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EXECUTIVE ORDER KBB 04-40

Advisory Council on Child Care and
Development Block Grant Program

WHEREAS, Executive Order No. KBB 2004-28, issued on August 20, 2004, reestablished the Advisory Council on Child Care and Development Block Grant Program (hereafter "Council"); and

WHEREAS, it is necessary to amend Executive Order No. KBB 2004-28 in order to expand the voting membership of the Council;

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: Section 4 of Executive Order No. KBB 2004-28, issued on August 20, 2004, is amended as follows:

The Council shall be composed of sixteen (16) voting members and three (3) ex-officio, non-voting members who shall be appointed by, and serve at the pleasure of the governor.

A. The voting membership of the Council shall represent the following agencies, organizations, and special interest groups:

1. non-profit, family-oriented organizations domiciled within the geographic boundaries of Greater New Orleans;
2. non-profit, family-oriented organizations domiciled within the geographic boundaries of North Louisiana;
3. the Louisiana Head Start Association;
4. the Institute of Infant and Early Childhood Mental Health at Tulane University;
5. the Louisiana Association for the Education of Young Children;
6. the National Association for Family Child Care;
7. prevent Child Abuse Louisiana;

8. child development programs at a Louisiana college or university;

9. child care providers who provide services within the state of Louisiana;

10. parents with at least one (1) child who is currently receiving care at a day care facility;

11. church operated day care centers operating within the state of Louisiana;

12. trainers of child day care providers within the state of Louisiana; and

13. four (4) at-large members.

B. The ex-officio, non-voting membership of the Council shall be selected as follows:

1. the secretary of the Department of Social Services, or the secretary's designee;

2. the director of the Bureau of Licensing, Department of Social Services, or the director's designee; and

3. the secretary of the Department of Education, or the secretary's designee.

SECTION 2: All other sections, subsections, and paragraphs of Executive Order No. KBB 2004-28 shall remain in full force and effect.

SECTION 3: 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 7th day of October, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0410#065

Emergency Rules

DECLARATION OF EMERGENCY

commissioner of Agriculture and Forestry Office of the Commissioner

Chloramphenicol in Crab and Crabmeat; Testing and Sale
(LAC 7:XXXV.143 and 145)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule governing the testing and sale of crab or crabmeat in Louisiana. This Rule is being adopted in accordance with R.S. 3:2(A), 3:3(B), R.S. 3:4608 and the emergency rule provisions of R.S. 49:953(B) of the Administrative Procedure Act.

The commissioner has promulgated these rules and regulations to implement standards relating to chloramphenicol in crab or crabmeat that are consistent with standards adopted by the FDA regarding chloramphenicol in foods. All crab or crabmeat sold in Louisiana must meet the standards adopted by the commissioner, herein, prior to distribution and sale.

Chloramphenicol is a broad-spectrum antibiotic that has been restricted by the FDA for use in humans only in those cases where other antibiotics have not been successful. The FDA has set a zero tolerance level for chloramphenicol in food and has prohibited the extra label use of chloramphenicol in the United States in food producing animals, (21 CFR 530.41).

Chloramphenicol is known to cause aplastic anemia, which adversely affects the ability of a person's bone marrow to produce red blood cells. Aplastic anemia can be fatal. In addition, according to the National Institute on Environmental and Health Sciences, chloramphenicol can reasonably be anticipated to be a human carcinogen. In widely accepted references such as "Drugs in Pregnancy and Lactation," the use of chloramphenicol is strongly dissuaded during pregnancy, especially late pregnancy. Chloramphenicol can be transmitted to an unborn child through the placenta and to an infant through the mother's milk. The dosage transmitted to an unborn child is essentially the same dosage as is taken in by the mother. However, the unborn child is unable to metabolize chloramphenicol as efficiently, thereby causing the risk of an increasing toxicity level in the unborn child. Although the effect on an infant as a result of nursing from a mother who has taken Chloramphenicol is unknown, it is known that such an infant will run the risk of bone marrow depression.

Recently, FDA, the states of Alabama and Louisiana have found chloramphenicol in crab or crabmeat imported from other countries. The department has found chloramphenicol in crab or crabmeat imported from Vietnam, Thailand and China. The possibility exists that other countries may export chloramphenicol-contaminated crab or crabmeat to the U.S.A.

The sale of such imported crab or crabmeat in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to chloramphenicol, a known health

hazard. The sale, in Louisiana, of crab or crabmeat containing chloramphenicol presents an imminent peril to the public's health, safety and welfare. This peril can cause consumers to quit buying crab or crabmeat from any source, including Louisiana. If consumers cease to buy, or substantially reduce, their purchases of Louisiana crab or crabmeat then Louisiana's crab industry will be faced with substantial economic losses. Any economic losses suffered by Louisiana's crab industry will be especially severe in light of the current economic situation, thereby causing an imminent threat to the public welfare.

