic infection control procedures;
- d. basic elements of body functioning and changes in body function that must be reported to a worker's supervisor;
- e. safe transfer techniques and ambulation;
- f. appropriate and safe techniques in personal hygiene and grooming that include:
 - i. bed bath;
 - ii. sponge, tub, or shower bath;
 - iii. sink, tub, bed shampoo;
 - iv. nail and skin care;
 - v. oral hygiene; and
 - vi. toileting and elimination;
- g. recognizing emergencies and knowledge of emergency procedures;
- h. maintenance of a clean, safe and healthy environment; and

i. treating the recipient with dignity and respect, including the need to respect his/her privacy and property.

4. PCS workers and supervisors must satisfactorily complete a minimum of 20 hours of annual training related to the provision of personal care services. This training may include updates on the subjects covered in orientation and initial training. The eight hours of orientation required for

new employees are not included as part of the hours required for the annual training.

5. Documentation. All required training must be documented in the employee's personnel record, including the date, time spent in the training session, subjects covered and the name of the individual who conducted the training. Verification of training shall be furnished to the Bureau or its designee upon request.

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:

§12913. Place of Service

A. Personal care services may be provided in the recipient's home and in another location outside of the recipient's home if the provision of these services allows the recipient to participate in normal life activities pertaining to the IADLs cited in the plan of care. The recipient's home is defined as the place where he/she resides such as a house, an apartment, a boarding house, or the house or apartment of a family member or unpaid primary care-giver. The following institutional settings are not considered to be a recipient's home:

1. a hospital;
2. an institution for mental disease;
3. a nursing facility; or
4. an intermediate care facility for the mentally retarded.

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended LR 30:

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

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

0407#055

DECLARATION OF EMERGENCY

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

Private and Public Non-State Owned and Operated
Hospitals Inpatient Psychiatric Services
Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in

effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule which established the prospective reimbursement methodology for inpatient psychiatric hospital services provided in either a free-standing psychiatric hospital or distinct part psychiatric unit of an acute care general hospital (*Louisiana Register*, Volume 19, Number 6). This Rule was subsequently amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates for inpatient psychiatric services in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5). The bureau promulgated an Emergency Rule effective April 1, 2004 that increased the reimbursement for inpatient psychiatric hospital services provided in private and public non-state owned and operated free-standing psychiatric hospitals and distinct part psychiatric units (*Louisiana Register*, Volume 30, Number 4). As a result of the allocation of additional funds by the Legislature during the 2004 Regular Session, the Bureau now proposes to repeal the April 1, 2004 Rule and to promulgate an Emergency Rule that rebases the reimbursement rates paid for inpatient psychiatric hospital services provided in private and public non-state owned and operated free-standing psychiatric hospitals and distinct part psychiatric units based on the weighted average for costs reported on the cost report ending in SFY 2002. This action is being taken to protect the health and welfare of Medicaid recipients by encouraging the continued participation of hospitals that furnish psychiatric services in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures to private and public non-state owned and operated hospitals for inpatient psychiatric services by approximately \$8,345,178 for state fiscal year 2004-2005.

Emergency Rule

Effective for dates of service on or after July 1, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the April 1, 2004 Emergency Rule and increases the reimbursement for inpatient psychiatric hospital services provided in private and public non-state owned and operated free-standing psychiatric hospitals and distinct part psychiatric units based on the weighted average for costs reported on the cost report ending in SFY 2002. The costs utilized to determine the weighted average shall include all free-standing psychiatric hospitals and distinct part psychiatric units providing services to Medicaid recipients in the state. Costs shall be trended to the midpoint of the rate year using the Medicare PPS Market Basket Index. The application of inflationary adjustments in subsequent years shall be contingent on the appropriation of funds by the Legislature.

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 and the Governor's signing of the Appropriation Bill with funding for the reimbursement increase for these hospitals.

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O.

Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

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

0407#018

DECLARATION OF EMERGENCY

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

Private Intermediate Care Facilities for the Mentally Retarded **C** Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

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 (ICFs-MR) (*Louisiana Register*, Volume 15, Number 10). This Rule was subsequently amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 6).

In response to a budgetary shortfall, the Bureau reduced the reimbursement paid to private (non-state) intermediate care facilities for the mentally retarded to 99.2 percent (a .8 percent reduction) of the per diem rates in effect on September 30, 2003 (*Louisiana Register*, Volume 29, Number 9). As a result of the allocation of additional funds by the Legislature during the 2004 Regular Session, the Bureau now proposes to promulgate an emergency rule that increases reimbursement to private intermediate care facilities for the mentally retarded by 4 percent of the per diem rates in effect on June 30, 2004, net of the provider fees. This action is being taken to protect the health and welfare of Medicaid recipients by encouraging the continued participation of private intermediate care facilities for the mentally retarded that furnish services in the Medicaid Program. It is estimated that implementation of this emergency rule will increase expenditures to private intermediate care facilities for the mentally retarded by approximately \$10,402,369 for state fiscal year 2004-2005.

Emergency Rule

Effective for dates of service on or after July 1, 2004 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement paid to private intermediate care facilities for the mentally retarded by 4 percent of the per diem rates in effect on June 30, 2004, net of the provider fees.

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 and the Governor's signing of the Appropriation Bill with funding for the reimbursement increase for these facilities.

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

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

0407#019

DECLARATION OF EMERGENCY

**Department of Revenue
Policy Services Division**

Sales and Use Tax Exclusion for Manufacturing Machinery and Equipment (LAC 61:I.4301)

Under the authority of R.S. 47:301 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, issues an Emergency Rule to amend LAC 61:I.4301 relative to the definitions of *cost price*, *lease or rental*, and *sales price* for sales tax purposes.

Act 1 of the 2004 First Extraordinary Session provides exclusions from state sales and use tax for the purchase, *lease or rental*, and use of machinery and equipment used predominately and directly to manufacture *tangible personal property* or produce, process, and store food, fiber, or timber for sale. These amendments provide guidance regarding the definition of *cost price* under R.S. 47:301(3)(i), *lease or rental* under R.S. 47:301(28)(a), and *sales price* under R.S. 47:301(13)(k) as those terms relate to the purchase of machinery and equipment used predominantly and directly in the manufacturing of *tangible personal property* for sale or the production, processing, and storing of food, fiber, or timber for sale.

The Emergency Rule is necessary to prevent financial loss to vendors and purchasers of manufacturing machinery and equipment, because the phase in of the exclusion provided in Section 3 of the Act is effective on July 1, 2004. This Emergency Rule is effective July 1, 2004, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or adoption of the permanent rule, whichever occurs first.

Title 61

REVENUE AND TAXATION

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

Chapter 43. Sales and Use Tax

§4301. Definitions

A. - C. ...

Cost Price **C**

a. - g. ...

h. Under R.S. 47:301(3)(i), machinery and equipment is excluded from *cost price* if the property is used to manufacture *tangible personal property* for sale to another or is used directly in the production, processing, and storing of food, fiber, or timber for sale, is used predominantly and directly in the manufacturing process or in the actual manufacturing for agricultural purposes, and is eligible for depreciation for federal income tax purposes. The exclusion is subject to a phase-in between July 1, 2004, and June 30, 2010. The exclusion applies only to manufacturing businesses that have been assigned, by the Louisiana Department of Labor, North American Industrial Classification System (NAICS) codes within the agricultural, forestry, fishing, and hunting sector 11 or the manufacturing sectors 31 through 33 as they existed in 2002. Businesses that are not registered with the Louisiana Department of Labor or that have not been assigned these NAICS codes are not eligible to claim this exclusion. The exclusion applies to state use tax and local use tax if the political subdivision has adopted this exclusion by ordinance.

i. "Manufacturing" means putting raw materials through a series of steps that brings about a change in their composition or physical nature in order to make a new and different item of *tangible personal property* that will be sold to another. The manufacturing process begins when a raw material is introduced into the first machine or item of equipment that begins the change of the composition or physical nature of the raw materials into another product. The manufacturing process ends when the final product for sale has been placed into the packaging that will normally be delivered to the final consumer.

ii.(a). For machinery or equipment used to manufacture tangible personal property for sale, "used predominantly" means that more than 50 percent of the property's use is in the process of causing a change in the composition or physical nature of the raw materials that are to become a final product for sale.

(b). For machinery or equipment used to produce, process, and store food, fiber, or timber for sale, "used predominantly" means the property is used more than 50 percent of the time in the production, processing, and storing of food, fiber, or timber for sale. Equipment that remains idle between growing seasons is considered used for the production, processing, and storing of food, fiber, or timber during that time.

iii.(a). For a manufacturer of *tangible personal property* for sale, "used directly" describes the manner in which the machinery or equipment used in a plant facility alters the physical characteristics of the product during the manufacturing process. "Used directly" means that the machinery and equipment must have an immediate effect upon those products manufactured for ultimate sale to another person. Machinery and equipment used to manufacture intermediate products for internal use, such as manufacturing tools, internally consumed energy, and processing chemicals do not qualify for the exclusion.

(b). For a manufacturer of food, fiber, or timber for sale, "used directly" describes the manner in which the machinery or equipment is involved in the manufacturing for agricultural purposes. "Used directly" means that the machinery and equipment must have an immediate effect

upon the food, fiber, or timber. Examples of machinery and equipment "used directly" in manufacturing for agricultural purposes include machinery and equipment for planting, cultivating, fertilizing, spraying, harvesting, producing, processing, and storing of food, fiber, or timber for sale. This exclusion includes materials used in the construction of facilities used to store the food, fiber, or timber for sale. Machinery and equipment "used directly" in manufacturing for agricultural purposes does not include facilities used to store equipment.

iv. Persons acting as mandataries (agents) of manufacturers can claim the exclusion on purchases of qualifying machinery and equipment that will ultimately be used by a business assigned an eligible NAICS code by the Department of Labor. The mandatory must obtain the manufacturer's exclusion Form R-1071 and provide it, with a copy of the contract of mandate or the Department's Form R-1072 (Manufacturer's Designation of Mandate), to the seller at the time of purchase. For each job, mandataries must prepare a schedule of the manufacturing machinery and equipment that were purchased under this exclusion.

v. Repairs to manufacturing machinery and equipment to keep the property in an ordinarily efficient working order do not qualify for exclusion under R.S. 47:301(3)(i). Because neither the labor nor the materials used in these repairs are depreciable for federal income tax purposes, charges for these items cannot be excluded from tax.

vi. Charges for labor and materials utilized during work that is classified as a capital improvement under Internal Revenue Service Regulations may be excluded as follows.

(a). Charges for labor performed on qualifying manufacturing machinery and equipment that is movable property at the time of the capital improvement are excluded from tax. The vendor that provides the labor is allowed to treat the materials used as purchased for resale. All materials that are incorporated into qualifying machinery and equipment during the capital improvement qualify for exclusion from tax.

(b). Materials incorporated into qualifying manufacturing machinery and equipment that is immovable property at the time of the capital improvement are eligible for exclusion as follows:

(i). In instances when a manufacturer purchases materials that will become a component part of qualifying machinery or equipment, the materials are excluded from tax.

(ii). A vendor's purchases of materials that will become a component part of qualifying machinery or equipment are excluded from tax if the vendor has been designated as a mandatory of a manufacturer. The vendor must obtain the manufacturer's exclusion Form R-1071 and provide it, with a copy of the contract of mandate or the Department's Form R-1072, to the seller at the time of purchase. Manufacturers that supply this form to their mandataries must maintain a schedule of the *tangible personal property* used in these capital improvements.

(c). Purchases of spare machinery and equipment, such as compressors, pumps, and valves, qualify for the exclusion provided these items satisfy the definition of machinery and equipment provided in R.S. 47:301(3)(i).

Spare machinery and equipment, such as bolts, nuts, gaskets, oil, etc., which cannot be depreciated for federal income tax purposes, do not qualify for the exclusion.

Lease or Rental—

a. - b.vii. ...

viii. the *lease or rental* of machinery and equipment used predominantly and directly in the process of manufacturing *tangible personal property* for sale or used directly in the production, processing, and storing of food, fiber, or timber for sale. The meanings of "manufacturing," "used predominantly," and "used directly" provided in LAC 61:I.4301.C.*Cost Price*.h apply. This exclusion applies to state sales tax and local sales taxes if the political subdivision has adopted this exclusion by ordinance.

c. - d. ...

Sales Price—

a.i. - ix. ...

x. R.S. 47:301(13)(k) excludes machinery and equipment used predominantly and directly in the process of manufacturing *tangible personal property* for sale or used directly in the production, processing, and storing of food, fiber, or timber for sale from the *sales price*. For purposes of *sales price*, the interpretations provided under LAC 61:I.4301.C.*Cost Price*.h will apply. This exclusion applies to state sales tax and local sales taxes if the political subdivision has adopted this exclusion by ordinance. To determine *sales price* subject to tax, this exclusion is deducted from the total amount charged to the customer after allowances for trade-ins and before any exemptions provided elsewhere in the law.

b.i. - ii. ...

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), LR 28:348 (February 2002), LR 28:1488 (June 2002), LR 28:2554 (December 2002), LR 28:2556 (December 2002), LR 29:186 (February 2003), LR 30:

Cynthia Bridges
Secretary

0407#028

DECLARATION OF EMERGENCY

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

**Developmental and Socialization Activities Program
for Foster Children (LAC 67:V.3507)**

The Department of Social Services, Office of Community Services, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to adopt LAC 67:V, Subpart 5, Foster Care, Chapter 35, Payments, Reimbursements, and Expenditures, §3507, Developmental and Socialization Activities for Foster Children, effective

July 7, 2004. This Emergency Rule shall remain in effect for a period of 120 days.

Emergency action is necessary in this matter due to reductions in the FY 2004-2005 operating budget of the Office of Community Services that resulted in loss of revenue for recreation items, developmental and socialization activities for foster children. This Emergency Rule is to access the availability of funds through the Office of Family Support Temporary Assistance To Needy Families (TANF), to prevent the loss of the most critical components of a previously available service to foster children. By accessing the alternate funding source, a limited but critical component of the service necessary for the healthy development of children will be provided. The negative impact of state revenue losses that the budget reductions would otherwise have inflicted upon foster children and families is minimized by this action. The Office of Community Service will provide developmental and socialization activities and related items for children ages six through seventeen who are in the custody of the DSS. The provision of this service to foster children is related to the achievement of the TANF goal to reduce out-of-wedlock pregnancies. By providing appropriate developmental and socialization activities to improve self-esteem and appropriate peer interaction, foster children will have opportunities to learn and grow into mature adults who can provide safe and stable families for future generations.

Title 67

SOCIAL SERVICES

Part V. Office of Community Services

Subpart 5. Foster Care

Chapter 35. Payments, Reimbursables, and Expenditures

§3507. Developmental and Socialization Activities for Foster Children Program

A. The Department of Social Services, Office of Community Services will only provide for separate reimbursement or expenditure of the cost of organized developmental and socialization activities and related items for foster children ages six through seventeen who reside in a foster home setting, certified and non-certified. This reimbursement or expenditure for developmental and socialization activities and related items is separate from the board rate provided, in order to improve self-esteem and appropriate peer interaction for foster children and to prevent out of wedlock pregnancies. The activities shall address specific areas of need such as building self-confidence, physical coordination, or improving peer interactions.

B. Eligibility is limited to foster children ages six through seventeen, who are in a foster home setting, certified or non-certified.

C. The maximum allowable amount for a child is limited to \$300.00 a calendar year based on the availability of TANF funding. The child must be at least six years old at the beginning of the calendar year for the \$300 maximum allowable to be available.

D. The allowable activities and related items must be purposefully planned by the foster care worker and the child's foster parent to meet a specific need that is addressed in the case plan for the child. It is not planned that every child will have an identified need that can be met only

through reimbursement or expenditure under this program. The foster care worker and foster parent shall discuss the child's developmental and socialization needs and the available resources to meet the child's needs. Only when there is no other feasible resource to meet the child's developmental and socialization need will TANF funds be utilized.

E. The allowable activities include such activities as summer camps; community organization/church/school sponsored trips; memberships in organizations such as Scouts or community sports teams and similar activities; and self-improvement or skill development classes such as music, art, dance, gymnastics, and swimming lessons. Musical instruments, supplies and safety devices or equipment, specialized clothing, and other related items required to participate in these activities are allowable for reimbursement or expenditure under this program as well as the activity.

AUTHORITY NOTE: Promulgated in accordance with 42 U. S. C. 601 et seq.; R.S. 46:231, R.S. 36:474, R.S. 36:476 and 477, and R.S. 46:51

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 30:

Ann Silverberg Williamson
Secretary

0407#066

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Initiatives Developmental and Socialization
Activities Program for Foster Children (LAC 67:III.579)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to adopt §5579, Developmental and Socialization Activities Program for Foster Children, effective July 7, 2004. This Emergency Rule will remain in effect for a period of 120 days.

The Office of Family Support will provide funding to the Office of Community Services for the Developmental and Socialization Activities Program for Foster Children to assist in addressing a foster child's developmental and socialization needs through organized activities.

The authorization for emergency action in this matter is contained in HB 1 of the 2004 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5579. Developmental and Socialization Activities Program for Foster Children

A. OFS shall enter into a Memorandum of Understanding (MOU) with the Office of Community Services (OCS), to provide funds to assist in addressing a foster child's developmental or socialization needs through organized activities. The activities shall address specific

areas such as building self-confidence, physical coordination, or improving peer interactions.

B. Eligibility for services is limited to foster children age 6 through 17, who are in a certified or non-certified foster home.

C. These services meet the TANF goal to reduce out-of-wedlock pregnancies by providing appropriate developmental and socialization activities that will improve self-esteem and appropriate peer interaction.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1, 2004 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

Ann Silverburg Williamson
Secretary

0407#067

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2004 Shrimp Season Closure Zone 1

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act, which allow the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497, which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters, and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 2004, which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2004 Spring Shrimp Season in any portion of the State's inside waters to protect small white shrimp if biological and technical data indicate the need to do so or if enforcement problems develop, the Secretary hereby declares:

The 2004 spring shrimp season in inside waters will close in Shrimp Management Zone 1 on Tuesday, July 6, at 6 a.m. except for that portion of Mississippi Sound originating at a point along the Mississippi-Louisiana territorial sea boundary at longitude 89E 30' 00" W thence due south to a position at latitude 30E 05' 00" N and longitude 89 130' 00" W thence southeasterly to the U.S. Coast Guard navigational light off the eastern shore of Three-Mile Pass at latitude 30 03' 12" N and longitude 89E 21' 30" W thence northeasterly to a position which intersects the menhaden line as described in the Menhaden Rule (LAC 76:VII.307D) north of Isle au Pitre at latitude 30E 10' 00" W. The open waters of Breton and Chandeleur Sounds as described in the Menhaden Rule, will remain open to shrimping until further notice. Zone 1 comprises State inside waters from the Mississippi-Louisiana state line to the eastern shore of South Pass of the Mississippi River.

The relative number, percentage and distribution of small white shrimp immigrating into the areas to be closed has increased substantially in the last week and the regions are being closed to protect these developing shrimp.

Effective 6 a.m., July 6, all State inside waters from the Mississippi-Louisiana state line west to the Louisiana-Texas state line except for Breton and Chandeleur Sounds and a portion of Mississippi Sound, are closed to the harvest of shrimp.

The State Territorial waters seaward of the Inside/Outside Shrimp Line, as described in R.S. 56:495, shall remain open to shrimping.

Dwight Landreneau
Secretary

0407#031

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2004 Shrimp Season Closure CZone 2

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497, which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters, and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 2004, which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2004 Spring Shrimp Season in any portion of the state's inside waters to protect small white shrimp if biological and technical data indicates the need to do so or if enforcement problems develop, the secretary hereby declares:

The 2004 spring shrimp season in inside waters will close in Shrimp Management Zone 2, on Wednesday, June 16 at 6 a.m. This closure includes all Louisiana inside waters from the eastern shore of South Pass of the Mississippi River to the western shore of Vermilion Bay and Southwest Pass at Marsh Island. The percentage, relative number and distribution of small juvenile white shrimp in these waters has progressively increased in recent weeks and the region is being closed to protect these developing shrimp.

Zones 1 and 3 will remain open until further notice.

The state territorial waters south of the Inside/Outside Shrimp Line, as described in R.S. 56:495, shall remain open.

Dwight Landreneau
Secretary

0407#001

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2004 Spring Shrimp Season Closure CZone 3

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to

use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 2004 which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2004 Spring Shrimp Season in any portion of the state's inside waters to protect small white shrimp if biological and technical data indicates the need to do so or if enforcement problems develop, the Secretary hereby declares:

The 2004 spring shrimp season in inside waters will close in Shrimp Management Zone 3 on Tuesday, June 29, at 6 a.m., except for that portion of the Calcasieu Ship Channel originating at Channel Marker 68 southward to a point originating along the inside/outside shrimp line at Calcasieu Pass and including East Pass from its origin at the Calcasieu Ship Channel to the south end of Calcasieu Lake and West Pass from its origin at the Calcasieu Ship Channel to the south end of West Cove which will close on Tuesday, July 6, at 6:00 a.m. Zone 3 is that portion of Louisiana's inside waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island to the Louisiana-Texas state line.

The relative number, percentage and distribution of small white shrimp immigrating into the area to be closed has increased substantially in the last week and the region is being closed to protect these developing shrimp.

Effective 6:00 a.m. July 6, all State inside waters from the eastern shore of South Pass of the Mississippi River to the Louisiana-Texas state line except for a portion of the Calcasieu Ship Channel, are closed to the harvest of shrimp. Zone 1 will remain open until further notice.

The State Territorial waters south of the Inside/Outside Shrimp Line, as described in R.S. 56:495, shall remain open to shrimping.

Dwight Landreneau
Secretary

0407#022

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2004-2005 Fur Harvest Season

In accordance with the provisions of R.S. 56:259(A) which authorizes the Wildlife and Fisheries Commission to set the open season for the taking of non-game quadrupeds and allows the Commission to extend, curtail or prohibit trapping in any area of the state each year and in accordance with emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allow the Louisiana Wildlife and Fisheries Commission to use emergency provisions to set seasons, the Wildlife and Fisheries Commission does hereby set the 2004-2005 fur harvest season, statewide from November 20, 2004 through March 31, 2005. The Wildlife and Fisheries Commission does hereby also authorize the Secretary of the Department

of Wildlife and Fisheries to extend or shorten the adopted season.

Bill A. Busbice, Jr.
Chairman

0407#030

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2004 Wild Alligator Season

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allow the Wildlife and Fisheries Commission to use emergency procedures to set seasons, the Wildlife and Fisheries Commission does hereby set the 2004 wild alligator harvest season.

The 2004 wild alligator harvest season shall be from official sunrise September 1, 2004 through official sunset September 30, 2004. Alligators taken from the wild may be removed from hook and line, and taken with other legal capture devices only during daylight hours between official sunrise and official sunset.

Emergency procedures are necessary to allow Department biologists adequate time to gather the biological data required to recommend season dates and harvest quotas.

The Wildlife and Fisheries Commission does hereby also authorize the Secretary of the Department of Wildlife and Fisheries to delay, extend, close or reopen this season, based on technical data or if enforcement problems develop.

Bill A. Busbice, Jr.
Chairman

0407#029

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Office of Fisheries

Iatt Lake Fishing Closure

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, and under the authority of R.S. 56:317, the Secretary of the Department of Wildlife and Fisheries hereby declares:

Iatt Lake will be closed to all fishing beginning on August 2, 2004 and continue until the Department officially announces the reopening of the lake to fishing, sometime after October 31, 2004 when the lake reaches pool stage (83 feet MSL). Effective with the closure, no person shall take or possess or attempt to take any species of fish while on the waters of Iatt Lake or take or possess or attempt to take any fish from the waters of Iatt Lake. No person shall possess while on the waters of Iatt Lake any fishing gear capable of taking fish.

The reasons for the promulgation of this Declaration of Emergency are as follows. The Aquatic Plant Section of the Department of Wildlife and Fisheries conducts annual vegetative samples on water bodies in late summer, when aquatic vegetation infestations are most severe. Management plans, if necessary, are then written, approved by the department and presented to local citizens. This year's management plan for Iatt Lake in Grant Parish calls for an eight-foot drawdown. This will reduce the surface acreage of Iatt Lake by 80 percent and increase the vulnerability of fish to anglers. The department feels it in the best interest of the resource to prohibit fishing while the lake is drawn down to prevent the over-harvest of fish. Poor fish populations in subsequent years would negatively impact the welfare of businesses catering to Iatt Lake fishermen, some individuals living on the lake and the fishermen using the lake. Because it is necessary to conduct vegetation sampling in late summer, and the lakes which are candidates for drawdowns cannot be determined until after sampling has been completed, there is insufficient time to file a Notice of Intent.

The Declaration of Emergency promulgated on June 1, 2004, which closed Iatt Lake in Grant Parish to all fishing on July 5, 2004 is hereby rescinded.

Dwight Landreneau
Secretary

0407#020

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Office of Fisheries

Saline Lake Fishing Closure

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, and under the authority of R.S. 56:317, the Secretary of the Department of Wildlife and Fisheries hereby declares:

Saline Lake (Winn and Natchitoches Parishes) will be closed to all fishing beginning on August 2, 2004 and continue until the department officially announces the reopening of the lake to fishing, sometime after October 31, 2004 when the lake reaches pool stage (103 feet MSL). Effective with the closure, no person shall take or possess or attempt to take any species of fish while on the waters of Saline Lake or take or possess or attempt to take any fish from the waters of Saline Lake. No person shall possess while on the waters of Saline Lake any fishing gear capable of taking fish.

The reasons for the promulgation of this Declaration of Emergency are as follows. The Aquatic Plant Section of the department of Wildlife and Fisheries conducts annual vegetative samples on water bodies in late summer, when aquatic vegetation infestations are most severe. Management plans, if necessary, are then written, approved by the department and presented to local citizens. This year's management plan for Saline Lake in Winn and Natchitoches

Parishes calls for a six-foot drawdown. This will reduce the surface acreage of Saline Lake by 50 percent and increase the vulnerability of fish to anglers. The department feels it in the best interest of the resource to prohibit fishing while the lake is drawn down to prevent the over-harvest of fish. Poor fish populations in subsequent years would negatively impact the welfare of businesses catering to Saline Lake fishermen, some individuals living on the lake and the fishermen using the lake. Because it is necessary to conduct vegetation sampling in late summer, and the lakes which are candidates for drawdowns cannot be determined until after

sampling has been completed, there is insufficient time to file a Notice of Intent.

The Declaration of Emergency promulgated on June 2, 2004, which closed Saline Lake (Winn and Natchitoches Parishes) to all fishing is hereby rescinded.

Dwight Landreneau
Secretary

0407#021

Rules

RULE

Department of Agriculture and Forestry Office of the Commissioner

Testing Procedures and Quarantines of Pet Turtles (LAC 7:XXI.2311)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry has amended regulations regarding microbiological testing procedures and quarantines for the farming and selling of Louisiana pet turtles.

The Department of Agriculture and Forestry is amending these rules and regulations to enhance the accuracy and consistency of the testing for salmonella by requiring that all follow up testing of positive samples be done by the same state operated reference laboratory; thereby providing maximum protection for the industry and the public in the production of a safe wholesome product and to further assist the industry in its efforts to lift the FDA ban that was imposed on the sale of pet turtles in the United States and to increase the industry's ability to control *Salmonella* spp.

This Rule complies with and is enabled by R.S. 3:2358.2. No preamble concerning this Rule is available.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

§2311. Microbiological Test Procedures

A. - B. ...

C. If any group of turtles or turtle eggs test positive for *Salmonella* spp, then the licensed pet turtle farmer (owner) may request a retest. Samples of the retest must be submitted when requested by representatives of the department. The owner may request a retest of the group as a whole using the same sampling procedures as used for the original test or the owner may subdivide the affected positive group into a maximum of four equal subgroups. Each such subgroup shall be separately identified, simultaneously randomly sampled and tested. The Louisiana Veterinary Medical Diagnostic Laboratory shall conduct the retesting, whether from the group as a whole or from any of the subgroups in accordance with normal protocol. The Louisiana Veterinary Medical Diagnostic Laboratory test results, whether from the group as a whole or from any of the subgroups shall be the final and conclusive test results. Any group or subgroup that tests positive for *Salmonella* spp shall be disposed of in accordance with the law and these regulations.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.12.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 17:351 (April 1991) amended by the Department of Agriculture and Forestry,

Office of the Commissioner, LR 26:1569 (August 2000), LR 30:1445 (July 2004).

Bob Odom
Commissioner

0407#086

RULE

Board of Elementary and Secondary Education

Bulletin 111 **C**The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.514, 521, 1301, and Chapter 43)

Editor's Note: Several sections were renumbered in this amendment. Section 4311 is renumbered as Section 4321, Section 4313 as 4321, and Section 4315 as 4325.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 111 **C**The Louisiana School, District, and State Accountability System* (LAC Part Number 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 changes more clearly explain and refine existing policy as follows: school subgroup performance scores; pair/share relationships; rewards/recognition eligibility; district accountability.

Title 28

EDUCATION

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

Chapter 5. Calculating the NRT Index

§514. Subgroup Performance Scores (GPS)

A. Subgroup performance scores are calculated for each subgroup (African American, American Indian/Alaskan Native, Asian, Hispanic, White, Economically Disadvantaged, Limited English Proficient, Students with Disabilities, and All Students) in the same manner as a SPS is calculated.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1445 (July 2004).

§521. Pairing/Sharing of Schools with Insufficient Test Data

A. In order to receive an SPS, a given school must have at least one grade level of CRT testing and at least one grade level of NRT testing. A school that does not meet this

requirement must be either "paired or shared" with another school in the district as described below. For the purpose of the Louisiana Accountability System, such a school shall be defined as a "non-standard school."

B. A school with a grade-level configuration such that it participates in neither the CRT nor the NRT (e.g., a K, K-1, K-2 school) must be "paired" with another school that has at least one grade level of CRT testing and one grade level of NRT testing. This "pairing" means that a single SPS shall be calculated for both schools by averaging both schools' attendance and/or dropout data and using the test score data derived from the school that has at least two grade levels of testing.

C. A school with a grade-level configuration in which students participate in either CRT or NRT testing, but not both (e.g., a K-3, 5-6 school) must "share" with another school that has at least one grade level of the type of testing missing. Both schools shall "share" the missing grade level of test data. This shared test data must come from the grade level closest to the last grade level in the non-standard school. The non-standard school's SPS shall be calculated by using the school's own attendance, dropout, and testing data and the test scores for just one grade from the other school.

D. A district must identify the school where each of its non-standard schools shall be either "paired or shared". The "paired or shared" school must be the one that receives by promotion the largest percentage of students from the non-standard school. In other words, the "paired or shared" school must be the school into which the largest percentage of students "feed." If two schools receive an identical percentage of students from a non-standard school, the district shall select the "paired or shared" school.

E. If a school is not paired/shared at the beginning of the school year for the baseline SPS, it shall not be paired/shared at the end of the school year for the growth SPS.

F. Requirements for the number of test units shall be the sum of the test units in a one-year period (not the number of test units in one year). A school's sharing/pairing status at the beginning of the school year for the baseline SPS shall be its status at the end of the school year for the growth SPS.

G. If a school has too few test units to be a "stand-alone" school, it may request to be considered stand-alone.

1. It shall receive an SPS that is calculated solely on that school's data, despite the small number of test units.

2. The request shall be in writing to the LDE from the LEA superintendent.

3. The school forfeits any right to appeal its growth status based on minimum test unit counts.

H. Once the identification of "paired or shared" schools has been made, this decision is binding for 10 years. An appeal to the SBESE may be made to change this decision prior to the end of 10 years, when redistricting or other grade configuration and/or membership changes occur.

I. If 10 years has not elapsed, but a paired/shared school acquires a sufficient number of testing units, then the pair/share relationship will be broken, and the school will be treated as a stand-alone school.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 30:1445 (July 2004).

Chapter 13. Rewards/Recognition

§1301. Reward Eligibility

A. For 2003, a school shall receive recognition and monetary awards (as appropriated by the Legislature) when it meets or surpasses its growth target and when it shows growth in the performance of students who are classified as high poverty and special education students (at least 0.1 points). Beginning in 2004, a school shall receive recognition and monetary awards (as appropriated by the Legislature) when it achieves a growth label of Exemplary or recognized academic growth. Exemplary academic growth shall require, in addition to achieving the school's Growth Target, at least 2.0 points growth in every subgroup's GPS (African American, American Indian/Alaskan Native, Asian, Hispanic, White, Economically Disadvantaged, Limited English Proficient, Students with Disabilities, and All Students), and the school cannot be in any level of school improvement. Recognized academic growth is earned by any school that meets its growth target, regardless of subgroup growth or school improvement status.

B. School personnel shall decide how any monetary awards shall be spent; however, possible monetary rewards shall not be used for salaries or stipends.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2744 (December 2003), amended LR 30:1446 (July 2004).

Chapter 43. District Accountability

§4301. Inclusion of All Districts

A. Every school district shall participate in a district accountability system based on the performance of schools as approved by the Louisiana State Board of Elementary and Secondary Education (SBESE).

B. Indicators for District Accountability. There shall be three statistics reported for each school district for district accountability:

1. a District Performance Score (DPS);
2. a District Responsibility Index (DRI); and
3. a Subgroup Component.

D. District Performance Score (DPS). A District Performance Score (DPS) shall be calculated in the same manner as a SPS, aggregating all of the students in the district. The DPS shall be reported as a numeric value and a label shall be assigned based on the numeric value.

E. District Responsibility Index (DRI). A District Responsibility Index (DRI) shall be the weighted average of four indicators with each indicator to be expressed as an index. A score of 100 = good and a score of 150 = excellent.

F. The DRI indicators:

1. summer school;
2. the change in SPS for all schools relative to growth targets;
3. the change in LEAP 21 first-time passing rate from one year to the next; and
4. certified teachers.

¹Indicators for school finance and graduation rate of high school students may be considered in the calculation of the district responsibility index at a later date.

| Indicators and Weights | |
|---|--------------------------------------|
| Indicator | Weighting |
| 1. Summer School. | 30% (Part A 15% + Part B 15%) |
| 2. The change in SPS for all schools relative to growth targets. | 25% |
| 3. The change in LEAP 21 first-time passing rate from one year to the next. | 25% (Part A 12.5% + Part B 12.5%) |
| 4. Certified Teachers | 20% (Part A 15% + Part B 5%) |

G. Subgroup Component. District AYP shall be determined by evaluating the performance of subgroups as defined below.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2755 (December 2003), amended LR 30:1446 (July 2004).

§4309. Indicator 4: Classes Taught by Certified Teachers

A. For the purpose of district accountability, the Louisiana Department of Education shall define certified teachers as those who hold a standard teaching certificate¹ in the state of Louisiana or who have been certified in accordance with the 12-hour rule. The Louisiana Department of Education shall use two statistics (listed below in B) when calculating an index score for the percentage of state core classes (English Language Arts, mathematics, science, social studies) taught by certified teachers.

B. Part A: The percentage of state core classes taught by certified teachers in schools with a performance label of one star or below. The Louisiana Department of Education shall calculate this statistic by multiplying 100 times the number of state core classes taught by certified teachers in the district, divided by the total number of state core classes taught in the district. If no schools in the district are scoring below an SPS of 80, Part A of this indicator shall not apply and the total weight of this indicator shall be applied to Part B.

1. Formula for converting Part A to an index: 5* (percent of state core classes taught by certified teachers - 70).

2. Implications of index for Part A:

a. 90 percent of state core classes taught by certified teachers shall yield an index of 100;

b. 100 percent of state core classes taught by certified teachers shall yield an index of 150.

C. Part B: The percentage of state core classes taught by certified teaches in the district. The Louisiana Department of Education shall calculate this statistic by multiplying 100 times the number of state core classes taught by certified teachers in the district divided by the number of state core classes taught in the district.

1. Formula for converting Part B to an index: 5* (percent of state core classes taught by certified teachers - 70)

2. Implications of index for Part B:

a. 90 percent of state core classes taught by certified teachers shall yield an index of 100;

b. 100 percent of state core classes taught by certified teachers shall yield an index of 150.

NOTE: Reference Bulletin 746.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2756 (December 2003), amended LR 30:1447 (July 2004).

§4310. Subgroup Component AYP (Adequate Yearly Progress)

A. District Subgroup Component Indicators

1. Each district shall be evaluated on the subgroup component. A district shall pass the subgroup component provided that each subgroup of students meets the subgroup component, and the district, as a whole, meets the criteria for status or improvement on the additional academic indicator.

a. Passing the Subgroup Component

i. Participation rate test: 95 percent of the students within the subgroup participated in the standards-based assessments; and

ii. Annual Measurable Objective status test (AMO status test): the subgroup percent proficient score is at/or above the annual measurable objective in ELA and mathematics; or

iii. Safe Harbor Test:

(a) the percentage of non-proficient students within the subgroup reduced by at least 10 percent of the previous year's value; and

(b) the subgroup improved or met the criterion on the additional academic indicator (attendance rate for elementary and middle schools and non-dropout rate for high schools).

b. 2002-03 will be year one of judging districts based on the subgroup component.

c. 2003-04 will be year two of judging districts based on the subgroup component.

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

e. To ensure high levels of reliability, Louisiana will apply a 99 percent confidence interval to the calculations of subgroup component determinations for:

i. AMO status test;

ii. reduction of non-proficient students (safe harbor test); and

iii. status attendance/non-dropout rate analyses.

f. Louisiana will not apply a confidence interval to improvement analyses for attendance/non-dropout rate.

B. Inclusion of Students in the Subgroup Component

1. Students that meet the following criteria shall be included in all subgroup component analyses for the AMO status test and reduction of non-proficient students (safe harbor test).

a. Enrolled for the Full Academic Year (FAY):

i. at school level enrolled at the school on Oct. 1 and the date of testing;

ii. at district level enrolled in the district on Oct. 1 and the date of testing;

iii. at state level enrolled in a public LEA in the state on Oct. 1 and the date of testing.

b. First Administration of the Test:

i. only the first test administration will be used for the subgroup status and growth tests;

ii. excludes summer school results and repeaters.

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

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

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

b. Students participating in LAA shall be included in the special education subgroup.

c. LEP students shall participate in the statewide assessments.

i. Scores of all LEP students shall be included in the subgroup component calculations.

4. Subgroups shall consist of:

a. at least 10 students in order to be evaluated for the subgroup component;

b. at least 40 students in order to be evaluated for the 95 percent participation rate.

5. Subgroups shall pass the participation rate test and either the AMO status test; or the safe harbor test in order to be considered as having passed the subgroup /component.

C. AMO

1. The Annual Measurable Objective (AMO) is the percent of students required to reach the proficient level in a given year on the standards-based assessments, which through 2005 will include English/language arts and mathematics tests for 4th, 8th, and 10th grades.

a. Proficient = a score of basic, mastery or advanced.

2. As required in NCLB, the AMOs have been established based on the baseline percent proficient score (proficient = CRT level of basic, mastery, or advanced) in English-language arts and mathematics in the 20th percentile school, using the 2002 CRT test scores in ELA and mathematics for grades 4, 8, and 10.