The commissioner of Agriculture and Forestry has, therefore, determined that this Emergency Rule is necessary to immediately implement testing of crab or crabmeat for chloramphenicol, to provide for the sale of crab or crabmeat and any products containing crab or crabmeat that are not contaminated with chloramphenicol. This Rule becomes effective upon signature, September 18, 2004, and will remain in effect 120 days, unless renewed by the commissioner or until permanent rules are promulgated.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§143. Chloramphenicol in Crab and Crabmeat Prohibited; Testing and Sale

A. Definitions

Crab Any such animals, whether whole, portioned, processed, shelled, and any product containing any crab or crabmeat.

Food-Producing Animals Both animals that are produced or used for food and animals, such as seafood, that produce material used as food.

Geographic Area A country, province, state, or territory or definable geographic region.

Packaged Crab Any crab or crabmeat, as defined herein, that is in a package, can, or other container, and which is intended to eventually be sold to the ultimate retail purchaser in the package, can or container.

B. No crab or crabmeat may be held, offered or exposed for sale, or sold in Louisiana if such crab or crabmeat contains chloramphenicol.

C. No crab or crabmeat that is harvested from or produced, processed or packed in a geographic area, that the commissioner declares to be a location where chloramphenicol is being used on or found in food producing animals or in products from such animals, may be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E. No crab or crabmeat from any such geographic area may be used, as an ingredient in any food held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E.

D. The commissioner may declare a geographic area to be a location where chloramphenicol is being used on or found in food producing animals or in products from such animals, based upon information that would lead a

reasonable person to believe that chloramphenicol is being used on or found in food producing animals, or in products from such animals, in that geographic area.

1. Any such declaration shall be subject to promulgation in accordance with the provisions of the Administrative Procedure Act.

2. The commissioner may release any such geographic area from a previous declaration that chloramphenicol is being used on food producing animals in that location. Any such release shall be subject to promulgation in accordance with the Administrative Procedure Act.

E. Crab or crabmeat that comes from a geographic area declared by the commissioner to be a location where chloramphenicol is being used on, or is found in food producing animals or in products from such animals, must meet the following requirements for sampling, identification, sample preparation, testing and analysis before being held, offered or exposed for sale, or sold in Louisiana.

1. Sampling

a. The numbers of samples that shall be taken are as follows:

- i. two samples are to be taken of crab or crabmeat that are in lots of 50 pounds or less;
- ii. four samples are to be taken of crab or crabmeat that are in lots of 51 to 100 pounds;
- iii. twelve samples are to be taken of crab or crabmeat that are in lots of 101 pounds up to 50 tons;
- iv. twelve samples for each 50 tons are to be taken of crab or crabmeat that are in lots of over 50 tons.

b. For packaged crab or crabmeat, each sample shall be at least 6 ounces, (170.1 grams), in size and shall be taken at random throughout each lot of crab or crabmeat. For all other crab or crabmeat, obtain approximately 1 pound, (454 grams), of crab or crabmeat per sample from randomly selected areas.

c. If the crab or crabmeat to be sampled consists of packages of crab or crabmeat grouped together, but labeled under two or more trade or brand names, then the crab or crabmeat packaged under each trade or brand name shall be sampled separately. If the crab or crabmeat to be sampled are not packaged, but are segregated in such a way as to constitute separate groupings, then each separate grouping shall be sampled separately.

d. A composite of the samples shall not be made. Each sample shall be tested individually. Each sample shall be clearly identifiable as belonging to a specific group of crab or crabmeat. All samples shall be kept frozen and delivered to the lab.

2. Each sample shall be identified as follows:

- a. any package label;
- b. any lot or batch numbers;
- c. the country, province and city of origin;
- d. the name and address of the importing company;
- e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

3. Sample Preparation. For small packages of crab or crabmeat up to and including 1 pound, use the entire sample. Shell the crabs, exercising care to exclude all shells from sample. Grind sample with food processor type blender while semi-frozen or with dry ice. Divide the sample in half.

Use half of the sample for the original analysis portion and retain the other half of the sample in a freezer as a reserve.

4. Sample Analysis

a. Immunoassay test kits may be used if the manufacturer's published detection limit is 1 part per billion, (1 ppb) or less. Acceptable test kits include r-iopharm Ridascreen Chloramphenicol enzyme immunoassay kit and the Charm II Chloramphenicol kit. The commissioner may authorize other immunoassay kits with appropriate detection limits of 1 ppb or below to be used. Each sample must be run using the manufacturer's test method. The manufacturer's specified calibration curve must be run with each set. All results 1 ppb or above must be assumed to be chloramphenicol unless further testing by approved GC/LC method indicates the result to be an artifact.

b. HPLC-MS, GC-ECD, GC-MS methods currently approved by FDA, the United States commissioner of Agriculture or the Canadian Food Inspection Agency with detection limits of 1 ppb or below may also be used.

c. Other methods for sampling, identification, sample preparation, testing and analysis may be used if expressly approved in writing by the commissioner.