3. The AMOs for ELA and math are as follows.

| School Year | ELA | Mathematics |
|-------------|-------|-------------|
| 2001-2002 | | |
| 2002-2003 | 36.9% | 30.1% |
| 2003-2004 | 36.9% | 30.1% |
| 2004-2005 | 47.4% | 41.8% |
| 2005-2006 | 47.4% | 41.8% |
| 2006-2007 | 47.4% | 41.8% |

| School Year | ELA | Mathematics |
|-------------|--------|-------------|
| 2007-2008 | 57.9% | 53.5% |
| 2008-2009 | 57.9% | 53.5% |
| 2009-2010 | 57.9% | 53.5% |
| 2010-2011 | 68.4% | 65.2% |
| 2011-2012 | 78.9% | 76.9% |
| 2012-2013 | 89.4% | 88.6% |
| 2013-2014 | 100.0% | 100.0% |

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

5. A confidence interval is a statistic that creates a range of scores. Subgroups with a 95 percent participation rate that attain a percent proficient score within or above the confidence interval range for the AMO shall be considered as having passed the subgroup component. Confidence interval ranges are affected by subgroup size. Smaller subgroups will have a wider range and larger subgroups will have a narrower range.

D. Safe Harbor

1. Subgroups that do not pass the AMO status test by attaining a percent proficient score within or above the confidence interval range shall be evaluated for safe harbor.

2. Safe harbor is attained if:

a. the subgroup makes a 10 percent reduction in its non-proficiency rate from the previous year:

i. a 99 percent confidence interval is applied to this reduction check; and

b. the subgroup:

i. achieves a 90 percent non-dropout rate (any LEA without a 12th grade shall use attendance rate). (A 99 percent confidence interval is applied to the 90 percent attendance rate and 90 percent non-dropout rate check); or

ii. makes at least 0.1 percent improvement in non-dropout rate from the previous year (any LEA without a 12th grade shall use attendance rate).

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

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

E. Failing the Subgroup Component

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

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

a. achieved a 90 percent non-dropout rate (any LEA without a 12th grade shall use attendance rate). (A 99 percent confidence interval is applied to the 90 percent non-dropout or attendance rate check.); or

b. made at least 0.1 percent improvement in non-dropout rate from the previous year (any LEA without a 12th grade shall use attendance rate).

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

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

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

§4311. Performance Labels

A. Districts shall be assigned a DPS performance label as follows:

| Performance Label | District Performance Score |
|---------------------------|----------------------------|
| Academically Unacceptable | Below 45.0 |
| Academic Warning* | 45.0 – 59.9 |
| ★ | 60.0 – 79.9 |
| ★★ | 80.0 – 99.9 |
| ★★★ | 100.0 – 119.9 |
| ★★★★ | 120.0 – 139.9 |
| ★★★★★ | 140.0 and above |

*Effective with the 2005 performance labels, the definition of an academically unacceptable district shall be any district with a DPS below 60.0. The academic warning label will be used only with the 2003 and 2004 district performance scores.

B. A label shall be reported for the District Responsibility Index (DRI) and for each of the four indicators.

| District Responsibility Index | DRI Label |
|-------------------------------|-----------------------|
| 120.0 or more | Highly responsive |
| 100.0-119.9 | Adequately responsive |
| 80.0-99.9 | Responsive |
| 60.0-79.9 | Minimally responsive |
| 0.0-59.9 | Unresponsive |

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

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

§4313. Corrective Actions

A. The Louisiana Department of Education shall report district scores and labels on every school district. Consequences imposed on a district shall be based on its District Responsibility Index (DRI). Any district receiving a performance label of unsatisfactory for its DRI shall become subject to an operational audit. If a district scores unsatisfactory again within two years, the SBESE shall have the authority to act on the audit findings, including the withholding of funds to which the district might otherwise be entitled.

B. Beginning in 2004, Districts shall be evaluated on their District Responsibility Index label and on the subgroup component. Districts that receive a DRI Index label of Unresponsive and/or fail to achieve Adequate Yearly Progress (AYP) in the subgroup component shall complete district self-assessments and submit it to the Louisiana Department of Education.

1. The DOE shall review each self-assessment.
2. The DOE may recommend that BESE schedule a District Dialogue with the District.

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

1. The DOE shall review each District Improvement Plan.
2. The DOE may recommend that BESE schedule a District Dialogue with the District.

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

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

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

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

§4315. Progress Report

A. The Louisiana Department of Education shall publish a district accountability report. The report shall contain the labels for the DPS and DRI and for each of the four indicators. The report shall also contain the percent poverty, poverty ranking, and percentage of students enrolled in public education for the district, as well as data from the subgroup component.

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

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

Weegie Peabody
Executive Director

0407#005

RULE

Board of Elementary and Secondary Education

Bulletin 113 **Louisiana's Reading and Language Competencies for New Teachers**
(LAC 28:XCV.Chapters 1-17)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted *Bulletin 113 Louisiana's Reading and Language Competencies for New Teachers*. Bulletin 113 will be printed in codified format as Part XCV of the Louisiana Administrative Code. Bulletin 113 establishes competencies required for new teachers of reading/language arts in Louisiana that are aligned with scientifically based reading research.

**Title 28
EDUCATION**

**Part XCV. Bulletin 113 Louisiana's Reading and Language Competencies for New Teachers
Chapter 1. Foundational Concepts Strand A
§101. BESE Reading Competencies Knowledge**

A. Knows the progression (stages) of reading/language development. (A.1.1)

B. Knows the major components of reading and language instruction and the teaching activities that typically address each component. (A.1.2)

C. Understands at a general level the causal links between phonological skill, phonic decoding, spelling, word

recognition, reading fluency, vocabulary, reading comprehension, and writing. (A.1.3)

D. Understands the most common intrinsic differences between proficient and poor readers (cognitive, physiological, and linguistic) and the major differences (language spoken at home, exposure to books, values, schooling itself.) (A.1.4)

E. Understands principles of teaching: model, lead, give guided practice, and independent practice. (A.1.5)

F. Knows how to question at multiple levels to assess and build comprehension at all levels from lower level factual to higher order thinking. (A.1.6)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1449 (July 2004).

§103. BESE/LDE Reading Competencies Skills

A. Develops and implements instructional activities that appropriately utilize and demonstrate the concept of the continuum of skills in reading, writing, and oral language proficiencies.

B. Plans and implements instruction that demonstrates an understanding of the major components of reading, writing, and oral language instruction and addresses each component thoroughly and systematically with emphasis appropriate to students' grade levels or needs.

C. Designs and implements instructional activities that build on an understanding of the connections between phonological skill, phonic decoding, spelling, word recognition, reading fluency, vocabulary, reading comprehension, and writing.

D. Analyzes and selects instructional goals based on cognitive, physiological, cultural, environmental, and linguistic differences underlying good and poor reading.

E. Selects, develops and uses media (books, technology, non-print materials) to support instruction, based on considerations of student interests and cultural and linguistic backgrounds in reference to scientifically based reading research.

F. Asks questions at multiple levels, from lower level factual to higher order thinking, when assessing and building comprehension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1450 (July 2004).

§105. Reading and Language

Competencies Knowledge

A. Understands how to select, develop, and use a large supply of books, technology-based information, and non-print materials to match the reading levels and needs of the students (e.g., decoding, fluency, vocabulary). Choices should also consider the students' interests, cultures, and linguistic backgrounds. (A.2.1)

B. Understands how to manage all students in a classroom while working with whole class/groups/individual students who are performing at multiple instructional levels. (A.2.2)

C. Understands how to provide instruction that is explicit and systematic across the reading components (e.g., phonemic awareness, phonics, vocabulary, fluency, comprehension, oral language, and writing. (A.2.3)

D. Knows how to plan for and use appropriate practices, including technology-based practices, in effective reading instruction for learners at various stages of reading, writing, and language development and from different cultural and linguistic backgrounds. (A.2.4)

E. Knows how to recognize reading research that is scientifically based and is aware of the histories of reading. (A.2.5)

F. Are committed to ethical and caring attitudes in classrooms. (A.2.6)

G. Are committed to the success of each student involved in literacy (reading, writing, and oral language). (A.2.7)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1450 (July 2004).

§107. Reading and Language Competencies Skills

A. Selects, develops, and uses media (books, technology, non-print materials) to support instruction based on considerations of the reading level and instructional needs of the student, as well as students' interests, cultures, and linguistic backgrounds.

B. Creates learning environments that provide support for individual learner needs. Balances whole class/group/individual instructional activities to address multiple instructional levels. Provides small flexible homogeneous group instruction to students who are below grade-level benchmarks.

C. Provides instruction that is explicit and systematic across reading components (e.g., phonemic awareness, phonics, vocabulary, fluency, comprehension, oral language, and writing).

D. Plans and uses appropriate practices, including technology-based practices, in effective reading instruction for learners at various stages of reading, writing, and language development and from different cultural and linguistic backgrounds.

E. Uses reading research that is scientifically based.

F. Demonstrates respect and concern for the needs of all students.

G. Demonstrates commitment to the success of all students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1450 (July 2004).

§109. Additional Reading and Language

Competencies Knowledge

A. Knows how and when to differentiate and/or provide additional instruction for students who are working above, on, or below grade level. (A.3.1)

B. Understands the components of effective literacy instruction and how they are represented in comprehensive reading programs. (A.3.2)

C. Understands that oral language is the expression of communication of thoughts and feelings by means of sounds, and combinations of such sounds, to which meaning is attributed. (A.3.3)

D. Knows the value and purpose of teacher-directed and student-directed assignments. (A.3.4)

E. Is enthusiastic about the teaching of reading, writing, and oral language skills. (A.3.5)

F. Is committed to reflection on practice to ensure that instruction is appropriate and results in improved student outcomes, as measured by student achievement data. (A.3.6)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1450 (July 2004).

§111. Additional Reading and Language Competencies Skills

A. Designs and implements instructional activities that differentially address the needs of students who are working above, on, or below grade level.

B. Analyzes all reading materials and programs to determine if they are aligned with practices supported by scientifically based reading research and adapts programs as needed to provide comprehensive instruction.

C. Plans instruction that develops a student's oral language skills, recognizing the critical links between oral language, phonological awareness, and decoding abilities.

D. Incorporates teacher-directed and student-directed assignments into instructional routines that demonstrate an understanding of the role and value of each.

E. Demonstrates enthusiasm for the teaching of reading, writing, and oral language skills

F. Systematically examines student achievement data, including early literacy screening assessments and ongoing outcome and progress monitoring data, and adjusts practice as needed to meet student reading goals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1451 (July 2004).

Chapter 3. Assessment Strand B

§301. BESE/LDE Reading Competencies Knowledge Reserved.

§303. BESE/LDE Reading Competencies Skills Reserved.

§305. NCATE Reading and Language Competencies Knowledge

A. Knows how to select scientifically based, validated assessment tools and practices that include individual and standardized group tests; informal, individual, and group classroom assessment strategies; and technology-based assessment tools for measuring important components of reading/language development. (B.2.1)

B. Knows how to effectively communicate results of assessments to specific individuals (e.g., students, parents, caregivers, colleagues, administrators, policymakers, policy officials, community). (B.2.2)

C. Knows how to use assessment information to identify students' proficiencies and needs. Knows how to group students for small groups based on data, including small flexible intervention groups. Knows how to develop instruction that is targeted and linked to student deficits visible through screening assessments. (B.2.3)

D. Views reading/language assessment as instrumental in making decisions about appropriate instruction, rather than as a mechanical process for assigning grades and ranking students by ability or achievement. (B.2.4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1451 (July 2004).

§307. NCATE Reading and Language Competencies Skills

A. Administers, scores, analyzes, interprets, and communicates results of individual and group standardized measures of literacy achievement (i.e., screening, diagnosis, monitoring progress, and measuring outcomes).

B. Utilizes informal assessment strategies to identify and communicate student proficiencies and needs to students, parents, caregivers, colleagues, administrators, policymakers, policy officials, community, etc.

C. Demonstrates an ability to access and use technology-based (including web-based) assessments.

D. Develops appropriate instructional and intervention strategies based on information produced by formal and informal assessments. (Refer to §305.A-D)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1451 (July 2004).

§309. Additional Reading and Language Competencies Skills

A. Understands that assessments are used for various purposes, including determining strengths and needs of students in order to plan for instruction and flexible grouping; monitoring progress in relation to stages of reading/language development; assessing curriculum-specific learning; and using norm-referenced or diagnostic tests to inform practice. (B.3.1)

B. Knows how to design appropriate informal measures for ongoing assessment of students' reading/language development. (B.3.2)

C. Values reading/language assessment as an essential tool in the instructional process. (B.3.3)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1451 (July 2004).

§311. Additional Reading and Language Competencies Skills

A. Refer to §307.A

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1541 (July 2004).

§313. Additional Reading and Language Competencies Dispositions

A. Values reading/language assessment as an essential tool in the instructional process. (B.3.3)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1451 (July 2004).

§315. Additional Reading and Language Competencies Skills

A. Refer to § 307.A)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1451 (July 2004).

Chapter 5. Phonemic Awareness and Letter Knowledge **Strand C**

§501. BESE/LDE Reading Competencies **Knowledge**

A. Knows the progression of development of phonological skill (e.g., rhyme, syllable, onset-rime, phoneme segmentation, blending, and substitution). (C.1.1)

B. Understands the difference between speech sounds (phonemes) and the letters/letter combinations (graphemes) that represent them. (C.1.2)

C. Knows how to identify and pronounce the speech sounds in standard English (consonant and vowel phoneme systems). (C.1.3)

D. Understands the print concepts young children must develop (e.g., directionality, connection of print to meaning). (C.1.4)

E. Knows how to segment and blend any single-syllable word at the onset-rime and phoneme level. (C.1.5)

F. Understands the role of fluency of letter name knowledge in reading and spelling. (C.1.6)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004).

§503. BESE/LDE Reading Competencies **Skills**

A. Selects and instructs a range of activities representing a developmental progression of phonological skill (words in sentences, rhyming; oral word repetition, syllable counting, onset-time segmentation and blending, phoneme identification, segmentation, blending, and substitution).

B. Designs lessons that begin with auditory phonemic awareness activities and then links phonemes with letters as soon as students develop an adequate level of phonemic awareness.

C. Demonstrates appropriate enunciation in oral demonstrations, especially when conducting phonemic awareness lessons.

D. Explains and demonstrates through shared reading and oral reading how print is used when reading a book. (e.g., provides details that readers take for granted while reading such as sentences and paragraphs, and that the end of lines or a page does not necessarily mean the end of a unit of meaning).

E. Models and assists students in segmenting and blending single-syllable words at the onset-rime and phoneme levels using words with two, three, and four phonemes.

F. Uses techniques for teaching fluency of letter naming, matching, and writing, including multi-sensory strategies for teaching letter identification and letter formation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004).

§505. NCATE Reading and Language Competencies **Knowledge**

Reserved.

§507. NCATE Reading and Language Competencies **Skills**

Reserved.

§509. Additional Reading and Language Competencies **Knowledge**

A. Understands the distinction between phonemic awareness and phonics. (C3.1)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004).

§511. Additional Reading and Language Competencies **Skills**

A. Distinguishes differences between high frequency, predictable and uncontrolled text from decodable text, reinforcing skills that have been taught previously.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004).

Chapter 7. Phonics and Word Recognition **Strand 7**

§701. BESE/LDE Reading Competencies **Knowledge**

A. Understands the various structures of language that underlie the English spelling system (e.g., phoneme-grapheme, syllable pattern, morpheme units in print, and word origin). (D.1.1)

B. Understands explicit, systematic teaching and implicit, incidental, and opportunistic teaching of phonics. (D.1.2)

C. Understands the developmental progression in which orthographic knowledge is generally acquired. (D.1.3)

D. Knows how to recognize examples of sound-symbol correspondences, rules, and patterns in English and recognizes syllable types and morphemes. (D.1.4)

E. Possesses an awareness that second languages or dialects have varying phonological features that present a challenge to English pronunciation and phonics. (D.1.5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004).

§703. BESE/LDE Reading Competencies **Skills**

A. Identifies the kind of phonics and spelling instruction that is in an adopted comprehensive reading program (e.g., systematic, incidental, synthetic, analytic). Develops lessons that include practice in reading texts that are written for students to use their knowledge of language structure to decode and read words.

B. Teaches all steps in a decoding lesson, resulting in reading words fluently, accurately, and with appropriate intonation and expression. Uses the following systematic progression to teach word reading so as to make public the important steps involved in reading a word.

1. Students orally produce each sound in a word and sustain that sound as they progress to the next.

2. Students must be taught to put those sounds together to make a whole word.

3. Students sound out the letter-sound correspondences "in their head" or silently and then produce the whole word.

C. Selects and delivers grade-appropriate lessons on spelling, phonics, and word identification skills.

D. Explicitly teaches phoneme-grapheme association, blending, and segmentation, in addition to syllable pattern and morpheme recognition.

E. Identifies the phonological, morphological, and orthographic differences in English and a second language.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004).

§705. NCATE Reading and Language Competencies **Knowledge**

Reserved.

§707. NCATE Reading And Language Competencies **Skills**

Reserved.

§709. Additional Reading and Language Competencies **Knowledge**

A. Knows how to identify and teach high frequency, irregular words. (D.3.1)

B. Distinguishes differences between high frequency, predictable, and uncontrolled text from decodable text reinforcing skills that have been taught previously. (D.3.2)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004).

§711. Additional Reading and Language Competencies **Skills**

A. Teaches words that are nonphonetic, using multiple strategies so that students can recognize them by sight (D.3.1-D.3.2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004).

Chapter 9. Fluent, Automatic Reading of Text **Strand E**

§901. BESE/LDE Reading Competencies **Knowledge**

A. Understands the role of fluency in word recognition, oral reading, silent reading, and comprehension of written discourse. (E.1.1)

B. Knows how to define and identify examples of text at a student's frustration, instructional, and independent reading levels. (E.1.2)

C. Understands reading fluency from multiple perspectives: stages of normal reading development, intrinsic characteristic of some reading disorders, and consequence of practice and instruction. (E.1.3)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004).

§903. BESE/LDE Reading Competencies **Skills**

A. Provides opportunities for repeated readings of continuous text with corrective feedback to promote speed, accuracy, comprehension, and expression.

B. Determines the reading level of text and the student's reading level, and selects appropriate text to match the student's instructional and independent reading levels.

C. Implements instructional strategies, targeting the unique needs of each student to foster reading fluency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004).

§905. NCATE Reading and Language Competencies **Knowledge**

Reserved.

§907. NCATE Reading and Language Competencies **Knowledge**

Reserved.

§909. Additional Reading and Language Competencies **Knowledge**

A. Understands the importance of language structure (syntactic awareness, discourse awareness) in developing fluency. (E.3.1)

B. Understands how to create opportunities for students to read aloud daily to provide a fluent reading model and to promote interest in independent reading. (E.3.2)

C. Understands how to carefully observe reading behaviors often associated with fluency problems. (E.3.3)

D. Understands how to provide interventions to develop fluency in struggling readers. (E.3.4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004).

§911. Additional Reading and Language Competencies **Skills**

A. Guides student awareness of syntax and discourse and provides opportunities for developing fluency.

B. Provides daily read-alouds and multiple opportunities for independent reading.

C. Assesses specific behaviors (e.g., automaticity, substitution, omissions, repetitions, reading rates, accuracy) that often accompany difficult reading.

D. Matches appropriate intervention instruction to struggling readers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004).

Chapter 11. Vocabulary

§1101. BESE/LDE Reading Competencies **Knowledge** **(Strand F)**

A. Understands the role of vocabulary development and vocabulary knowledge in comprehension. Understands the concept of building word consciousness. (F.1.1)

B. Understands the role and characteristics of both direct and contextual methods of vocabulary instruction. (F.1.2)

C. Knows varied techniques for rich vocabulary instruction before, during, and after reading/language instruction. (F.1.3)

D. Understands principles of word selection for rich vocabulary instruction (e.g., words with broad utility, specialty words). (F.1.4)

E. Knows reasonable goals and expectations for learners at various stages of literacy development (e.g., Biemiller's list); knows how to recognize the wide differences in students' vocabularies. (F.1.5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004).

§1103. BESE/LDE Reading Competencies Skills

A. Structures lessons and selects appropriate words to develop students' vocabulary using strategies and materials.

B. Develops and teaches lessons to provide both direct and contextual vocabulary instruction that is robust and engages the student.

C. Identifies and applies varied techniques for vocabulary instruction before, during, and after reading, writing, and oral language.

D. Identifies and directly teaches words necessary for understanding text that should be taught before the passage is read, and differentiates specialty words from words with broad utility

E. Plans and adjusts vocabulary instruction based on the needs of students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004).

§1105. NCATE Reading and Language Competencies Knowledge

Reserved.

§1107. NCATE Reading And Language Competencies Skills

Reserved.

§1109. Additional Reading and Language Competencies Knowledge (Strand F)

A. Understands how to help students develop four types of vocabulary: listening, speaking, reading, and writing (i.e., receptive and expressive). (F.3.1)

B. Understands how to model robust vocabulary, encourages students to use new vocabulary in the classroom, and extends its use beyond the classroom. (F.3.2)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004).

§1111. Additional Reading and Language Competencies Skills (Strand F)

A. Selects materials for teacher-directed and independent reading that will expand students' vocabularies. Actively involves students in conversations about vocabulary as they listen, speak, read, and write.

B. Provides for frequent encounters with target words and multiple opportunities to use target words orally and in writing beyond the present context.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004).

Chapter 13. Text Comprehension (Strand G)

§1301. BESE/LDE Reading Competencies Knowledge

A. Understands comprehension monitoring strategies used by good readers. (G.1.1)

B. Differentiates among strategies that are appropriate before, during, and after reading. (G.1.2)

C. Knows the differences between characteristics of major text genres, including narration, exposition, and argumentation. (G.1.3)

D. Knows how to recognize text structure and syntax (phrases, clauses, sentences, paragraphs and "academic language") that could be a source of miscomprehension. (G.1.4)

E. Understands the similarities and differences between written composition and text comprehension and the usefulness of writing in building comprehension. (G.1.5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004).

§1303. BESE/LDE Reading Competencies Skills (Strand G)

A. Organizes and provides instruction that models comprehension monitoring strategies and have students use them (e.g., asking questions, summarizing, predicting, making connections).

B. Utilizes instructional strategies that teach students differences between major text genres, including narration, exposition, and argumentation.

C. Models strategies to identify text structures and syntax and has students use the strategies to improve their comprehension.

D. Employs comprehension strategies across the content areas that emphasize the relationships among reading, writing, and oral language.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004).

§1305. NCATE Reading and Language Competencies Knowledge

Reserved.

§1307. NCATE Reading And Language Competencies Skills

Reserved.

§1309. Additional Reading and Language Competencies Knowledge

A. Understands and knows how to teach comprehension of oral, visual (e.g., graphic organizers, maps, tables), and written texts. (G.3.1)

B. Understands how to teach students to adjust their reading as they encounter a variety of genres, structures, and formats. (G.3.2)

C. Understands the relationship between text structure and graphic representation that can be used to develop comprehension. (G.3.3)

D. Understands multiple ways students can demonstrate comprehension. (G.3.4)

E. Understands how purposes for reading affect the use of comprehension strategies (e.g., knowledge, enjoyment). (G.3.5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004).

§1311. Additional Reading and Language Competencies Skills

A. Applies instructional strategies for building comprehension of oral, visual, and written texts.

B. Guides students in adjusting their reading as they encounter different genres, structures, and formats.

C. Incorporates comprehension strategies that emphasize the relationship between text structure and graphic representation.

D. Uses assessment strategies (formal and informal) that provide students with opportunities to demonstrate comprehension in multiple ways.

E. Assists students in matching comprehension strategies to purposes for reading.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004).

Chapter 15. Spelling and Writing

§1501. BESE/LDE Reading Competencies Knowledge (Strand H)

A. Understands the organizing principles of the English spelling system at the sound, syllable, and morpheme levels. (H.1).

B. Knows how to identify students' levels of spelling achievement and orthographic knowledge. (H.2)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1455 (July 2004).

§1503. BESE/LDE Reading Competencies Skills (Strand H)

A. Plans and teaches a sequence of lessons that incorporate spelling and word study activities appropriate for students at each developmental level. (refer to H.1)

B. Analyzes students' spelling, identifies their levels of development, and provides appropriate instruction to improve their spelling achievement. (refer to H.2)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1455 (July 2004).

§1505. NCATE Reading and Language Competencies Knowledge

Reserved.

§1507. NCATE Reading and Language Competencies Skills

Reserved.

§1509. Additional Reading and Language Competencies Knowledge (Strand H)

A. Understands that composition is a recursive process of planning, drafting, revising, and editing. (H.3.1)

B. Understands that different kinds of writing require different organizational approaches. (H.3.2)

C. Understands the need for diverse forms of writing to address specific audiences and purposes. (H.3.3)

D. Knows and understands the use of informal and formal written language in appropriate settings. (H.3.4)

E. Knows how to analyze, model, and teach the elements of legible penmanship. (H.3.5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1455 (July 2004).

§1511. Additional Reading and Language Competencies Skills (Strand H)

A. Develops and implements unit plans that incorporate multiple opportunities for different types of writing, and builds in opportunities for planning, drafting, revising, editing, and publishing written pieces for different purposes and audiences.

B. Same as above.

C. Same as above.

D. Provides appropriate responses to students' formal and informal uses of language. Supports students' development of informal and formal written language appropriate to a given context or purpose.

E. Analyzes students' handwriting for elements of legibility (e.g., letter formation, size and proportion, spacing, slant, alignment, and line quality). identifies elements that need improvement; and designs instruction that assists students with improving those that are problematic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1455 (July 2004).

Chapter 17. Professional Development (Strand I)

§1701. BESE/LDE Reading Competencies Knowledge Reserved.

§1703. BESE/LDE Reading Competencies Skills Reserved.

§1705. NCATE Reading and Language Competencies Knowledge

Reserved.

§1707. NCATE Reading and Language Competencies Skills

Reserved.

§1709. Additional Reading and Language Competencies Knowledge (Strand I)

A. Knows how to work collaboratively with colleagues to observe, evaluate, and provide feedback on professional practice. (I.3.1)

B. Knows how to create, implement, and evaluate individual professional development plans. (I.3.2)

C. Knows how to participate in and evaluate professional development programs. (I.3.3)

D. Knows how to differentiate between research and non-research based practices and programs. (I.3.4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1455 (July 2004).

§1711. Additional Reading and Language Competencies Skills (Strand I)

A. Collaborates with colleagues to observe, evaluate, and provide feedback on professional practice.

B. Designs and implements professional development plans with follow-up evaluations.

C. Seeks out opportunities for professional development and critiques impact of development programs on professional growth and academic improvement of students.

D. Critiques the research base of professional development programs and selectively adopts practices most consistent with scientifically based research.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1455 (July 2004).

§1713. Additional Reading and Language Competencies Dispositions (Strand I)

A. Values and is committed to ongoing individual and collaborative professional development. (I.3.5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1455 (July 2004).

§1715. Additional Reading and Language Competencies Skills (Strand I)

A. Actively pursues and continuously develops professional knowledge, skills, and dispositions. (refer to I.3.5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1455 (July 2004).

**Sample: Phase 5 Development Of Reading And Language Rubrics
Draft Rubrics To Evaluate Portfolios
For Teacher Candidates**

Grades PK-3

The following is a sample of the grades PK-3 draft rubrics for the Reading and Language Competencies for Strand G: Text Comprehension.

Strand G: Text Comprehension

Performance Assessment G1:

Unsatisfactory

(Expectations for teacher candidates who fail to adequately address identified competencies.)

Emerging

(Expectations for teacher candidates at an initial stage of competency development in Teacher Preparation Programs.)

Meets Expectations

For Teacher Preparation Programs

(Expectations for teacher candidates as they exit Teacher Preparation Programs.)

Meets Expectations

For Experienced Teacher

(Expectations for teachers after their first three years of teaching.)

Lacks the knowledge and skills to appropriately model comprehension monitoring strategies and fails to have students use the strategies.

With guidance and support, models comprehension monitoring strategies and guides students' use when asking questions, summarizing, predicting, and making connections when working with individuals/small groups of students.

Accurately provides instruction that models comprehension monitoring strategies and guides all students' use when asking questions, summarizing, predicting, and making connections.

Accurately organizes and provides instruction that models comprehension monitoring strategies that address specific needs of individual students and guides students' use when asking questions, summarizing, predicting, and making connections.

Performance Assessment G2:

Unsatisfactory

(Expectations for teacher candidates who fail to adequately address identified competencies.)

Emerging

(Expectations for teacher candidates at an initial stage of competency development in Teacher Preparation Programs.)

Meets Expectations

For Teacher Preparation Programs

(Expectations for teacher candidates as they exit Teacher Preparation Programs.)

Meets Expectations

For Experienced Teacher

(Expectations for teachers after their first three years of teaching.)

Lacks the knowledge and skills to accurately model and employ instructional strategies that teach students differences between major text genres, including narration, exposition, and argumentation.

With guidance and support, models and employs instructional strategies that teach differences between major text genres, including narration, exposition, and argumentation when working with individuals/small groups of students.

Accurately models and employs instructional strategies that teach all students the differences between major text genres, including narration, exposition, and argumentation.

Accurately researches, organizes, utilizes, models, and employs instructional strategies that teach all students the differences between major text genres, including narration, exposition, and argumentation

Sample: Phase 5 Development Of Reading And Language Rubrics

**Draft Rubrics To Evaluate Portfolios
For Teacher Candidates Grades Pk-3**

The following is a sample of the grades PK-3 draft rubrics for the Reading and Language Competencies for Strand G: Text Comprehension.

Strand G: Text Comprehension

Performance Assessment G1:

Unsatisfactory

(Expectations for teacher candidates who fail to adequately address identified competencies.)

Emerging

(Expectations for teacher candidates at an initial stage of competency development in Teacher Preparation Programs.)

Meets Expectations

For Teacher Preparation Programs

(Expectations for teacher candidates as they exit Teacher Preparation Programs.)

Meets Expectations

For Experienced Teacher

(Expectations for teachers after their first three years of teaching.)

Lacks the knowledge and skills to appropriately model comprehension monitoring strategies and fails to have students use the strategies.

With guidance and support, models comprehension monitoring strategies and guides students' use when asking questions, summarizing, predicting, and making connections when working with individuals/small groups of students.

Accurately provides instruction that models comprehension monitoring strategies and guides all students' use when asking questions, summarizing, predicting, and making connections.

Accurately organizes and provides instruction that models comprehension monitoring strategies that address specific needs of individual students and guides students' use when asking questions, summarizing, predicting, and making connections.

Performance Assessment G2:

Unsatisfactory

(Expectations for teacher candidates who fail to adequately address identified competencies.)

Emerging

(Expectations for teacher candidates at an initial stage of competency development in Teacher Preparation Programs.)

Meets Expectations

For Teacher Preparation Programs

(Expectations for teacher candidates as they exit Teacher Preparation Programs.)

Meets Expectations

For Experienced Teacher

(Expectations for teachers after their first three years of teaching.)

Lacks the knowledge and skills to accurately model and employ instructional strategies that teach students differences between major text genres, including narration, exposition, and argumentation.

With guidance and support, models and employs instructional strategies that teach differences between major text genres, including narration, exposition, and argumentation when working with individuals/small groups of students.

Accurately models and employs instructional strategies that teach all students the differences between major text genres, including narration, exposition, and argumentation.

Accurately researches, organizes, utilizes, models, and employs instructional strategies that teach all students the differences between major text genres, including narration, exposition, and argumentation

Performance Assessment G3:

Unsatisfactory

(Expectations for teacher candidates who fail to adequately address identified competencies.)

Emerging

(Expectations for teacher candidates at an initial stage of competency development in Teacher Preparation Programs.)

Meets Expectations

For Teacher Preparation Programs

(Expectations for teacher candidates as they exit Teacher Preparation Programs.)

Meets Expectations

For Experienced Teacher

(Expectations for teachers after their first three years of teaching.)

Lacks the knowledge and skills to model strategies to identify text structures and syntax and lacks the skills to guide students as they utilize the strategies to improve their comprehension.

With guidance and support, models strategies to identify text structure and syntax when working with individuals/small groups of students and guides the students as they utilize the strategies to improve their comprehension.

Accurately models strategies to identify text structure and syntax when working with all students and guides the students as they utilize the strategies to improve their comprehension.

Accurately researches, organizes, selects, models, and employs strategies to identify text structure and syntax that are appropriate for students with special needs and guides the students as they utilize the strategies to improve their comprehension.

Examples Of Artifacts For Use With Draft

Rubrics To Demonstrate Competencies:

Categories

Descriptions

Performance Task

Performance of candidate as he/she would need to do in real life (e.g., written lesson plans, written unit plans, sample tests, instructional/teaching activities, student work).

Observation

Information/data collected by watching the candidates teach lessons to students in site-based settings.

Survey

A paper-pencil or online questionnaire completed by a supervising teacher who possesses first-hand knowledge of the candidate's knowledge and skills.

Interview

A structured set of questions asked of all candidates by trained assessors. The structured interview requires the respondent to

identify his/her practices, how those practices and procedures have been selected, and why they have been selected and carried out as they have been.

A structured set of questions asked of all supervising teachers/mentors by trained assessors about a candidate's performance.

Written Examination

Traditional paper-pencil examinations, using one or more item formats (e.g., completion, constructed response, matching, true/false).

Oral Examination

A question-answer session between an assessor and candidate. Questions should be tailored to the individual candidate.

Self Evaluation

An analysis of knowledge and skills completed by the candidate.

Weegie Peabody

Executive Director

0407#006

RULE

Board of Elementary and Secondary Education

Bulletin 741 **L**ouisiana Handbook for School Administrators **C**GED Age Waiver Requirements (LAC 28:1.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741* **L**he Louisiana Handbook for School Administrators, referenced in LAC 28:1.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The revision will add language to the current policy to allow districts more definitive criteria in the determination of student eligibility to take the GED.

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

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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, 272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 29:2757 (December 2003), LR 30:1457 (July 2004).

Standard 1.124.02

A student shall be 17 years of age or older in order to be authorized to be administered the General Educational Development (GED) test. A married or emancipated individual may be permitted to take the GED test at 16 years of age and above. A student who has attained the age of 16 and qualified to take the GED test may request an age waiver from the local school superintendents if one or more of the following hardships exist and appropriate documentation is on file at the local school board office:

pregnant or actively parenting;
incarcerated or adjudicated;

institutionalized or living in a residential facility;
chronic physical or mental illness;
family or economic hardship.

The local school superintendent or his/her designee may approve the request without requesting action from the Board of Elementary and Secondary Education (BESE). Such local action must occur prior to a qualified 16 year old student taking the GED test. If the request for an age waiver is denied at the local level, a student may request the waiver from the Department of Education for approval by BESE with documentation of reason for denial at the local level. All other requests for age waivers due to hardships not listed above, must be approved by BESE prior to taking the GED test. Individual 15 years of age and below shall not be permitted to take the GED test under any circumstances.

* * *

Weegie Peabody
Executive Director

0407#007

RULE

Board of Elementary and Secondary Education

Bulletin 746 **Louisiana Standards for State Certification of School Personnel** Certification of Secondary Career and Technical Trade and Industrial Education Personnel (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746 Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. The revision will change the Louisiana standards for state certification of Secondary Career and Technical Trade and Industrial Education personnel, allowing job applicants holding industry-based certification, or who have passed an approved NOCTI exam, credit for up to two years of work experience in meeting the qualifications for the position of Instructor. Industries have shown increased effort to require the certification of skills used in those industries to assure technical competence and public confidence. Recognizing industry certifications in the competition for trade and industrial instructors assures that instruction is directly related to the needs of industry and nationally recognized industry standards.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183 (April 1975), LR 1:311 (July 1975), LR 1:399 (September 1975), LR 1:435 (October 1975), LR 1:541 (December 1975), LR 28:760, 763, 765 (April 2002), LR 28:990 (May 2002), LR 28:2505 (December 2002); LR

29:117, 119, 121 (February 2003), LR 30:200 (February 2004), LR 30:1458 (July 2004).

* * *

Louisiana Standards for State Certification of Secondary Career and Technical Trade and Industrial Education Personnel

Career and Technical Trade and Industrial Education Certificate **Valid for one year**

A Career and Technical Trade and Industrial Education (CTTIE) Certificate authorizes employment for instructors of Career and Technical Trade and Industrial Education classes. It does not apply to Technology Education. For renewal of this certificate, at least three semester hours in professional CTTIE must be earned each year until a minimum of 15 semester hours has been completed by those without a degree; 12 semester hours with an associate degree; nine semester hours with a degree, six semester hours with an education degree, at which time the CTTIE Certificate shall become permanent. The New Instructor Course is mandatory and will be counted toward permanent certification requirements.

Special requirements for various personnel are as follows:

I. Secondary Career and Technical Trade and Industrial Education Instructor

A. Education

1. A high school diploma or equivalent (an equivalency test approved by the State Department of Education).

B. Experience

1. A minimum of at least four years of successful full-time experience in the Career and Technical field in which the applicant is to teach. At least one full year of the above experience must have been served within the five years immediately prior to certification. Evidence of technical competency may be determined by the Career and Technical Education Section of the State Department of Education by a test given through such agencies as the State Department of Education may designate; (e.g.; NOCTI).

2. Graduates of Community and Technical Colleges will be given credit for up to two years of occupational experience if the training is in the area for which the applicant is applying.

3. Graduates with a bachelor's degree from a state approved or regionally accredited college or university will be given credit for two years of the four years of experience as required in B1. The remaining two years of work experience in B1 must be continuous full-time.

4. The applicant must show, if requested by the State Department of Education, that one year of the required years of work experience has been at a level above starting requirements and that he/she has progressed in knowledge and skills of the trade.

5. Applicants holding current approved industry-based certification or, if industry-based certification is not available, who pass the approved NOCTI exam, may be given credit for two of the required four year's work experience. An industry-based certification may not be combined with educational attainment to qualify for a waiver from all required work experience, except as stipulated in number 6 below.

6. Applicants with an earned baccalaureate degree and who hold an industry-based certification in an

information technology area may apply years of education experience toward the required work experience.

C. When the applicant has met the requirements listed under Items A and B, a one year CTTIE Certificate will be issued. For renewal of this certificate, at least three semester hours in professional Career and Technical education must be earned each year until all hours required for certification have been completed, at which time the CTTIE Certificate shall become permanent.

D. The applicant being certified under these requirements may teach CTTIE programs at the secondary level only. To become certified to teach at the postsecondary level, the applicant must meet the requirements for certification of postsecondary instructors.

E. In addition to CTTIE certification, a current license must be held when a state or national license is required in the workplace. A state or national license will be recognized as an industry-based certification.

II. Health Occupations Nurse's Aide Instructor

A. Education

A graduate of a professional diploma nursing program with current licensure in Louisiana as a registered nurse.

B. Experience

Shall have a minimum of two of the past four years experience in staff nursing or nursing education.

C. When the applicant has met the requirements of Items A and B, he/she shall be issued a one year CTTIE Certificate. For renewal of this certificate, at least three semester hours in professional Career and Technical education must be earned each year until all hours required for certification have been completed, at which time the CTTIE Certificate shall become permanent.

D. Department Head

In addition to the requirements of Items A, B, and C, the applicant shall have had a minimum of three years of teaching experience as a certified Practical Nursing instructor in this state.

E. Part-Time

When the applicant has met requirements of Items A and B, he/she shall be issued a CTTIE Certificate. The professional Career and Technical Trade and Industrial education courses shall not be required, but the applicant shall complete such teacher training as may be prescribed by the State Department of Education to improve competencies.

III. Health Occupations-Related Health Fields

A. Education

A graduate of approved program in the area in which the applicant is to teach, with current state license or national certification where required. Nutrition Instructors in nursing programs may meet certification requirements with a degree in Family and Consumer Sciences and a minimum of 12 semester hours in Foods and Nutrition.

B. Experience

A minimum of two years of occupational experience in the area in which the applicant is to teach. One year of this experience must have been served within the last five years.

C. When an applicant has met the requirements of Items A and B, the applicant shall be issued a one year CTTIE Certificate. For renewal of this certificate, at least

three semester hours in professional Career and Technical education must be earned each year until all semester hours required have been completed, at which time the CTTIE Certificate shall become permanent.

D. Part-Time

When the applicant has met the requirements of Items A and B, he/she shall be issued a CTTIE Certificate. The professional Career and Technical education courses shall not be required but the applicant shall complete such teacher training as may be prescribed by the State Department of Education to improve competencies.

IV. CTTIE Cooperative Coordinator

A. Education

Applicant must have an active CTTIE Certificate, having completed the CTTIE requirements or being in the process of completing them at the time of application.

B. For the individual in the process of completing CTTIE requirements, a one year Career and Technical Certificate as a Cooperative Coordinator at only the secondary level will be issued. For renewal of this certificate, at least three semester hours in professional technical education must be earned each year until all requirements for certification have been completed, at which time the CTTIE Certificate shall become permanent.

V. Principal or Director of Career Centers Operated by Local School Systems

A. Education

An applicant must be fully certified as a secondary school principal.

VI. Jobs for America's Graduates Louisiana Job Specialist

A. Education/Experience

1. A bachelor's degree from a state approved and regionally accredited college or university, preferably in education, business administration, marketing, or related field and two years of fulltime work experience, preferably in business, marketing, or related field; or

2. A high school diploma or general equivalency diploma (GED) and five years of full-time work experience, preferably in business, marketing, or related field. Exceptions to the number of required years of experience may be approved by the Board of Elementary and Secondary Education.

B. When the applicant has met the requirements listed under Item A1 or A2, a one year CTTIE Certificate will be issued. For renewal of this certificate, at least three semester hours in professional CTTIE must be earned each year until a minimum of 15 semester hours has been completed by those without a degree; 12 semester hours with an associate degree; 9 semester hours with a degree, 6 semester hours with an education degree, at which time the CTTIE Certificate shall become permanent. The New Instructor Course is mandatory and will be counted toward permanent certification requirements.

Weegie Peabody
Executive Director

0407#008

RULE

Board of Elementary and Secondary Education

Bulletin 746 Louisiana Standards for State Certification of School Personnel Educational Technology Facilitation Endorsement (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746 Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This amendment to current Bulletin 746 policy adds a certification option that represents an additional pathway for obtaining the add-on endorsement for Educational Technology Facilitation. This broadens opportunities for teachers to add the Educational Technology Facilitation certification endorsement through a technology pathway that promotes increased technology proficiency while increasing educational technology knowledge.

**Title 28
EDUCATION**

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183 (April 1975), LR 1:311 (July 1975), LR 1:399 (September 1975), LR 1:435 (October 1975), LR 1:541 (December 1975), LR 28:760, 763, 765 (April 2002), LR 28:990 (May 2002), LR 28:2505 (December 2002), LR 29:117, 119, 121 (February 2003), LR 30:200 (February 2004), LR 30:1460 (July 2004).

* * *

Educational Technology Facilitation

1. A valid Type B or Level 2 Louisiana Teaching Certificate*

2. Complete one of the following options:

Option A: A minimum of 9 semester hours of graduate credit in educational technology, to include the following:

- 1. Design and Development of Multimedia Instructional Units.....3 semester hours
- 2. Educational Telecommunications, Networks, and the Internet.....3 semester hours
- 3. Technology Leadership in Schools.....3 semester hours

-or-

Option B: A minimum of three online courses, to include the following:

- 1. Effective Instructional Technology: An Introduction Course focuses on the NETS-T and will include an introduction to educational telecommunications, networks and the Internet.

- 2. Effective Instructional Technology: Building a Portfolio of Exemplars Course focuses on building a portfolio of teacher and student work that demonstrates the understandings and skills as they relate to the NETS-T and the Louisiana K-12 Educational Technology Standards.
- 3. An additional course to be selected from a menu of Department approved online course offerings. Courses that have been developed falling under this menu include the following: Lessons by Design; Bridging the Gap: Universal Design for Learning; Universal Design for Learning: Technology Support for Math and the K-12 Classroom; and Universal Design for Learning: Technology Support for Reading and the K-12 Classroom.
- 3. Persons who have met requirements of 1 and 2 (Option A or Option B) may be issued an Educational Technology Facilitation certification endorsement.
- 4. Certified teachers who have served as a facilitator of educational technology at the building level may petition the Office of Certification and Higher Education to be "grandfathered in" with an Educational Technology Facilitation endorsement if they meet the following qualifications by August 31, 2002:
 - a) Hold certification in computer literacy and have earned an additional six semester hours in educational technology, and have served as a facilitator of educational technology at the school, district, regional, or state level successfully for the past three years as verified by the employment authority.
 - or-
 - b) Have served as a facilitator of educational technology above the school, district, regional, or state level successfully for the past five years as verified by the employing authority.

* Requires three years of teaching experience.

* * *

Weegie Peabody
Executive Director

0407#010

RULE

Board of Elementary and Secondary Education

Bulletin 746 Louisiana Standards for State Certification of School Personnel Twelve-Hour Rule Policy (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746 Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy amends the current Twelve-Hour Rule Policy to align it with requirements under the No Child Left Behind Act of 2001. The nature of the change concerns those teaching in the core academic subject

areas, who must have attained "highly qualified" status by the 2006-2007 school year.

Title 28
EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183 (April 1975), amended LR 1:311 (July 1975), LR 1:399 (September 1975), LR 1:435 (October 1975), LR 1:541 (December 1975), LR 28:760, 763 765 (April 2002), LR 28:990 (May 2002), LR 28:2505 (December 2002), LR 29:117, 119, 121 (February 2003), LR 30:200 (February 2004), LR 30:1461 (July 2004).

Twelve-Hour Rule Policy

For the non-core academic subject areas, full-time secondary certified teachers in schools including grades 6 through 12 (or any combination thereof) may be allowed to teach a maximum of two periods in one subject out of their field of certification if they have earned 12 hours in that subject. Secondary certified teachers shall not teach below the sixth grade level.

Teachers in core academic areas must meet the highly qualified requirements in order to teach in any core academic subject.

* * *

Weegie Peabody
Executive Director

0407#011

RULE

Board of Elementary and Secondary Education

Bulletin 746 Louisiana Standards for State Certification of School Personnel Policy for Add-On of Teaching Levels and Teaching Areas within Levels (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746 Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. These changes to current Bulletin 746 policy amend language for the add-on (endorsement) of certification teaching levels and teaching areas within levels. This amended language streamlines current policy and aligns Bulletin 746 policy with No Child Left Behind Act of 2001 requirements.

Title 28
EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 27:825, 828 (June 2001), LR 27:1189 (August 2001), LR 27:1516 (September 2001), LR 27:1676, 1680 (October 2001), LR 27:2096, 2099 (December 2001), LR 28:273 (February 2002), LR 28:1727 (August 2002), LR 28:2505 (December 2002), LR 29:117, 119, 121 (February 2003), LR 30:1461 (July 2004).

* * *

Additions to Existing Certificates

Permanent Authorization on a Certificate

The holder of a valid Louisiana teacher's certificate, upon completing all requirements for an additional area of certification as outlined in this bulletin, may have the authorization on his certification extended to include the newly achieved qualifications.

Additional authorizations should be requested and must be substantiated by an official transcript from a regionally accredited institution. The final authority for approval of additional authorization is the State Department of Education.

Teaching Levels and Teaching Areas within Levels

The following requirements must be completed to add a certification level and/or a certification area within levels to an existing valid teaching certificate.

To Add Early Childhood (Grades PK-3):

- Requirements for individual holding a valid elementary certificate (e.g., 1-4, 1-5, 1-6, or 1-8):

1. Achieve passing score for Praxis Early Childhood Education exam (#0020)

or

Accumulate 12 credit hours of combined Nursery School and Kindergarten coursework.

- Requirements for individual holding a valid upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary school certificate (e.g., 7-12, 9-12), special education mild/moderate certificate, or all-level K-12 certificate (art, dance, foreign language, health, PE, H&PE, music):

1. Achieve passing score for Praxis Elementary Education: Content Knowledge (#0014).

2. Achieve passing score for Praxis Early Childhood Education Exam (#0020)

or

Accumulate 12 credit hours of combined Nursery School and Kindergarten coursework.

3. Accumulate 9 semester hours of reading coursework.

To Add Elementary (Grades 1-5):

- Requirements for individual holding a valid early childhood certificate (e.g., PK-K, PK-3), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 7-12, 9-12), special education mild/moderate certificate, or all-level K-12 certificate (art, dance, foreign language, health, PE, H&PE, music):

1. Achieve passing score for Praxis Elementary Education: Content Knowledge (#0014).

2. Achieve passing score for PRAXIS Principles of Learning and Teaching K-6.

3. Accumulate 9 semester hours of reading, 12 semester hours of mathematics, 12 semester hours of science, and 12 semester hours of social studies coursework.

To Add Middle School (Grades 4-8) Specialty Area of English, Mathematics, Science, or Social Studies:

- Requirements for individual holding a valid early childhood certificate (PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 7-12, 9-12), mild/moderate certificate, or an all-level K-12 certificate (art, dance, foreign language, health, PE, H&PE, music):
1. Achieve passing Praxis score for Middle School: Specialty Area Exam in the specific content area
or
Accumulate 30 credit hours in the specialty content area.
 2. Achieve passing score for Praxis Principles of Learning and Teaching 5-9.
 3. Accumulate 6 semester hours of reading.

To Add Secondary Specialty Core Content Area as Defined in the No Child Left Behind Act of 2001:

- Requirements for individual holding a valid early childhood certificate (PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), or special education mild/moderate certificate:
1. Achieve passing Praxis score for secondary specialty area exam in the content area
or
Accumulate 30 credit hours in the specialty content area.
 2. Achieve passing Praxis score for Principles of Learning and Teaching 7-12.
- Requirements for individual holding a valid secondary certificate (e.g., 7-12, 9-12) or an all-level K-12 certificate [art, dance, foreign language, health, H&PE, music]:
1. Achieve passing Praxis score for secondary specialty area exam in the content area
or
Accumulate 30 credit hours in the specialty content area.

To Add Special Education Mild/Moderate:

- Requirements for individual holding a valid early childhood certificate (PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 7-12, 9-12), or an all-level K-12 certificate [art, dance, foreign language, health, PE, H&PE, music]:
1. Complete 15 semester hours of special education coursework, as follows:
 - Methods/Materials for Mild/Moderate Exceptional Children (3 hrs.)
 - Assessment and Evaluation of Exceptional Learners (3 hrs.)
 - Behavioral Management of Mild/Moderate Exceptional Children (3 hrs.)

- Vocational and Transition Services for Students with Disabilities (3 hrs.)
- Practicum in Assessment and Evaluation of M/M Exceptional Learners (3 hrs.)

2. Earn a passing score on the mild/moderate special education Praxis pedagogy exam(s) required in Louisiana.

To Add an All-Level (K-12) Area Governed by NCLB Requirements (foreign language, arts):

- Requirements for individual holding a valid early childhood certificate (PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 7-12, 9-12), all level K-12 certificate, or special education mild/moderate certificate:
1. Achieve passing score for Praxis specialty area exam in area of endorsement
or
Accumulate 30 semester hours in the specialty area.

Other Certification Areas

Computer Education

Computer Literacy.....9 semester hours
Certification in computer literacy may be added to an existing elementary or secondary certificate and is intended for those teachers who teach introductory computer literacy classes. The six-hour requirement for computer literacy certification in 1-a and 1-b below may be waived for teachers certified in business education subjects who have completed a data processing course and a word processing course which include computer applications.

1. Introduction to Computer Literacy and Microcomputers.....3 semester hours
2. Computer Science Education elective that includes evaluation and use of hardware and software.....3 semester hours
3. Computer Programming.....3 semester hours

NOTE: A person who has been successfully employed as a teacher of computer education for a minimum of three years prior to September 1, 1986, may be certified in Computer Literacy and have this authorization added to his/her Louisiana elementary or secondary teaching certificate entitling him/her to teach computer literacy at the elementary or the secondary level, depending upon the area of certification.

Mandatory 1986-87 School Year, Revised 10/29/87
* * *

Weegie Peabody
Executive Director

0407#009

RULE

Board of Elementary and Secondary Education

Bulletin 1530 Louisiana's IEP Handbook for Students with Disabilities (LAC 28:XCVII.Chapters 1-7)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted *Bulletin 1530 Louisiana's IEP Handbook for Students with Disabilities*. Bulletin 1530 will be printed in codified format as Part XC VII of the Louisiana Administrative Code. This document replaces any

previously advertised versions. *Louisiana's IEP Handbook for Students with Disabilities*, revised 2000, provides information regarding the Individualized Education Program (IEP)—the basis for educational programming for students with disabilities in Louisiana. The handbook describes the IEP process and the legal procedures involved as mandated by the *Individuals with Disabilities Education Act* (IDEA) PL. 105-17, Section 504 of the *Rehabilitation Act of 1973*, and *Revised Statute 17:1941, et seq.*, and their regulations.

Louisiana's IEP Handbook for Students with Disabilities, revised 2000, provides information regarding the Individualized Education Program (IEP)—the basis for educational programming for students with disabilities in Louisiana. The handbook describes the IEP process and the legal procedures involved as mandated by the *Individuals with Disabilities Education Act* (IDEA) PL. 105-17, Section 504 of the *Rehabilitation Act of 1973*, and *Revised Statute 17:1941, et seq.*, and their regulations. Although the intent of this handbook is not to replace any regulations, it does outline "best practices" as well as mandatory procedures. It serves as a training vehicle for interested parties in the effort to improve the quality of IEPs in Louisiana.

The IEP Handbook for Gifted and Talented Students should be referred to for information regarding students identified as gifted and talented students in Louisiana. A separate IEP form described in the handbook must be used for all students identified as gifted and talented, with the exception of students in the following categories:

1. gifted and/or talented students who have an additional identified disability;
2. gifted and/or talented students who require a related service, including counseling;
3. gifted and/or talented students who require modifications/accommodations for the Louisiana Educational Assessment Program testing.

Extended School Year Program Handbook should be referred to for information regarding students with disabilities identified as needing extended school year services in Louisiana. A separate ESY-IEP form must be used for all students eligible for ESY.

The Best Practices Guidelines for Developing IEPs for Louisiana's Early Education Program has been written for families, early intervention personnel, and others working with young children with disabilities, 3-5 years of age. These guidelines, which reflect federal and state mandates, are interspersed throughout the *Louisiana's IEP Handbook for Students with Disabilities* in the appropriate sections.

Title 28

EDUCATION

Part XCVII. Bulletin 1530 Louisiana's IEP Handbook for Students with Disabilities

Chapter 1. Introduction

§101. The IEP Process and Evaluation/Reevaluation of Students with Disabilities

A. This section emphasizes the IEP process as one intertwined with the process of evaluation and re-evaluation of students with disabilities.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1463 (July 2004).

§103. The Three Types of IEPs

A. The three types of IEPs are outlined below as follows.

1. The INTERIM IEP shall be developed for students who have severe or low incidence impairments documented by a qualified professional concurrent with the conduct of an evaluation according to the *Pupil Appraisal Handbook*. The interim IEP may also be developed for students who have been receiving special educational services in another state concurrent with the conduct of an evaluation. An interim IEP may also be developed for students out of school, including students ages 3-5, who are suspected of having a disability and for former special education students, through the age of 22, who have left a public school without completing their public education by obtaining a state diploma.

2. The INITIAL IEP is developed for a student with disabilities who has met criteria for one or more exceptionalities outlined in the *Pupil Appraisal Handbook* and who has never received special educational services, except through an interim IEP, from an approved Louisiana school/program.

3. The REVIEW IEP is reviewed and revised at least annually or more frequently to consider the appropriateness of the program, placement, and any related services needed by the student.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1463 (July 2004).

Chapter 3. Initial Iep Development

§301. Responsibilities

A. A student is initially determined to be exceptional through the individual evaluation process. The responsibility for making a formal commitment of resources to ensure a free, appropriate public education (FAPE) for a student identified as exceptional rests with the local education agency (LEA) in which the student resides.

B. The LEA is responsible for initiating the assurance of FAPE regardless of whether the system will:

1. provide all of the service directly or through interagency agreements;
2. place the student in another system or in a nonpublic facility; or
3. refer the student to another LEA for educational purposes.

C. The responsibility for offering FAPE is met through the process of developing an initial IEP. This process includes:

1. communication between the LEA and the parents;
2. IEP meeting(s) at which parents and school personnel make joint decisions and resolve any differences about the student's needs and services;
3. a completed IEP/placement document, which describes the decisions made during the meeting(s), including the special education and related services that are to be provided;
4. a formal assurance by the LEA that the services described in the document will be provided;
5. parental consent for initial placement;
6. procedural safeguards for differences that cannot be resolved mutually; and
7. initial placement and provision of services as described in the IEP/placement document.

D. The LEA is required to offer FAPE to those students with disabilities whose ages fall between 3 and 21 years. The LEA may choose to offer and provide services to young

children with disabilities, birth through 2 years of age. If the LEA chooses to provide services, all the requirements of FAPE apply.

1. The child is eligible for FAPE on his 3rd birthday.
2. The responsibility for providing services to a student with disabilities continues until
 - a. the student receives a state diploma; or
 - b. the student reaches his or her 22nd birthday. (If the 22nd birthday occurs during the course of the regular school session, the student shall be allowed to remain in school for the remainder of the school year.)
3. The LEA is not responsible for providing FAPE if, after carefully documenting that the agency has offered FAPE via an IEP, the parents choose to voluntarily enroll the student elsewhere or indicate their refusal of special educational services. Documentation of these parental decisions should be kept on file.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1463 (July 2004).

§303. Timelines

A. An initial evaluation is considered "completed" when the written report has been disseminated by the pupil appraisal staff to the administrator of special education programs. A LEA has a maximum of 30 calendar days to complete the IEP/placement document for an eligible student. During this time, two activities must take place and be documented.

1. Written Notice(s) that the LEA proposes to provide FAPE through the IEP process must be given to the parents.
 - a. The notice(s) must be provided in the parents' native language or must be given using other means of communication, whenever necessary, to assure parental understanding.
 - b. The notice(s) must indicate the purpose, time, and location of the IEP meeting; who will be in attendance; the parents' right to take other participants to the meeting; the student's right to participate (when appropriate); and the name of the person in the LEA the parents can contact if and when they have questions or concerns.
 - c. The notice(s) must explain the procedural safeguards available to the parents: that they can negotiate the time and place of the IEP meeting, that they have the right to full and meaningful participation in the IEP decision-making process, that their consent is required before initial placement will be made, and that all information about the student shall be kept confidential.
 - d. If it appears that a student may be eligible to participate in alternate assessment, the notice must explain that data appear to support the student's participation in alternate assessment, that the students participating in alternate assessment are eligible to work toward a Certificate of Achievement, and that the decision for participation in alternate assessment will be made with the parent(s) at the IEP meeting.
 - e. Additionally, if the LEA has not already done so, the system must inform the parents of their right to an oral explanation of the evaluation report and of their right to an independent education evaluation (IEE) if the parents disagree with the current evaluation.

2. An IEP meeting(s) that results in a completed IEP/placement document must be held. The IEP meeting(s)

should be a vehicle for communication between parents and school personnel to share formal and informal information about the student's needs, educational projections, and services that will be provided to meet the student's needs. The completed IEP/placement document is a formal record of the IEP team's decisions. The timeline for completion of the document is intended to ensure that there is no undue delay in providing a free, appropriate public education (FAPE) for the student. The document is "completed" when the form has been completed and signed by the LEA's officially designated representative or director/supervisor of special education.

B. Additional Notes About Timelines

1. Summer recess. When an initial evaluation report has been completed within the 30 days prior to the summer recess or during the recess, the LEA may request, through written documentation, parental approval to delay the initial IEP meeting until the first week of the next school session. However, if the parents wish to meet during the summer recess, the LEA must ensure that the appropriate IEP team members are present.

2. Children approaching age 3 years. ChildNet eligible children who are "turning three-years-old" suspected of being eligible for Part B services must be referred to the LEA and the IEP team 10 months prior to their 3rd birthday. The date on which a child first becomes eligible for services may occur after the child's evaluation or last required re-evaluation. In such a case, a LEA has the following options:

- a. to develop the IEP/placement document following the evaluation or re-evaluation and to indicate the date that services are to begin; or
- b. to develop the IEP/placement document immediately before the LEA is required to provide services.

3. Parents refuse services. In some cases, when the LEA is in the process of offering FAPE to an eligible student (i.e., after an IEP has been developed), the parents will clearly indicate that they do not wish to have any special educational services for the student.

- a. If the parent's decision is to withhold consent for the initial evaluation or initial placement of the student in a special educational program, the LEA may appeal to the appropriate state court. If the parent withholds consent for a reevaluation, the LEA may request a due process hearing following the procedures outlined in §507 of *Bulletin 1706* **C** *Regulations for Implementation of the Children with Exceptionalities Act*.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1463 (July 2004).

§305. Participants

A. At any initial IEP meeting, the following participants must be in attendance: an officially designated representative of the LEA, the student's regular education and special education teachers, the student's parent(s), and a person knowledgeable about the student's evaluation procedures and results. The student, as well as other individuals the parents and/or LEA may deem necessary, should be given the opportunity to attend. Documentation of attendance is required.

1. An officially designated representative of the LEA is one who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of

students with disabilities, is knowledgeable about the general curriculum, and is knowledgeable about the availability of resources of the LEA. The LEA may designate another LEA member of the IEP team to serve also as the agency representative, if the above criteria are satisfied. A LEA must have on file and must disseminate within the agency a policy statement naming the kinds of persons who may act as the official representative of the LEA. Representatives may include the director/ supervisor of special education, principals, instructional strategists, teachers, or any other LEA employee certified to provide or supervise special educational services. A member of the student's evaluation team may serve in this capacity.

2. Parents are equal participants in the IEP process in discussing the educational and related services needs of the student and deciding which placement and other services are appropriate. As such, one or both of the student's parents should participate in the initial IEP/placement meeting(s). Other team members must rely on parents to contribute their perspective of the student outside of school. Parental insight about the student's strengths and support needs, learning style, temperament, ability to work in various environments, and acquired adaptive skills is of vital importance to the team in making decisions about the student's needs and services. The concerns of the parents for enhancing the education of their child must be documented in the IEP.

a. *Parent*—A natural or adoptive parent of a child; a guardian, but not the state if the child is ward of the state; a person acting in the place of a parent of a child (such as a grandparent or stepparent with whom the child lives or a person who is legally responsible for the child's welfare); or a surrogate parent who has been appointed. A foster parent may qualify as a "parent" when the natural parents' authority to make educational decisions on the child's behalf has been extinguished under state law, and the foster parent has an ongoing, long-term parental relationship with the child; is willing to participate in making educational decisions in the child's behalf; and has no interest that would conflict with the interests of the child.

b. The LEA must take measures to ensure that parents and all other team members, including sensorially impaired and non-English-speaking participants, can understand and actively participate in discussions and decision making. These measures (i.e., having an interpreter or translator) should be documented. Local education agencies shall further ensure that, for those parents who cannot physically attend the IEP meeting(s), every effort is made to secure parental participation. After documenting attempts to arrange a mutually convenient time and place, several possibilities remain.

i. The meeting(s) may be conducted via telephone conference calls.

ii. The IEP team may consider parental correspondence to the school regarding the student's learning environment, any notes from previous parental conferences, and any data gathered during the screening and evaluation period.

iii. Visits may be made to the parents' home or place of employment to receive parental suggestions.

c. If, however, every documented attempt fails and the IEP/placement document is developed without parental participation, the parents still must give written informed

consent for initial placement before any special education or related services may begin.

d. When a student with disabilities has a legal guardian or has been assigned a surrogate parent by the LEA, that person assumes the role of the parent during the IEP process in matters dealing with special educational services. When a student with disabilities is emancipated, parental participation is not mandated. Additionally, if the LEA has been informed that a parent is legally prohibited from reviewing a student's records, that parent may not attend the IEP meeting(s) without permission of the legal guardian.

e. Beginning at least one year before the student reaches the age of majority, by the student's seventeenth birthday, the parents will be informed that the rights under Part B of the Act will transfer to the student, unless the student is determined incompetent under state law.

3. An evaluation representative is a required participant at an initial IEP meeting. The person may be a member of the pupil appraisal team that performed the evaluation or any person knowledgeable about and able to interpret the evaluation data for that particular student. The evaluation coordinator who coordinated the activities for the re-evaluation must be present at the reevaluation IEP meeting.

4. A regular education teacher is at least one of the student's regular teachers (if the student is, or may be, participating in the regular education environment). The teacher must, to the extent appropriate, participate in the development, review, and revision of the student's IEP including the determination of appropriate positive behavioral interventions and strategies for the student; the determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student. When a regular education teacher calls for a reconvening of the individualized education program (IEP) team for any student with a disability assigned to his or her classroom on a full time basis in which the IEP requires an adjustment in the curriculum, instruction or services to be provided by the regular education teacher, this teacher shall participate on the IEP team and participate continuously thereafter for as long as the student is assigned to his or her classroom.

a. Thus, while a regular education teacher must be a member of the IEP team if the child is, or may be, participating in the regular education environment, the teacher need not (depending upon the child's needs and the purpose of the specific IEP team meeting) be required to participate in all decisions made as part of the meeting or to be present throughout the entire meeting or attend every meeting. For example, the regular education teacher who is a member of the IEP team must participate in discussions and decisions about how to modify the general curriculum in the regular classroom to ensure the child's involvement and progress in the general curriculum and participation in the regular education environment.

b. In determining the extent of the regular education teacher's participation at IEP meetings, LEAs and parents should discuss and try to reach agreement on whether the student's regular education teacher, who is a member of the IEP team, should be present at a particular IEP meeting and, if so, for what period of time. The extent to which it would

be appropriate for the regular education teacher to participate in IEP meetings must be decided on a case-by-case basis.

5. A special education teacher is at least one of the student's special education teachers, or when appropriate, at least one special education provider of the student.

a. For example, if a student's only disability is speech or language impairment, then the speech/language pathologist is considered the special education provider.

6. The student should be given the opportunity to participate in the development of the IEP. In many cases, the student will share responsibility for goals and objectives.

a. The LEA must invite a student with a disability of any age to attend his or her IEP meeting if a purpose of the meeting will be to consider transition services needs or needed transition services, or both. The LEA must invite the student and, as part of the notification to the parents of the IEP meeting, inform the parents that the LEA will invite the student to the IEP meeting.

b. Beginning at least one year before the student reaches the age of majority, by the student's seventeenth birthday, the student must be informed that his or her rights under Part B of the Act will transfer to him or her unless he or she has been determined incompetent under state law.

7. Other individuals can be invited, at the discretion of the parent or LEA, who have knowledge or special expertise regarding the student, including related service personnel as appropriate. The LEA also must inform the parents of the right of both the parents and the agency to invite other individuals who have knowledge or special expertise regarding the child, including related service personnel as appropriate to be members of the IEP team. The LEA may recommend the participation of other persons when their involvement will assist the decision-making process.

a. It is also appropriate for the agency to ask the parents to inform the agency of any individuals the parents will be taking to the meeting. Parents are encouraged to let the agency know whom they intend to take. Such cooperation can facilitate arrangements for the meeting and help ensure a productive, child-centered meeting.

NOTE: The determination of the knowledge or special expertise of any individual described above shall be made by the parent or LEA, whoever invited the individual to be a member of the IEP team.

b. When the LEA responsible for the initial IEP/placement process considers referring or placing the student in another LEA, the responsible LEA must ensure the participation of a representative of the receiving system at the IEP meeting.

c. The LEA must ensure the attendance of a representative of a private school if the student is voluntarily enrolled in a private school. If the representative cannot attend, the local education agency shall use other methods to ensure participation by the private school or facility, including individualized or conference telephone calls.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1464 (July 2004).

§307. Placement Decisions

A. The IEP team has the responsibility for determining the special educational needs and placement for a student

with disabilities. Program decisions must be made and written on the IEP in the following areas that form the basis for the placement:

1. the student's strengths and support needs;

2. the concerns of the parents for enhancing the education of their child;

3. the results of the initial evaluation or most recent reevaluation of the student;

4. as appropriate, the results of the student's performance on any general state or district-wide assessment program;

5. the student's present levels of educational performance:

a. how the student's disability affects the student's involvement and progress in the general curriculum; and

b. for preschool students, as appropriate, how the disability affects the student's participation in appropriate activities;

6. the IEP team must also consider any of the following special factors:

a. in the case of a student whose behaviors impede his or her learning or that of others, if appropriate, strategies including positive behavioral intervention, strategies and supports to address that behavior;

b. in the case of a student with limited English proficiency, the language needs of the student as those needs relate to the student's IEP;

c. in the case of a student who is blind or visually impaired, provision of instruction in braille and the use of braille unless the IEP team determines - after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in braille or the use of braille) - that instruction in braille or the use of braille is not appropriate for the student;

d. the communication needs of the student, and in the case of a student who is deaf or hard of hearing, the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode;

e. whether the student requires assistive technology devices and services based on assessment/evaluation results;

f. in the case of a student who has health problems, the needs to be met during the school day. These needs would include such medical conditions as asthma, diabetes, seizures, or other diseases/disorders that may require lifting and positioning, diapering, assistance with meals, special diets, or other health needs;

7. the measurable annual goals, including benchmarks or short-term objectives, related to:

a. meeting the student's needs that result from the student's disability to enable the student to be involved in and progress in the general curriculum;

b. meeting each of the student's other educational needs that result from the student's disability; and

c. appropriate activities for the preschool aged student.

NOTE: IEP teams may continue to develop short-term instructional objectives or, as an alternative, develop

benchmarks that should be thought of as describing the amount of progress the student is expected to make within specified segment of the year. Generally, benchmarks establish expected performance levels that allow for regular checks of progress that coincide with the reporting periods for informing parents of their child's progress toward achieving the annual goals. An IEP team may use either short-term objectives or a combination of the two, depending on the nature of the annual goals and needs of the child.

8. the special educational and related services and supplementary aids and services to be provided to the student, or on behalf of the student, and the program modifications or supports for school personnel that will be provided for the student:

a. to advance appropriately toward attaining the annual goals;

b. to be involved and progress in the general curriculum and to participate in extracurricular and other nonacademic activities; and

c. to be educated and participate with other students with and without disabilities in the activities,

9. the explanation of the extent, if any, to which the student will not participate with students without disabilities in the regular class and extracurricular and other nonacademic activities including:

a. any individual modifications and/or accommodations in the administration of state or district-wide assessments of student achievement that are needed in order for the student to participate in the assessment; and

b. the student's participation in a particular state or district-wide assessment of student achievement (or part of an assessment);

10. the anticipated frequency, location, and duration of the special educational services and modifications;

11. possible extended school year program (ESYP) eligibility;

12. the type of physical education program to be provided;

13. for each student beginning at age 14, transition service needs that focus on the student's courses of study; and

14. for each student beginning at age 16, the needed transition services including any interagency responsibilities or linkages.

B. The IEP team, following a discussion of the student's educational needs, must choose a setting(s) in which the educational needs will be addressed. The term *placement* refers to the setting or class in which the student will receive special educational services.

1. Placement decisions for students whose ages are 6-21. For the location of instruction/ services, IEP team members should consider the following.

a. Where would the student attend school if he or she did not have a disability?

b. Has the student, as a special education student, ever received special educational instruction or services within the general education environment?

c. What accommodations and modifications have been used to support the student as a special education student in the general education class?

d. After a review of the modifications and accommodations form of the IEP, what additional strategies and supports have been determined to facilitate the student's success in the general education setting?

e. If the student is not currently receiving instruction and/or services in a general education setting, what strategies could be used for providing services in the general education classroom?

f. Based on IEP goals and objectives or benchmarks, what the instructional setting(s) would support the achievement of these goals and objectives or benchmarks?

g. If the decision has been made to provide the student with instruction and/or services outside the general education setting, what specific opportunities will the student have for integration in general education activities?

2. Placement decisions for students whose ages are 3-5. For the location of instruction/ services, the IEP team should consider the following.

a. Where would the student spend the majority of the day if he or she did not have a disability (natural environment)?

b. Can the services identified on the IEP be provided in the student's natural environment?

i. If not, what changes should be made in that environment to enable the required services to be delivered there?

ii. If not, what programming and/or placement(s)/ service(s) options are necessary to meet the student's identified needs while providing meaningful opportunities for interactions with peers without disabilities?

c. What accommodations, supports, and/or related services are needed to meet the student's identified needs?

3. For students aged 6-21. Utilizing the above information, the IEP team should choose the most appropriate setting from the continuum below:

a. regular classroom (less than 21 percent of the day outside the regular class);

b. resource with regular classes (at least 21 percent, but no more than 60 percent of the day outside the regular class);

c. self-contained class on a regular campus (more than 60 percent of the day outside the regular class);

d. special school; or

e. hospital/homebound.

4. For students aged 3-5. In determining the appropriate setting for a preschool aged student, each noted setting must be considered; but the list should not be considered a continuum of least restrictive environment. The settings for preschool-aged students, 3-5 years, are defined as follows.

a. Home. A child's home, caregiver's home, or any other home setting.

b. Regular Preschool Placement. Head Start, Title 1, kindergarten, pre-kindergarten, child care center, Even Start, 4 year-old at-risk program, infant/toddler class or any other program designed for children without disabilities.

c. Self-Contained. A preschool class, infant/toddler class or any other program designed for children with disabilities.

d. Special School. Any school designated in Special School District#1 or other SDE-approved Special Schools.

e. Hospital. A hospital in which a child is confined because of the child's physical illness, an accident, or treatment therapy.

f. Speech/Language Therapy Only. Speech/Language Therapy (SLT), when it is the only special educational service included on the child's IEP, regardless of the setting in which the child receives SLT.

g. Adapted Physical Education Only: Adapted Physical Education (APE), when it is the only special educational service included on the child's IEP, regardless of the setting in which the child receives APE.

C. The official designated representative shall be knowledgeable about placement considerations and shall be responsible for informing the IEP team members. The IEP team must participate in decisions made about the placement; however, the LEA has the right to select the actual school site in view of committee decisions.

NOTE: See "Forms and Instructions for Use," Section 2, for the complete instructions for writing the IEP.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1466 (July 2004).

§309. Additional Clarification

A. Although throughout Louisiana most students with disabilities are served in their neighborhood schools, there are some extenuating circumstances that impact the decision to serve a student in a school other than his or her neighborhood school.

B. The following is provided as an example. In a small system, there may be only four multidisabled students who need a multidisabled self-contained class. The local education agency may establish one classroom system wide. Those multidisabled students could be grouped together on a centrally located campus as age-appropriate as possible. Because of the limited number of students, the age span may be greater than the 3-year span. In this situation, ages may be from 10-14 years, with two children being 10-years-old, one being 11, and one being 14. If the administration decided to locate this class on an elementary K-6 campus because the majority of the class is of elementary age, there could be adequate justification to allow the 14-year-old to remain on the elementary campus. This placement, of course, is not a desirable situation but a necessity in some cases.

C. In addition to the questions on the IEP and Site Determination Form, the following issues must be considered:

1. students should be placed in programs on the basis of their unique needs, not as a result of their particular disabling condition;

2. placement cannot be based on either a particular local education agency's special education delivery system or on the availability of related services;

3. in order for effective integration, students should be served in schools where the ratio of the student with disabilities is comparable to the overall regular/special education ratio of the local education agency.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1468 (July 2004).

§311. Related Services Decisions

A. *Related Services* Transportation and such developmental, corrective, and other supportive services as are required to assist a student with a disability to benefit

from special education. A LEA, as part of its requirement to provide a free, appropriate public education (FAPE), must provide any related service for which there is a documented need. However, for certain related services, specific eligibility criteria must be met. The decision regarding related services must be made in view of each student's unique needs. Sources of documentation can be the individual evaluation report and any subsequent evaluation reports submitted by therapists, physicians, psychologists, and so forth. Examples of related services may include speech/language pathology services, assistive technology, physical or occupational therapy, audiological services, orientation and mobility training, interpreter and counseling services, and transportation services.

B. The IEP team must consider each related service that is recommended on the evaluation report(s) and document its decisions on the IEP form. For example, the team must:

1. list all services recommended by the team and the service provision schedules, dates, and location, etc.;

2. explain the team's decisions not to include a recommended related service;

3. explain delays in providing any related service listed on the IEP.

NOTE: This delay, or hardship, in no way relieves a system from providing the service and from documenting every effort to provide it in a timely manner.

a. The participation of related service personnel is extremely important during the IEP meeting. Involvement should be through either direct participation or written recommendations.

C. Additional Notes About Related Services

1. Adapted physical education (APE) is not a related service; APE is a direct instructional program. A student who requires only adapted physical education may be eligible for related services, since adapted physical education is a direct instructional program.

2. A student who is identified with only a speech or language impairment may be eligible for other related services, since in this case the speech therapy is the direct special educational program.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1468 (July 2004).

§313. Parental Consent

A. A LEA must obtain formal parental consent before it can initially provide a student with special education and related services in any setting. Consent includes the following:

1. the parent and/or student has been fully informed of all relevant information in a manner that is clearly understandable to the parent and/or student; and

2. the parent and/or student formally agrees in writing.

B. After the parent and/or student has given written consent, the IEP is in effect. The parent and/or student must be provided a completed copy of the IEP/placement document signed by the official designated representative of the LEA.

NOTE: The student's consent is needed once the student reaches the "age of majority."

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1468 (July 2004).

§315. Parental Withholding of Consent

A. Parents may disagree with all or some part(s) of the initial program, placement, or related services proposals. The LEA and the parents should make conciliatory attempts to resolve the disputes, including making modifications to the proposed program, placement, and related services. A LEA may not use a parent's refusal to consent to one service or activity to deny the parent or student any other service, benefit, or activity of the LEA.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1469 (July 2004).

§317. Mediation

A. Mediation is an informal, voluntary process by which the parent and the LEA are given an opportunity, through the help of a trained mediator, to resolve their differences and find solutions to enhance the overall learning environment for the student. Differences may arise in the planning and implementing of programs for students with disabilities. It is important for parents and LEAs to have an opportunity to present their viewpoint in a dispute.

1. See Louisiana's Educational Rights of Exceptional Children and the Mediation Services for Students with Exceptionalities brochure for more information.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1469 (July 2004).

§319. Due Process

A. The parents and the LEA both have the right to an "impartial due process hearing" when disagreements arise between the parent and the LEA, relative to initiating or changing the identification, evaluation, or educational placement of a student with a disability. Due process hearings may be initiated by the parent or the LEA.

1. See Louisiana's Educational Rights of Exceptional Children and the Special Education Impartial Due Process Hearing brochure for more information.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1469 (July 2004).