5. Any qualified laboratory may perform the testing and analysis of the samples unless the laboratory is located in any geographic area that the commissioner has declared to be a location where chloramphenicol is being used on or found in food producing animals, or in products from such animals. The commissioner shall resolve any questions about whether a laboratory is qualified to perform the testing and analysis.

6. The laboratory that tests and analyzes a sample or samples for chloramphenicol shall certify the test results in writing.

7. A copy of the certified test results along with the written documentation necessary to show the methodology used for the sampling, identification, sample preparation, testing and analysis of each sample shall be sent to and actually received by the department prior to the crab or crabmeat being held for sale, offered or exposed for sale, or sold in Louisiana.

a. The test results and accompanying documentation must contain a test reference number.

b. The certified test results and the accompanying documentation must be in English and contain the name and address of the laboratory and the name and address of a person who may be contacted at the laboratory regarding the testing of the crab or crabmeat.

8. Upon actual receipt by the department of a copy of the certified test results and written documentation required to accompany the certified test results then the crab or crabmeat may be held, offered or exposed for sale, or sold in Louisiana, unless a written stop-sale, hold or removal order is issued by the commissioner.

9. A copy of the test results, including the test reference number, shall either accompany every shipment and be attached to the documentation submitted with every shipment of such crab or crabmeat sent to each location in Louisiana or shall be immediately accessible to the department, upon request, from any such location.

F. Any person who is seeking to bring crab or crabmeat that is required to be sampled and tested under this Section, into Louisiana, or who holds, offers or exposes for sale, or

sells such crab or crabmeat in Louisiana shall be responsible for having such crab or crabmeat sampled and tested in accordance with Subsection E. Any such person must, at all times, be in full and complete compliance with all the provisions of this Section.

G. The commissioner may reject the test results for any crab or crabmeat if the commissioner determines that the methodology used in sampling, identifying, sample preparation, testing or analyzing any sample is scientifically deficient so as to render the certified test results unreliable, or if such methodology was not utilized in accordance with, or does not otherwise meet the requirements of this Section.

H. In the event that any certified test results are rejected by the commissioner then any person shipping or holding the crab or crabmeat will be notified immediately of such rejection and issued a stop-sale, hold or removal order by the commissioner. Thereafter, it will be the duty of any such person to abide by such order until the commissioner lifts the order in writing. Any such person may have the crab or crabmeat retested in accordance with this Section and apply for a lifting of the commissioner's order upon a showing that the provisions of this Section have been complied with and that the crab or crabmeat are certified as being free of chloramphenicol.

I. The department may inspect, and take samples for testing, any crab or crabmeat, of whatever origin, being held, offered or exposed for sale, or sold in Louisiana.

J. A stop-sale, hold or removal order, including a prohibition on disposal, may be placed on any crab or crabmeat that does not meet the requirements of this Section. Any such order shall remain in place until lifted in writing by the commissioner.

K. The department may take physical possession and control of any crab or crabmeat that violate the requirements of this Section if the commissioner finds that the crab or crabmeat presents an imminent peril to the public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

L. The commissioner declares that he has information that would lead a reasonable person to believe that chloramphenicol is being used on or found in food producing animals, or in products from such animals, in the following geographic area(s).

1. The geographic area or areas are:

a. the countries of Vietnam, Thailand, Mexico, Malaysia and China.

2. All crab and crabmeat harvested from or produced, processed or packed in any of the above listed geographic areas are hereby declared to be subject to all the provisions of this Section, including sampling and testing provisions.

M. All records and information regarding the distribution, purchase and sale of crabs or crabmeat or any food containing crab or crabmeat shall be maintained for two years and shall be open to inspection by the department.

N. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

O. The effective date of this Section is March 14, 2003.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the commissioner of Agriculture and Forestry, Office of the Commissioner, LR 31:

§145. Labeling of Foreign Crab and Crabmeat by Country of Origin

A. Definitions

Crab or Crabmeat Any crab or crabmeat, whether whole, portioned, processed or shelled and any product containing any crab or crabmeat.

Foreign Crab or Crabmeat Any crab or crabmeat, as defined herein that is harvested from or produced, processed or packed in a country other than the United States.

B. All foreign crab or crabmeat, imported, shipped or brought into Louisiana shall indicate the country of origin, except as otherwise provided in this Section.