§321. Implementation of the IEP

A. Implementation of the IEP means that the student begins participating in the special education placement and receives the related services as written on the IEP/placement document. A LEA must begin providing services as stated on the IEP within 10 calendar days. The date of initiation of services shall be noted on the IEP. When meetings occur during the summer or other vacation periods, a delay may occur. When meetings to develop the initial IEP/placement document occur just prior to the summer vacation, the date of implementation of services may be delayed to the beginning of the next school year if the parent(s) agree.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1469 (July 2004).

Chapter 5. Review IEP Development

§501. Responsibilities and Timelines

A. A LEA is required to initiate and conduct IEP meetings periodically, but not less than annually, to review each student's IEP in order to determine whether the annual goals for the student are being achieved and to revise the IEP as appropriate. The LEA must notify parents of the review IEP meeting or the review/reevaluation IEP meeting in accordance with the same procedures as the initial IEP.

B. An additional IEP/placement review meeting is not required when a LEA elects to move the student to another school site within the agency when all of the information on the IEP remains the same and the effect of the program has not been changed.

C. The IEP team shall:

1. review the student's progress toward achieving the annual goals and objectives/benchmarks;
2. review the student's progress in the general education curriculum;
3. discuss any lack of expected progress toward the annual goals and in the general education curriculum;
4. review the results of the student's performance on any state or district-wide assessment;
5. review the results of any reevaluation;
6. review information about the child provided to, or by, the parents;
7. discuss the student's anticipated needs;
8. review the student's special educational and related service needs; for the preschool-aged child, address his or her developmental needs;
9. incorporate, as needed, any behavior interventions and strategies that should be used;
10. make updated decisions about the student's program, placement, and related services;
11. consider whether the child requires assistive technology devices and services;
12. for each student beginning at age 14, discuss transition service needs that focus on the student's courses of study;
13. for each student beginning at age 16, discuss the needed transition services including any interagency responsibilities or linkages;
14. in making decisions for location of instruction/services, refer to pages 19-21 of this handbook for guidance;
15. discuss any other matters.

D. A review meeting must be conducted in addition to the required annual review when:

1. a student's teacher feels the student's IEP or placement is not appropriate for the student; or
2. the student's parents believe their child is not progressing satisfactorily or that there is a problem with the student's IEP;
3. the LEA proposes any changes regarding program or placement, such as to modify, add, or delete a goal or

objective; to add or delete a related service; or to discuss the need for extended school year services;

4. the behavior of the student warrants a review by the IEP team to decide on strategies including positive behavioral intervention, strategies, and supports to address the behavior;

5. either a parent or a public agency believes that a required component of the student's IEP should be changed; the LEA must conduct an IEP meeting if it believes that a change in the IEP may be necessary to ensure the provision of FAPE;

6. a hearing officer orders a review of the student's IEP/placement document;

7. an out-of-district placement or referral is being proposed;

NOTE: A review IEP meeting must be conducted as part of the reevaluation process.

a. in the cases listed above, it may not be necessary to rewrite the entire IEP/placement document. However, the following documentation must be provided:

- i. signatures of the team members;
- ii. the date of the meeting;
- iii. the changes made in the IEP; and
- iv. the dated signatures of the official designated representative of the system and the parent who authorized the change;

c. in the case in which the IEP/placement document is entirely rewritten, the date of that meeting shall become the anniversary date for the next annual review meeting.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1469 (July 2004).

§503. Participants

A. The LEA must ensure there is attendance by an officially designated representative of the system, the student's regular education and special education teachers, the parents, and the student, as appropriate. At the discretion of the parent(s) or the LEA, other individuals who have knowledge or special expertise regarding the student may attend. The evaluation coordinator who coordinated the activities for the re-evaluation must be present at the reevaluation IEP meeting. A representative of another LEA or approved facility may be included if a placement in or referral to another LEA is proposed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1470 (July 2004).

§505. Placement Decisions

A. The IEP team must address the placement of the student according to the same placement guidelines required for an initial IEP meeting.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1470 (July 2004).

Chapter 7. Interim IEP Development

§701. Responsibilities and Timelines

A. The interim IEP provides a basis on which the student may begin to receive special educational and related services and provides an appraisal program to gather assessment data for the individual evaluation process.

B. A student must be offered enrollment in a LEA. This enrollment process, from initial entry into the LEA to placement, shall occur within 10 school days.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1470 (July 2004).

§703. Placement Decisions

A. Local supervisors of special education may approve enrollment in special education after existing student information has been reviewed by pupil appraisal personnel. An interim IEP would be developed and formal parental approval obtained. The interim IEP remains in effect as long as the evaluation is in process and may be revised as necessary. During this time all regulations pertaining to students with disabilities shall apply. The interim IEP shall not exceed the duration of the evaluation.

B. Often, discussion about the current performance, goals, and objectives for the student will have to be conducted without the benefit of integrated assessment data or teacher observation. To gather information about current performance, the parent may be the prime source of information about the student's skills, development, motivation, medical history, etc. The goals and objectives should address the student's educational program during the assessment process. Related services may be provided for diagnostic purposes. When available information indicates that related services are required, services should be provided. The student's performance during an interim placement must be documented by the teacher and pupil appraisal personnel. This documentation should provide meaningful data for determining an appropriate program and placement.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1470 (July 2004).

§705. Parental Consent

A. Parental consent for the interim placement and related services must be obtained by parental signature on the IEP form. Parents should be informed that the student will exit from the special educational program if the student is found to be ineligible for special educational services according to the criteria of the *Pupil Appraisal Handbook*. If the student is eligible for special educational services, an initial IEP/placement meeting will be conducted within 30 calendar days from the date of dissemination of the written evaluation to the LEA's special education administrator.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1470 (July 2004).

Weegie Peabody
Executive Director

0407#012

RULE

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

Scholarship/Grant Programs **C** Returning Students
(LAC 28:IV.503, 507, and 703)

The Louisiana Student Financial Assistance Commission (LASFAC) has exercised the provisions of the Administrative Procedure Act, R.S. 49:953(B) et seq., and has amended its Scholarship/Grant Rules.

**Title 28
EDUCATION**

Part IV. Student Financial Assistance **C Higher
Education Scholarship and Grant Programs
Chapter 5. Application; Application Deadlines
and Proof of Compliance**

§503. Application Deadlines

A. - B.2. ...

3. Returning Students

a. Notwithstanding the deadline established by §503.B.1 above, returning students, who graduated from high school during the 2001-2002 academic year (high school) and who enroll in an eligible college or university in the spring semester of 2003, must submit the FAFSA to be received by the federal processor no later than July 1, 2004.

b. Notwithstanding the deadline established by §503.B.1 above, returning students, who enroll in an eligible college or university in the fall semester of 2003 or later, must submit the FAFSA to be received by the federal processor no later than July 1 following the first semester of enrollment. Examples:

i. a student who seeks to enroll in an eligible college or university for the spring semester of 2004 must submit his FAFSA to be received by the federal processor no later than July 1, 2004;

ii. a student who seeks to enroll in an eligible college or university for the fall semester of 2004 must submit his FAFSA to be received by the federal processor no later than July 1, 2005.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), repromulgated LR 24:1900 (October 1998), amended LR 25:655 (April 1999), LR 25:2396 (December 1999), LR 26:1994 (September 2000), repromulgated LR 27:1847 (November 2001), amended LR 28:447 (March 2002), LR 28:1760 (August 2002), LR 29:554 (April 2003), LR 30:1471 (July 2004).

§507. Final Deadline for Submitting Documentation of Eligibility

A. - B. ...

C.1. Returning students, who graduated high school during the 2001-2002 academic years (high school) and who enroll in an eligible college or university in the spring semester 2003, must submit documentation that establishes TOPS eligibility no later than May 1, 2004.

2. Returning students, who enroll in an eligible college or university in the fall semester of 2003 or later,

must submit documentation that establishes TOPS eligibility no later than May 1 of the academic year (college) the student enrolls in an eligible college or university. For example, a student who seeks to enroll in an eligible college or university in the fall semester of 2003 must submit documentation that establishes TOPS eligibility no later than May 1, 2004.

D.1. A student who successfully completed an undergraduate degree prior to or during the 2001-2002 academic year (college) and wishes to receive his remaining award eligibility to attend a postgraduate school must provide the documentation and certifications required to establish student eligibility no later than May 1, 2004.

2. A student who successfully completes an undergraduate degree during the 2002-2003 academic year (college) or later and wishes to receive his remaining award eligibility to attend a postgraduate school must provide the documentation and certifications required to establish student eligibility no later than May 1 of the academic year (college) the student seeks to receive his remaining award eligibility. For example, to receive the remaining award for the 2003-2004 academic year (college), the student must submit the required documents no later than May 1, 2004.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), repromulgated LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001), amended LR 28:447 (March 2002), LR 30:1471 (July 2004).

**Chapter 7. Tuition Opportunity Program for
Students (TOPS) Opportunity,
Performance, and Honors Awards**

§703. Establishing Eligibility

A.1. - 4.g.iii. ...

5.a. graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.1, 2, or 3; and

i.(a). For students graduating in academic year (high school) 2006-2007 and prior, at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting a core curriculum as follows.

| Units | Course |
|-------|--|
| 1 | English I |
| 1 | English II |
| 1 | English III |
| 1 | English IV |
| 1 | Algebra I (one unit) or Applied Algebra 1A and 1B (two units) |
| 1 | Algebra II |
| 1 | Geometry, Trigonometry, Calculus or comparable Advanced Mathematics |
| 1 | Biology |
| 1 | Chemistry |
| 1 | Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology |
| 1 | American History |
| 1 | World History, Western Civilization or World Geography |

| | |
|-----|---|
| 1 | Civics and Free Enterprise (one unit combined) or Civics (one unit, nonpublic) |
| 1 | Fine Arts Survey; (or substitute two units performance courses in music, dance, or theater; or two units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum) |
| 2 | Foreign Language, both units in the same language |
| 1/2 | Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education (BESE); or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum); BESE has approved the following courses as computer related for purposes of satisfying the 1/2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Advanced Technical Drafting (1 credit) Computer/Technology Applications (1 credit) Computer Architecture (1 credit) Computer/Technology Literacy (1/2 credit) Computer Science I (1 credit) Computer Science II (1 credit) Computer Systems and Networking I (1 credit) Computer Systems and Networking II (1 credit) Desktop Publishing (1/2 credit) Digital Graphics and Animation (1/2 credit) Introduction to Business Computer Applications (1 credit) Multimedia Productions (1 credit) Technology Education Computer Applications (1 credit) Telecommunications (1/2 credit) Web Mastering (1/2 credit) Word Processing (1 credit) Independent Study in Technology Applications (1 credit) |

(b). Beginning with the graduates of academic year (high school) 2007-2008, at the time of high school graduation, an applicant must have successfully completed 17.5 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education.

| Units | Course |
|-------|---|
| 1 | English I |
| 1 | English II |
| 1 | English III |
| 1 | English IV |
| 1 | Algebra I (one unit) or Applied Algebra 1A and 1B (two units) |
| 1 | Algebra II |
| 1 | Geometry, Trigonometry, Calculus or comparable Advanced Mathematics |
| 1 | Biology |
| 1 | Chemistry |
| 1 | Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology |
| 1 | American History |
| 1 | World History, Western Civilization or World Geography |
| 1 | Civics and Free Enterprise (one unit combined) or Civics (one unit, nonpublic) |
| 1 | Fine Arts Survey; (or substitute two units performance courses in music, dance, or theater; or two units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum) |
| 2 | Foreign Language, both units in the same language |

| | |
|-------|---|
| 1 1/2 | Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one and one-half units of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education (BESE). BESE has approved the following courses as computer related for purposes of satisfying the 1 1/2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Advanced Technical Drafting (1 credit) Computer/Technology Applications (1 credit) Computer Architecture (1 credit) Computer/Technology Literacy (1/2 credit) Computer Science I (1 credit) Computer Science II (1 credit) Computer Systems and Networking I (1 credit) Computer Systems and Networking II (1 credit) Desktop Publishing (1/2 credit) Digital Graphics and Animation (1/2 credit) Introduction to Business Computer Applications (1 credit) Multimedia Productions (1 credit) Technology Education Computer Applications (1 credit) Telecommunications (1/2 credit) Web Mastering (1/2 credit) Word Processing (1 credit) Independent Study in Technology Applications (1 credit) |
|-------|---|

A.5.a.iii. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64 and 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999 and 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219 and 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330 and 2332 (November 2002), LR 29:125 (February 2003), LR 30:1471 (July 2004).

George Badge Eldredge
General Counsel

0407#014

RULE

**Tuition Trust Authority
Office of Student Financial Assistance**

Student Tuition and Revenue Trust (START Saving)
Program Interest Rates 2004 (LAC 28:VI.315)

The Louisiana Tuition Trust Authority (LATA) has amended the rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091 et seq.).

**Title 28
EDUCATION**

**Part VI. Student Financial Assistance Higher
Education Savings Tuition Trust Authority
Chapter 3. Education Savings Account
§315. Miscellaneous Provisions**

A. - B.8. ...

9. For the year ending December 31, 2003, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.33 percent.

10. For the year ending December 31, 2003, the Earnings Enhancements Fund earned an interest rate of 5.17 percent.

C. - R. ...

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), LR 29:2374 (November 2003), LR 30:1472 (July 2004).

George Badge Eldredge
General Counsel

0407#015

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Bacterial Criteria for Primary and Secondary Contact Recreation Uses and Drinking Water Supply (LAC 33:IX.107, 1105, 1111, 1113, and 1123)(WQ053)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX.107, 1105, 1111, 1113, and 1123 (Log #WQ053).

This Rule clarifies criteria and assessment methods that may be used by the department to assess whether designated uses of water bodies for primary and secondary contact recreation and drinking water supply are being supported. This revision clarifies existing criteria and assessment methods in order to better define the intent of the original regulation. The basis and rationale for this Rule are to more accurately reflect the department's intent and responsibilities regarding bacterial water quality criteria and assessments used to determine support for designated uses.

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

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 1. General Provisions

§107. Definitions

Designated Use **C**a use of the waters of the state as established by the water quality standards provided in LAC 33:IX.1111. These uses include, but are not limited to, primary and secondary contact recreation, fish and wildlife

propagation, drinking water supply, oyster propagation, agriculture, and outstanding natural resource waters.

Primary Contact Recreation **C**any recreational or other water contact use involving prolonged or regular full-body contact with the water and in which the probability of ingesting appreciable amounts of water is considerable. Examples of this type of water use include swimming, skiing, and diving.

Secondary Contact Recreation **C**any recreational or other water contact use in which body contact with the water is either incidental or accidental and the probability of ingesting appreciable amounts of water is minimal. Examples of this type of water use include fishing, wading, and boating.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074 (B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2538 (November 2000), LR 30:1473 (July 2004).

Chapter 11. Surface Water Quality Standards §1105. Definitions

Designated Use **C**a use of the waters of the state as established by the water quality standards provided in LAC 33:IX.1111. These uses include, but are not limited to, primary and secondary contact recreation, fish and wildlife propagation, drinking water supply, oyster propagation, agriculture, and outstanding natural resource waters.

Primary Contact Recreation **C**any recreational or other water contact use involving prolonged or regular full-body contact with the water and in which the probability of ingesting appreciable amounts of water is considerable. Examples of this type of water use include swimming, skiing, and diving.

Secondary Contact Recreation **C**any recreational or other water contact use in which body contact with the water is either incidental or accidental and the probability of ingesting appreciable amounts of water is minimal. Examples of this type of water use include fishing, wading, and boating.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2545 (November 2000), LR 29:557 (April 2003), LR 30:1473 (July 2004).

§1111. Water Use Designations

There are seven water uses designated for surface waters in Louisiana: primary contact recreation, secondary contact recreation, fish and wildlife propagation, drinking water supply, oyster propagation, agriculture, and outstanding natural resource waters. Designated uses assigned to each subsegment apply to all water bodies (listed water body and

tributaries/distributaries of the listed water body) contained in that subsegment unless unique chemical, physical, and/or biological conditions preclude such uses. However, the designated uses of drinking water supply, oyster propagation, and/or outstanding natural resource waters apply only to the water bodies specifically named in Table 3, LAC 33:IX.1123, and not to any tributaries and distributaries to such water body, which are typically contained in separate subsegments. A description of each designated use follows.

A. Primary Contact Recreation. Primary contact recreation is any recreational or other water contact use involving prolonged or regular full-body contact with the water and in which the probability of ingesting appreciable amounts of water is considerable. Examples of this type of water use include swimming, skiing, and diving.

B. Secondary Contact Recreation. Secondary contact recreation is any recreational or other water contact use in which body contact with the water is either incidental or accidental and the probability of ingesting appreciable amounts of water is minimal. Examples of this type of water use include fishing, wading, and boating.

C. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2401 (December 1999), LR 26:2546 (November 2000), LR 30:1473 (July 2004).

§1113. Criteria

A. - C.4.c. ...

5. Bacteria. The applicability of bacterial criteria to a particular stream subsegment depends upon the use designation of that individual stream subsegment. Criteria are established to protect water quality commensurate with the most stringent designated use assigned to the subsegment. Applicable bacterial criteria for the most stringent designated use of each individual Louisiana stream subsegment are listed in the "BAC" column of Table 3, LAC 33:IX.1123. For water quality monitoring and assessment purposes the following criteria shall be used to determine support for the designated uses.

a. Primary Contact Recreation. No more than 25 percent of the total samples collected on a monthly or near-monthly basis shall exceed a fecal coliform density of

400/100 mL. This primary contact recreation criterion shall apply only during the defined recreational period of May 1 through October 31. During the nonrecreational period of November 1 through April 30, the criteria for secondary contact recreation shall apply.

b. Secondary Contact Recreation. No more than 25 percent of the total samples collected on a monthly or near-monthly basis shall exceed a fecal coliform density of 2,000/100 mL. This secondary contact recreation criterion shall apply year round.

c. Drinking Water Supply. No more than 30 percent of the total samples collected on a monthly or near-monthly basis shall exceed a fecal coliform density of 2,000/100 mL.

d. Oyster Propagation. The fecal coliform median most probable number (MPN) shall not exceed 14 fecal coliforms per 100 mL, and not more than 10 percent of the samples shall exceed an MPN of 43 per 100 mL for a five-tube decimal dilution test in those portions of the area most probably exposed to fecal contamination during the most unfavorable hydrographic and pollution conditions.

C.6. - Table 1A.Footnote d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:967 (October 1991), repromulgated LR 17:1083 (November 1991), amended LR 20:883 (August 1994), LR 24:688 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2402 (December 1999), LR 26:2547 (November 2000), LR 27:289 (March 2001), LR 30:1474 (July 2004)

§1123. Numerical Criteria and Designated Uses

A. - C.2. ...

3. Designated Uses. The following are the category definitions of Designated Uses that are used in Table 3 under the subheading "Designated Uses."

- A—Primary Contact Recreation
- B—Secondary Contact Recreation
- C—Fish and Wildlife Propagation
- L—Limited Aquatic Life and Wildlife Use
- D—Drinking Water Supply
- E—Oyster Propagation
- F—Agriculture
- G—Outstanding Natural Resource Waters

Numbers in brackets, e.g. [1], refer to endnotes listed at the end of the table.

Table 3. Numerical Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters

| Code | Stream Description | Designated Uses | Numerical Criteria | | | | | | |
|-------------------------------------|--------------------|-----------------|--------------------|-----------------|----|----|-----|----|-----|
| | | | CL | SO ₄ | DO | pH | BAC | °C | TDS |
| *** | | | | | | | | | |
| [See Prior Text in 010101 - 120806] | | | | | | | | | |

ENDNOTES:

[1] - [23] ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1130 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2405 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:1814, 1817 (September 2003), LR 30:1474 (July 2004).

Wilbert F. Jordan, Jr.
Assistant Secretary

0407#040

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Fee Number for Title V Facilities
(LAC 33:III.223)(AQ243)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions

of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.223 (Log #AQ243).

Changes are made to the Fee Schedule Listing to add a new fee number to differentiate between Title V and Non-Title V facilities reporting under the current Fee Number 2300 for criteria pollutant annual fees. No new fee is being added. The change is simply adding a new fee number so the department can differentiate revenues collected by facility type and fee number. The basis and rationale for this Rule are to add a new fee number so the department can distinguish criteria pollutant annual fees by facility type.

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

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

**Chapter 2. Rules and Regulations for the Fee System
of the Air Quality Control Programs
§223. Fee Schedule Listing**

| Table 1 | | | | | | |
|--------------------------------------|------------------------|------|------------------------|----------------------------|----------------------|-------|
| Fee Schedule Listing | | | | | | |
| Fee Number | Air Contaminant Source | SICC | Annual Maintenance Fee | New Permit Application Fee | Modified Permit Fees | |
| | | | | | Major | Minor |
| *** [See Prior Text in 0010-1722] | | | | | | |

| Table 2 | | |
|--------------------------------------|---|-----------|
| Additional Fees | | |
| Fee Number | Fee Description | Amount |
| *** [See Prior Text in 2000-2200] | | |
| 2300 *Note 14* | Criteria Pollutant Annual Fee Per Ton Emitted on an Annual Basis (Non-Title V Facility): Nitrogen oxides (NO _x) Sulfur dioxide (SO ₂) Non-toxic organic (VOC) Particulate (PM ₁₀) | 12.83/ton |
| 2310 *Note 14* | Criteria Pollutant Annual Fee Per Ton Emitted on an Annual Basis (Title V Facility): Nitrogen oxides (NO _x) Sulfur dioxide (SO ₂) Non-toxic organic (VOC) Particulate (PM ₁₀) | 12.83/ton |
| *** [See Prior Text in 2400-2914] | | |

Explanatory Notes for Fee Schedule
Note 1 - Note 20 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, 2341 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended

by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496, 1499 (November 1997), LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:266 (February 2000), LR 26:485 (March 2000), LR 26:1605 (August 2000), repromulgated LR 27:192 (February 2001), amended LR 29:672 (May 2003), LR 29:2042 (October 2003), LR 30:1475 (July 2004).

Wilbert F. Jordan, Jr.
Assistant Secretary

0407#039

RULE

Office of the Governor Board of Architectural Examiners

Per Diem Compensation (LAC 46:I.317)

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners (board) amended LAC 46:I.317.C pertaining to the compensation which board members receive for discharging their duties and responsibilities. The previous Rule provided that the per diem compensation of board members for discharging their duties and responsibilities shall be \$75 per day. The amended Rule provides that the per diem compensation of board members for discharging their duties and responsibilities shall be the same as members of the Louisiana Legislature. R.S. 24:31 provides that the compensation of the members of the legislature shall be equal to the rate allowable for per diem deduction under §162(h)(1)(B)(ii) of Title 26 of the United States Code for the location of the state capital during their attendance on that body.

This Rule has no known impact on family formation, stability, or autonomy, as defined in R.S. 49:972.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 3. Organization

§317. National Council of Architectural Registration Boards

A. - B. ...

C. Effective July 1, 2004, out of the funds of the board each board member shall be compensated equal to the rate of compensation allowable for members of the legislature for each day in attending board meetings and hearings, attending NCARB regional and national meetings, issuing certificates and licenses, necessary travel, and discharging other duties, responsibilities, and powers of the board. In addition, out of said funds each board member, the executive director, and the board attorney shall be reimbursed reasonable and necessary travel, meals, lodging, clerical, and other incidental expenses incurred while performing the duties,

responsibilities, and powers of the boards, including but not limited to performing the aforesaid specific activities.

AUTHORITY NOTE: Promulgated and amended in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, amended and promulgated LR 4:333 (September 1978), amended LR 10:738 (October 1984), LR 12:760 (November 1986), amended by the Department of Economic Development, Board of Architectural Examiners, LR 15:732 (September 1989), amended by the Office of the Governor, Board of Architectural Examiners, LR 30:1476 (July 2004).

Mary "Teeny" Simmons
Executive Director

0407#091

RULE

Office of the Governor Division of Administration Racing Commission

Claiming Rule (LAC 35:XI.9905 and 9913)

The Louisiana State Racing Commission hereby adopts the following Rule.

Title 35

HORSE RACING

Part XI. Claiming Rules and Engagements

Chapter 99. Claiming Rule

§9905. Timing of Entering Next Claiming Race

Note: This Rule is being reinstated; it was repealed in 1996.

A. Except as otherwise provided herein, a claimed horse shall not enter in starter, optional or claiming races for 30 days after being claimed in a race in which the determining eligibility price is less than 25 percent more than the price at which the horse was claimed. The day claimed shall not count, but the following calendar day shall be the first day and the horse shall be entitled to enter whenever necessary so the horse may start on the 31st day following the claim for any claiming price. This provision shall not apply to starter handicaps in which the weight to be carried is assigned by the handicapper. A similar rule in other states will be recognized and enforced.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 30:1476 (July 2004).

§9913. Vesting of Title; Tests

A. Title to a claimed horse shall be vested in the successful claimant at the time the horse becomes a starter. The successful claimant shall then become the owner of the horse whether alive or dead, sound or unsound, or injured at any time after leaving the starting gate, during the race or after. However, the successful claimant may request on the claim blank at the time he makes his claim that the horse be tested for the presence of equine infections anemia via a Coggins test. Should this test prove positive, it shall be cause for a horse to be returned to his previous owner and barred from racing in the state of Louisiana. The expense of the Coggins test and the maintenance of the horse during the period requested for the test shall be absorbed by the

successful claimant. If such a test is requested the claimed horse will be sent to the retention barn of the Louisiana State Racing Commission where the state veterinarian will draw a blood sample, which sample shall be sent to a laboratory approved by the Louisiana Livestock Sanitary Board for the conduct of such test.

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

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:446 (December 1976), amended LR 3:42 (January 1977), LR 4:285 (August 1978), LR 5:136 (June 1979), amended by the Office of the Governor, Division of Administration, Racing Commission LR 30:1476 (July 2004).

Charles A. Gardiner III
Executive Director

0407#003

RULE

Office of the Governor Real Estate Commission

Mold Disclosure
(LAC 46:LXVII.3801)

Under the authority of R.S. 37:1430 et seq. (Louisiana Real Estate License Law), and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Real Estate Commission has amended LAC 46:LXVII, Professional and Occupational Standards, Real Estate, to include Chapter 38, Mold Disclosure, Section 3801, Mold Informational Pamphlets.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate

Chapter 38. Mold Disclosure

§3801. Mold Informational Pamphlets

A. The United States Environmental Protection Agency (EPA) shall be the official source of any mold informational pamphlet approved by the Louisiana Real Estate Commission.

B. A licensee who chooses to deliver mold information to a buyer shall be deemed in compliance with R.S. 37:1470.A(1) if the licensee performs at least one of the following:

1. delivers *A Brief Guide to Mold, Moisture, and Your Home* (EPA 402-K-02-003), or any successor thereof, to a residential buyer; or

2. delivers *Mold Remediation in Schools and Commercial Buildings* (EPA 402-K-01-001, March 2001), or any successor thereof, to a commercial buyer; or

3. directs a buyer to the mold informational pamphlets maintained on the United States Environmental Protection Agency (EPA) website at <http://www.epa.gov/iaq/molds/index.html>, or any successor thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1430 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Real Estate Commission, LR 30:1477 (July 2004).

Julius C. Willie
Executive Director

0407#071

RULE

Office of the Governor Used Motor Vehicle and Parts Commission

Licensing Used Motor Vehicle Dealers
(LAC 46:V.2901)

Editor's Note: Section 2901 is being repromulgated to correct a typographical error. This Rule may be viewed in its entirety in the March 2004 edition of the *Louisiana Register* on pages 436-437.

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapters 4A and 4B, the Office of the Governor, Used Motor Vehicle and Parts Commission, has amended rules and regulations governing dealers to be licensed in accordance with R.S. 32:773, garage liability insurance policy in accordance with R.S. 32:774:I(1) and educational seminars in accordance with R.S. 32:774(B)(3)(b)(i)(ii)(iii)(iv).

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 2. Used Motor Vehicle and Parts Commission Chapter 29. Used Motor Vehicle Dealer

§2901. Dealers to be Licensed

A. ...

B. Dealers in new and used motor homes, new and used semi-trailers, new and used motorcycles, new and used all-terrain vehicles, new and used recreational trailers, new and used boat trailers, and new and used travel trailers, new and used boats, new and used boat motors, daily rentals not of current year or immediate prior year models that have been titled previously to an alternate purchaser, manufacturers and distributors and other types subject to certificate of title law and Title 32 and/or Vehicle Registration Tax Number under Title 47. All new and unused vehicle dealers and other dealers licensed by the Louisiana Motor Vehicle Commission are excluded from licensing by the Louisiana Used Motor Vehicle and Parts Commission.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:773(B).

HISTORICAL NOTE: Promulgated by Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:1682 (September 1998), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission LR 30:436 (March 2004), repromulgated LR 30:1477 (April 2004).

John M. Torrance
Executive Director

0407#017

RULE

Department of Health and Hospitals Board of Practical Nursing Examiners

Public Comment, Licensure, Adjudication,
Program Evaluation
(LAC 46:XLVII.301, 303, 306, 1105, and 1305)

The Board of Practical Nurse Examiners hereby amends LAC 46:XLVII.101 et seq., in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

The purpose of the Rule change to §301 is to establish guidelines for public comment at open meetings of the board. The purpose of the Rule change to §303 is to provide for potential use of the licensure examination at points in the career of a licensee post initial licensure. The purpose of the Rule changes to §306 is to delete unnecessary and redundant language, to make affected sections clearer, to standardize language used in the rules of the board, to ensure that the rules are in compliance with the Administrative Procedure Act, to set forth what is required of respondents during board investigation of complaints, to clarify how time is calculated in matters related to discipline, to provide the specific process for conclusion of disciplinary matters by default, and to provide additional grounds for disciplinary action against a licensee. The purpose of the Rule changes to §§1105 and 1305 is to provide for first time writers in a graduating class to be the population on which pass/fail rates are calculated and to provide for the use of additional outcome measures in board evaluation of educational programs.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

PART XLVII. Nurses

Subpart 1. Practical Nurses

Chapter 3. Board of Practical Nurse Examiners

§301. Organization

A. The Louisiana State Board of Practical Nurse Examiners consists of members appointed by the Governor and is the regulatory agency created by statute to act with legal authority on matters related to practical nursing education and the practice of practical nursing in Louisiana as determined by the Louisiana Revised Statutes, Title 37, Section 961 et seq., as amended.

B. Public comment shall be allowed at open meetings of the board subject to the following rules.

1. Public comment shall be limited to matters set by the board's agenda for discussion at that meeting.

2. Public comment shall be limited to three minutes per individual unless a majority of the board members in attendance vote to extend this limit.

3. Anyone wishing to offer public comment under these rules must present a written request prior to the convening of the meeting. This request must include the name of the individual who will make public comment, the name of the party this individual represents, and the specific agenda item the individual will address. A separate request must be completed for each agenda item to be addressed.

4. The time(s) at which public comment is allowed as to any given agenda item shall be subject to the discretion of the board chair and may vary from meeting to meeting.

5. Unless otherwise provided by law, public comment is not part of the evidentiary record of any adjudication, disciplinary hearing or case unless sworn, offered by a party as relevant testimony, subject to cross examination and offered and received in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq. and these rules and regulations of the Louisiana State Board of Practical Nurse Examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969, and 37:962 as amended Act 272, 1982 and Act 642, 1990.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:192 (April 1977), amended LR 5:355 (November 1979), LR 10:335 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1126 (October 1992), repromulgated LR 18:1259 (November 1992), amended LR 26:2614 (November 2000), LR 30:1478 (July 2004).

§303. Additional Duties and Powers of the Board

A. - A.2. ...

3. determine the passing score for the practical nursing licensure examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:193 (April 1977), amended LR 10:335 (April 1984), amended LR 26:2614 (November 2000), LR 28:2353 (November 2002), LR 29:127 (February 2003), LR 30:1478 (July 2004).

§306. Adjudication Proceedings

A. All adjudication proceedings (as defined in R.S. 49:951) conducted by the board shall be in accordance with the Administrative Procedure Act, R.S. 49:955 et seq.

B. All proceedings calling for disciplinary action, as set forth in R.S. 37:969 (4) or as set forth in this Section 306 (R), regarding a license, shall begin with the receipt by the board of allegation(s) pertaining to the violation(s) of any provisions of R.S. 37:961 et seq., as stated in that statute, or any provision of these rules and regulations of the Louisiana State Board of Practical Nurse Examiners.

C. - E. ...

F. If formal proceedings are deemed necessary by the executive director, a formal hearing shall be conducted before a hearing officer designated by the board. A decision to initiate formal proceedings may be made if one or more of the following conditions exist.

1. The allegation(s) are sufficiently serious.

2. The respondent fails to reply to the board's correspondence concerning the allegation(s).

3. The response to the board's correspondence is deemed insufficient or unsatisfactory.

a. In furtherance of the objective(s) set forth in R.S. 37:961 et seq. and these rules and regulations of the Louisiana State Board of Practical Nurse Examiners, a respondent shall, upon written request, provide the board with any and all information, document(s) and/or thing(s) requested, within 10 days, including weekends and holidays, from the date of the board's request.

b. Failure to respond to a request by the board, or failure to provide a response that the board deems satisfactory or sufficient, may result in the immediate suspension of the respondent's license or may result in the

board taking any other action the board deems necessary commensurate with its philosophy of commitment to the health, safety and welfare of the public.

4. An informal proceeding has failed to resolve all of the issues or allegation(s).

G. Proceedings that require an opportunity for hearing shall commence with the filing of a formal complaint by the board. The complaint shall serve as the notice required by the Administrative Procedure Act 49:955(B) and shall include the following:

1. a statement of the time, place and nature of the hearing;

2. a statement of the legal authority and jurisdiction under which the hearing is to be held;

3. a reference to the particular sections of R.S. 37:961 et seq., and a reference to the particular section of the rules and regulations of the Louisiana State Board of Practical Nurse Examiners;

4. a short and plain statement of the matters asserted. If the board is unable to state the matters in detail at the time the complaint is served, the initial complaint may be limited to a statement of the issues involved. Thereafter, upon request, a more definite and detailed statement shall be furnished.

H. The formal complaint shall be sent by certified mail, at least 20 days, including weekends and holidays, prior to the hearing date, to the last known address of the respondent. It is the licensee's obligation and duty to keep the board informed of his/her whereabouts.

I. The respondent shall return his/her reply to the complaint to the board at least 10 days, including weekends and holidays, prior to the date fixed for the hearing or shall be deemed to have waived his/her right to a hearing. In reply, the respondent shall either deny or admit the allegations of the complaint and may either:

1. appear for the scheduled hearing;

2. submit a written response to the hearing officer to be presented at the hearing in lieu of the respondent's live testimony; or

3. waive his/her right to a hearing.

J. If the respondent waives his/her right to a hearing, the board may take any appropriate disciplinary action by default. If the respondent does not reply in writing within the time allotted, the hearing may proceed as scheduled in the respondent's absence or the board may take any appropriate disciplinary action by default.

K. ...

L. Except for conditions of extreme emergency, motions requesting the continuance of a formal hearing must be received by the board at least seven days, including weekends and holidays, prior to the date fixed for a formal hearing. Such motion must express the specific reason(s) and show good cause why a continuance is warranted and necessary in promoting due process.

M. Discovery

1. Prior to a formal hearing, a respondent shall have the right to retain an attorney to represent his/her interest before, during, and after the proceedings. All costs and/or expenses incurred by a respondent as a result of his/her exercise of said right shall be the sole responsibility and obligation of the respondent.

2. Prior to a formal hearing, the executive director or his/her designee will, upon written request received by the board at least 10 days, including weekends and holidays, prior to the formal hearing, issue subpoenas on behalf of the board and/or the accused. Such subpoenas include or are for the purpose of:

a. requiring that a person appear and give testimony in the formal hearing; and/or

b. requiring that a person produce books, records, correspondence, or other materials over which he/she has control providing:

i. - iv. ...

3. Prior to a formal hearing, the respondent shall, upon written notice received by the board at least seven days, including weekends and holidays, prior to said hearing, be given a list of all witnesses the board will or may call to give testimony during a formal hearing.

4. Depositions for the purpose of discovery are permitted and may also be allowed for the perpetuation of a witness' testimony upon good showing to the board that a witness will be unavailable to appear in person at a formal hearing. All costs of a deposition are borne by the requesting party.

5. Motions may be made before, during, and/or after a formal hearing. All motions made before or after a formal hearing shall be made in writing and in a timely manner in accordance with the nature of the request.

N. During a formal hearing, all parties shall be afforded the opportunity to present documentary, visual, physical or illustrative evidence and to cross-examine witnesses as well as call witnesses to give oral testimony. All testimony given during a formal hearing shall be under oath and may be before a certified stenographer.

O. The record of the proceeding shall be retained until such time for any appeal has expired or until an appeal has been concluded. The record of the proceeding need not be transcribed until such time as a party to the proceeding so requests and the requesting party pays for the cost of the transcript.

P. ...

Q. The board shall make a decision based on the entire record, including the hearing officer's report and determine what sanctions, if any, should be imposed and issue an appropriate order with respect thereto. This order of the board shall be sent to the respondent by certified mail.

R. Disciplinary action(s) imposed by the board may include reprimand, probation, suspension, revocation, as well as penalties provided under R.S. 37:961 et seq., as amended and/or these rules and regulations of the Louisiana State Board of Practical Nurse Examiners and/or any combination thereof.

1. - 2. ...

3. Suspension. A license to practice practical nursing in the state of Louisiana may be withheld by the board. A licensee whose license is suspended may not practice practical nursing in the state of Louisiana during the suspension period so designated. The time of suspension may be a definite stated period or an indefinite term.

a. Definite time of suspension shall be stipulated by the board in the order to the licensee. Upon termination of the time period, the licensee shall be entitled to receive

his/her license upon payment of the required fee and upon documented compliance with the conditions that may have been imposed by the board at the time of the original order.

b. If a license is suspended for an indefinite term, the licensee may petition for reinstatement of his/her license only after one calendar year has lapsed from the date of the original order. The board may terminate the suspension and reinstate such license after the board determines, with or without hearing, that the cause/causes for the suspension no longer exist or that intervening circumstances have altered the condition leading to the suspension. If reinstatement is granted, the licensee shall pay the required reinstatement fee.

4. ...

S. A petition by a party for reconsideration or rehearing must be filed in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

T. The grounds for disciplinary proceedings include, but are not limited to:

1. - 3. ...

4. being habitually intemperate or addicted to the use of habit-forming drugs;

5. - 6. ...

7. using in connection with his/her name any designation tending to imply that he/she is a practical nurse without being duly licensed to practice by the board; or

8. being guilty of unprofessional conduct; unprofessional conduct includes, but is not limited to the following:

a. - m. ...

n. being convicted of a crime or offense which reflects the inability of the nurse to practice practical nursing with due regard for the health and safety of clients or patients or entering a plea of guilty or nolo contendere to a criminal charge regardless of final disposition of the criminal proceeding including, but not limited to, expungement or nonadjudication or pardon;

o. - p. ...

q. using or being under the influence of alcohol while on duty, and/or while making application for employment, or using or being under the influence of drugs which impair judgement while on duty, or using or being under the influence of illegal drugs whether on or off duty;

r. possessing a physical or psychological impairment that interferes with the judgment, skills or abilities required for the practice of practical nursing;

s. refusing to cooperate with employer's request to submit to a drug screen;

t. violating any provisions of R.S. 37:961 et seq. (the practical nursing practice act), as amended or aiding or abetting therein.

U. The board may, at its discretion, impose a reasonable monetary assessment against the respondent for the purpose of defraying expenses of a hearing and/or expenses of the board in monitoring any disciplinary stipulations imposed by order of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:978 and Acts 675 and 827, 1993.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR

20:663 (June 1994), amended LR 26:2614 (November 2000), LR 28:2353 (November 2002), LR 30:1478 (July 2004).

Chapter 11. Program Progression

§1105. Student and Program Evaluation

A. - A.3. ...

4. evaluation and grading systems that shall be realistic and consistent with the objectives of the program.

5. evaluation of student transcripts submitted to the board for application for licensure by examination or endorsement will be based on a letter grade of "C" or number grade of "80" out of 100 in each and every course. A grade of "Pass" will be acceptable for clinical grades if "Pass" is interpreted as "80" or above out of 100.

B. Program evaluation shall be based upon standardized achievement test scores, student retention rate in the practical nursing program, stability of the program faculty and administration of the school, the performance of graduates, graduate placement, and results of the practical nursing licensure examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:198 (April 1977), amended LR 10:340 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1128 (October 1992), repromulgated LR 18:1262 (November 1992), amended LR 30:1480 (July 2004).

Chapter 13. Program Approval and Accreditation

§1305. Types of Approval

A. - A.2. ...

3. A program on initial approval which does not maintain the minimum requirements of the board, including that of less than 20 percent failure rate of first time writers per class on the practical nursing licensure examination may be subject to closure by the board when the currently enrolled class completes and, until examination results are received, the next class cannot be admitted. At the time the examination results are received, the board will make further determination.

B. - D. ...

E. Provisional Approval

1. Programs having been approved by the board that fail to maintain minimum requirements and/or which receive a 20 percent or higher failure rate for first time writers per graduating class on the practical nursing licensure examination may be placed on provisional accreditation.

2. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:199 (April 1977), amended LR 5:355 (November 1979), LR 10:340 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1129 (October 1992), repromulgated LR 18:1262 (November 1992), amended LR 26:2617 (November 2000), LR 30:1480 (July 2004).

Claire Doody Glaviano
Executive Director

0407#004

RULE

**Department of Health and Hospitals
Board of Wholesale Drug Distributors**

Required Information; Powers of the Board
(LAC 46:XCI.303 and 509)

The Louisiana Board of Wholesale Drug Distributors has amended LAC 46:XCI.303 and 509 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 37:3467 et seq. of the Louisiana Board of Wholesale Drug Distributors Practice Act. These Rule amendments will assist the board in its ability to regulate and inspect licensees for the safeguard of life and health, and the promotion of the public's welfare with regard to wholesale distribution of drugs within and into the state. The Rule amendments have no known impact on family formation, stability, and autonomy as described in R.S. 49:972. The amendments to the Rule are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XCI. Wholesale Drug Distributors

Chapter 3. Wholesale Distributors

§303. Required Information

A. - D. ...

E. Wholesale drug distributors with a place of business physically located in Louisiana must notify the board within three business days of the incident of any theft or diversion of legend or prescription drug product.

F. Wholesale drug distributors with a place of business physically located in Louisiana must notify the board within 24 hours of discovery of any counterfeit or misbranded legend or prescription drug product in their possession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 29:1480 (August 2003), LR 30:1481 (July 2004).

Chapter 5. Powers and Functions of the Board

§509. Inspection Contracts

A. The board may contract with any person or agency it deems qualified to conduct any inspections required by state or federal law.

B. The board shall retain exclusive jurisdiction to adjudicate all complaints, allegations or misconduct, or noncompliance by any licensee and to impose appropriate sanctions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 30:1481 (July 2004).

John Liggio
Executive Director

0407#036

RULE

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

Durable Medical Equipment Program
Negative Pressure Wound Therapy
(LAC 50:XVII.3111-3123)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XVII.3111-3123 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions governing negative pressure wound therapy.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part XVII. Durable Medical Equipment

Subpart 1. Prosthetics

Chapter 31. Skin Care and Infection Control

Subchapter B. Negative Pressure Wound Therapy

§3111. Definitions

Lack of Improvement of a Wound (as used within this Subchapter B) is a lack of progress in quantitative measurements of wound characteristics including wound length and width (surface area), or depth measured serially and documented over a specified time interval. Wound healing is defined as improvement occurring in either surface area or depth of the wound.

Licensed Health Care Professional (for the purposes of this Subchapter B) may be a physician, registered nurse (RN), or physical therapist (PT). The practitioner must be licensed to assess wounds and/or administer wound care.

Negative Pressure Wound Therapy (NPWT) is the controlled application of sub-atmospheric pressure to a wound using an electrical pump to intermittently or continuously convey sub-atmospheric pressure through connecting tubing to a specialized wound dressing which includes a resilient, open-cell foam surface dressing, sealed with an occlusive dressing that is meant to contain the sub-atmospheric pressure at the wound site and thereby promote wound healing. Drainage from the wound is collected in a canister.

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 30:1481 (July 2004).

§3113. Covered Services

A. Equipment and supplies used in negative pressure wound therapy include:

- 1. a stationary or portable NPWT electrical pump;

2. a dressing set; and
3. a canister set.

B. The stationary or portable NPWT electrical pump provides controlled sub-atmospheric pressure that is designed for use with NPWT dressings to promote wound healing. Such a NPWT pump is capable of being selectively switched between continuous and intermittent modes of operation and is controllable to adjust the degree of sub-atmospheric pressure conveyed to the wound in a range from 25 to greater than 25 mm Hg sub-atmospheric pressure. The pump is capable of sounding an audible alarm when desired pressures are not being achieved such as where there is a leak in the dressing seal, and when the wound drainage canister is full. The pump is designed to fill the canister to full capacity.

C. The dressing set used in conjunction with a stationary or portable NPWT pump must contain all necessary components including, but not limited to, a resilient, open-cell foam surface dressing, drainage tubing, and an occlusive dressing which creates a seal around the wound site for maintaining sub-atmospheric pressure at the wound.

D. The canister set used in conjunction with a stationary or portable NPWT pump must contain all necessary components, including but not limited to a container, to collect wound exudates. Canisters may be various sizes to accommodate stationary or portable NPWT pumps.

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 30:1481 (July 2004).

§3115. Medical Necessity Criteria

A. Negative wound pressure therapy is considered to be medically necessary when the following criteria are met.

1. Treatment of Ulcers and Wounds in the Home Setting. The patient has a chronic Stage III or IV pressure ulcer, neuropathic (such as diabetic) ulcer, venous or arterial insufficiency ulcer, or a chronic (being present for at least 30 days) ulcer of mixed etiology. A complete wound therapy program described by the criterion in Subparagraph a and criteria set forth in Subparagraphs b, c, or d, as applicable depending on the type of wound, must have been addressed, applied, or considered and ruled out prior to application of NPWT.

a. For all ulcers or wounds, the following components of a wound therapy program must include a minimum of all of the following general measures, which should either be addressed, applied, or considered and ruled out prior to the application of NPWT:

- i. documentation in the patient's medical record of evaluation, care and wound measurements by a licensed medical professional; and
- ii. application of dressings to maintain a moist wound environment; and
- iii. debridement of necrotic tissue, if present; and
- iv. evaluation of and provisions for adequate nutritional status.

b. For Stage III or IV pressure ulcers:

- i. the patient has been appropriately turned and positioned; and
- ii. the patient has used a group 2 or 3 support surface for pressure ulcers on the posterior trunk or pelvis (a

group 2 or 3 support surface is not required if the ulcer is not on the trunk or pelvis); and

iii. the patient's moisture and incontinence have been appropriately managed.

c. For neuropathic (for example, diabetic) ulcers:

i. the patient has been on a comprehensive diabetic management program; and

ii. reduction in pressure on a foot ulcer has been accomplished with appropriate modalities.

d. For venous insufficiency ulcers:

i. compression bandages and/or garments have been consistently applied; and

ii. leg elevation and ambulation have been encouraged.

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 30:1482 (July 2004).

§3117. Continued Coverage

A. For wounds and ulcers described in §3115, in order to continue coverage of an NPWT pump and supplies, a licensed medical professional must comply with the following requirements:

1. on a regular basis:

a. directly assess the wound(s) being treated with the NPWT pump; and

b. supervise or directly perform the NPWT dressing changes; and

2. on at least a monthly basis, document changes in the ulcer's dimensions and characteristics.

B. Coverage of NPWT will be discontinued after three months if there is a lack of improvement of the wound(s).

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 30:1482 (July 2004).

§3119. Coverage Exclusions

A. A negative pressure wound therapy pump and supplies will be denied as not medically necessary if one or more of the following conditions are present:

1. the presence in the wound of necrotic tissue with eschar, if debridement is not attempted;

2. untreated osteomyelitis within the vicinity of the wound;

3. cancer is present in the wound; or

4. the presence of a fistula to an organ or body cavity within the vicinity of the wound.

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 30:1482 (July 2004).

§3121. Provider Responsibilities

A. Documentation Requirements

1. A written order for the negative pressure wound therapy pump and supplies shall be signed and dated by the treating physician and submitted with the prior authorization request. The order shall include the type of supplies ordered and the approximate quantity to be used per unit of time.

2. Documentation of the history, previous treatment regimens, and current wound management for which a NPWT pump is being billed shall be submitted with the prior

authorization request. This documentation shall include such elements as length of sessions of use, dressing types and frequency of change, and changes in wound conditions, including:

- a. precise measurements;
- b. quantity of exudates;
- c. presence of granulation and necrotic tissue; and
- d. concurrent measures being addressed relevant to

wound therapy (debridement, nutritional concerns, support surfaces in use, positioning, incontinence control, etc.).

3. Documentation shall indicate regular evaluation and treatment of the patient's wounds. Documentation of quantitative measurements of wound characteristics including wound length and width (surface area), and depth, and amount of wound exudates (drainage), indicating progress of healing shall be entered at least monthly. The supplier of the NPWT equipment and supplies shall obtain an assessment of wound healing progress, based upon the wound measurement as documented in the patient's medical record from the treating clinician, and submit to the prior authorization unit in order for a determination to be made as to whether the equipment and supplies continue to qualify for Medicaid coverage.

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 30:1482 (July 2004).

§3123. Reimbursement

A. The Health Care Common Procedure Coding System shall be used to bill for negative pressure wound therapy equipment and supplies. Only the products referred to in this Subchapter B are reimbursable by Medicaid. These products shall meet approved Medicare guidelines and codes. Claims for negative pressure wound therapy equipment and supplies shall be reimbursed at 80 percent of the 2004 Medicare DMEPOS fee schedule for Louisiana.

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 30:1483 (July 2004).

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

0407#059

RULE

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

Facility Need Review
Additional Beds for Certain ICF-MRs
(LAC 48:I.12503)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends LAC 48:I.12503, Determination of Bed Need, as authorized by R.S. 40:2116. This 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, amends the Rules on Facility Need Review.

Title 48

PUBLIC HEALTH GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

§12503. Determination of Bed Need

A. - A.7.h. ...

8. Exception for Additional Beds for Certain ICF-MRs. Any ICF-MR which serves children or adults suffering from mental retardation, autism or behavioral problems and which had no less than 150 and no more than 180 approved beds as of August 15, 2003, shall, upon application to the Department, be granted approval for up to 50 additional beds without being required to meet the standards set forth in Paragraphs A.1-6 above, §12501.F.2 or §12505.

B. - B.11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:1483 (July 2004).

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

0407#060

RULE

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

Medicaid Eligibility Filing of Applications
(LAC 50:III.501)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby promulgates LAC 50:III.501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provision of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends the May 20, 1996 Rule pertaining to the filing and signing of applications for Medicaid.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part III. Eligibility

Chapter 5. Application Processing

§501. Filing Application

A. The bureau requires an applicant to complete and sign a written application in order to initiate the eligibility determination process for Medicaid benefits. The applicant's signature on the application affirms that all of the information contained on the form is true and correct or the applicant could be subject to a penalty for perjury. In order

to facilitate the application process, the bureau authorizes the electronic filing of Medicaid applications. Applications may be signed by the following means:

1. the applicant's signature on a paper application;
2. a personal identification number (PIN); or
3. a digital signature as issued by DHH (in the *Louisiana Medicaid Manual*).

B. The application may be filed by the applicant or one of the following individuals:

1. a parent;
2. the legal guardian, which is a person legally responsible for the care and management of the person or property of one considered by law to be incompetent to manage his own affairs;
3. a curator, which is any person acting under legal authority for an applicant/recipient who is determined by a court of law to be incompetent to take care of his own person or to administer his estate (an interdict); or
4. someone acting responsibly for the applicant.

C. Assistance with Application

1. The applicant may choose an individual to accompany, assist, and/or represent him/her in the application or renewal process.
2. The bureau must provide assistance if the applicant is unable to participate and has no responsible representation in the application process.

D. Grounds for Accepting/Rejecting Application. The applicant must cooperate in the process of determining eligibility by completing an application form and providing required information. The application may be rejected for non-cooperation only if the applicant, curator, parent or legal guardian is physically and mentally able to make application and provide information and either:

1. does not provide information after being notified; or
2. after being advised of the consequences, has failed to cooperate.

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 Social Services, Office of the Secretary, Bureau of Health Services Financing, LR 30:1483 (July 2004).

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

0407#058

RULE

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

Medical Transportation Program Non-Emergency Ambulance Services Reimbursement

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

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing terminates reimbursement for emergency ambulance services that are not authorized as being medically necessary by the attending medical professional. If the appropriate medical professional refuses to sign the Unisys 105 form stating that ambulance transportation was medically necessary, the service shall be considered a non-covered Medicaid service and the provider may bill the recipient for this service.

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

0407#057

RULE

Department of Social Services Office of Family Support

CCAP Provider Payment Increase (LAC 67.III.5102, 5107, and 5109)

The Department of Social Services, Office of Family Support, has amended Louisiana Administrative Code, Title 67, Part III, Subpart 12, Child Care Assistance Program, pursuant to the authority granted to the department by the Child Care and Development Fund (CCDF).

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance Program

§5102. Definitions

* * *

Special Needs Child Care Child care for a child up to age 17 who because of a mental, physical, or emotional disability, requires specialized facilities, lower staff ratio, and/or specially trained staff to meet his or her developmental and physical needs. Incentive payments up to 25 percent higher than the regular rates can be allowed for a special needs child if the provider is actually providing the specialized care.

* * *

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2826 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:1484 (July 2004).

§5107. Child Care Provider

A. - E.4. ...

F.1. Quality incentive bonuses are available to:

a. - b. ...

c. Child Care Assistance Program eligible providers who provide special care for children with special needs. This special needs care includes but is not limited to specialized facilities/equipment, lower staff ratio, and specially trained staff. The amount of these special needs care incentive payments will be in accordance with 5109.B.1.b. and 5109.B.2.b.

2. ...

G. The Child Care Assistance Program offers repair and improvement grants to either licensed or registered providers, or to those who have applied to become licensed or registered, to assist with the cost of repairs and improvements necessary to comply with DSS licensing or registration requirements and/or to improve the quality of child care services.

1. Effective September 1, 2002 the program will pay for 75 percent of the cost of such a repair or improvement, up to the following maximums.

a. For Class A centers the maximum grant amount will be equal to \$100 times the number of children listed in the licensed capacity, or \$10,000, whichever is less.

b. For Family Child Day Care Home (FCDC) providers the maximum grant amount will be \$600.

c. These amounts may be adjusted at the discretion of the assistant secretary, based upon the availability of funds.

2. A provider can receive no more than one such grant for any state fiscal year. To apply, the provider must submit an application form indicating that the repair or improvement is needed to meet DSS licensing or registration requirements, or to improve the quality of child care services. Two written estimates of the cost of the repair or improvement must be provided and the provider must certify

that the funds will be used for the requested purpose. If the provider has already paid for the repair or improvement, verification of the cost in the form of an invoice or cash register receipt must be submitted. Reimbursement can be made only for eligible expenses incurred no earlier than six months prior to the application.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session, Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:496 (March 2004), LR 30:1484 (July 2004).

§5109. Payment

A. The sliding fee scale used for non-FITAP recipients is subject to adjustment based on the state median income and poverty levels, which are published annually. A non-FITAP household may pay a portion of its child care costs monthly in accordance with the sliding fee scale, and this shall be referred to as a "co-payment." The sliding fee scale is based on a percentage of the state median income.

**Sliding Fee Scale for Child Care Assistance Recipients
75 Percent of Projected Median Income**

| Number in Household | 2 | 3 | 4 | 5 | 6 | DSS % |
|--------------------------|-------------|-------------|-------------|-------------|-------------|-------|
| Monthly Household Income | 0 - 968 | 0 - 1219 | 0 - 1471 | 0 - 1723 | 0 - 1974 | 75% |
| | 969 - 1535 | 1220 - 1908 | 1472 - 2281 | 1724 - 2654 | 1975 - 3027 | 55% |
| | 1536 - 2101 | 1909 - 2596 | 2282 - 3090 | 2655 - 3585 | 3028 - 4079 | 35% |
| | above 2101 | above 2596 | above 3090 | above 3585 | above 4079 | 0% |

| Number in Household | 7 | 8 | 9 | 10 | 11 | DSS % |
|--------------------------|-------------|-------------|-------------|-------------|-------------|-------|
| Monthly Household Income | 0 - 2226 | 0 - 2478 | 0 - 2729 | 0 - 2981 | 0 - 3233 | 75% |
| | 2227 - 3199 | 2479 - 3372 | 2730 - 3543 | 2982 - 3716 | 3234 - 3888 | 55% |
| | 3200 - 4172 | 3373 - 4265 | 3544 - 4357 | 3717 - 4450 | 3889 - 4543 | 35% |
| | above 4172 | above 4265 | above 4357 | above 4450 | above 4543 | 0% |

| Number in Household | 12 | 13 | 14 | 15 | 16 | DSS % |
|--------------------------|-------------|-------------|-------------|-------------|-------------|-------|
| Monthly Household Income | 0 - 3484 | 0 - 3736 | 0 - 3988 | 0 - 4239 | 0 - 4491 | 75% |
| | 3485 - 4060 | 3737 - 4232 | 3989 - 4405 | 4240 - 4577 | 4492 - 4749 | 55% |
| | 4061 - 4636 | 4233 - 4728 | 4406 - 4821 | 4578 - 4914 | 4750 - 5006 | 35% |
| | above 4636 | above 4728 | above 4821 | above 4914 | above 5006 | 0% |

| Number in Household | 17 | 18 | 19 | 20 | | DSS % |
|--------------------------|-------------|-------------|-------------|----------|--|-------|
| Monthly Household Income | 0 - 4743 | 0 - 4994 | 0 - 5246 | 0 - 5498 | | 75% |
| | 4744 - 4921 | 4995 - 5093 | 5247 - 5266 | | | 55% |
| | 4922 - 5099 | 5094 - 5192 | 5267 - 5285 | | | 35% |
| | above 5099 | above 5192 | above 5285 | | | 0% |

B. Determination of Payments

1. Payments to providers on behalf of non-FITAP recipients will be a percentage of the lesser of:

a. ...

b. the state maximum rate for authorized services as indicated below.

| Provider Type | Regular Care | Regular Care for Infants/Toddlers (under age 3) | Special Needs Care Incentive | Special Needs Care Incentive for Infants/Toddlers (under age 3) |
|---------------|--------------|---|------------------------------|---|
| Class A | \$16.50 | \$17.50 | \$20.65 | \$21.65 |
| Class E | \$14.00 | \$15.00 | \$17.50 | \$18.50 |
| Class R | \$14.00 | \$15.00 | \$17.50 | \$18.50 |
| Class U | \$13.50 | \$14.50 | \$16.90 | \$17.90 |

2. Payments to providers on behalf of FITAP recipients will be the lesser of:

a. ...

b. the State Maximum Rate for authorized services as indicated below.

| Provider Type | Regular Care | Regular Care for Infants/Toddlers (under age 3) | Special Needs Care Incentive | Special Needs Care Incentive for Infants/Toddlers (under age 3) |
|---------------|--------------|---|------------------------------|---|
| Class A | \$16.50 | \$17.50 | \$20.65 | \$21.65 |
| Class E | \$14.00 | \$15.00 | \$17.50 | \$18.50 |
| Class R | \$14.00 | \$15.00 | \$17.50 | \$18.50 |
| Class U | \$13.50 | \$14.50 | \$16.90 | \$17.90 |

3. The number of hours authorized for payment is based on the lesser of the following:

a. the number of hours the child is actually in care each week; or

b. the number of hours the head of household, the head of household's spouse, or the minor unmarried parent is working and/or attending a job training or educational program each week, plus one hour per day for travel to and from such activity; or

c. the number of hours care is actually needed and available.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445 (December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:1491 (June 2002), LR 29:1834 (September 2003), LR 30:1485 (July 2004).

Ann Silverberg Williamson
Secretary

0407#087

RULE

**Department of Social Services
Office of Family Support**

FITAP, CCAP, KCSP, and FSP Reporting Requirements
(LAC 67:III.1257, 1998, 5103, 5104, 5107, and 5347)

The Department of Social Services, Office of Family Support, has amended LAC 67:III.1257 in the Family Independence Temporary Assistance Program (FITAP), §§5103 and 5107 in the Child Care Assistance Program (CCAP) and §5347 in the Kinship Care Subsidy Program (KCSP) and to adopt §§1998 and 5104 in the Food Stamp and Child Care Assistance Programs.

The agency has adopted, amended or repealed various Sections of each program in order to specify and align reporting requirements in the FITAP, KCSP, CCAP, and Food Stamp Programs. The reorganized sections contain

information mandated by the federal regulations, as well as information that aligns the reporting requirements of all four programs.

In order to comply with federal regulations and to avoid severe penalties or sanctions, the agency has amended §5107, Child Care Providers, to require that family day care home providers retain an immunization record signed/stamped by a physician or physician's designee on each child in care.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1257. Reporting Requirements

A. Effective February 1, 2004, an FITAP household that is not included in a food stamp semi-annual reporting household shall report any change that affects eligibility or the amount of monthly benefits. Changes in income must be reported if the household's gross monthly income changes by more than \$100 in earned income or \$50 in unearned income. Changes shall be reported within 10 days of the knowledge of the change.

B. Effective February 1, 2004, an FITAP household that is included in a food stamp semi-annual reporting household is subject to the semi-annual household reporting requirements in accordance with §2013.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231 et seq. 7 CFR Part 273.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:522 (March 2002), amended LR 30:1486 (July 2004).

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter L. Reporting Changes

§1998. Reporting Requirements

Effective February 1, 2004

A. A food stamp household that is not included in semi-annual reporting shall report any change that affects

eligibility or the amount of monthly benefits. Changes in income must be reported if the household's gross monthly income changes by more than \$100 in earned income or \$50 in unearned income. Changes shall be reported within 10 days of the knowledge of the change.

B. A food stamp household that is included in semi-annual reporting is subject to the semi-annual household reporting requirements in accordance with §2013.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.12(a).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:1486 (July 2004).

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance

Subchapter B. Child Care Assistance Program

§5103. Conditions of Eligibility

A. - C. ...

D. Repealed [Effective February 1, 2004.]

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 58 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:1833 (September 2003), LR 30:496 (March 2004), LR 30:1487 (July 2004).

§5104. Reporting Requirements

Effective February 1, 2004

A. A low income child care household that is not included in a food stamp semi-annual reporting household shall report any change that affects eligibility or the amount of monthly benefits. Changes in income must be reported if the household's gross monthly income changes by more than \$100 in earned income or \$50 in unearned income. Changes shall be reported within 10 days of the knowledge of the change.

B. A low income child care household that is included in a food stamp semi-annual reporting household is subject to the semi-annual reporting requirements in accordance with §2013. In addition, these households must report the following changes within 10 days of the knowledge of the change:

1. a change in child care provider;
 2. termination of any TEMP's employment or training;
- or
3. a child receiving CCAP services leaves the home.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, 7 CFR Part 273.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR:30:1487 (July 2004).

§5107. Child Care Providers

A. - B. ...

1. To be eligible for participation, a family child day care home provider must sign a provider agreement, complete a request for registration and Form W-9, pay appropriate fees, furnish verification of Social Security number and residential address, provide proof that he/she is at least 18 years of age, and meet all registration requirements, including:

a. - c. ...

d. retain a statement of good health signed by a physician or his designee which must have been obtained within the past three years and be obtained every three years thereafter; and

e. - f. ...

g. effective February 1, 2004, retain an immunization record signed/stamped by a physician or a physician's designee on each child receiving care verifying the child has had, or is in the process of receiving all age-appropriate immunizations as required by the Office of Public Health. No family day home provider is required to comply with this provision if a child's parent or guardian submits a written statement from a physician stating that the immunization procedure is contraindicated for medical reasons, or if the parent or guardian objects to the procedure on religious grounds.

B.2 - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session, Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:496 (March 2004), LR 30:1487 (July 2004).

Subpart 13. Kinship Care Subsidy Program (KCSP)

Chapter 53. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§5347. Reporting Changes

A. Effective February 1, 2004, a KCSP household that is not included in a food stamp semi-annual reporting household shall report any change that affects eligibility. Changes in income must be reported if the household's gross monthly income changes by more than \$100 in earned income or \$50 in unearned income. Changes shall be reported within 10 days of the knowledge of the change.

B. Effective February 1, 2004, a KCSP household that is included in a food stamp semi-annual reporting household is subject to the semi-annual household reporting requirements in accordance with §2013.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231 et seq., 7 CFR Part 273.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2565 (December 2002), amended LR 30:1487 (July 2004).

Ann Silverberg Williamson
Secretary

0407#088

RULE

Department of Social Services Office of Rehabilitation Services Vocational Rehabilitation Services

Financial Information and Transition Planning Process
(LAC 67:VII.115 and 119)

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) has amended §115, Financial, and §119, Transition Process for Individuals in Secondary Education Programs, of its

Vocational Rehabilitation Policy Manual. In Section 115, Financial, the agency amended guidelines to remove the reference to an individual's status for the budget analysis from policy. Revision to §119, Transition Process for Individuals in Secondary Education Programs, was made to provide clarification regarding the transition planning process for the provision of rehabilitation services to transition students who are exiting secondary programs into post-school activities. This Rule does not change the vocational rehabilitation services that are based on the agency's financial need policy.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 1. General Provisions

§115. Financial

A. - B.2.e. ...

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

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

h. Simultaneously with the comprehensive assessment, at the annual review of the IPE, and at any time there is a change in the financial situation of either the client or the family, the counselor will perform a budget analysis for each client requiring vocational rehabilitation services as listed above in §115.B.2.b.i.-xi. The amount of client participation in the cost of their vocational rehabilitation program will be based upon the most recent budget analysis at the time the relevant IPE or amendment is developed.

B.3. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:837 (August 1995), LR 24:959 (May 1998), LR 25:1273 (July 1999), LR 27:212 (February 2001), LR 27:1561 (September 2001), LR 29:47 (January 2003), LR 30:921 (April 2004), LR 30:1488 (July 2004).

§119. Transition Process for Individuals in Secondary Education Programs

A. Louisiana Rehabilitation Services (LRS) will become involved in the transition planning process for students with disabilities as early as possible to ensure that students' transition needs are met in a timely manner. LRS involvement in the transition process will provide for outreach, consultation, technical assistance and transition planning by agency personnel that facilitates the development and completion of students' individualized education programs (IEPs), as well as the completion and approval of eligible students' individualized plans for employment (IPEs) prior to their exit from the school system.

B. LRS' transition process is a coordinated set of vocational rehabilitation services planned for an eligible

student with an official secondary education transition plan. Such vocational rehabilitation services for transition students are designed within an outcome-oriented process that promotes movement from school to post school activities, including post secondary education, vocational training, integrated employment (including supported employment), as well as referral services for available continuing and adult education, adult services, independent living or community participation.

C. LRS' vocational rehabilitation services for transition students shall be based upon the eligible student's individual needs, taking into account the student's abilities, preferences and interests, and shall include vocational guidance and counseling, functional vocational evaluation, instruction, community experiences, and other services and activities that may be necessary to facilitate achievement of the employment outcome identified on the IPE.

D. ...

E. The following provisions are the key points in LRS' transition process.

1. LRS will provide consultation and technical assistance (to the extent possible considering time and agency resources) as early as possible in the transition process, for students who have official transition plans within the state education system.

2. LRS will ensure the development and approval of IPEs for eligible students who have official transition plans within the state education system as early as possible in the transition process but, at the latest, by the time each student determined eligible for vocational rehabilitation services leaves the school setting.

F. The LRS director or designee shall have the sole responsibility for any exceptions to this policy on services for transition students.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), repromulgated LR 25:1276 (July 1999), LR 30:922 (April 2004), LR 30:1488 (July 2004).

Ann S. Williamson
Secretary

0407#068

RULE

Department of Transportation and Development Office of Highways/Engineering

Debarment Hearings for Contractors, Subcontractors,
Consultants and Subconsultants (LAC 70:I.Chapter 9)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development hereby enacts Chapter 9 of Part I of Title 70 entitled "Debarment Hearings for Contractors, Subcontractors, Consultants and Subconsultants," in accordance with the provisions of R.S. 48:295 et seq., and House Concurrent Resolution No. 60 of 2003.

Title 70
TRANSPORTATION

Part I. Highway Construction

**Chapter 9. Debarment Hearings for Contractors,
Subcontractors, Consultants and
Subconsultants**

§901. Debarment Committee

A. The Debarment Committee, as defined in R.S. 48:295.1, consists of the chief engineer of the department, or his designee, the deputy secretary of the department or his designee, and the general counsel of the department or his designee.

B. The following persons shall act as designees.

1. The chief of Project Development Division shall be the designee of the deputy secretary for any consideration of debarment or suspension of a consultant under R.S. 48:285.

2. The chief of Construction Division shall be designee of the deputy secretary for any consideration of debarment or suspension of a contractor under R.S. 48:251 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:295 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:1489 (July 2004).

§903. Causes for Debarment of Contractors

A. The causes for debarment are enumerated in R.S. 48:295.2(C).

B. In addition to the statutory causes for debarment, the department shall follow the following guidelines.

1. A history of failure to perform or history of unsatisfactory performance may include, but is not limited to the following:

a. during one calendar year, two or more formal demands by the department to the contractor that the surety for the contractor complete a job, or

b. determination of disqualification five or more times in a calendar year, or three times during each of two consecutive calendar years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:295 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR. 30:1489 (July 2004).

§905. Causes for Debarment of Consultants

A. The causes for debarment are enumerated in R.S. 48:295.2(C).

B. In addition to the statutory causes for debarment, the department shall follow the following guidelines.

1. A history of failure to perform or history of unsatisfactory performance may include, but is not limited to the following:

a. an unsatisfactory rating two or more times in a calendar year, or

b. formal termination for cause two or more times in a calendar year, or three times during each of two consecutive year, or

c. failure to satisfy final judgments rendered against the entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:295 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR. 30:1489 (July 2004).

§907. Imputed Conduct

A. The fraudulent, criminal or other seriously improper conduct of any officer, director, shareholder, partner, employee or other individual associated with a contractor/consultant may be imputed to the contractor/consultant when the conduct occurred in connection with the individual's performance of duties for or on behalf of the contractor/consultant, or with the contractor/consultant's knowledge, approval or acquiescence. The contractor/consultant's acceptance of the benefits derived from the conduct shall be evidence of the contractor/consultant's knowledge, approval or acquiescence.

B. The fraudulent, criminal or other seriously improper conduct of a contractor/consultant may be imputed to any officer, director, shareholder, partner, employee or other individual associated with the contractor/consultant who participated in, knew of or had reason to know of the contractor/consultant's conduct.

C. The fraudulent, criminal or other seriously improper conduct of one contractor/consultant participating in a joint venture or similar arrangement may be imputed to other participating contractors/consultants if the conduct occurred for or on behalf of the joint venture or similar arrangement or with the knowledge, approval or acquiescence of those contractors/consultants. Acceptance of the benefits derived from the conduct shall be evidence of the contractor/consultant's knowledge, approval or acquiescence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:295 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:1489 (July 2004).

§909. Provisions for the Hearing and Decision

A. Provisions for the hearing and decision are set forth in R.S. 48:295.2(D), (E) and (F).

B. In addition to those provisions:

1. the department debarment hearing shall be as informal as practicable, consistent with fundamental due process of law principles. The debarment committee shall permit contractor/consultants to submit information and arguments in opposition to the proposed debarment. The department may require that a contractor/consultant's opposition be submitted in writing or may permit an oral presentation in person or through a representative;

2. if debarment is imposed, the department shall, within 14 days, notify the contractor/consultant and any affiliates involved by certified mail return receipt requested. The notice shall contain the following:

a. reference to the notice of proposed debarment that initiated the action;

b. reasons for debarment; and

c. period of debarment, specifying the effective date;

3. if debarment is not imposed, the department shall give notice within 14 days from the date of the hearing of that fact to the contractor/consultant involved by certified mail return receipt requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:295 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:1489 (July 2004).

§911. Period of Debarment

A. Debarments shall be for a period commensurate with the seriousness of the cause or causes for debarment. Generally, debarment shall not exceed three years. If suspension precedes debarment, the suspension period shall be considered in determining the debarment period.

B. The department may extend the debarment for an additional period if the department determines that an extension is necessary to protect the public interest. However, an extension may not be based solely on the facts and circumstances upon which the initial debarment was based.

C. The department may terminate a debarment or may reduce the period or extent of a debarment, upon the contractor/consultant's request, for reasons considered appropriate by the department such as:

1. newly discovered relevant evidence;
2. reversal of the conviction or judgment upon which the debarment was based;
3. a bona fide change in ownership or management of the contractor/consultant; or
4. elimination of the cause or causes for which debarment was imposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:295 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:1490 (July 2004).

§913. Appeals

A. Appeals shall be made in accordance with the provisions of R.S. 48:295.3 and shall be submitted to the department in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:295 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:1490 (July 2004).

§915. Application by the Contractor or Consultant for Requalification

A. Applications for requalification following debarment shall be submitted in writing to the chief engineer of the department.

B. The Debarment Committee shall conduct a hearing and consider the arguments of the applicant for requalification. The applicant may appear in person.

C. The Debarment Committee may terminate a debarment or may reduce the period or extent of a debarment upon application of the contractor/consultant for reasons considered appropriate by the committee, such as:

1. newly discovered relevant evidence;
2. reversal of the conviction or judgment upon which debarment was based;
3. a bona fide change in ownership or management of the contractor/consultant; or
4. elimination of the cause or causes for which debarment was imposed.

D. The Debarment Committee shall render a decision concerning requalification within 14 days of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:295 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:1490 (July 2004).

Johnny B. Bradberry
Secretary

0407#081

RULE

**Department of Transportation and Development
Office of Weights, Measures and Standards**

**Escort Requirements for Oversize and/or Overweight
Vehicles or Loads (LAC 73:I.1901)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development hereby amends Chapter 19 of Part I of Title 73 entitled "Escort Requirements for Oversize and/or Overweight Vehicles or Loads," in accordance with R.S. 32:2 and 32:387.

Title 73

WEIGHTS, STANDARDS AND MEASURES

Part I. Weights and Standards

**Chapter 19. Escort Requirements for Oversize and
Overweight Vehicles or Loads**

§1901. Provision Enforcement

A. - B.16. ...

17. In the event a state police escort is required, the permittee shall pay the escort fee, or any portion thereof, in addition to the pay of the off-duty trooper.

B.18. - E.1.n. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by Weights, Measures and Standards, LR 22:120 (February 1996), LR 30:1490 (July 2004).

Johnny B. Bradberry
Secretary

0407#082

RULE

**Department of Treasury
State Bond Commission**

**Costs of Issuance and Reporting Requirements
(LAC 71:III.701)**

In accordance with the provisions of Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Bond Commission has amended the commission's Rules as originally adopted November 20, 1976.

The State Bond Commission has amended its Rules regarding costs of issuance and reporting requirements, as follows.

Title 71
TREASURY PUBLIC FUNDS
Part III. Bond Commission Debt Management
Chapter 7. Costs of Issuance and Reporting
Requirements

§701. Procedure

A. No later than 45 days after the closing and delivery of bonds by any non-traditional issuer, including but not limited to the Louisiana Public Facilities Authority, other public trusts, the Louisiana Local Government Environmental Facilities and Community Development Authority, other political subdivisions having statewide jurisdiction, state agencies, and industrial development boards (collectively, the "Issuer"), the Issuer or its representative shall submit to the State Bond Commission a final report with respect to such issue. This final report shall be in a form provided by the State Bond Commission and shall provide information with respect to the final size of the issue, maturities and interest rates, and all costs of issuance including underwriters' discount ("costs of issuance"), paid from bond proceeds and/or other sources.

B. The report shall list:

1. the costs of issuance by individual item as submitted to and approved by the State Bond Commission;
2. the actual costs of issuance by individual item and;
3. the variance, if any, between the approved and actual costs of issuance by individual item, dollar amount and percentage. If:
 - a. the total actual costs of issuance exceed the total approved costs of issuance; or
 - b. the actual costs of issuance in any line item exceed the approved costs of issuance by a variance of 10 percent or more, the Issuer shall obtain supplemental approval of the State Bond Commission prior to paying any individual item in excess of the approved costs of issuance.

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

HISTORICAL NOTE: Promulgated by the Department of the Treasury, State Bond Commission, LR 18:1418 (December 1992), amended LR 30:1491 (July 2004).

John Kennedy
State Treasurer

0407#035

RULE

Department of Treasury
Parochial Employees' Retirement System

Definitions; Eligibility; Scope of Benefits
(LAC 58:XI.103, 301, 303, 501, 505, and 509)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Trustees for the Parochial Employees' Retirement System has approved for advertisement the adoption of Chapter 3, and the amendment of Chapters 1 and 5, of Part XI, included in Title 58, Retirement, of the *Louisiana Administrative Code*. This Rule complies with the statutory law administered by the Board of Trustees for the Parochial Employees Retirement System, and is being adopted pursuant to R.S. 11:1931 which provides that rules and

regulations be adopted which will assure that the Parochial Employees' Retirement System will remain a tax-qualified retirement plan under the United States Internal Revenue Code and the regulations thereunder. This Rule is meant to bring the Parochial Employees Retirement System into compliance with the United States General Agreement on Tariffs and Trade, the Uniformed Services Employment and Reemployment Rights Act of 1996, the Small Business Job Protection Act of 1996, and the Taxpayer Relief Act of 1997 (collectively known as GUST), and the Economic Growth and Tax Relief Reconciliation Act of 2001 (known as EGTRRA). These amendments to the Parochial Employees Retirement System were approved by the United States Internal Revenue Service pursuant to an IRS determination letter and were required to be implemented within 91 days of the issuance of the IRS determination letter. In order to timely effect implementation, a previously published Emergency Rule was adopted by the Parochial Employees Retirement System. This Rule makes the previously published Emergency Rule permanent without any changes to the text of the Emergency Rule. A preamble to this Rule has not been prepared.

Title 58
RETIREMENT

Part XI. Parochial Employees' Retirement System
Chapter 1. General Provisions

§103. Definitions

A. ...

* * *

Eligible Retirement Plan An Individual Retirement Account described in Internal Revenue Code Section 408(a), an individual retirement annuity described in Section 408(b), an annuity plan described in Internal Revenue Code Section 403(a), or a qualified trust described in Internal Revenue Code Section 401(a), that accepts the distributee's eligible rollover distributions. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an Individual Retirement Account or individual retirement annuity. An eligible retirement plan shall also mean an annuity contract described in Internal Revenue Code Section 403(b) and an eligible plan under Internal Revenue Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this system. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order.