C. Every package or container that contains foreign crab or crabmeat, shall be marked or labeled in a conspicuous place as legibly, indelibly, and permanently as the nature of the package or container will permit so as to indicate to the ultimate retail purchaser of the crab or crabmeat with the English name of the country of origin.

1. Legibility must be such that the ultimate retail purchaser in the United States is able to find the marking or label easily and read it without strain.

2. Indelibility must be such that the wording will not fade, wash off or otherwise be obliterated by moisture, cold or other adverse factors that such crab or crabmeat are normally subjected to in storage and transportation.

3. Permanency must be such that, in any reasonably foreseeable circumstance, the marking or label shall remain on the container until it reaches the ultimate retail purchaser unless it is deliberately removed. The marking or label must be capable of surviving normal distribution and storing.

D. When foreign crab or crabmeat are combined with domestic crab or crabmeat, or products made from or containing domestic crab or crabmeat, the marking or label on the container or package or the sign included with any display shall clearly show the country of origin of the foreign crab or crabmeat.

E. In any case in which the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, appear on any container or package containing foreign crab or crabmeat, or any sign advertising such foreign crab or crabmeat for sale, and those words, letters or names may mislead or deceive the ultimate retail purchaser as to the actual country of origin of the crab or crabmeat, then the name of the country of origin preceded by "made in," "product of," or other words of similar meaning shall appear on the marking, label or sign. The wording indicating that the crab or crabmeat is from a country other than the United States shall be placed in close proximity to the words, letters or name that indicates the crab or crabmeat is a product of the United States in a legible, indelible and permanent manner. No provision of this Section is intended to or is to be construed as authorizing the use of the words "United States," "American," or the letters "U.S.A.," or any variation of such words or letters, or the name of any state, city or location in the United States, if such use is deceptive, misleading or prohibited by other federal or state law.

F. Foreign crab or crabmeat shall not have to be marked or labeled with the country of origin if such crab or crabmeat is included as components in a product manufactured in the United States and the crab or crabmeat is substantially transformed in the manufacturing of the final product. But in

no event shall thawing, freezing, packing, packaging, re-packing, re-packaging, adding water, portioning, shelling, processing, peeling, partially cooking or combining with domestic crab or crabmeat shall not be considered to be a substantial transformation.

G. The commissioner shall have all the powers granted to him by law, or in accordance with any cooperative endeavor with any other public agency, to enforce this Section, including the issuance of stop-sale, hold or removal orders and the seizing of crab or crabmeat mislabeled or misbranded as to the country of origin.

H. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the commissioner of Agriculture and Forestry, Office of the Commissioner, LR 31:

Bob Odom
Commissioner

0410#002

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Chloramphenicol in Honey; Testing and Sale (LAC 7:XXXV.141)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule governing the testing and sale of honey in Louisiana. This Rule is being adopted in accordance with R.S. 3:2(A), 3:3(B), R.S. 3:4608 and the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act.

The commissioner has promulgated these rules and regulations to implement standards relating to chloramphenicol in honey that are consistent with standards adopted by the FDA regarding chloramphenicol in foods. All honey sold in Louisiana must meet the standards adopted by the commissioner, herein, prior to distribution and sale.

Chloramphenicol is a broad-spectrum antibiotic that has been restricted by the FDA for use in humans only in those cases where other antibiotics have not been successful. The FDA has set a zero tolerance level for chloramphenicol in food and has prohibited the extra label use of chloramphenicol in the United States in food producing animals, including bees (21 CFR 530.41).

Chloramphenicol is known to cause aplastic anemia, which adversely affects the ability of a person's bone marrow to produce red blood cells. Aplastic anemia can be fatal. In addition, according to the National Institute on Environmental and Health Sciences, chloramphenicol can reasonably be anticipated to be a human carcinogen. In widely accepted references such as "Drugs in Pregnancy and Lactation," the use of chloramphenicol is strongly dissuaded during pregnancy, especially late pregnancy. Chloramphenicol can be transmitted to an unborn child through the placenta and to an infant through the mother's milk. The dosage transmitted to an unborn child is essentially the same dosage as is taken in by the mother. However, the unborn child is unable to metabolize

chloramphenicol as efficiently, thereby causing the risk of an increasing toxicity level in the unborn child. Although the effect on an infant as a result of nursing from a mother who has taken chloramphenicol is unknown, it is known that such an infant will run the risk of bone marrow depression.

Recently, Canada, the United Kingdom, the European Union, and Japan have found chloramphenicol in honey imported from China. The department has found chloramphenicol in honey imported from Thailand. Preliminary test results from Canada indicate about 80 percent of the samples are positive for chloramphenicol. The possibility exists that other countries may export chloramphenicol-contaminated honey to the U.S.A., either by diversion of Chinese honey or their own use of chloramphenicol.