Eligible Rollover Distribution

a.i any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

ii. any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life, or life expectancy, of the distributee or the joint lives, or joint life expectancies, of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;

iii. any distribution to the extent such distribution is required under Internal Revenue Code Section 401(a)(9);

iv. the portion of any distribution that is not includable in gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities;

v. a hardship distribution.

b. A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution or qualified defined benefit plan described in Code Section 401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:508 (March 2004), amended LR 30:1491 (July 2004).

Chapter 3. Eligibility

§301. Persons not Eligible for Membership; Leased Employees

A. Leased employees or persons considered by the system as leased employees of an employer shall not be eligible to participate. Leased employee shall mean any person who is not employed by an employer and pursuant to an agreement between the employer and any other person or entity ("leasing organization") has performed services for the employer (or for related persons determined in accordance with section 414(n)(6) of the Internal Revenue Code) on a substantially full-time basis for a period of at least 1 year, and such services are performed under primary direction or control by the employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:1492 (July 2004).

§303. Creditable Service; Uniformed Services Employment and Reemployment Rights Act

A. If a member takes a leave of absence to serve in the U.S. armed services, the terms of which are governed by the Uniformed Services Employment and Reemployment Rights Act (USERRA), then upon the member's return to employment with the employer within five years from the leave of absence, the member shall be permitted to make the member contributions called for under the system as if the member had continued employment, and if so made, the member shall be given creditable service under the system for that period of time. The member contributions to the system as permitted under this Section shall be made ratably over a period of time equaling the period the member was in the U.S. armed services, but in no event shall such period exceed five years. If the returning member makes the member contribution, the employer shall be required to make an employer contribution to fund the employer's portion of the creditable service given to the returning member. The amount of the member's contribution and the employer's contribution shall be determined by the system's

actuary. A member who does not return to employment with his employer shall not be affected by this provision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:1492 (July 2004).

Chapter 5. Scope of Benefits

§501. Limitation on Payment of Benefits

A. - E.1. ...

2. The required beginning date shall be April 1 of the calendar year following the later of the calendar year in which the member attains 70 1/2 years of age, or the calendar year in which the employee retires. Effective for plan years beginning on or after January 1, 1998, the required beginning date shall be April 1 of the year following the later of the year the member attained 70 1/2 or the year he terminated employment.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:508 (March 2004), amended LR 30:1492 (July 2004).

§505. Compensation Limited

A. In addition to other applicable limitations set forth in the plan, and notwithstanding any other provisions of the plan to the contrary, for plan years beginning on or after January 1, 1994 and before January 1, 2002, the annual compensation of each employee taken into account under the plan shall not exceed the Omnibus Budget Reconciliation Act of 1993 annual compensation limit. The Omnibus Budget Reconciliation Act of 1993 annual compensation limit is \$150,000, as adjusted by the commissioner of Internal Revenue for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code (see 26 U.S.C. 401 et seq.). The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the Omnibus Budget Reconciliation Act of 1993 annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

B. For plan years beginning on or after January 1, 1994 and before January 1, 2002, any reference in this plan to the limitations under Internal Revenue Code Section 401(a)(17) shall mean the Omnibus Budget Reconciliation Act of 1993 annual compensation limit set forth in this Section.

C. ...

D. For plan years beginning on or after January 1, 2002, the annual compensation limitation (section 401(a)(17) of the Internal Revenue Code) for the determination of a retirement allowance shall not exceed \$200,000, as adjusted for cost-of-living under paragraph 401(a)(17)(B) of the Internal Revenue Code. If compensation for a prior period is taken into account in determining a member's benefits accruing in the current plan year, the compensation for the prior period shall be subject to the compensation limit for the current year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:509 (March 2004), amended LR 30:1492 (July 2004).

§509. Computation of Retirement Benefits

A. - D.1.b.iii. ...

2. A member's retirement allowance shall be limited to \$160,000. The \$160,000 amount shall be adjusted for members retiring before age 62 or after age 65 under Internal Revenue Code Section 415(b)(2). The benefit limitation in the foregoing sentence shall be further adjusted by multiplying such limitation by the cost of living adjustment factor prescribed by the Secretary of the Treasury under Internal Revenue Code Section 415(d) in such manner as the Secretary shall prescribe. The new limitation will apply to limitation years ending within the calendar year of the date of the adjustment.

3. - 5.b.ii. Repealed.

6. Adjustment for Less than 10 Years of Creditable Service

a. If retirement benefits are payable under this retirement system to a member who has less than 10 years of creditable service in the retirement system, the dollar limitation referred to in the first Paragraph of this Subsection (\$90,000) will be multiplied by a fraction, the numerator of which is the member's number of years of creditable service in the system (not greater than 10), and the denominator of which is 10.

i. Effective for plan years beginning on or after January 1, 2002, "\$160,000" will be substituted for "\$90,000" above.

b. Repealed.

7. Annual Adjustment. The limitation provided in this Subsection shall be adjusted annually to the maximum dollar limits allowable by the secretary of the Treasury of the United States under Internal Revenue Code Section 415(d), such adjustments not to take effect until the first day of the fiscal year following December 31, 1987. The adjustment shall not exceed the adjustment in effect for the calendar year in which the fiscal year of the system begins. The adjusted earlier limitation is applicable to employees who are members of the system and to members who have retired or otherwise terminated their service under the system with a nonforfeitable right to accrued benefits, regardless of whether they have actually begun to receive benefits. This system shall be considered specifically to provide for such post-retirement adjustments. For any limitation year beginning after separation from service occurs, the annual adjustment factor is a fraction, the numerator of which is the adjusted dollar limitation for the limitation year in which the compensation limitation is being adjusted and the denominator of which is the adjusted dollar limitation for the limitation year in which the member separated from service. No adjustment shall be permitted with respect to limitations applicable after October 14, 1987.

8. - 10. ...

a. For purposes of R.S. 11:1942, 1962, and 1972, average compensation shall include any amounts properly considered as the regular rate of pay of the member, as defined in R.S. 11:231 and unreduced by amounts excluded

from income for federal income tax purposes by reason of 26 U.S.C.A. §§125, 132(f), 402(a)(8), 402(h)(1)(B), 403(b), 414(h), or 457 or any other provision of federal law of similar effect.

b. For purposes of Subsection D, average compensation shall include total compensation payable by the employer and included in the employee's income for federal income tax purposes and shall exclude amounts not includable in the member's gross income by reason of 26 U.S.C.A. §§125, 132(f), 402(a)(8), 402(h)(1)(B), 403(b), 414(h) and 457 or any other provision of federal law. A member's highest three years shall be the period of consecutive calendar years (not more than three) during which the member both was an active participant in the plan and had the greatest aggregate compensation from the employer.

11. - 11.b. Repealed.

12. ...

E. All member contributions required to be made to this system shall be considered for tax purposes as contributions made pursuant to Internal Revenue Code Section 414(h)(2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:510 (March 2004), amended LR 30:1493 (July 2004).

Thomas B. Sims
Administrative Director
and
Dainna S. Tully
Assistant Director

0407#037

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2004-2005 Resident Game Hunting Season
(LAC 76:XIX.101 and 103)

The Wildlife and Fisheries Commission does hereby promulgate rules and regulations governing the hunting of resident game birds and game quadrupeds.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§101. General

A. The Resident Game Hunting Season, 2004-2005 regulations are hereby adopted by the Wildlife and Fisheries Commission. A complete copy of the regulation pamphlet may be obtained from the department.

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 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), LR 30:1493 (July 2004).

§103. Resident Game Birds and Animals 2004-2005

A. Shooting hours. One-half hour before sunrise to one-half hour after sunset.

B. Consult regulation pamphlet for seasons or specific regulations on Wildlife Management Areas or specific localities.

| Species | Season Dates | Daily Bag Limit | Possession Limit |
|----------|-----------------|---|-------------------------------------|
| Quail | Nov. 13-Feb. 28 | 10 | 20 |
| Rabbit | Oct. 2-Feb. 28 | 8 | 16 |
| Squirrel | Oct. 2-Feb.28 | 8 | 16 |
| Deer | See Schedule | 1 antlered and 1 antlerless (when legal on private lands) | 6/season (Only two may be antlered) |

C. Deer Hunting Schedule

| Area | Archery | Muzzleloader (All Either Sex) | Still Hunt (No Dogs allowed) | With or Without Dogs |
|------|--|---|---------------------------------|----------------------|
| 1 | Oct. 1-Jan. 31 | Nov. 13-Nov. 19 Jan. 24-Jan. 30 | Nov. 20-Dec.3 Jan. 10-Jan.23 | Dec. 4-Jan.9 |
| 2 | Oct. 1-Jan. 31 | Oct. 23-Oct. 29 Jan. 17-Jan.23 | Oct. 30-Dec.3 | Dec. 4-Jan. 16 |
| 3 | Sept.18-Jan. 15 | Oct. 9-Oct.15 Nov.29-Dec. 3 | Oct.16-Nov.28 Dec. 4-Jan. 9 | |
| 4 | Oct. 1-Jan. 31 | Nov. 6-Nov. 12 Jan. 10-Jan. 19 | Nov.13-Jan. 9 | |
| 5 | Oct. 1-Jan. 31 | Nov. 13-Nov. 19 Dec. 27-Jan. 2 Bucks Only | Nov.26-Dec.12 | |
| 6 | Oct. 16-Feb. 15 North of Hwy. 90; Oct. 1-Jan. 31 South of Hwy. 90 | Oct. 30-Nov. 5 Jan. 24-Jan. 31 | Nov.6-Dec.10 | Dec.11-Jan.23 |
| 7 | Oct. 1-Jan. 31 | Oct. 9-Oct. 15 Nov. 6-Nov. 12 | Oct.16-Nov. 5 Nov.13-Nov.28 | Nov.29-Jan. 2 |
| 8 | Sept.18-Jan. 15 | Oct. 9-Oct. 15 Nov. 29-Dec. 3 | Oct.16-Nov.28 | Dec. 4-Jan. 9 |

D. Modern Firearm Schedule (Either Sex Seasons)

| Parish | Area | Modern Firearm Either-Sex Days |
|------------|--------|---|
| Acadia | Area 3 | Oct. 16-17, 23-24, 30-31, Nov. 6-7, 13-14, 20-28, Dec. 4-5 |
| Allen | Area 2 | Oct. 30-31, Nov. 6-7, 13-14, 20-28, Dec. 4-5, 25-26, Jan. 1-2 |
| | Area 3 | Oct. 16-17, 23-24, 30-31, Nov. 6-7, 13-14, 20-28, Dec. 4-5 |
| Ascension | Area 6 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| Assumption | Area 6 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| Avoyelles | Area 2 | Oct. 30-31, Nov. 20-21, 26-28, Dec. 4-5, 25-26, Jan. 1-2 |
| | Area 6 | Nov. 20-21, 26-28, Dec. 4-5 |
| Beauregard | Area 2 | Oct. 30-31, Nov. 6-7, 13-14, 20-28, Dec. 4-5, 25-26, Jan. 1-2 |
| | Area 3 | Oct. 16-17, 23-24, 30-31, Nov. 6-7, 13-14, 20-28, Dec. 4-5 |
| | Area 8 | Oct. 16-17, 23-24, 30-31, Nov. 6-7, 13-14, 20-28, Dec. 4-5 |
| Bienville | Area 2 | Oct. 30-Nov. 7, 13-14, 20-28, Dec. 4-5, 25-26, Jan. 1-2 |
| Bossier | Area 2 | Oct. 30-Nov. 7, 13-14, 20-28, Dec. 4-5, 25-26, Jan. 1-2 |

| Parish | Area | Modern Firearm Either-Sex Days |
|------------------|----------------|---|
| Caddo | Area 2 | Oct. 30-Nov. 7, 13-14, 20-28, Dec. 4-5, 25-26, Jan. 1-2 |
| Calcasieu | Area 3 | Oct. 16-17, 23-24, 30-31, Nov. 6-7, 13-14, 20-28, Dec. 4-5 |
| | Area 8 | Oct. 16-17, 23-24, 30-31, Nov. 6-7, 13-14, 20-28, Dec. 4-5 |
| Caldwell | Area 2 | Oct. 30-31, Nov. 20-21, 26-28, Dec. 4-5, 11-12, 25-26, Jan. 1-2 |
| Cameron | Area 3 | Oct. 16-17, 23-24, 30-31, Nov. 6-7, 13-14, 20-28, Dec. 4-5 |
| Catahoula | Area 1 | Nov. 20-21, 26-28, Dec. 4-5, 11-12 |
| | Area 2 | Oct. 30-31, Nov. 20-21, 26-28, Dec. 4-5, 11-12, 25-26, Jan. 1-2 |
| Claiborne | Area 2 | Oct. 30-Nov. 7, 13-14, 20-28, Dec. 4-5 |
| Concordia | Area 1 | Nov. 20-21, 24-28, Dec. 4-5, 11-12, 18-19, 25-26, Jan. 1-2 |
| DeSoto | Area 2 | Oct. 30-Nov. 7, 13-14, 20-28, Dec. 4-5, 25-26, Jan. 1-2 |
| East Baton Rouge | Area 1 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| East Carroll | Area 4 portion | Nov. 13-14, 20-21, 26-28, Dec. 4-5, 11-12, 18-19, east of mainline Mississippi River Levee and south and east of La. 877 from West Carroll Parish line to La. 580, south of La. 580 to U.S. 65, west of U.S. 65 to Madison Parish line. |
| | Area 4 | Nov. 13-14, 26-28, remainder of the parish |
| East Feliciana | Area 1 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| Evangeline | Area 2 | Oct. 30-31, Nov. 6-7, 13-14, 20-28, Dec. 4-5, 25-26, Jan. 1-2 |
| | Area 6 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| Franklin | Area 1 | Nov. 20-21, 24-28, Dec. 4-5 |
| Grant | Area 1 | Nov. 20-21, 24-28, Dec. 4-5 |
| | Area 2 | Oct. 30-31, Nov. 6-7, 13-14, 20-21, 26-28, Dec. 4-5, 25-26, Jan. 1-2 |
| Iberia | Area 3 | Oct. 16-17, 23-24, 30-31, Nov. 6-7, 13-14, 20-28, Dec. 4-5 |
| | Area 6 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| | Area 7 | Oct. 16-17, Nov. 13-14, 20-21, 26-28, Dec. 4-5 |
| Iberville | Area 6 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| Jackson | Area 2 | Oct. 30-31, Nov. 6-7, 13-14, 20-28, Dec. 4-5, 25-26, Jan. 1-2 |
| Jefferson | Area 6 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| Jefferson Davis | Area 2 | Oct. 30-31, Nov. 6-7, 13-14, 20-28, Dec. 4-5, 25-26, Jan. 1-2 |
| | Area 3 | Oct. 16-17, 23-24, 30-31, Nov. 6-7, 13-14, 20-28, Dec. 4-5 |
| Lafayette | Area 3 | Oct. 16-17, 23-24, 30-31, Nov. 6-7, 13-14, 20-21, 26-28, Dec. 4-5 |
| | Area 6 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| Lafourche | Area 6 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| LaSalle | Area 1 | Nov. 20-21, 26-28, Dec. 4-5 |
| | Area 2 | Oct. 30-31, Nov. 20-21, 26-28, Dec. 4-5, 25-26, Jan. 1-2 |
| Lincoln | Area 2 | Oct. 30-31, Nov. 6-7, 13-14, 20-28, Dec. 4-5, 25-26, Jan. 1-2 |
| Livingston | Area 1 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| | Area 6 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| Madison | Area 1 | Nov. 20-21, 24-28, Dec. 4-5, 11-12, 18-19, 25-26, Jan. 1-2 |
| Morehouse | Area 2 | Oct. 30-31, Nov. 6-7, 13-14, 20-28, Dec. 4-5, 25-26, Jan. 1-2 |
| | Area 4 | Nov. 13-14, 20-21, 26-28 |
| Natchitoches | Area 2 | Oct. 30-31, Nov. 6-7, 13-14, 20-21, 26-28, Dec. 4-5, 25-26, Jan. 1-2 |
| Orleans | | Closed to all deer hunting |
| Ouachita | Area 2 | Oct. 30-31, Nov. 6-7, 13-14, 20-28, Dec. 4-5, 25-26, Jan. 1-2 |
| | Area 4 | Nov. 13-14, 20-21, 26-28 |
| Plaquemines | Area 6 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| Pointe Coupee | Area 6 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |

| Parish | Area | Modern Firearm Either-Sex Days |
|------------------|--------|--|
| Rapides | Area 1 | Nov. 20-21, 24-28, Dec. 4-5 |
| | Area 2 | Oct. 30-31, Nov. 6-7, 13-14, 20-21, 26-28, Dec. 4-5, 25-26, Jan. 1-2 |
| | Area 3 | Oct. 16-17, 23-24, 30-31, Nov. 6-7, 13-14, 20-21, 26-28, Dec. 4-5 |
| | Area 6 | Nov. 20-21, 24-28, Dec. 4-5 |
| Red River | Area 2 | Oct. 30-Nov. 7, 13-14, 20-28, Dec. 4-5, 25-26, Jan. 1-2 |
| Richland | Area 4 | Nov. 13-14, 20-21, 26-28 |
| Sabine | Area 2 | Oct. 30-31, Nov. 6-7, 13-14, 20-21, 26-28, Dec. 4-5, 25-26, Jan. 1-2 |
| St. Bernard | Area 6 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| St. Charles | Area 6 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| St. Helena | Area 1 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| St. James | Area 6 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| St. John | Area 6 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| St. Landry | Area 3 | Oct. 16-17, Nov. 26-28, Dec. 4-5 |
| | Area 6 | Nov. 20-21, 26-28, Dec. 4-5 |
| St. Martin | Area 6 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| St. Mary | Area 6 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| | Area 7 | Oct. 16-17, Nov. 13-14, 20-21, 26-28, Dec. 4-5 |
| St. Tammany | Area 1 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| | Area 6 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| Tangipahoa | Area 1 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| | Area 6 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| Tensas | Area 1 | Nov. 20-21, 24-28, Dec. 4-5, 11-12, 18-19 |
| Terrebonne | Area 6 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| | Area 7 | Oct. 16-17, Nov. 13-14, 20-21, 26-28, Dec. 4-5 |
| Union | Area 2 | Oct. 30-31, Nov. 6-7, 13-14, 20-28, Dec. 4-5, 25-26, Jan. 1-2 |
| Vermilion | Area 3 | Oct. 16-17, 23-24, 30-31, Nov. 6-7, 13-14, 20-28, Dec. 4-5 |
| Vernon | Area 2 | Oct. 30-31, Nov. 6-7, 13-14, 20-28, Dec. 4-5, 25-26, Jan. 1-2 |
| | Area 3 | Oct. 16-17, 23-24, 30-31, Nov. 6-7, 13-14, 20-28, Dec. 4-5 |
| Washington | Area 1 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| Webster | Area 2 | Oct. 30-Nov. 7, 13-14, 20-28, Dec. 4-5, 25-26, Jan. 1-2 |
| West Baton Rouge | Area 6 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| West Carroll | Area 5 | Nov. 26 |
| West Feliciana | Area 1 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| | Area 6 | Nov. 20-21, 24-28, Dec. 4-5, 11-12 |
| Winn | Area 2 | Oct. 30-31, Nov. 6-7, 13-14, 20-21, 26-28, Dec. 4-5, 25-26, Jan. 1-2 |

E. Farm Raised White-Tailed Deer on Supplemented Shooting Preserves

| Archery | Modern Firearm | Either Sex |
|--------------------------------|----------------|----------------------------------|
| Oct. 1-Jan. 31 (Either Sex) | Nov. 1-Jan. 31 | Nov. 1-7 Dec. 1-7 Jan. 1-7 |

F. Exotics on Supplemented Shooting Preserves: Either Sex, no closed season.

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 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR 25:1526 (August 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR

29:1122 (July 2003), repromulgated LR 29:1521 (August 2003), LR 30:1494 (July 2004).

Bill A. Busbice, Jr.
Chairman

0407#032

RULE

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

**General and Wildlife Management Area (WMA) Hunting
(LAC 76:XIX.111)**

The Wildlife and Fisheries Commission does hereby promulgate rules and regulations governing the hunting of resident game birds and game quadrupeds.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

**§111. General and Wildlife Management Area
Hunting Rules and Regulations**

A. Hunting Seasons and Wildlife Management Area Regulations

1. The rules and regulations contained within this digest have been officially approved and adopted by the Wildlife and Fisheries Commission under authority vested by Sections 115 and 116 of Title 56 of the Louisiana Revised Statutes of 1950 and are in full force and effect in conjunction with all applicable statutory laws. The Secretary of the Department of Wildlife and Fisheries has the authority to close or alter seasons in emergency situations in order to protect fish and wildlife resources.

2. Pursuant to Section 40.1 of Title 56 of the Louisiana Revised Statutes of 1950, the Wildlife and Fisheries Commission has adopted monetary values which are assigned to all illegally taken, possessed, injured or destroyed fish, wild birds, wild quadrupeds and other wildlife and aquatic life. Anyone taking, possessing, injuring or destroying fish, wild birds, wild quadrupeds and other wildlife and aquatic life shall be required to reimburse the Department of Wildlife and Fisheries a sum of money equal to the value of the wildlife illegally taken, possessed, injured or destroyed. This monetary reimbursement shall be in addition to any and all criminal penalties imposed for the illegal act.

B. Resident Game Birds and Animals

1. Shooting hours: one-half hour before sunrise to one-half hour after sunset.

C. Other Season Dates

1. Turkey. Please refer to separate pamphlet.

2. Raccoon and Opossum. No closed season. Raccoon and opossum can be taken at night by one or more licensed hunters with one or more dogs and one .22 rimfire firearm. A licensed hunter may take raccoon or opossum with .22 rimfire rifle, .36 caliber or smaller muzzleloader rifle or shotgun during daylight hours during the open rabbit season.

Hunting from boats or motor vehicles is prohibited. No bag limit for nighttime or daytime raccoon or opossum hunting during the open trapping season except on certain WMAs as listed. The remainder of the year, the raccoon and opossum bag limit for daytime or nighttime is one per person per day or night. No one who hunts raccoons or opossums as prescribed above shall pelt during the closed trapping season nor sell skins or carcasses of raccoons and opossums taken during the open trapping season unless he is the holder of a valid trapping license which shall be required in addition to his basic hunting license. Pelting or selling carcasses is illegal during closed trapping season.

3. Nutria. On WMAs and private property nutria may be taken recreationally by licensed hunters from September 1 through February 28 during legal shooting hours by any legal hunting method with a daily limit of five. When taken with a shotgun, steel shot must be used. On WMAs during waterfowl seasons, nutria may be taken only with the use of shotguns with shot no larger than F steel, and during gun deer seasons, anyone taking nutria must display 400 square inches of "Hunter Orange" and wear a "Hunter Orange" cap or hat. Recreational nutria hunters must remove each nutria carcass in whole condition from the hunting area, except that nutria may be gutted. Possession of detached nutria parts, including nutria tails, by recreational hunters is illegal. Nutria harvested recreationally may not be pelted nor may such nutria be sold, including the tail. Trespassing upon private property for the purpose of taking nutria or other furbearing animals is punishable by fines and possible jail time (R.S. 56:265). The Coastwide Nutria Control Program is a separate program and is in no way related to the nutria recreational season. For questions on the Coastwide Nutria Control Program, call the New Iberia office (337) 373-0032.

4. Blackbirds and Crows. The season for crows shall be September 1 through January 2 with no limit; however crows, blackbirds, cowbirds and grackles may be taken year round during legal shooting hours if they are depredating or about to depredate upon ornamentals or shade trees, agricultural crops, livestock, wildlife, or when concentrated in such numbers as to cause a health hazard. Louisiana has determined that the birds listed above are crop depredators and that crows have been implicated in the spread of the West Nile virus in humans.

5. Pheasant. Closed.

6. Falconry. Special permit required. Resident and migratory game species except turkeys may be taken. Seasons and bag limits are the same as for statewide and WMA regulations except squirrels may be taken by licensed falconers until the last day of February. Refer to LAC 76:V.301 for specific Falconry Rules.

7. Licensed Hunting Preserve. October 1 - April 30. Pen-raised birds only. No limit entire season. Refer to LAC 76:V.305 for specific Hunting Preserve Rules.

8. Deer Management Assistance Program (DMAP). Land enrolled in the voluntary program will be assessed a \$25 registration fee and 54acre fee. Deer management assistance tags must be in the possession of the hunter and attached and locked to antlerless deer (including those taken on either-sex days and those taken with bow or muzzleloader) through the hock in a manner that it cannot be removed before the deer is transported. Failure to do so is a violation of R.S. 56:115. Failing to follow DMAP rules and

regulations may result in suspension and cancellation of the program on those lands involved. Refer to LAC 76:V.111 for specific DMAP Rules.

9. Farm Raised White-tailed Deer and Exotics on Licensed Supplemented Shooting Preserves

a. Definitions

Exotics For purposes of this Rule means any animal of the family Bovidae (except the Tribe Bovini [cattle]) or Cervidae which is not indigenous to Louisiana and which is confined on a Supplemented Hunting Preserve. Exotics shall include, but are not limited to, fallow deer, red deer, elk, sika deer, axis deer, and black buck antelope.

Hunting In its different tenses and for purposes of this rule means to take or attempt to take, in accordance with R.S. 56:8.

Same as Outside For purposes of this Rule means hunting on a Supplemented Hunting Preserve must conform to applicable statutes and rules governing hunting and deer hunting, as provided for in Title 56 of the Louisiana Revised Statutes and as established annually by the Wildlife and Fisheries Commission (LWFC).

Supplemented Hunting Preserve For purposes of this Rule means any enclosure for which a current Farm-Raising License has been issued by the Department of Agriculture and Forestry (LDAF) with concurrence of the Department of Wildlife and Fisheries (LDWF) and is authorized in writing by the LDAF and LDWF to permit hunting.

White-tailed Deer For purposes of this Rule means any animal of the species *Odocoileus virginianus* which is confined on a Supplemented Hunting Preserve.

b. Seasons

i. Farm-Raised White-tailed Deer: Consult the regulations pamphlet.

ii. Exotics: year round.

c. Methods of Take

i. White-tailed Deer: Same as outside.

ii. Exotics: Exotics may be taken with longbow (including compound bow) and arrow; shotguns not larger than 10 gauge, loaded with buckshot or rifled slug; handguns and rifles no smaller than .22 caliber centerfire; or muzzleloading rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, using black powder or an approved substitute only, and using ball or bullet projectile, including sabot bullets only.

d. Shooting Hours

i. White-tailed Deer: Same as outside.

ii. Exotics: one-half hour before sunrise to one-half hour after sunset.

e. Bag Limit

i. Farm-Raised White-tailed Deer: Same as outside.

ii. Exotics: No limit.

f. Hunting Licenses

i. White-tailed Deer: Same as outside.

ii. Exotics: No person shall hunt any exotic without possessing a valid basic and big game hunting license.

g. Tagging. White-tailed Deer and Exotics: Each animal shall be tagged in the left ear or left antler immediately upon being killed and before being moved from

the site of the kill with a tag provided by the LDAF. The tag shall remain with the carcass at all times.

10. Bobcat. The hunting of bobcats will be legal only during the open deer season in all deer hunting areas. The legal shooting hours and the legal methods for the taking of bobcats shall be the same as defined for the taking of deer. License requirements shall also be the same for deer. The season limit shall be one.

D. Hunting-General Provisions

1. A basic resident or non-resident hunting license is required of all persons to hunt, take, possess or cause to be transported by any other person any wild bird or quadruped. See information below for exceptions.

2. All persons born on or after September 1, 1969 must show proof of satisfactorily completing a Hunter Safety course approved by LDWF to purchase a Basic Hunting License, except any active or veteran member of the United States armed services or any POST-certified law enforcement officer. Application for the exemption shall be filed in person at the Department of Wildlife and Fisheries main office building in the city of Baton Rouge. A person younger than 16 years of age may hunt without such certificate if he is accompanied by, and is under the direct supervision of a person 18 years of age or older, except during a statewide youth deer hunt, the youth must have satisfactorily completed a Hunter Safety course approved by LDWF to participate.

3. A big game license is required in addition to the basic hunting license to hunt, take, possess or cause to be transported any deer or turkey. A separate wild turkey stamp is required in addition to the basic hunting license and the big game license to hunt, take, possess or cause to be transported any turkey.

4. Taking game quadrupeds or birds from aircraft or participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

5. Methods of Taking Resident Game Birds and Quadrupeds

a. It is illegal to intentionally feed, deposit, place, distribute, expose, scatter, or cause to be fed, deposited, placed, distributed, exposed, or scattered raw sweet potatoes to wild game quadrupeds.

b. Use of a longbow (including compound bow) and arrow or a shotgun not larger than a 10 gauge fired from the shoulder without a rest shall be legal for taking all resident game birds and quadrupeds. Also, the use of a handgun, rifle and falconry (special permit required) shall be legal for taking all game species except turkey. It shall be illegal to hunt or take squirrels or rabbits at any time with a breech-loaded rifle or handgun larger than a .22 caliber rimfire or a muzzleloader rifle larger than .36 caliber. During closed deer gun season, it shall be illegal to possess shotgun shells loaded with slugs or shot larger than BB lead or F steel shot while small game hunting.

c. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs is prohibited when or where a still hunting season or area is designated, and will be strictly enforced. Shotguns larger than 10 gauge or capable of holding more than three shells shall be prohibited. Plugs used in shotguns must be incapable of being removed

without disassembly. Refer to game schedules contained within these regulations for specific restrictions on the use of firearms and other devices.

6. Nuisance animals. Landowners or their designees may remove beaver and nutria causing damage to their property without a special permit. Water set traps and firearms may be used to remove beaver; nutria may be removed by any means except that nutria cannot be taken by the use of headlight and gun between the hours of sunset and sunrise. With a special permit issued by the department, beavers may be taken between one-half hour after official sunset to one-half hour before official sunrise for a period of three consecutive calendar evenings from the effective date of the permit. For specific details contact a regional office near you. Any nuisance beaver or nutria trapped or shot outside open trapping season cannot be pelted or sold. A trapping license is required to sell or pelt nuisance beavers or nutria taken during open trapping season. Squirrels found destroying commercial crops of pecans may be taken year-round by permit issued by the department. This permit shall be valid for 30 days from the date of issuance. Contact the local regional office for details.

7. Threatened and endangered species Louisiana black bear, Louisiana pearl shell (mussel), sea turtles, gopher tortoise, ringed sawback turtle, brown pelican, bald eagle, peregrine falcon, whooping crane, Eskimo curlew, piping plover, interior least tern, ivory-billed woodpecker, red-cockaded woodpecker, Bachman's warbler, West Indian manatee, Florida panther, pallid sturgeon, Gulf sturgeon, Attwater's greater prairie chicken, whales and red wolf. Taking or harassment of any of these species is a violation of state and federal laws.

8. Unregulated quadrupeds. Holders of a legal hunting license may take coyotes, unmarked hogs where legal, and armadillos year round during legal daylight shooting hours. The running of coyotes with dogs is prohibited in all turkey hunting areas during the open turkey season. Coyote hunting is restricted to "chase only" during still hunting segments of the firearm and archery only season for deer. Foxes are protected quadrupeds and may be taken only with traps by licensed trappers during the trapping season. Remainder of the year "chase only" allowed by licensed hunters.

9. Hunting and/or discharging firearms on public roads. Hunting, standing, loitering or shooting game quadrupeds or game birds with a gun during open season while on a public highway or public road right-of-way is prohibited. Hunting or the discharge of firearms on roads or highways located on public levees or within 100 feet from the centerline of such levee roads or highways is prohibited. Spot lighting or shining from public roads is prohibited by state law. Hunting from all public roads and rights-of-way is prohibited and these provisions will be strictly enforced.

10. Tags. Any part of the deer or wild turkey divided shall have affixed thereto the name, date, address and big game license number of the person killing the deer or wild turkey and the sex of that animal. This information shall be legibly written in pen or pencil, on any piece of paper or cardboard or any material, which is attached or secured to or enclosing the part or parts. On lands enrolled in DMAP, deer management assistance tags must be attached and locked through the hock of antlerless deer, (including those taken with bow, muzzleloader and those antlerless deer taken on

either-sex days) in a manner that it cannot be removed, before the deer is moved from the site of the kill.

11. Sex identification. Positive evidence of sex identification, including the head, shall remain on any deer taken or killed within the state of Louisiana, or on all turkeys taken or killed during any special gobbler season when killing of turkey hens is prohibited, so long as such deer or turkey is kept in camp or field, or is in route to the domicile of its possessor, or until such deer or turkey 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.

E. General Deer Hunting Regulations

1. One antlered and one antlerless (when legal on private lands) deer per day except on Wildlife Management Areas, Federal Refuges and National Forest Lands where the daily limit shall be one deer per day. Six per season (all segments included) by all methods of take.

2. A legal buck is a deer with visible antler of hardened bony material, broken naturally through the skin. Killing bucks without at least one visible antler as described above and killing does is prohibited except where specifically allowed and except in West Baton Rouge and Pointe Coupee Parishes, that portion of Iberville Parish west of the Mississippi River including the Sherburne Wildlife Management Complex and those private lands which are totally surrounded by the Sherburne Complex where a legal buck shall be defined as a deer with at least 6 points or a deer with both spikes three inches long or less. To be counted as a point, a projection must be at least one inch long and its length must exceed the length of its base. The beam tip is counted as a point but not measured as a point.

3. Deer hunting restricted to legal bucks only, except where otherwise allowed.

4. Either-sex deer is defined as male or female deer. Taking or possessing spotted fawns is prohibited.

5. It is illegal to hunt or shoot deer with firearms smaller than .22 caliber centerfire or a shotgun loaded with anything other than buckshot or rifled slug. Handguns may be used for hunting.

6. Taking game quadrupeds or birds from aircraft, participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

7. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs or moving vehicles, including ATVs, when or where a still hunting season or area is designated, is prohibited and will be strictly enforced. The training of deer dogs is prohibited in all still hunting areas during the gun still hunting and archery only season. Deer hunting with dogs is allowed in all other areas having open deer seasons that are not specifically designated as still hunting only. Except in wildlife management areas, a leashed dog may be used to trail and retrieve wounded or unrecovered deer during legal hunting hours. Any dog used to trail or retrieve wounded or unrecovered deer shall have on a collar with owner's name, address, and phone number. In addition, a dog may be used to trail and retrieve unrecovered deer after legal hunting hours; however, no person accompanying a dog after legal hunting hours may carry a firearm of any sort.

8. Areas not specifically designated as open are closed.

9. Muzzleloader Segment: (Special license and muzzleloader firearms specifications apply only to the special state, WMA, National Forest and Preserves, and Federal Refuge seasons.) Still hunt only. Specific WMAs will also be open, check WMA schedule for specific details. Muzzleloader license required for resident hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all deer hunting areas except Area 5 and as specified on Public Areas. It is unlawful to carry a gun, other than a muzzleloader, including those powered by air or other means, while hunting during the special muzzleloader segment. Except, it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot only).

a. Legal Muzzleloader Firearms for Special Season: Rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, use black powder or approved substitute only, take ball or bullet projectile only, including sabot bullets and may be fitted with magnified scopes. This includes muzzleloaders known as "inline" muzzleloaders.

10. Archery Segment: Consult regulations pamphlet. WMA seasons are the same as outside except as noted below. Archery license required for resident bow hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Residents 60 years of age and older may use a crossbow without a special permit or license. Either-sex deer may be taken in all areas open for deer hunting except when a bucks only season is in progress for gun hunting, archer's must conform to the bucks only regulations. Either-sex deer may be taken on WMAs at anytime during archery season except when bucks only seasons are in progress on the respective WMA. Also, archery season restricted on Atchafalaya Delta, Salvador, Lake Boeuf, and Pointe-aux-Chenes WMAs (see schedule).

a. Bow and arrow regulations: Hunting arrows for deer must have well-sharpened metal broadhead blades not less than 7/8 inch in width. Bow and arrow fishermen must have a sport fishing license and not carry any arrows with broadhead points unless a big game season is in progress.

i. It is unlawful:

(a). to carry a gun, including those powered by air or other means, while hunting with bow and arrow during the special bow and arrow deer season except it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot) only.

(b). to have in possession or use any poisoned or drugged arrow, arrows with explosive tips, or any bow drawn, held or released by mechanical means except that hand held releases are lawful.

(c). to hunt deer with a bow having a pull less than 30 pounds.

(d). to hunt with a bow or crossbow fitted with an infrared or laser sight.

11. Hunter orange. Any person hunting deer shall display on his head, chest and/or back a total of not less than 400 square inches of "hunter orange" during the open deer gun season including muzzleloader season. Persons hunting

on privately owned, legally posted land may wear a hunter orange cap or hat in lieu of the 400 square inches. These provisions shall not apply to persons hunting deer from elevated stands on property that is privately owned and legally posted or to archery deer hunters hunting on legally posted lands where firearm hunting is not allowed by agreement of the landowner or lessee. However, anyone hunting deer on such lands where hunting with firearms is allowed shall be required to display the 400 square inches or a hunter orange cap or hat while walking to and from elevated stands. While a person is hunting from an elevated stand, the 400 square inches or cap or hat may be concealed. Warning: deer hunters are cautioned to watch for persons hunting other game or engaged in activities not requiring "hunter orange."

12. Special Handicapped Either-sex Deer Season on Private Land. See regulations pamphlet for dates. Restricted to individuals with Physically Challenged Hunter Permit.

13. Special Youth Deer Hunt on Private Lands (Either-Sex). See regulations pamphlet for dates. Youth must be under the age of 16, must have proof of successfully completing a department approved hunter safety course, and must be accompanied by an adult licensed to hunt big game. In West Baton Rouge and Pointe Coupee Parishes and that portion of Iberville Parish west of the Mississippi River antler restrictions for bucks shall be waived.