The sale of such honey in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to chloramphenicol, a known health hazard. The sale, in Louisiana, of honey containing chloramphenicol presents an imminent peril to the public's health, safety and welfare. This peril can cause consumers to quit buying honey from any source, including Louisiana honey. If consumers cease to buy, or substantially reduce, their purchases of Louisiana honey then Louisiana honey producers will be faced with substantial economic losses. Any economic losses suffered by Louisiana's honey producers will be especially severe in light of the current economic situation, thereby causing an imminent threat to the public welfare.

The Commissioner of Agriculture and Forestry has, therefore, determined that these emergency rules are necessary to immediately implement testing of honey for chloramphenicol, to provide for the sale of honey and products containing honey that are not contaminated with chloramphenicol. This Rule becomes effective upon signature, September 18, 2004, and will remain in effect 120 days, unless renewed by the commissioner or until permanent rules are promulgated.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§141. Chloramphenicol in Honey Prohibited; Testing and Sale

A. Definitions

Food Producing Animals Both animals that are produced or used for food and animals, including bees, which produce material used as food.

Geographic Area A country, province, state, or territory or definable geographic region.

Honey Any honey, whether raw or processed.

B. No honey or food containing honey may be held, offered or exposed for sale, or sold in Louisiana if such honey or food containing honey contains chloramphenicol.

C. No honey that is harvested from or produced, processed or packed in a geographic area, that the commissioner declares to be a location where chloramphenicol is being used on or found in food producing animals, including bees, or in products from such animals, may be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E. No honey from any such geographic area may

be used, as an ingredient in any food held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E.

D. The commissioner may declare a geographic area to be a location where chloramphenicol is being used on or found in food producing animals, including bees or in products from such animals, based upon information that would lead a reasonable person to believe that chloramphenicol is being used on or found in food producing animals, or in products from such animals, in that geographic area.

1. Any such declaration shall be subject to promulgation in accordance with the provisions of the Administrative Procedure Act.

2. The commissioner may release any such geographic area from a previous declaration that chloramphenicol is being used on food producing animals, including bees, in that location. Any such release shall be subject to promulgation in accordance with the Administrative Procedure Act.

E. Honey that comes from a geographic area declared by the commissioner to be a location where chloramphenicol is being used on, or is found in food producing animals, including bees, or in products from such animals, must meet the following requirements for sampling, identification, sample preparation, testing and analysis before being held, offered or exposed for sale, or sold in Louisiana.

1. Sampling

a. The numbers of samples that shall be taken are as follows:

i. two samples are to be taken of honey that is in lots of 50 pounds or less;

ii. four samples are to be taken of honey that is in lots of 51 to 100 pounds;

iii. twelve samples are to be taken of honey that is in lots of 101 pounds up to 50 tons;

b. for honey in bulk wholesale containers, each sample shall be at least 1 pound or 12 fluid ounces and must be pulled at random throughout each lot;

c. for packaged honey, each sample shall be at least 8 ounces in size and shall be taken at random throughout each lot;

d. if the honey to be sampled consists of packages of honey grouped together, but labeled under two or more trade or brand names, then the honey packaged under each trade or brand name shall be sampled separately. If the honey to be sampled are not packaged, but are segregated in such a way as to constitute separate groupings, then each separate grouping shall be sampled separately;

e. a composite of the samples shall not be made. All samples shall be delivered to the lab. Each sample shall be clearly identifiable as belonging to a specific group of honey and shall be tested individually.

2. Each sample shall be identified as follows:

a. any package label;

b. any lot or batch numbers;

c. the country, province and city of origin;

d. the name and address of the importing company;

e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

3. Sample Preparation. For small packages of honey up to and including 8 ounces, use the entire sample. If honey sample includes more than one container, they shall be blended together. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample as a reserve.

4. Sample Analysis

a. Immunoassay test kits may be used if the manufacturer's published detection limit is 1 part per billion, (1 ppb) or less. Acceptable test kits include r-iopharm Ridascreen Chloramphenicol enzyme immunoassay kit and the Charm II Chloramphenicol kit. The commissioner may authorize other immunoassay kits with appropriate detection limits of 1 ppb or below to be used. Each sample must be run using the manufacturer's test method. The manufacturer's specified calibration curve must be run with each set. All results above 1 ppb must be assumed to be chloramphenicol unless further testing by approved GC/LC method indicates the result to be an artifact.

b. HPLC-MS, GC-ECD, GC-MS methods currently approved by FDA, the United States Department of Agriculture or the Canadian Food Inspection Agency with detection limits of 1 ppb or below may also be used.

c. Other methods for sampling, identification, sample preparation, testing and analysis may be used if expressly approved in writing by the commissioner.

5. Any qualified laboratory may perform the testing and analysis of the samples unless it is located in a geographic area that the commissioner has declared to be a location where chloramphenicol is being used on or found in food producing animals including bees, or in products from such animals. The commissioner shall resolve any questions about whether a laboratory is qualified to perform the testing and analysis.

6. The laboratory that tests and analyzes a sample or samples for chloramphenicol shall certify the test results in writing.

7. A copy of the certified test results along with the written documentation necessary to show the methodology used for the sampling, identification, sample preparation, testing and analysis of each sample shall be sent to and actually received by the department prior to the honey or food containing honey being held for sale, offered or exposed for sale, or sold in Louisiana.

a. The test results and accompanying documentation must contain a test reference number.

b. The certified test results and the accompanying documentation must be in English and contain the name and address of the laboratory and the name and address of a person who may be contacted at the laboratory regarding the testing of the honey.

8. Upon the department's actual receipt of a copy of the certified test results and written documentation required to accompany the certified test results, the honey or food containing honey may be held, offered or exposed for sale, or sold in Louisiana, unless a written stop-sale, hold or removal order is issued by the commissioner.

9. A copy of the test results, including the test reference number, shall either accompany every shipment of such honey or food containing honey, and be attached to the documentation submitted with every shipment sent to each

location in Louisiana, or shall be immediately accessible to the department, upon request, from any such location.

F. Any person who is seeking to bring honey, or any food containing honey, that is required to be sampled and tested under this Section, into Louisiana, or who holds, offers or exposes for sale, or sells such honey or food containing honey in Louisiana shall be responsible for having the honey, sampled and tested in accordance with Subsection E. Any such person must, at all times, be in full and complete compliance with all the provisions of this Section.

G. The commissioner may reject the test results for any honey if the commissioner determines that the methodology used in sampling, identifying, sample preparation, testing or analyzing any sample is scientifically deficient so as to render the certified test results unreliable, or if such methodology was not utilized in accordance with, or does not otherwise meet the requirements of this Section.

H. If any certified test results are rejected by the commissioner then any person shipping or holding the honey or food containing honey will be notified immediately of such rejection and issued a stop-sale, hold or removal order by the commissioner. Thereafter, any such person shall abide by such order until the commissioner lifts the order in writing. Any such person may have the honey retested in accordance with this Section and apply for a lifting of the commissioner's order upon a showing that the provisions of this Section have been complied with and that the honey is certified as being free of chloramphenicol.

I. The department may inspect any honey and any food containing honey, found in Louisiana, and take samples for testing.

J. A stop-sale, hold or removal order, including a prohibition on disposal, may be placed on any honey or any food containing honey that does not meet the requirements of this Section. Any such order shall remain in place until lifted, in writing, by the commissioner.

K. The department may take physical possession and control of any honey or any food containing honey that violate the requirements of this Section if the commissioner finds that the honey or food containing honey presents an imminent peril to the public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

L. The commissioner declares that he has information that would lead a reasonable person to believe that chloramphenicol is being used on or found in food producing animals including bees, or in products from such animals, in certain geographic area(s).

1. The geographic area or areas are:
 - a. the country of the People's Republic of China;
 - b. the country of Thailand.
2. All honey harvested from or produced, processed or packed in any of the above listed geographic areas are hereby declared to be subject to all the provisions of this Section, including sampling and testing provisions.

M. All records and information regarding the distribution, purchase and sale of honey or any food containing honey shall be maintained for two years and shall be open to inspection by the department.

N. Penalties for any violation of this Section shall be the same as and assessed in accordance with R.S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 31:

Bob Odom
Commissioner

0410#001

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Chloramphenicol in Shrimp and Crawfish;
Testing and Sale; Labeling (LAC 7:XXXV.137 and 139)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule governing the testing and sale of shrimp and crawfish in Louisiana and the labeling of foreign shrimp and crawfish. This Rule is being adopted in accordance with R.S. 3:2(A), 3:3(B), R.S. 3:4608 and the emergency rule provisions of R.S. 49:953(B) of the Administrative Procedure Act.

The Louisiana Legislature, by SCR 13 of the 2002 Regular Session, has urged and requested that the Commissioner of Agriculture and Forestry require all shrimp and crawfish, prior to sale in Louisiana, meet standards relating to chloramphenicol that are consistent with those standards promulgated by the United States Food and Drug Administration, (FDA). The legislature has also urged and requested the commissioner to promulgate rules and regulations necessary to implement the standards relating to chloramphenicol in shrimp and crawfish that are consistent with those standards promulgated by the FDA, and which rules and regulations require all shrimp and crawfish sold in Louisiana to meet the standards adopted by the commissioner, prior to sale.