F. Description of Areas

1. Area 1

a. All of the following parishes are open: Concordia, East Baton Rouge, East Feliciana, Franklin, Madison, St. Helena, Tensas, Washington.

b. Portions of the following parishes are also open:

i. Catahoula **C**All except that portion lying west of Boeuf River from Caldwell parish line to Ouachita River, north and east of Ouachita River to La. 559 at Duty Ferry, west of La. 559 to La. 124 North and west of La. 124 westward to LaSalle parish line.

ii. Grant **C**East of U.S. 165 and south of La. 8.

iii. LaSalle **C**Portion south of La. 8 from Little River eastward to La. 127 in Jena, east of La. 127 from Jena northward to U.S. 165, east of U.S. 165 from La. 127 northward to La. 124. South of La. 124 eastward to Catahoula Parish line.

iv. Livingston **C**North of I-12.

v. Rapides **C**East of U.S. 165 and north of Red River.

vi. St. Tammany **C**All except that portion south of I-12, west of Hwy. 1077 to La. 22, south of La. 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

vii. Tangipahoa **C**North of I-12.

viii. West Feliciana **C**All except that portion known as Raccourci and Turnbull Island.

c. Still hunting only in all or portions of the following parishes:

i. Catahoula **C**South of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to La. 8 at Harrisonburg, west of La. 8 to La. 913, west of La. 913 and La. 15 to Deer Creek.

ii. East Feliciana and East Baton Rouge **C**East of Thompson Creek from the Mississippi state line to La. 10. North of La. 10 from Thompson Creek to La. 67 at Clinton,

west of La. 67 from Clinton to Mississippi state line. South of Mississippi state line from La. 67 to Thompson Creek. Also that portion of East Baton Rouge Parish east of La. 67 from La. 64 north to Parish Line, south of Parish Line from La. 64 eastward to Amite River. West of Amite River southward to La. 64, north of La. 64 to La. 37 at Magnolia, east of La. 37 northward to La. 64 at Indian Mound, north of La. 64 from Indian Mound to La. 67. Also, that portion of East Feliciana Parish east of La. 67 from parish line north to La. 959, south of La. 959 east to La. 63, west of La. 63 to Amite River, west of Amite River, southward to parish line, north of parish line westward to La. 67.

iii. Franklin **C**All

iv. St. Helena **C**North of La. 16 from Tickfaw River at Montpelier westward to La. 449, east and south of La. 449 from La. 16 at Pine Grove northward to La. 1045, south of La. 1045 from its junction with La. 449 eastward to the Tickfaw River, west of the Tickfaw River from La. 1045 southward to La. 16 at Montpelier.

v. Tangipahoa **C**That portion of Tangipahoa Parish north of La. 10 from the Tchefuncte River to La. 1061 at Wilmer, east of La. 1061 to La. 440 at Bolivar, south of La. 440 to the Tchefuncte River, west of the Tchefuncte River from La. 440 southward to La. 10.

vi. Washington and St. Tammany **C**East of La. 21 from the Mississippi state line southward to the Bogue Chitto River, north of the Bogue Chitto River from La. 21 eastward to the Pearl River Navigation Canal, east of the Pearl River Navigation Canal southward to the West Pearl River, north of the West Pearl River from the Pearl River Navigation Canal to Holmes Bayou, west of Holmes Bayou from the West Pearl River northward to the Pearl River, west of the Pearl River from Holmes Bayou northward to the Mississippi state line, south of the Mississippi state line from the Pearl River westward to La. 21. Also, that portion of Washington Parish west of La. 25 from the Mississippi state line southward to the Bogue Chitto River, then west of the Bogue Chitto River to its junction with the St. Tammany Parish line, north of the St. Tammany parish line to the Tangipahoa parish line, east of the Tangipahoa parish line to the Mississippi state line, south of the Mississippi state line to its junction with La. 25.

vii. West Feliciana **C**West of Thompson Creek to Illinois Central Railroad, north of Illinois Central Railroad to Parish Road #7, east of Parish Road #7 to the junction of U.S. 61 and La. 966, east of La. 966 from U.S. 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

2. Area 2

a. All of the following parishes are open:

i. Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Jackson, Lincoln, Natchitoches, Red River, Sabine, Union, Webster, Winn;

ii. except: Kisatchie National Forest which has special regulations. Caney, Corney, Middlefork tracts of Kisatchie have the same regulations as Area 2, except still hunting only for deer and except National Forest Land within the Evangeline Unit, Calcasieu Ranger District described in Area 2 description shall be still hunting only.

b. Portions of the following parishes are also open:

i. Allen **C**North of U.S. 190 and east of La. 113.

ii. Avoyelles **C**That portion west of I-49.

iii. Beauregard - East of La. 113.

iv. Catahoula **C** That portion lying west of Boeuf River from Caldwell parish line to Ouachita River, north and east of Ouachita River to La. 559 at Duty Ferry. West of La. 559 to La. 124. North and west of La. 124 westward to LaSalle parish line.

v. Evangeline **C** All except the following portions: east of I-49 to junction of La. 29, east of La. 29 south of I-49 to Ville Platte, and north of U.S. 167 east of Ville Platte.

vi. Grant **C** All except that portion south of La. 8 and east of U.S. 165.

vii. Jefferson Davis **C** North of U.S. 190.

viii. LaSalle **C** All except south of La. 8 from Little River eastward to La. 127 in Jena, east of La. 127 from Jena northward to U.S. 165, east of U.S. 165 from La. 127 northward to La. 124. South of La. 124 eastward to Catahoula Parish line.

ix. Morehouse **C** West of U.S. 165 (from Arkansas state line) to Bonita, north and west of La. 140 to junction of La. 830-4 (Cooper Lake Road), west of La. 830-4 to Bastrop, west of La. 139 to junction of La. 593, west and south of La. 593 to Collinston, west of La. 138 to junction of La. 134 and north of La. 134 to Ouachita line at Wham Brake.

x. Ouachita **C** All except south of U.S. 80 and east of Ouachita River, east of La. 139 from Sicard to junction of La. 134, south of La. 134 to Morehouse line at Wham Brake.

xi. Rapides **C** All except north of Red River and east of U.S. 165. South of La. 465 to junction of La. 121, west of La. 121 and La. 112 to Union Hill, and north of La. 113 from Union Hill to Vernon Parish line, and that portion south of Alexandria between Red River and U.S. 167 to junction of U.S. 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line.

xii. Vernon **C** East and south of La. 113, north and east of La. 465 west of La. 117 from Kurthwood to Leesville, and north of La. 8 from Leesville to Texas state line.

c. Still hunting only in all or portions of the following parishes:

i. Claiborne and Webster **C** Caney, Corney and Middlefork tracts of Kisatchie National Forest. (See Kisatchie National Forest Regulations).

ii. Ouachita **C** East of Ouachita River.

iii. Rapides **C** West of U.S. 167 from Alexandria southward to I-49 at Turkey Creek Exit, west of I-49 southward to Parish Line, north of Parish Line westward to U.S. 165, east of U.S. 165 northward to U.S. 167 at Alexandria. North of La. 465 from Vernon Parish line to La. 121, west of La. 121 to I-49, west of I-49 to La. 8, south and east of La. 8 to La. 118 (Mora Road), south and west of La. 118 to Natchitoches Parish line.

iv. Vernon **C** East of Mora-Hutton Road from Natchitoches Parish line to Hillman Loop Road, south and east of Hillman Loop Road to Comrade Road, south of Comrade Road to La. 465, east and north of La. 465 to Rapides Parish line.

3. Area 3

a. All of Acadia, Cameron and Vermilion Parishes are open.

b. Portions of the following parishes are also open:

i. Allen **C** South of U.S. 190 and west of La. 113.

ii. Beauregard **C** West of La. 113. ALSO east of La. 27 from the parish line north to DeRidder and north of U.S. 190 westward from DeRidder to Texas line.

iii. Calcasieu **C** South of U.S. 90 from Sulphur to Texas State line. Also east of La. 27 from Sulphur northward to the parish line.

iv. Iberia **C** West of U.S. 90 and north of La. 14.

v. Jefferson Davis **C** All except north of U.S. 190.

vi. Lafayette **C** West of I-49 and U.S. 90.

vii. Rapides **C** South of La. 465 to junction of La. 121, west of La. 121 and La. 112 to Union Hill and north of La. 113 from Union Hill to Vernon Parish line.

viii. St. Landry **C** West of U.S. 167.

ix. Vernon **C** West and north of La. 113, south of La. 465, east of La. 117 from Kurthwood to Leesville, and south of La. 8 from Leesville to Texas state line.

4. Area 4

a. All of East Carroll and Richland Parishes are open.

b. Portions of the following parishes are open:

i. Morehouse **C** East of U.S. 165 (from Arkansas state line) to Bonita, south and east of La. 140 to junction of La. 830-4 (Cooper Lake Road), east of La. 830-4 to Bastrop, east of La. 139 at Bastrop to junction of La. 593, east and north of La. 593 to Collinston, east of La. 138 to junction of La. 134 and south of La. 134 to Ouachita line at Wham Brake.

ii. Ouachita **C** South of U.S. 80 and east of Ouachita River, east of La. 139 from Sicard to junction of La. 134, south of La. 134 to Morehouse line at Wham Bake.

5. Area 5

a. All of West Carroll Parish is open.

6. Area 6

a. All of Orleans Parish is closed to all forms of deer hunting.

b. All of the following parishes are open: Ascension, Assumption, Iberville, Jefferson, Lafourche, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. James, St. John, St. Martin, West Baton Rouge.

c. Portions of the following parishes are also open:

i. Avoyelles **C** All except that portion west of I-49.

ii. Evangeline **C** That portion east of I-49 to junction of La. 29, east of La. 29 south of I-49 to Ville Platte and north of U.S. 167 east of Ville Platte.

iii. Iberia **C** East of U.S. 90.

iv. Lafayette **C** East of I-49 and U.S. 90.

v. Livingston **C** South of I-12.

vi. Rapides **C** South of Alexandria between Red River and U.S. 167 to the junction of U.S. 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.

vii. St. Landry **C** East of U.S. 167.

viii. St. Mary **C** North of U.S. 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intercoastal Waterway, north of Intercoastal Waterway eastward to Terrebonne Parish line.

ix. St. Tammany **C** That portion south of I-12, west of Hwy. 1077 to La. 22, south of La. 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

x. Tangipahoa **C** South of I-12.

xi. Terrebonne North of Intercoastal Waterway from St. Mary Parish line eastward to Houma, east of Houma Navigation Canal southward to the Gulf of Mexico.

xii. West Feliciana West of Mississippi River, known as Raccourci and Turnbull Islands.

d. Still hunting only in all or portions of the following parishes:

i. Avoyelles North of La. 1 from Simmesport westward to La. 115 at Marksville, east of La. 115 from Marksville northward to the Red River near Moncla, south and west of the Red River to La. 1 at Simmesport.

ii. Plaquemines East of the Mississippi River.

iii. Rapides South of Alexandria between Red River and U.S. 167 to the junction of U.S. 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.

iv. St. Bernard All of the parish shall be still hunting only except that portion of St. Bernard known as the spoil area between the MRGO on the east and Access Canal on the west, south of Bayou Bienvenue and north of Bayou la Loutre.

v. St. John South of Pass Manchac from Lake Pontchartrain to U.S. 51, east of U.S. 51 from Pass Manchac to La. 638 (Frenier Beach Road). North of La. 638 from U.S. 51 to Lake Pontchartrain. West of Lake Pontchartrain from La. 638 to Pass Manchac.

vi. St. Landry Those lands surrounding Thistlethwaite WMA bounded north and east by La. 359, west by La. 10, and south by La. 103.

7. Area 7

a. Portions of the following parishes are open:

i. Iberia - South of La. 14 and west of U.S. Hwy. 90.

ii. St. Mary - South of U.S. 90 from Iberia Parish line eastward to Wax Lake Outlet, west of Wax Lake Outlet southward to Intercoastal Waterway, south of Intercoastal Waterway from Wax Lake Outlet eastward to Terrebonne Parish line.

iii. Terrebonne South of Intercoastal Waterway from St. Mary Parish line eastward to Houma, west of Houma Navigation Canal southward to the Gulf of Mexico.

8. Area 8

a. Portions of the following parishes are open:

i. Beauregard That portion west of La. 27 from parish line northward to DeRidder, south of U.S. 190 from DeRidder to Texas state line;

ii. Calcasieu That portion west of La. 27 from the parish line southward to Sulphur and north of U.S. 90 from Sulphur to the Texas state line.

G. Wildlife Management Area Regulations

1. General

a. The following rules and regulations concerning the management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject individual to citation and/or expulsion from the management area.

b. Citizens are cautioned that by entering a WMA managed by the LDWF they may be subjecting themselves and/or their vehicles to game and/or license checks, inspections and searches.

c. Wildlife management area seasons may be altered or closed anytime by the department secretary in emergency situations (floods, fire or other critical circumstances).

d. Hunters may enter the WMA no earlier than 3 a.m. unless otherwise specified. On days when Daily permits are required, permit stations will open 2 hours before legal shooting hours. Hunters must check out and exit the WMA no later than two hours after sunset, or as otherwise specified.

e. Lands within WMA boundaries will have the same seasons and regulations pertaining to baiting and use of dogs as the WMA within which the lands are enclosed; however, with respect to private lands enclosed within a WMA, the owner or lessee may elect to hunt according to the regular season dates applicable to the geographic area in which the lands are located, provided that the lands are first enrolled in DMAP. Interested parties should contact the nearest LDWF regional office for additional information.

f. Dumping garbage or trash on WMAs is prohibited. Garbage and trash may be properly disposed of in designated locations if provided.

g. Disorderly conduct or hunting under influence of alcoholic beverages, chemicals and other similar substances is prohibited.

h. Damage to or removal of trees, shrubs, hard mast (acorn, pecans, etc.), wild plants and non-game wildlife (including reptiles and amphibians) is prohibited without prior approval from the Baton Rouge Office. Gathering and/or removal of soft fruits, mushrooms and berries shall be limited to five gallons per person per day.

i. Burning of marshes is prohibited. Hunting actively burning marsh prohibited.

j. Nature trails. Trails shall be limited to pedestrians only. No vehicles, ATVs, horses, mules, bicycles, etc. allowed. Removal of vegetation (standing or down) or other natural material prohibited.

k. Deer seasons are for legal buck deer unless otherwise specified.

l. Small game, when listed under the WMA regulations may include both resident game animals and game birds as well as migratory species of birds.

m. Oysters may not be harvested from any WMA, except that oysters may be harvested from private oyster leases and State Seed Grounds located within a WMA, when authorized by the Wildlife and Fisheries Commission and upon approval by the Department of Health and Hospitals.

n. Free ranging livestock prohibited.

2. Permits

a. A WMA Hunting Permit is required to hunt on WMAs.

b. Daily. Daily permits when required shall be obtained at permit stations on or near each WMA after first presenting a valid hunting license to a department employee. Hunters must retain permit in possession while hunting. Hunters may enter the area no earlier than two hours before legal shooting time unless otherwise specified. Hunters must checkout daily and exit the area not later than two hours after sunset unless otherwise specified.

c. Self-Clearing Permits. A Self-Clearing Permit is required for all activities (hunting, fishing, hiking, birdwatching, sightseeing, etc.) on WMAs unless otherwise

specified. The Self-Clearing Permit will consist of three portions: check in, check out and a Vehicle Tag. On WMAs where Self-Clearing Permits are required, all persons must obtain a WMA Self-Clearing Permit from an Information Station. The check in portion must be completed and put in a permit box before each day's activity on the day of the activity (except if hunting from a camp users need only to check in once during any 72 hour period). Users may check-in one day in advance of use. The check out portion must be carried by each person while on the WMA and must be completed and put in a permit box immediately upon exiting the WMA or within 72 hours after checking in if hunting from a camp. Each person must leave the Vehicle Tag portion of his permit on the dashboard of the vehicle used to enter into the WMA in such a way that it can be easily read from outside of the vehicle. This must be done only when the vehicle is parked and left unattended on the WMA. If an ATV, boat or other type vehicle was used to enter the WMA, then the vehicle tag must be attached to that vehicle in such a manner that it can be readily seen and read. No permit is required of fishers and boaters who do not travel on a WMA road and/or launch on the WMA as long as they do not get out of the boat and onto the WMA. When Mandatory Deer Checks are specified on WMAs, hunters must check deer at a check station. Call the appropriate Region office for the location of the deer check station on these WMAs. (Self-Clearing Permits are not required for persons only traveling through the WMA provided that the most direct route is taken and no activities or stops take place.)

d. Wild Louisiana Stamp. Persons using WMAs or other department administered lands for purposes other than hunting and fishing, such as camping, shooting on rifle ranges, berry picking, hiking, photography, bird-watching and the like, must possess one of the following: a valid Wild Louisiana stamp, a valid Louisiana fishing license, or a valid Louisiana hunting license. Persons younger than 16 or older than 60 years of age are exempt from this requirement.

3. Special Seasons

a. Youth Deer Hunt. Only youths younger than 16 years of age may hunt. All other seasons are closed except Handicapped Seasons. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of a hunter safety certification, a valid Louisiana hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. An adult may supervise only one youth during this special hunt. Contact the appropriate region office for special check station locations when daily permits are required and maps of specific hunting areas. Either-sex deer may be taken on WMAs with youth hunts. Consult the regulations pamphlet for WMAs offering youth hunts. NOTE: Some hunts may be by pre-application lottery.

b. Youth Mourning Dove Hunt. A youth mourning dove hunt will be conducted on specific WMAs and will follow the same regulations provided for youth deer hunts on the second weekend of the mourning dove season (Saturday

and Sunday only). Consult the regulations pamphlet for WMAs offering youth mourning dove hunts.

c. Handicapped Season. An either-sex deer season will be held for hunters possessing a Physically Challenged Hunter Permit on WMAs during the dates specified under the individual WMA. Participants must possess a Physically Challenged Hunter Permit. Contact region office for permit application and map of specific hunting area. Consult the regulations pamphlet for WMAs offering Handicapped Seasons. Pointe-aux-Chenes will have an experimental Lottery Handicapped waterfowl hunt. Contact New Iberia Office, Fur and Refuge Division for details.

d. Deer Lottery Hunts. Hunts restricted to those persons selected as a result of the pre-application lottery. Consult the regulations pamphlet for deadlines. A non-refundable application fee must be sent with application. Contact region offices for applications. Consult regulations pamphlet for WMAs offering lottery deer hunts.

e. Turkey Lottery Hunts. Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadlines. All turkeys must be reported at Self Clearing station. Contact Region Offices for more details. Consult separate turkey hunting regulations pamphlet for more details.

f. Waterfowl Lottery Hunts. Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadline. Consult regulations pamphlet for individual WMA schedules or contact any Wildlife Division Office for more details.

g. Mourning Dove Lottery Hunts. Consult regulations pamphlet for individual WMA schedules or contact any Wildlife Division Office for more details.

h. Trapping. Permits to take furbearers from WMAs may be obtained at appropriate offices when required. Consult Annual Trapping Regulations for specific dates. All traps must be run daily. Traps with teeth are illegal. On WMAs where permits are required, each trapper must submit an annual trapping report to the Region Office where his permit was obtained. Non-compliance will result in forfeiture of trapping privileges on the WMAs. Permits may be obtained only between hours of 8 a.m. to 4:30 p.m. on normal working days at region offices. Hunter orange required when a deer gun season is in progress. A permit is required to carry a firearm outside of the normal hunting season and is available at the Region Office.

i. Raccoon hunting. A licensed hunter may take raccoon or opossum, one per person per day, during daylight hours only, during the open rabbit season on WMAs. Nighttime Experimental **C**all nighttime raccoon hunting where allowed is with dogs only. There is no bag limit. Raccoon hunters with dogs must submit an annual report of their kill to the region office for WMAs where permits are required. Non-compliance will result in forfeiture of raccoon or all hunting privileges on WMAs. Permits, when required, may be obtained at region offices only between hours of 8 a.m. to 4:30 p.m. on normal working days.

j. Sport fishing. Sport fishing, crawfishing and frogging are allowed on WMAs when in compliance with current laws and regulations except as otherwise specified under individual WMA listings.

k. Additional Department Lands. The department manages additional lands that are included in the WMA

system and available for public recreation. Small tracts are located in Vernon, Evangeline, St. Helena and other parishes. These small tracts have been acquired from the Farmers Home Administration or other sources for conservation purposes. Contact the appropriate Wildlife and Fisheries Region Office for specific information and any additional season dates.

4. Firearms

a. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms are not allowed in or on vehicles, boats under power, motorcycles, ATVs, ATCs or in camping areas on WMAs. Firearms may not be carried on any area before or after permitted hours except in authorized camping areas and except as may be permitted for authorized trappers).

b. Firearms and bows and arrows are not allowed on WMAs during closed seasons except on designated shooting ranges or as permitted for trapping. Bows and broadhead arrows are not allowed on WMAs except during deer archery season, turkey season or as permitted for bowfishing.

c. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists except as specified under Wildlife Management Area listing.

d. Loaded firearms are not allowed near WMA check stations.

e. Centerfire rifles and handguns larger than .22 caliber rimfire, shotgun slugs or shot larger than BB lead or F steel shot cannot be carried onto any WMA except during modern firearm deer season.

f. Target shooting and other forms of practice shooting are prohibited on WMAs except as otherwise specified.

g. Discharging of firearms on or hunting from designated roads, ATV trails or their rights-of-way is prohibited during the modern firearm and muzzleloader deer season.

5. Methods of Taking Game

a. Moving deer or hogs on a WMA with organized drivers and standers, drivers or making use of noises or noise-making devices is prohibited.

b. On Wildlife Management Areas, Federal Refuges and National Forest Lands the daily limit shall be one deer per day. Six per season (all segments included) by all methods of take.

c. Baiting or hunting over bait is prohibited on all WMAs (hogs included). Unmarked hogs may be taken on some WMAs by properly licensed hunters from the beginning of archery season on the area until February 28 and only with guns/ammunition or bow and arrow legal for specified seasons in progress. Consult the specific WMA for additional information. Proper licenses and permits are required for hunting. Hogs may not be taken with the aid of dogs.

d. Hunters who kill deer on WMAs that require daily permits must have deer checked at the check station on same day of kill. Deer may not be skinned or have any external body parts removed including but not limited to feet, legs, tail, head or ears before being checked out.

e. Deer hunting on WMAs is restricted to still hunting only. No WMA will be open for deer during early still hunt season unless specified in the regulation pamphlet.

f. Construction of and/or hunting from permanent tree stands or permanent blinds on WMAs is prohibited. Any permanent stand or permanent blind will be removed and destroyed.

g. On Wildlife Management Areas and Refuges, all deer stands must be removed from the area no later than two hours after the end of legal shooting hours each day. Hunting from utility poles, high tension power lines, oil and gas exploration facilities or platforms is prohibited.

h. A permanent blind is any blind using non-natural materials or having a frame which is not dismantled within two hours after the end of legal shooting time each day. Blinds with frames of wood, plastic, metal poles, wire, mesh, webbing or other materials may be used but must be removed from the WMA within two hours after the end of legal shooting time each day. Blinds made solely of natural vegetation and not held together by nails or other metallic fasteners may be left in place but cannot be used to reserve hunting locations. All decoys must be removed from the WMA daily.

i. It is illegal to save or reserve hunting locations using permanent stands or blinds. Stands or blinds attached to trees with screws, nails, spikes, etc. are illegal.

j. Tree climbing spurs, spikes or screw-in steps are prohibited.

k. Unattended decoys will be confiscated and forfeited to the Department of Wildlife and Fisheries and disposed of by the department. This action is necessary to prevent preemption of hunting space.

l. Spot lighting (shining) from vehicles is prohibited on all WMAs.

m. Horses and mules may be ridden on Wildlife Management Areas except where prohibited and except during gun seasons for deer and turkey. Riding is restricted to designated roads and trails. Hunting and trapping from horses and mules is prohibited except for quail hunting or as otherwise specified.

n. All hunters except waterfowl hunters and mourning dove hunters (including archers and small game hunters) on WMAs must display 400 square inches of "hunter orange" and wear a "hunter orange" cap during open gun season for deer. Hunters participating in special dog seasons for rabbit and squirrel are required to wear a minimum of a "hunter orange" cap. All other hunters and archers (while on the ground) also must wear a minimum of a "hunter orange" cap during special dog seasons for rabbit and squirrel. Also all persons afield during hunting seasons are encouraged to display "hunter orange."

o. Archery Season for Deer. The archery season on WMAs is the same as outside and is open for either-sex deer except as otherwise specified on individual WMAs. Archery season restricted on Atchafalaya Delta and closed on certain WMAs when special seasons for youth or handicapped hunts are in progress. Consult regulations pamphlet for specific seasons.

p. Either-sex deer may be taken on WMAs at any time during archery season except when bucks only seasons are in progress on the respective WMAs. Archers must abide

by bucks only regulations and other restrictions when such seasons are in progress.

q. Muzzleloader season for deer. Either-sex unless otherwise specified. See WMA deer schedule.

6. Camping

a. Camping on WMAs, including trailers, houseboats, recreational vehicles and tents, is allowed only in designated areas and for a period not to exceed 16 consecutive days, regardless if the camp is attended or unattended. Houseboats shall not impede navigation. At the end of the 16-day period, camps must be removed from the area for at least 48 hours. Camping area use limited exclusively to outdoor recreational activities.

b. Houseboats are prohibited from overnight mooring within WMAs except on stream banks adjacent to department-owned designated camping areas. Overnight mooring of vessels that provide lodging for hire are prohibited on WMAs. On Atchafalaya Delta WMA and Pass-a-Loutre, houseboats may be moored in specially designated areas throughout the hunting season. At all other times of the year, mooring is limited to a period not to exceed 16 consecutive days. Permits are required for the mooring of houseboats on Pass-a-Loutre and Atchafalaya Delta WMAs. Permits must be obtained from the New Iberia office.

c. Discharge of human waste onto lands or waters of any WMA is strictly prohibited by state and federal law. In the event public restroom facilities are not available at a WMA, the following is required. Anyone camping on a WMA in a camper, trailer, or other unit (other than a houseboat or tent) shall have and shall utilize an operational disposal system attached to the unit. Tent campers shall have and shall utilize portable waste disposal units and shall remove all human waste from the WMA upon leaving. Houseboats moored on a WMA shall have a permit or letter of certification from the Health Unit (Department of Health and Hospitals) of the parish within which the WMA occurs verifying that it has an approved sewerage disposal system on board. Further, that system shall be utilized by occupants of the houseboats when on the WMA.

d. No refuse or garbage may be dumped from these boats.

e. Firearms may not be kept loaded or discharged in a camping area.

f. Campsites must be cleaned by occupants prior to leaving and all refuse placed in designated locations when provided or carried off by campers.

g. Non-compliance with camping regulations will subject occupant to immediate expulsion and/or citation, including restitution for damages.

h. Swimming is prohibited within 100 yards of boat launching ramps.

7. Restricted Areas

a. For your safety, all oil and gas production facilities (wells, pumping stations and storage facilities) are off limits.

b. No unauthorized entry or unauthorized hunting in restricted areas or refuges.

8. Dogs. All use of dogs on WMAs, except for bird hunting and duck hunting, is experimental as required by law. Having or using dogs on any WMA is prohibited except for nighttime experimental raccoon hunting, squirrel

hunting, rabbit hunting, bird hunting, duck hunting and bird dog training when allowed; see individual WMA season listings for WMAs that allow dogs. Dogs running at large are prohibited on WMAs. The owner or handler of said dogs shall be liable. Only recognizable breeds of bird dogs and retrievers are allowed for quail and migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on WMAs having experimental rabbit seasons.

9. Vehicles

a. An all-terrain vehicle is an off-road vehicle (not legal for highway use) with factory specifications not to exceed the following: weight-750 pounds, length-85", and width-48". ATV tires are restricted to those no larger than 25 x 12 with a maximum 1" lug height and a maximum allowable tire pressure of 7 psi. as indicated on the tire by the manufacturer.

b. Vehicles having wheels with a wheel-tire combination having a radius of 17 inches or more from the center of the hub (measured horizontal to ground) are prohibited.

c. The testing, racing, speeding or unusual maneuvering of any type of vehicle is prohibited within wildlife management areas due to property damages resulting in high maintenance costs, disturbance of wildlife and destruction of forest reproduction.

d. Tractor or implement tires with farm tread designs R1, R2 and R4 known commonly as spade or lug grip types are prohibited on all vehicles.

e. Airboats, aircraft, personal water craft "mud crawling vessels" (commonly referred to as crawfish combines which use paddle wheels for locomotion) and hover craft are prohibited on all WMAs and Refuges. Personal water craft are defined as a vessel which uses an inboard motor powering a water jet pump as its primary source of propulsion and is designed to be operated by a person sitting, standing or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel. Personal water craft allowed on designated areas of Alexander State Forest WMA.

f. No internal combustion engines allowed in certain Greentree reservoirs.

g. Driving or parking vehicles on food or cover plots and strips is prohibited.

h. Blocking the entrance to roads and trails is prohibited.

i. Motorized vehicles, including ATVs, and motorcycles, are restricted entirely to designated roads and ATV trails as indicated on WMA maps. WMA maps available at all region offices. This restriction does not apply to bicycles.

j. Use of special ATV trails for handicapped persons is restricted to special ATV handicapped permittees. Handicapped ATV permittees are restricted to handicapped ATV trails or other ATV trails only as indicated on WMA maps. Persons 60 years of age and older, with proof of age, are also allowed to use special handicapped trails and need not obtain a permit. However, these persons must abide by all rules in place for these trails. Handicapped persons should make application for a Physically Challenged Hunter Program Permit with the department.

k. Entrances to ATV trails will be marked with peach colored paint. Entrances to handicapped-only ATV trails will be marked with blue colored paint. Routes of all trails are as indicated on WMA maps. Deviation from the trails indicated on the map constitutes a violation of WMA rules and regulations.

l. Roads and trails may be closed due to poor condition, construction or wet weather.

m. ATVs, and motorcycles cannot be left overnight on WMAs except on designated camping areas. ATVs are prohibited from two hours after sunset to 3:00 a.m. ATVs are prohibited from March 1 through August 31 except certain trails may be open during this time period to provide access for fishing or other purposes. These trails will be marked by signs at the entrance of the trail and designated on WMA maps. Raccoon hunters may use ATVs during nighttime raccoon take seasons only.

n. Caution: Many department-maintained roadways on WMAs are unimproved and substandard. A maximum 20 mph speed limit is recommended for all land vehicles using these roads.

10. Commercial Activities

a. Hunting Guides/Outfitters: No person or group may act as a hunting guide, outfitter or in any other capacity for which they are paid or promised to be paid directly or indirectly by any other individual or individuals for services rendered to any other person or persons hunting on any Wildlife Management Area, regardless of whether such payment is for guiding, outfitting, lodging or club memberships.

b. Commercial activities prohibited without prior approval from Baton Rouge office or unless otherwise specified.

c. Commercial fishing. Permits are required of all commercial fishermen using Grassy Lake, Pomme de Terre and Spring Bayou WMAs. Drag seines (except minnow and bait seines) are prohibited except experimental bait seines allowed on Dewey Wills WMA north of La. 28 in Diversion Canal. Commercial fishing is prohibited during regular waterfowl seasons on Grand Bay, Silver Lake and Lower Sunk Lake on Three Rivers WMA. Commercial fishing is prohibited on Salvador/Timken, Ouachita and Pointe-aux-Chenes WMAs except commercial fishing on Pointe-aux-Chenes is allowed in Cut Off Canal and Wonder Lake. No commercial fishing activity shall impede navigation and no unattended vessels or barges will be allowed. Non-compliance with permit regulations will result in revocation of commercial fishing privileges for the period the license is issued and one year thereafter. Commercial fishing is allowed on Pass-a-Loutre and Atchafalaya Delta WMAs. See Pass-a-Loutre for additional commercial fishing regulations on mullet.

11. Wildlife Management Areas Basic Season Structure. For season dates, bag limits, shooting hours, special seasons and other information consult the annual regulations pamphlet for specific details.

12. Resident Small Game (squirrel, rabbit, quail, mourning dove, woodcock, snipe, rail and gallinule). Consult regulations pamphlet. Unless otherwise specified under a specific WMA hunting schedule, the use of dogs for rabbit and squirrel hunting is prohibited.

13. Waterfowl (ducks, geese and coots). Consult regulations pamphlet. Hunting after 2 p.m. prohibited on all WMAs except for Atchafalaya Delta, Biloxi, Lake Boeuf, Pass-a-Loutre, Pointe-aux-Chenes, Salvador/Timken and Wisner WMAs. Consult specific WMA regulations for shooting hours on these WMAs.

14. Archery. Consult regulations pamphlet.

15. Hogs. Consult regulations pamphlet.

16. Outlaw Quadrupeds and Birds. Consult regulations pamphlet. During hunting seasons specified on WMAs, incidental take of outlaw quadrupeds and birds is allowed by properly licensed hunters and only with guns or bows and arrows legal for season in progress on WMA. However, crows, blackbirds, grackles and cowbirds may not be taken before September 1 or after January 2.

17. Wildlife Management Areas Hunting Schedule and Regulations:

a. Acadiana Conservation Corridor

b. Alexander State Forest. Vehicles restricted to paved and graveled roads. No parking on or fishing or swimming from bridges. No open fires except in recreation areas.

c. Atchafalaya Delta. Water control structures are not to be tampered with or altered by anyone other than employees of the Department of Wildlife and Fisheries at any time. ATVs, ATCs and motorcycles prohibited except as permitted for authorized WMA trappers.

d. Attakapas

e. Bayou Macon. All night activities prohibited except as otherwise provided. Mules are allowed for nighttime raccoon hunting.

f. Bayou Pierre

g. Bens Creek

h. Big Colewa Bayou. All nighttime activities prohibited.

i. Big Lake

j. Biloxi

k. Bodcau

l. Boeuf

m. Boise-Vernon

n. Buckhorn

o. Camp Beauregard. Daily military clearance required for all recreational users. Registration for use of Self Clearing Permit required once per year. All game harvested must be reported. Retriever training allowed on selected portions of the WMA. Contact the Region office for specific details.

p. Dewey W. Wills. Crawfish: 100 pounds per person per day.

q. Elbow Slough. Steel shot only for all hunting.

r. Elm Hall. No ATVs allowed.

s. Floy Ward McElroy

t. Fort Polk. Daily military clearance required to hunt or trap. Registration for use of Self-Clearing Permit required once per year. Special regulations apply to ATV users.

u. Grassy Lake. Commercial Fishing: Permitted except on Smith Bay, Red River Bay and Grassy Lake proper on Saturday and Sunday and during waterfowl season. Permits available from area supervisor at Spring Bayou headquarters or Opelousas Region Office. No hunting in restricted area.

v. Jackson-Bienville. Beginning September 1, 2004, ATVs are allowed ONLY on non-public maintained gravel roads and marked ATV trails.

w. Joyce. Swamp Walk: Adhere to all WMA rules and regulations. No firearms or hunting allowed within 100 yards of walkways. Check hunting schedule and use walkway at your own risk.

x. Lake Boeuf. Hunting allowed until 12:00 noon on all game.

y. Lake Ramsay. Foot traffic only - all vehicles restricted to Parish Roads.

z. Little River

aa. Loggy Bayou

bb. Manchac. Crabs: No crab traps allowed. Attended lift nets are allowed.

cc. Maurepas Swamp

dd. Ouachita. Waterfowl Refuge: North of La. Hwy. 15 closed to all hunting, fishing and trapping during duck season including early teal season. Crawfish: 100 pounds per person per day limit. Night crawfishing prohibited. No traps or nets left overnight. Commercial Fishing: Closed. All nighttime activities prohibited except as otherwise provided.

ee. Pass-a-Loutre. Commercial Fishing: Same as outside. Commercial mullet fishing open only in: South Pass, Pass-a-Loutre, North Pass, Southeast Pass, Northeast Pass, Dennis Pass, Johnson Pass, Loomis Pass, Cadro Pass, Wright Pass, Viveats Pass, Cognevich Pass, Blind Bay, Redfish Bay, Garden Island Bay, Northshore Bay, East Bay (west of barrier islands) and oil and gas canals as described on the department Pass-a-Loutre WMA map. ATVs, ATCs and motorcycles prohibited on this area. Oyster harvesting is prohibited.

ff. Pearl River. All roads closed 8 p.m. to 4:30 a.m. to all vehicles. Old Hwy. 11 will be closed when river gauge at Pearl River, Louisiana, reaches 16.5 feet. All hunting will be closed when the river stage at Pearl River reaches 16.5 feet except waterfowl hunting south of Hwy. 90. No hunting in the vicinity of Nature Trail. Observe "No Hunting" signs. Rifle range open noon until 4 p.m. Friday, and 8 a.m. to 4:30 p.m. Saturday and Sunday with a fee.

gg. Peason Ridge. Daily military clearance required to hunt or trap. Registration for use of Self-Clearing Permit required once per year. Special federal regulations apply to ATV users.

hh. Pointe-aux-Chenes. Hunting until 12 noon on ALL GAME, except for mourning dove hunting and youth lottery deer hunt as specified in regulation pamphlet. Point Farm: Gate will be open only on the first 3 Saturdays of the second split of mourning dove season and all weekends during month of February. No motorized vessels allowed in the drainage ditches. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) shall be allowed. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. Oyster harvesting is prohibited. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none are to remain set overnight. Twelve dozen crabs are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the wildlife

management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Mudboats or vessels with engines larger than 25 hp prohibited in the Montegut and Grand Bayou marsh management units. Public is permitted to travel anytime through the WMA for access purposes only, in the waterways known as Grand Bayou, Humble Canal, Little Bayou Blue and Grand Bayou Blue. All other motorized vehicles, horses and mules are prohibited unless authorized by the department.

ii. Pomme de Terre. Commercial Fishing: permitted Monday through Friday, except closed during duck season. Commercial Fishing permits available from area supervisor, Opelousas Region Office or Spring Bayou headquarters. Sport Fishing: Same as outside except allowed only after 2 p.m. only during waterfowl season. Crawfish: April 1 - July 31, recreational only, 100 lbs. per boat or group daily.

jj. Red River. Crawfishing prohibited on Yakey Farms Wetland Restoration Areas.

kk. Russell Sage. Transporting trash or garbage on WMA roads is prohibited. All nighttime activities prohibited except as otherwise provided. NOTE: All season dates on Chauvin Tract (U.S. 165 North) same as outside, except still hunt only and except deer hunting restricted to archery only. Waterfowl hunting after 2 p.m. prohibited. All vehicles including ATVs prohibited.

ll. Sabine

mm. Sabine Island. Sabine Island boundaries are Sabine River on the west, Cut-Off Bayou on the north, and Old River and Big Bayou on the south and east.

nn. Salvador/Timken. Hunting until 12 noon only for all game. All nighttime activities prohibited, including frogging. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) shall be permitted. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none of the lines are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the wildlife management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Boats powered by internal combustion engines having horsepower ratings above 25 hp are permitted only in oil company access canals, Louisiana Cypress Canal, the Netherlands Pond including the West Canal, Lakes - "Baie Des Chactas" and Baie du Cabanage" and the Rathborne Access ditch. Use of mudboats powered by internal combustion engines with four cylinders or less is permitted in interior ditches from September 6-February 1. Pulling boats over levees, dams or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited. ATVs, ATCs and motorcycles prohibited on this area.

oo. Sandy Hollow. Bird Dog Training: Consult regulation pamphlet. Wild birds only (use of pen-raised birds prohibited). Bird Dog Field Trials: Permit required from Baton Rouge Region Office. Horseback Riding: Organized trail rides prohibited. Riding allowed only on designated roads and trails. Horses and mules are specifically prohibited during turkey and gun season for deer except as allowed for bird dog field trials. No horses and mules on green planted areas. No motorized vehicles allowed off designated roads.

pp. Sherburne. Crawfishing: Recreational crawfishing only on the South Farm Complexes. Crawfish harvest limited to 100 pounds per vehicle or boat per day. No traps or nets left overnight. No motorized watercraft allowed on farm complex. Commercial crawfishing allowed on the remainder of the area. Permit is required. Retriever training allowed on selected portions of the WMA. Contact the Region office for specific details. Vehicular traffic prohibited on east Atchafalaya River levee within Sherburne WMA boundaries. Rifle and Pistol Range open daily. Skeet ranges open by appointment only, contact Hunter Education Office. No trespassing in restricted area behind ranges. Note: Atchafalaya National Wildlife Refuge, and U.S. Army Corps of Engineers land holdings adjacent to the Sherburne Wildlife Management Area will have the same rules and regulations as Sherburne WMA. No hunting or trapping in restricted area.

qq. Sicily Island Hills

rr. Soda Lake. No motorized vehicles allowed. All trapping and hunting prohibited except archery hunting for deer.

ss. Spring Bayou. Commercial Fishing: permitted Monday through Friday except slat traps and hoop nets permitted any day. Permits available from area supervisor or Opelousas Region Office. Closed until after 2 p.m. during waterfowl season. Sport Fishing: Same as outside except allowed only after 2 p.m. during waterfowl season. Crawfish: recreational only. No hunting allowed in headquarters area. Only overnight campers allowed in the improved Boggy Bayou Camping area. Rules and regulations posted at camp site. A fee is assessed for use of this camp site. Water skiing allowed only in Old River and Grand Lac.

tt. Tangipahoa Parish School Board. No horseback riding during gun season for deer or turkey. ATVs are not allowed.

uu. Thistlethwaite. No hunting or trapping in restricted area (See WMA Map). All motorized vehicles restricted to improved roads only. All users must enter and leave through main gate only. No entry into restricted areas.

vv. Three Rivers

ww. Tunica Hills. All vehicles restricted to Parish roads. ATVs restricted to designated trails. Driving on food plots prohibited. Access to restricted areas is unauthorized. Refer to WMA map. Camping prohibited on area. North of Hwy. 66 (Angola Tract) closed to the general public March 1-September 30 except spring turkey hunting access allowed for those individuals drawn for special lottery hunt.

xx. Union. All nighttime activities prohibited except as otherwise provided.

yy. West Bay

zz. Wisner

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999), amended LR 26:1494 (July 2000), LR 27:1049 (July 2001), LR 28:1603 (July 2002), LR 29:1124 (July 2003), repromulgated LR 29:1522 (August 2003), amended LR 30:1495 (July 2004).