Chloramphenicol is an antibiotic the FDA has restricted for use in humans only in those cases where other antibiotics or medicines have not been successful. The FDA has banned the use of chloramphenicol in animals raised for food production. See, 21 CFR 522.390(3). The FDA has set a zero tolerance level for chloramphenicol in food.

Chloramphenicol is known to cause aplastic anemia, which adversely affects the ability of a person's bone marrow to produce red blood cells. Aplastic anemia can be fatal. In addition, according to the National Institute on Environmental and Health Sciences, chloramphenicol can reasonably be anticipated to be a human carcinogen. In widely accepted references such as "Drugs in Pregnancy and Lactation," the use of chloramphenicol is strongly dissuaded during pregnancy, especially late pregnancy. Chloramphenicol can be transmitted to an unborn child through the placenta and to an infant through the mother's milk. The dosage transmitted to an unborn child is essentially the same dosage as is taken in by the mother. However, the unborn child is unable to metabolize chloramphenicol as efficiently, thereby causing the risk of an increasing toxicity level in the unborn child. Although the

effect on an infant as a result of nursing from a mother who has taken chloramphenicol is unknown, it is known that such an infant will run the risk of bone marrow depression.

Recently, European Union inspectors found chloramphenicol residues in shrimp and crawfish harvested from and produced in China. The inspectors also found "serious deficiencies of the Chinese residue control system and problems related to the use of banned substances in the veterinary field," which may contribute to chloramphenicol residues in Chinese shrimp and crawfish. The Chinese are known to use antibiotics, such as chloramphenicol, in farm-raised shrimp. They are also known to process crawfish and shrimp harvested in the wild in the same plants used to process farm-raised shrimp.

The European Union, in January of this year, banned the import of shrimp and crawfish from China because chloramphenicol has been found in shrimp and crawfish imported from China. Canada has, this year, banned the import of shrimp and crawfish that contain levels of chloramphenicol above the level established by Canada. Between 1999 and 2000 imports of Chinese shrimp to the United States doubled, from 19,502,000 pounds to 40,130,000 pounds. With the recent bans imposed by the European Union and Canada there is an imminent danger that the shrimp and crawfish that China would normally export to the European Union and Canada will be dumped and sold in the United States, including Louisiana.

The sale of such shrimp and crawfish in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to chloramphenicol, a known health hazard. The sale, in Louisiana, of shrimp and crawfish containing chloramphenicol presents an imminent peril to the public's health, safety and welfare.

This peril can cause consumers to quit buying shrimp and crawfish from any source, including Louisiana shrimp and crawfish. If consumers cease to buy, or substantially reduce, their purchases of Louisiana shrimp and seafood, Louisiana aquaculture and fisheries will be faced with substantial economic losses. Any economic losses suffered by Louisiana's aquaculture and fisheries will be especially severe in light of the current economic situation, thereby causing an imminent threat to the public welfare.

Consumers of shrimp and crawfish cannot make an informed decision as to what shrimp or crawfish to purchase and the commissioner cannot adequately enforce the regulations regarding the sampling and testing of shrimp and crawfish unless shrimp and crawfish produced in foreign countries are properly labeled as to the country of origin.

The Commissioner of Agriculture and Forestry has, therefore, determined that this Emergency Rule is necessary to immediately implement testing of shrimp and crawfish for chloramphenicol, to provide for the sale of shrimp and crawfish that are not contaminated with chloramphenicol and to provide for the labeling of shrimp and crawfish harvested from or produced, processed or packed in countries other than the United States. This Rule becomes effective upon signature, September 18, 2004, and will remain in effect 120 days, unless renewed by the commissioner or until permanent rules are promulgated.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§137. Chloramphenicol in Shrimp and Crawfish Prohibited; Testing and Sale of

A. Definitions

Food-Producing Animals Both animals that are produced or used for food and animals, such as dairy cows, that produce material used as food.

Geographic Area A country, province, state, or territory or definable geographic region.

Packaged Shrimp or Crawfish Any shrimp or crawfish, as defined herein, that is in a package, can, or other container, and which is intended to eventually be sold to the ultimate retail purchaser in the package, can or container.

Shrimp or Crawfish Means any such animals, whether whole, de-headed, de-veined or peeled, and any product containing any shrimp or crawfish.

B. No shrimp or crawfish may be held, offered or exposed for sale, or sold in Louisiana if such shrimp or crawfish contain Chloramphenicol.

C. No shrimp or crawfish may be held, offered or exposed for sale, or sold in Louisiana without being accompanied by the following records and information, written in English.