Bill A. Busbice, Jr.
Chairman

0407#033

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Sharks and Sawfishes Harvest Regulations (LAC 76:VII.357)

The Wildlife and Fisheries Commission does hereby amend a Rule, LAC 76:VII.357, modifying the existing Rule. Authority for adoption of this Rule is included in R.S. 56:6(10), 56:320.2(C), 56:325.2 (A), 56:326.1, 56:326.3, and 56:326(E)(2).

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery §357. Sharks and Sawfishes Harvest Regulations

A. The following rules and regulations are established for the taking and possession of sharks (including sawfishes) (Class Elasmobranchiomorphi: Orders Hexanchiformes, Lamniformes, Squaliformes, and Rajiformes) from within or without Louisiana waters. The provisions of this Section shall not apply to shrimp or menhaden harvest, and nothing contained herein is intended or shall be construed to repeal, amend, or otherwise modify the provisions of law applicable to shrimp or menhaden fishing, except for provisions:

1. outlawing finning of shark;
2. requiring a Commercial State Shark Permit for sale, barter, trade, or exchange;
3. - 5. ...

B. For management purposes, sharks are divided into the following categories:

1. small coastal sharks: bonnethead shark, Atlantic sharpnose shark, blacknose shark, finetooth shark;
2. large coastal sharks: great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, blacktip shark, bull shark, lemon shark, sandbar shark, silky shark, spinner shark, tiger shark;
3. pelagic sharks: porbeagle shark, shortfin mako, blue shark, oceanic whitetip shark, thresher shark;
4. prohibited species: basking shark, white shark, bigeye sand tiger, sand tiger, whale shark, smalltooth sawfish, largetooth sawfish, Atlantic angel shark, Caribbean sharpnose shark, smalltail shark, bignose shark, Caribbean reef shark, dusky shark, Galapagos shark, narrowtooth shark, night shark, bigeye sixgill shark, bigeye thresher shark, longfin mako, sevengill shark, sixgill shark.

C. In addition to all other licenses and permits required by law, a valid original Commercial State Shark Permit shall be annually required for persons commercially taking shark from Louisiana waters and for persons selling, exchanging,

or bartering sharks as required by law; the valid original permit shall be in immediate possession of the permittee while engaged in fishing for, possessing, selling, bartering, trading, or exchanging shark.

D. No person shall purchase, sell, exchange, barter or attempt to purchase, sell, exchange, or barter any sharks in excess of any possession limit for which a state or federal commercial permit was issued.

E.1. All persons who do not possess a Commercial State Shark Permit issued by the Department of Wildlife and Fisheries, and, if applicable, a Federal Commercial Directed or Incidental Limited Shark Permit issued by the National Marine Fisheries Service, are limited to a recreational possession limit. All persons who do not possess a Louisiana Commercial State Shark Permit and, if applicable, a Federal Commercial Directed or Incidental Limited Shark Permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks, shall not sell, barter, trade, exchange or attempt to sell, barter, trade or exchange any sharks, or possess any sharks in excess of a recreational possession limit. Sharks taken incidental to menhaden fishing, that are retained on the vessel as part of the harvest, may be retained and sold only as a mixed part of the total harvest, and shall not be retained, held, or sold, purchased, bartered, traded, or exchanged separately. Sharks retained as a result of menhaden fishing shall not exceed legal bycatch allowances for menhaden fishing as provided for in R.S. 56:324.

2. Legally licensed Louisiana wholesale/retail seafood dealers, retail seafood dealers, restaurants, and retail grocers are not required to hold a Commercial State Shark Permit in order to purchase, possess, exchange, barter and sell any quantities of sharks, so long as they maintain records as required by R.S. 56:306.5 and R.S. 56:306.6.

F. Sharks taken under a recreational bag limit shall not be sold, purchased, exchanged, traded, bartered, or attempted to be sold, purchased, exchanged, traded, or bartered. A person subject to a bag limit shall not possess at any time, regardless of the number of trips or the duration of a trip, any shark in excess of the recreational bag limits or less than minimum size limits as follows.

1. All sharks taken under a recreational bag limit within or without Louisiana waters must be at least 54 inches fork length, except that the minimum size limit does not apply for Atlantic sharpnose or bonnethead sharks.

2. Owners/operators of vessels other than those taking sharks in compliance with a state or federal commercial permit are restricted to no more than one shark from either the large coastal, small coastal or pelagic group per vessel per trip within or without Louisiana waters, subject to the size limits described in LAC 76:VII.357.F.1, and, in addition, no person shall possess more than one Atlantic sharpnose shark and one bonnethead shark per person per trip within or without Louisiana waters, regardless of the length of a trip.

3. All owners/operators of vessels recreationally fishing for and/or retaining regulated Atlantic Highly Migratory Species (Atlantic tunas, sharks, swordfish and billfish) in or from the EEZ must obtain and possess a Federal Atlantic Highly Migratory Species Angling permit.

G. Those persons possessing a Federal Commercial Directed or Incidental Limited Access Shark Permit issued

by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks are limited to daily take, trip and possession limits as specified in that federal permit. Regardless of where fishing, a person aboard a vessel for which a Federal Shark Permit has been issued shall not retain, possess, barter, trade, or exchange shark of any species group for which the commercial quota has been reached and the season closed in federal waters.

H.1. A vessel that has been issued or possesses a Federal Commercial Directed or Incidental Limited Access Shark Permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks shall not possess on any trip, or land from any trip, or sell, barter, trade, or exchange large coastal species in excess of the designated trip limits, as established under the Atlantic Highly Migratory Species Plan and published in the Federal Register, regardless of where taken. No person shall purchase, barter, trade, or exchange shark in excess of the designated trip limits or from any person who does not possess a Commercial State Shark Permit or Federal Commercial Directed or Incidental Limited Access Permit, if applicable.

2. Persons possessing a Commercial State Shark Permit shall not possess on any trip, or land from any trip, or sell, barter, trade, or exchange large coastal species in excess of 4,000 pounds, dressed weight, taken from Louisiana state waters.

3. Wholesale/retail seafood dealers who receive, purchase, trade for, or barter for Atlantic sharks, taken from the EEZ, from a fishing vessel must possess a valid Federal Dealer Permit.

I. A person aboard a vessel for which a Federal Commercial Directed or Incidental Limited Access Shark Permit has been issued, or persons aboard a vessel fishing for or possessing shark in the EEZ shall comply with all applicable federal regulations.

J. Fins

1. ...

2. All sharks possessed by a recreational fisherman shall be maintained with head and fins intact and shall not be skinned until set or put on shore.

3. Shark fins that are possessed aboard or offloaded from a fishing vessel must not exceed 5 percent of the weight of the shark carcasses. All fins must be weighed in conjunction with the weighing of the carcasses at the vessel's first point of landing and such weights of the fins landed must be recorded on dealer records in compliance with R.S. 56:306.5 and R.S. 56:306.6. Fins from shark harvested by a vessel that are in excess of 5 percent of the weight of the carcasses landed shall not be sold, purchased, traded, or bartered or attempted to be sold, purchased, traded, or bartered.

4. Shark fins shall not be possessed aboard a fishing vessel after the vessel's first point of landing.

5. All mako sharks possessed aboard a commercial fishing vessel shall have fins intact.

K. - L. ...

M. Seasonal Closures

1. All Louisiana state waters out to the seaward boundary of the Louisiana Territorial Sea shall be closed to the recreational and commercial harvest of all sharks between April 1 and June 30 of each year. A holder of a

Federal Commercial Directed or Incidental Limited Access Shark Permit may legally harvest sharks from federal waters beyond the Louisiana Territorial Sea and bring those sharks into Louisiana waters for sale within the provisions of that Federal Shark Permit. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell sharks from the closed area. Effective with the closure, no person shall retain or possess any sharks in the closed area. Sharks taken incidental to shrimp or menhaden fishing in the closed area, that are retained on the vessel as part of the harvest, may be retained only as a mixed part of the total harvest, and shall not be retained, held, purchased, bartered, traded, exchanged, sold or attempted to be purchased, bartered, traded, exchanged or sold.

M.2. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), R.S. 56:326(E)(2), R.S. 56:326.1, R.S. 56:326.3, R.S. 56:320.2(C), and R.S. 325.2(A).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:543 (March 1999), amended LR 27:2267 (December 2001), LR 30:1507 (July 2004).

Dwight Landreneau
Secretary

0407#034

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Spotted Seatrout Management Measures (LAC 76:VII.341)

The Wildlife and Fisheries Commission does hereby 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 56:325.1(A)2 and (B).

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. - D. ...

E. Recreational Regulations. Within those areas of the state, including coastal territorial waters, south of Interstate 10 from its junction at the Texas-Louisiana boundary eastward to its junction with Louisiana Highway 171, south to Highway 14, and then south to Holmwood, and then south on Highway 27 through Gibbstown south to Louisiana Highway 82 at Creole and south on Highway 82 to Oak Grove, and then due south to the western shore of the Mermentau River, following this shoreline south to the junction with the Gulf of Mexico, and then due south to the limit of the state territorial sea, of the daily take and possession limit of 25 fish currently set out at R.S. 56:325.1A.(2)(b), no person shall possess, regardless of where taken, more than 2 spotted seatrout exceeding 25 inches total length. Those spotted seatrout exceeding 25 inches in length shall be considered as part of the daily recreational bag limit and possession limit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a); R.S. 56:306.5, R.S. 56:306.6, R.S. 56:325.3; R.S. 56:326.3; 56:325.1(A) 2 and (B).

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 30:1509 (July 2004).

Bill A. Busbice, Jr.
Chairman

0407#023

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) Biology: Content Knowledge (0235) Effective 7/1/05 | 580 150 | --- | --- | | 161 |
| Business | Business Education (0100) Effective 6/1/04* | 540 570 | --- | --- | | 161 |
| Chemistry | Chemistry/Physics/General Science (0070) | 530 | | | | 161 |
| English | English Language, Literature, & Composition: Content Knowledge (0041) Pedagogy (0043) | 160 130 | --- | --- | | 161 |
| Family & Consumer Sciences (formerly Home Economics) | Family & Consumer Sciences (0120) | 510 | --- | --- | | 161 |
| French | French (0170) French: Content Knowledge (0173) Effective 6/1/04 | 520 156 | --- | --- | | 161 |
| General Science | Biology & General Science (0030) –OR– Chemistry/Physics/General Science (0070) General Science: Content Knowledge (0435) Effective 7/1/05 | 580 530 156 | --- | --- | | 161 |
| German | German (0180) | 500 | --- | --- | | 161 |
| Mathematics | Mathematics (0060) Mathematics: Content Knowledge (0061) Effective 6/1/04 Effective 6/1/07 Effective 6/1/10 | 550 125 130 135 | --- | --- | | 161 |
| Physics | Chemistry/Physics/General Science (0070) | 530 | | | | 161 |
| Social Studies | Social Studies: Content Knowledge (0081) Interpretation of Materials (0083) | 149 152 | --- | --- | | 161 |
| Spanish | Spanish (0190) Spanish: Content Knowledge (0191) Effective 6/1/04 | 540 160 | --- | --- | | 161 |
| Speech | Speech Communications (0220) Effective 7/1/05 | 575 | --- | --- | | 161 |
| 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 | | | | |
| | Grades K-12 Music | Music Education (0110) Music: Content Knowledge (0113) Effective 6/1/04 | | | | |
| 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 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 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 |
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| 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 |
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| 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 **C** 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 **C** 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 **C 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 **C 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.

Janice A. Lansing
Undersecretary
0407#051

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: JANUARY – JUNE 2004

| LAC Title | Part.Section | Effect | Location LR 30 Month Page | LAC Title | Part.Section | Effect | Location LR 30 Month Page | | |
|--------------------|----------------------------|---------------|------------------------------|-------------------------------|--------------------------------|---------------------|---------------------------|---------------|----------|
| 7 | XL.115 | Amended | Feb. 195 | 28 | LXXXIII.303, 311 | Amended | Apr. 763 | | |
| | XIII.109,145 | Amended | Feb. 198 | | LXXXIII.1701, 2701, 2702, 2703 | Amended | Apr. 763 | | |
| | XIII.207 | Repromulgated | June 1142 | | LXXXIII.2713-2719,3905 | Adopted | Apr. 763 | | |
| | XV.321 | Amended | June 1141 | | LXXXIII.Chapter 40 | Adopted | Apr. 763 | | |
| | XVII.121 | Amended | Feb. 198 | | LXXXV.Chapters1-7 | Adopted | Apr. 768 | | |
| | XXI.333,335,337 | Adopted | June 1141 | | XCI.Chapters 1-5 | Adopted | Mar. 414 | | |
| | XXIII.131 | Amended | Feb. 197 | | | | | | |
| | XXV.101,119,141 | Amended | June 1143 | | 32 | III.103,301,701 | Amended | June 1191 | |
| | XXV.117,119 | Amended | Feb. 196 | | | V.103,301,701 | Amended | June 1189 | |
| | XXVII.128 | Amended | Feb. 197 | | | IX.103,301 | Amended | June 1191 | |
| | XXXIII.101 | Amended | Feb. 196 | | | IX.701 | Amended | Mar. 435 | |
| | XXXV.125 | Amended | June 1142 | | 33 | I.3931 | Amended | Apr. 750 | |
| | XXXIX.301 | Amended | Feb. 200 | | | I.501-507,509 | Amended | Apr. 742 | |
| | XXXIX.501 | Amended | Feb. 195 | | | I.508 | Repealed | Apr. 742 | |
| | | | I.511 | Adopted | | Apr. 742 | | | |
| | | | I.705 | Amended | | Mar. 421 | | | |
| | | | III.504 | Amended | | Apr. 752 | | | |
| | | | III.507 | Amended | | May 1008 | | | |
| | | | III.1432,2160,3003 | Amended | | May 1008 | | | |
| | | | III.2104,2108,2115,2123,2125 | Amended | | Apr. 744 | | | |
| | | | III.2143,2147,2149,2151,2153 | Amended | | Apr. 744 | | | |
| | | | III.2201 | Amended | | Apr. 748 | | | |
| 10 | XV.303-313,317,320 | Amended | Jan. 33 | III.2201 | Amended | June 1169 | | | |
| | XV.319 | Adopted | Jan. 33 | III.2202 | Adopted | June 1169 | | | |
| 13 | I.Chapter 27 | Adopted | May 978 | III.5116,5122,5311,5901 | Amended | May 1008 | | | |
| | I.Chapter 29 | Adopted | May 977 | V.10303 | Amended | Mar. 447 | | | |
| 19 | II.Chapters 1-13 | Amended | Apr. 753 | V.30112,30161,30204,30905 | Repromulgated | Feb. 257 | | | |
| | | | | V.3099 | Amended | Apr. 750 | | | |
| 22 | I.101 | Amended | Jan. 75 | V.30452,30905 | Amended | June 1216 | | | |
| | I.101 | Repromulgated | Feb. 264 | IX.Chapters 1-71 | Repromulgated | Feb. 229 | | | |
| | I.102 | Adopted | Jan. 77 | IX.2301,4901,4903 | Amended | Apr. 750 | | | |
| | I.312 | Adopted | Jan. 80 | XV.102,104,492 | Amended | June 1171 | | | |
| | III.4717 | Adopted | Apr. 791 | XV.102,110,326,410,503,541 | Amended | June 1187 | | | |
| | III.4725 | Adopted | Mar. 435 | XV.Chapter 7 | Amended | June 1171 | | | |
| | | | | XV.1410 | Amended | June 1187 | | | |
| | | | | XV.1517 | Amended | Apr. 750 | | | |
| 28 | I.901 | Amended | Mar. 394 | 35 | I.1797 | Amended | May 1017 | | |
| | I.901 | Amended | Mar. 394 | | 37 | III.505,511,515,715 | Amended | May 1017 | |
| | I.901 | Amended | Mar. 395 | | | 42 | VII.2953 | Amended | Jan. 90 |
| | I.901 | Amended | Apr. 773 | | | | IX.2922 | Amended | Jan. 90 |
| | I.901 | Amended | Apr. 774 | | | | XI.Chapter 24 | Amended | Feb. 266 |
| | I.901 | Amended | June 1146 | | | | XI.Chapter 24 | Repromulgated | Mar. 439 |
| | I.901 | Amended | June 1148 | | XIII.2953 | Amended | Jan. 90 | | |
| | I.901 | Amended | June 1148 | | 43 | VI.Chapters 1-5 | Amended | June 1212 | |
| | I.901 | Amended | June 1148 | | | VI.507 | Adopted | June 1212 | |
| | I.901 | Amended | June 1149 | | | VI.Chapter 7 | Adopted | June 1212 | |
| | I.903 | Amended | Feb. 200 | | | XIII.Chapters 1-65 | Amended | June 1217 | |
| | I.903 | Amended | Feb. 206 | XIII.323,325,501,503,505,5109 | | Adopted | June 1217 | | |
| | I.903 | Amended | Mar. 396 | XIII.Chapter 33 | | Adopted | June 1217 | | |
| | I.903 | Amended | Mar. 400 | XIX.303 | | Amended | Feb. 254 | | |
| | I.903 | Amended | Mar. 401 | XIX.3101,3103,3105 | Amended | Feb. 255 | | | |
| | I.903 | Amended | Mar. 404 | XIX.3101,3103,3105 | Repromulgated | Mar. 437 | | | |
| | I.903 | Amended | Apr. 774 | 46 | V.2901 | Repromulgated | Apr. 792 | | |
| | I.903 | Amended | Apr. 775 | | V.2901,2905 | Amended | Mar. 436 | | |
| | I.903 | Amended | May 981 | | V.3606,3607 | Adopted | May 1018 | | |
| | I.903 | Amended | June 1150 | | V.4401,4403 | Amended | Mar. 436 | | |
| | I.903 | Amended | June 1154 | | V.4501 | Amended | May 1018 | | |
| | IV.301,507,509,701,703,705 | Amended | June 1159 | | XXXV.103,105,301,503,701,707 | Amended | Apr. 792 | | |
| | IV.107,305,309 | Amended | June 1168 | | XXXV.905,909,1301,1303,1305 | Amended | Apr. 792 | | |
| | IV.705,805 | Amended | Apr. 781 | | XXXV.1307,1309,1313,1503 | Amended | Apr. 792 | | |
| | IV.803,805 | Amended | June 1159 | | XLIII.Chapters 1-11 | Amended | May 1010 | | |
| | IV.911,1111,2105 | Amended | Apr. 780 | | XLIII.306,902,1108,1109 | Adopted | May 1010 | | |
| | IV.911,1111,2105 | Amended | June 1159 | XLV.125,127,131 | Amended | Jan. 45 | | | |
| | IV.Chapter 15 | Adopted | Apr. 782 | XLV.125,127,131 | Repromulgated | Feb. 238 | | | |
| | IV.1701,1703,1705,1903 | Amended | June 1168 | | | | | | |
| | IV.1701, 1901, 1903, 2103 | Adopted | Apr. 782 | | | | | | |
| | IV.2103,2105 | Amended | June 1159 | | | | | | |
| | V.109 | Amended | Apr. 785 | | | | | | |
| | VI.107 | Amended | Apr. 786 | | | | | | |
| | VI.Chapter 3 | Amended | Apr. 786 | | | | | | |
| | XXXIII.517 | Amended | Apr. 780 | | | | | | |
| | XXXIX.503,505,905,911,1301 | Amended | Mar. 407 | | | | | | |
| | XXXIX.1501 | Adopted | Mar. 407 | | | | | | |
| | XLIII.373,517,519,904 | Amended | Apr. 778 | | | | | | |
| | XLIII.449 | Repealed | Apr. 778 | | | | | | |
| | LI.Chapters 1-9 | Adopted | Feb. 209 | | | | | | |
| LXVII.Chapters 1-9 | Adopted | May 985 | | | | | | | |

| LAC Title | Part.Section | Effect | Location LR 30 Month Page | LAC Title | Part.Section | Effect | Location LR 30 Month Page | |
|----------------------------|------------------------------|---------------|-----------------------------|----------------------------|---------------------------------|--------------------------------|---------------------------|-----------|
| 46 | XLV.139,141 | Amended | Jan. 45 | 50 | XV.7305,7307,7311 | Amended | Feb. 252 | |
| | XLV.139,141,143 | Repromulgated | Feb. 239 | | XV.7501 | Adopted | Feb. 252 | |
| | XLV.143 | Adopted | Jan. 45 | | XV.7501 | Repromulgated | Mar. 429 | |
| | XLV.149,153 | Amended | Feb. 237 | | XV.Chapter 81 | Adopted | Apr. 800 | |
| | XLV.159,161,163,165 | Amended | Jan. 42 | | XV.8501 | Amended | June 1210 | |
| | XLV.159,161,163,165 | Repromulgated | Feb. 234 | | XV.Chapters 101-119 | Adopted | May 1035 | |
| | XLV.173,175 | Amended | Jan. 44 | | XV.16101-16107 | Adopted | Mar. 434 | |
| | XLV.173,175 | Repromulgated | Feb. 237 | | XVII.Chapters 3-31 | Adopted | May 1026 | |
| | XLV.185,187 | Amended | Jan. 41 | | XVII.503 | Repealed | May 1022 | |
| | XLV.185,187 | Repromulgated | Feb. 234 | | XIX.Chapters 1-5 | Adopted | Mar. 430 | |
| | XLV.193,195 | Amended | Jan. 46 | | XIX.4319,4335 | Adopted | May 1025 | |
| | XLV.193,195, 197 | Repromulgated | Feb. 239 | | XIX.703 | Adopted | May 1034 | |
| | XLV.197 | Adopted | Jan. 46 | | XXI.Chapters 137-141 | Adopted | June 1201 | |
| | XLV.203,205 | Amended | Jan. 43 | | XXIII.Chapters 1-13 | Adopted | Feb. 244 | |
| | XLV.203,205 | Repromulgated | Feb. 236 | | | | | |
| | XLV.221,223,225 | Adopted | Jan. 43 | | 51 | XII.101,311,367,1103,1111,1115 | Amended | June 1193 |
| | XLV.221,223,225 | Repromulgated | Feb. 235 | XII.1110, 1112 | | Adopted | June 1193 | |
| | XLV.1509,1517 | Amended | Feb. 237 | XII.Chapters 13-15 | | Adopted | June 1193 | |
| | XLV.1903,1907,1917-1927,1931 | Amended | Mar. 421 | 55 | I.2703,2705,2725 | Amended | Feb. 270 | |
| | XLV.1933,1947-1951,1955,1975 | Amended | Mar. 421 | | I.2740-2747 | Adopted | Feb. 270 | |
| | XLV.1913,1947 | Amended | Jan. 44 | | V.103,303 | Amended | June 1303 | |
| | XLV.1913,1947 | Repromulgated | Feb. 237 | 58 | I.Chapter 41 | Adopted | June 1306 | |
| | XLV.2313,2345 | Amended | Jan. 43 | | III.201 | Adopted | Feb. 273 | |
| | XLV.2313,2345 | Repromulgated | Feb. 236 | | III.503 | Amended | Jan. 100 | |
| | XLV.3107,3129,3157 | Amended | Jan. 42 | | XI.Chapters 1,5 | Adopted | Mar. 508 | |
| | XLV.3107,3129,3157 | Repromulgated | Feb. 234 | | XI.507 | Repromulgated | May 1046 | |
| | XLV.3713,3743 | Amended | Jan. 43 | | | | | |
| | XLV.3713,3743 | Repromulgated | Feb. 235 | 61 | I.301-308,311-313 | Repromulgated | Mar. 448 | |
| | XLV.4903 | Amended | Mar. 421 | | I.309 | Amended | Mar. 448 | |
| | XLV.4923 | Repealed | Mar. 421 | | I.317 | Repealed | Mar. 448 | |
| | XLV.6503 | Amended | June 1193 | | I.320 | Adopted | Apr. 804 | |
| | XLV.Chapter 73 | Adopted | Mar. 424 | | I.1115,1122,1123,1128,1130,1134 | Repromulgated | Mar. 470 | |
| | LVII.109 | Amended | June 1303 | | I.1137,1140,1147,1148,1168,1189 | Repromulgated | Mar. 470 | |
| LXVII.3601 | Adopted | June 1192 | I.1351 | | Adopted | May 1045 | | |
| LXVII.3905 | Amended | Jan. 41 | I.1520 | | Adopted | Jan. 90 | | |
| LXX.Chapter 63 | Adopted | Jan. 38 | I.4301 | | Amended | June 1305 | | |
| LXXXV.501,705 | Amended | Apr. 796 | I.4313 | | Repealed | May 1045 | | |
| LXXXVI.703 | Amended | Apr. 798 | I.4403 | | Amended | May 1044 | | |
| LXXXVI.901 | Amended | Apr. 799 | I.5302 | | Amended | May 1044 | | |
| LXXXVI.1800-1801 | Adopted | Apr. 798 | V.303,309,703,907,1103,1503 | | Amended | Mar. 487 | | |
| 48 | I.Chapter 16 | Adopted | Jan. 46 | | V.2503,2703,2705,2707,2711 | Amended | Mar. 487 | |
| | I.1607 | Repromulgated | Feb. 240 | V.2713,2717,3101,3105,3501 | Amended | Mar. 487 | | |
| | I.Chapter 62 | Adopted | Jan. 92 | 67 | III.1209,1213,1221,1231 | Amended | Mar. 493 | |
| | I.Chapter 84 | Amended | Mar. 432 | | III.1237-1249,1983,1987 | Amended | Mar. 493 | |
| | I.8821 | Amended | Jan. 92 | | III.1932,1995 | Amended | Mar. 493 | |
| | I.Chapter 90 | Adopted | Jan. 54 | | III.5103-5107,5111,5321 | Amended | Mar. 493 | |
| | I.12501 | Amended | May 1023 | | III.5335 | Repealed | Mar. 493 | |
| | V.Chapters 161 and 163 | Adopted | May 1019 | | III.5339,5341 | Amended | Mar. 493 | |
| | 50 | I.Chapter 81 | Adopted | | Apr. 801 | III.5401-5407,5529 | Repealed | Mar. 500 |
| | | II.10939 | Amended | | Feb. 242 | III.5505-5509,5525,5539 | Amended | Mar. 500 |
| | | III.503 | Adopted | | May 1025 | III.5575,5577 | Adopted | Mar. 500 |
| V.30527 | | Adopted | May 1034 | | III.5701-5729 | Adopted | Mar. 493 | |
| VII.1306 | | Adopted | Apr. 803 | 70 | I.Chapter 9 | Adopted | Apr. 805 | |
| VII.1309 | | Amended | Jan. 53 | | II.1509,1513 | Amended | Feb. 272 | |
| XI.Chapters 1,3,7,35,51,69 | | Adopted | May 1021 | | 73 | III.Chapter 3 | Amended | Mar. 502 |
| XI.303 | | Adopted | May 1034 | 76 | | VII.367 | Adopted | Jan. 101 |
| XV.705 | | Adopted | Apr. 802 | | | | | |
| XV.3103, 3301 | | Amended | May 1024 | | | | | |
| XV.6705 | | Amended | Apr. 800 | | | | | |
| XV.6903 | | Amended | Feb. 252 | | | | | |
| XV.7101-7103 | | Adopted | May 1034 | | | | | |

Potpourri

POTPOURRI

Department of Health and Hospitals Bureau of Health Services Financing

Medicaid Eligibility **C** Treatment of Annuities

On December 27, 2002, the Louisiana Department of Health and Hospitals issued an Emergency Rule regarding the treatment of annuities in Medicaid eligibility determinations. Following the Notice and Comment period required by R.S. 49:953, the provisions of the Emergency Rule were adopted as a final Rule and published in the December 20, 2003 *Louisiana Register*. The provisions of this Rule are applicable to all annuities owned within the applicable resource unit regardless of the date of purchase. Among other things, the Rule requires that the principal and interest be paid out in equal monthly installments within the actuarial life expectancy of the annuitant, and that the State of Louisiana, Department of Health and Hospitals or its successor agency be named as the residual beneficiary of the annuity up to the amount of any funds expended by the State for the Medicaid benefits of the annuity owner. It has come to the department's attention that certain annuities purchased by Medicaid applicants and/or recipients prior to the effective date of the Rule contain provisions which prevent any amendment to the payout provisions and/or the naming of the department as a residual beneficiary as required by the Rule. For those annuities purchased prior to January 1, 2003, the department will consider these provisions of the Rule satisfied if the annuity owner provides the department with documentation from the issuing company indicating that these provisions of the annuity are irrevocable and cannot be amended to include either an equal payment payout clause, or a residual beneficiary clause in favor of the State of Louisiana, Department of Health and Hospitals or its successor agency.

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

0407#061

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Department of Health and Hospitals Board of Veterinary Medicine

Fall/Winter Examination Dates

The Louisiana Board of Veterinary Medicine will administer the State Board Examination (SBE) for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates are subject to change due to office closure (i.e., holiday, weather).

The Board will accept applications to take the North American Veterinary Licensing Examination (NAVLE) which will be administered through the National Board of

Veterinary Medical Examiners (NBVME), formerly the National Board Examination Committee (NBEC), as follows.

Test Window Date
November 15 through
December 11, 2004

Deadline to Apply
Friday, August 14, 2004

The Board will also accept applications for and administer the Veterinary Technician National Examination (VTNE) for state registration of veterinary technicians as follows.

Test Date
Friday, January 21, 2004

Deadline to Apply
Friday, December 3, 2004

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early as possible for review and acceptance. Applications and information may be obtained from the board office at 263 N. Third Street, Suite 104, Baton Rouge, LA 70801, by request via telephone at (225) 342-2176, or by e-mail at lbvm@eatel.net. Application forms and information are also available on the website at www.lsbvm.org.

Wendy D. Parrish
Administrative Director

0407#002

POTPOURRI

Department of Health and Hospitals Office of Public Health

Maternal and Child Health Section

The Department of Health and Hospitals (DHH) intends to apply for Maternal and Child (MCH) Block Grant Federal Funding for FY 2004-2005 in accordance with Public Law 97-35 and the Omnibus Budget Reconciliation Act of 1981. The Office of Public Health, Maternal and Child Health Section, is responsible for program administration of the grant.

The Block Grant Application describes in detail the goals and planned activities of the State Maternal and Child Health Program for the next year. Program priorities are based on the results of a statewide needs assessment conducted in 2000, which is updated annually based on relevant data collection.

Interested persons may request copies of the application from:

State of Louisiana
DHH - Office of Public Health
Maternal and Child Health Section, Room 612
P.O. Box 60630
New Orleans, LA 70160

or view a summary of the application at:
www.oph.dhh.state.la.us/maternalchild/

Additional information may be gathered by contacting
Elizabeth Black at (504) 568-5073.

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

0407#074

POTPOURRI

Department of Labor Office of Regulatory Services

Conditions Under Which Minor Labor May Be Used (LAC 40:VII.Chapters 1-5)

A Notice of Intent concerning the above referenced proposed Rule was published on December 20, 2003 in the *Louisiana Register* (see LR 29:2920-2928). Written comments on the proposed Rule were received and a public hearing was held on January 27, 2003. Certain of those offering comments indicated their intention to request introduction of legislation to amend R.S. 23:215, concerning lateness of hour provisions regarding 16 and 17-year-old minors. The Department of Labor decided to wait until after the 2004 Legislative Session in order to incorporate any legislative actions into the subject Administrative Rule. ACT 524 of the Regular Legislative Session amends R.S. 23:215 and implements changes which may be considered to be substantive to the parties to be regulated. In order that the administrative rule concerning this issue is consistent with R.S. 23:215, the department proposes to amend certain portions of the proposed Rule. Accordingly, notice is hereby given of the department's intention to amend the proposed Rule consistent with R.S. 23:215, as amended. All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Monday, August 27, 2004, to Cecil Formby, Office of Regulatory Services, Minor Labor Law Division, P.O. Box 94094 Baton Rouge, LA 70804-9094 or to 1001 N. 23rd Street, Baton Rouge, LA, from 8 a.m. until 4:30 p.m. Any questions concerning this notice may be directed to Mr. Cecil Formby, Office of Regulatory Services, Manager 2, at (225) 342-7690.

John Warner Smith
Secretary

0407#092

POTPOURRI

Department of Natural Resources Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

| Operator | Field | District | Well Name | Well Number | Serial Number |
|--------------------------------|-------------------------------|----------|--------------------------------|-------------|---------------|
| C.L. Morris, Inc. | Caddo Pine Island | S | Crystal Oil Company | 010 | 165498 |
| C.L. Morris, Inc. | Zwolle | S | Bowman Hicks A | 001 | 990344 |
| R.A. Campbell Company | Ross Bayou | M | Far Su 7; State Etal | 2 | 119992 |
| Pita Oil & Gas, Llc | Bryant Brake | M | TI Sui; Mcgee-State | 1 | 100830 |
| Pita Oil & Gas, Llc | Bryant Brake | M | H Wright Etal Swd | 3 | 103124 |
| Pita Oil & Gas, Llc | Bryant Brake | M | TI Suj;Mcgee-State | 3 | 214360 |
| Mosbacher Hurt & Benin Oil Co. | Melodia | L | Helaire Templet | 1 | 085710 |
| Sam J. Recile | Wildcat-So La New Orleans Dis | L | Recile Jones La Citrus Ld Ut 1 | 001 | 059600 |
| Cypress Resources | Caddo Pine Island | S | Floyd | 001 | 185667 |
| Cypress Resources | Caddo Pine Island | S | Floyd | 002 | 188396 |
| Cypress Resources | Caddo Pine Island | S | Floyd | 004 | 191743 |
| Cypress Resources | Caddo Pine Island | S | Davis | 001 | 201375 |
| Eastern States-Lyle Cummins | Napoleo n-Ville | L | Dugas Unit | 001 | 41802 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | C W Lane B | 001 | 39171 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Caddo Oil And Mining Co | 001 | 39172 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Caddo Oil And Mining Co | 002 | 39388 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Caddo Oil and Mining Co | 004 | 40294 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Caddo Oil and Mining Co | 005 | 40306 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Caddo Oil and Mining Co | 003 | 41343 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Caddo Oil and Mining Co | 006 | 44864 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Pala | 001 | 49813 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm C | 001 | 50126 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Pala | 002 | 50348 |

| Operator | Field | District | Well Name | Well Number | Serial Number |
|-------------------------------|-------------------|----------|-------------------------|-------------|---------------|
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm C | 002 | 50432 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm C | 003 | 50515 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm C | 004 | 50516 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm C | 008 | 50781 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm C | 005 | 50782 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm C | 006 | 50783 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm C | 007 | 50784 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Pala | 003 | 51524 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm Estate | 001 | 51635 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm Estate | 002 | 52318 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm Estate | 003 | 52319 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm C | 009 | 52369 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm C | 011 | 52370 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm C | 010 | 52371 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm B | 001 | 55024 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm B | 003 | 55769 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm B | 004 | 55770 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm B | 002 | 55771 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Caddo Oil and Mining Co | 008 | 56289 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Caddo Oil and Mining Co | 007 | 56290 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Pala | 009 | 58538 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Pala | 10 | 58539 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Pala | 006 | 59372 |

| Operator | Field | District | Well Name | Well Number | Serial Number |
|-------------------------------|-------------------|----------|-------------------|-------------|---------------|
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Pala | 008 | 59373 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Pala | 013 | 59713 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Pala | 005 | 59722 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Pala | 012 | 60395 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Pala | 007 | 60396 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Pala | 014 | 60574 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Pala | 004 | 61134 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Pala | 015 | 61135 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Pala | 017 | 61301 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Pala | 016 | 62334 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Pala | 020 | 65093 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Pala | 023 | 65571 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Pala | 018 | 66821 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm Plantation A | 002 | 102862 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm Plantation A | 003 | 102863 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm Plantation A | 010 | 102864 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm Plantation A | 001 | 103011 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm Plantation A | 004 | 103012 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm C | 012 | 112685 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm A | 006 | 156153 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm A | 007 | 156154 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm A | 008 | 156156 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm A | 009 | 156344 |

| Operator | Field | District | Well Name | Well Number | Serial Number |
|-------------------------------|-------------------|----------|-----------|-------------|---------------|
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm A | 001 | 156830 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm A | 002 | 156831 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm A | 003 | 156832 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm A | 004 | 156833 |
| Southern States Gas & Oil Ltd | Caddo Pine Island | S | Gamm A | 005 | 156834 |

James H. Welsh
Commissioner

0407#072

POTPOURRI

**Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund**

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 21 claims in the amount of \$61,524.58 were received for payment during the period June 1, 2004 - June 30, 2004.

There were 20 claims paid and 1 claim denied.

Loran Coordinates of reported underwater obstructions are:

27709 46895 St. Mary

Latitude/Longitude Coordinates of reported underwater obstructions are:

| | | |
|----------|----------|-------------|
| 2858.223 | 8918.480 | Plaquemines |
| 2859.258 | 8908.377 | Plaquemines |
| 2859.417 | 8908.308 | Plaquemines |
| 2903.018 | 8916.722 | Plaquemines |
| 2910.496 | 9003.716 | Jefferson |
| 2913.770 | 9027.980 | Lafourche |
| 2916.996 | 8949.398 | Jefferson |
| 2924.018 | 8931.070 | Plaquemines |
| 2926.680 | 8958.464 | Jefferson |
| 2928.803 | 9143.107 | Iberia |
| 2931.079 | 9006.442 | Jefferson |
| 2933.591 | 8955.742 | Plaquemines |
| 2933.610 | 9206.370 | Vermilion |
| 2936.508 | 8933.662 | Plaquemines |
| 2940.750 | 8979.562 | Plaquemines |
| 2941.944 | 8946.876 | Plaquemines |
| 2949.710 | 8914.450 | St. Bernard |
| 2950.585 | 8936.249 | St. Bernard |
| 2951.208 | 8940.013 | St. Bernard |
| 3003.075 | 8946.657 | Orleans |

A list of claimants and amounts paid can be obtained from Verlie Wims, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225) 342-0122.

Scott A. Angelle
Secretary

0407#079

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