1. The records and information required are:

- a. the quantity and species of shrimp and crawfish acquired or sold;
- b. the date the shrimp or crawfish was acquired or sold;
- c. the name and license number of the wholesale/retail seafood dealer or the out-of-state seller from whom the shrimp or crawfish was acquired or sold;
- d. the geographic area where the shrimp or crawfish was harvested;
- e. the geographic area where the shrimp or crawfish was produced, processed, or packed;
- f. the trade or brand name under which the shrimp or crawfish is held, offered or exposed for sale or sold; and
- g. the size of the packaging of the packaged shrimp or crawfish.

2. Any person maintaining records and information as required to be kept by the Louisiana Department of Wildlife and Fisheries in accordance with R.S. 56:306.5, may submit a copy of those records, along with any additional information requested herein, with the shrimp or crawfish.

3. Any shrimp or crawfish not accompanied by all of this information shall be subject to the issuance of a stop-sale, hold or removal order until the shrimp or crawfish is tested for and shown to be clear of chloramphenicol, or the commissioner determines that the shrimp or crawfish does not come from a geographic area where chloramphenicol is being used on or found in food producing animals, or in products from such animals.

D. No shrimp or crawfish that is harvested from or produced, processed or packed in a geographic area, that the ommissioner declares to be a location where chloramphenicol is being used on or found in food producing animals, or in products from such animals, may

be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection F.

E. The commissioner may declare a geographic area to be a location where chloramphenicol is being used on or found in food producing animals, or in products from such animals, based upon information that would lead a reasonable person to believe that chloramphenicol is being used on or found in food producing animals, or in products from such animals, in that geographic area.

1. Any such declaration shall be subject to promulgation in accordance with the provisions of the Administrative Procedure Act.

2. The commissioner may release any such geographic area from a previous declaration that chloramphenicol is being used on food producing animals in that location. Any such release shall be subject to promulgation in accordance with the Administrative Procedure Act.

F. Shrimp or crawfish, that comes from a geographic area declared by the commissioner to be a location where chloramphenicol is being used on, or is found in food producing animals, or in products from such animals, must meet the following requirements for sampling, identification, sample preparation, testing and analysis before being held, offered or exposed for sale, or sold in Louisiana.

1. Sampling

a. The numbers of samples that shall be taken are as follows:

- i. two samples are to be taken of shrimp or crawfish that are in lots of 50 pounds or less;
- ii. four samples are to be taken of shrimp or crawfish that are in lots of 51 to 100 pounds;
- iii. twelve samples are to be taken of shrimp or crawfish that are in lots of 101 pounds up to 50 tons;
- iv. twelve samples for each 50 tons are to be taken of shrimp or crawfish that are in lots of over 50 tons.

b. For packaged shrimp or crawfish, each sample shall be at least 8 ounces, (226.79 grams), in size and shall be taken at random throughout each lot of shrimp or crawfish. For all other shrimp or crawfish, obtain approximately 1 pound, (454 grams), of shrimp or crawfish per sample from randomly selected areas.

c. If the shrimp or crawfish to be sampled consists of packages of shrimp or crawfish grouped together, but labeled under two or more trade or brand names, then the shrimp or crawfish packaged under each trade or brand name shall be sampled separately. If the shrimp or crawfish to be sampled are not packaged, but are segregated in such a way as to constitute separate groupings, then each separate grouping shall be sampled separately.

d. A composite of the samples shall not be made. Each sample shall be tested individually. Each sample shall be clearly identifiable as belonging to a specific group of shrimp or crawfish. All samples shall be kept frozen and delivered to the lab.

2. Each sample shall be identified as follows:

- a. any package label;
- b. any lot or batch numbers;
- c. the country, province and city of origin;
- d. the name and address of the importing company;

e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

3. Sample Preparation. For small packages of shrimp or crawfish up to and including one pound, use the entire sample. Shell the shrimp or crawfish, exercising care to exclude all shells from sample. Grind sample with food processor type blender while semi-frozen or with dry ice. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample in a freezer as a reserve.

4. Sample Analysis

a. Immunoassay test kits may be used if the manufacturer's published detection limit is 1 part per billion, (1 ppb) or less. Acceptable test kits include r-iopharm Ridascreen Chloramphenicol enzyme immunoassay kit and the Charm II Chloramphenicol kit. The commissioner may authorize other immunoassay kits with appropriate detection limits of 1 ppb or below to be used. Each sample must be run using the manufacturer's test method. The manufacturer's specified calibration curve must be run with each set. All results 1 ppb or above must be assumed to be chloramphenicol unless further testing by approved GC/LC method indicates the result to be an artifact.

b. HPLC-MS, GC-ECD, GC-MS methods currently approved by FDA, the United States Department of Agriculture or the Canadian Food Inspection Agency with detection limits of 1 ppb or below may also be used.

c. Other methods for sampling, identification, sample preparation, testing and analysis may be used if expressly approved in writing by the commissioner.

5. Any qualified laboratory may perform the testing and analysis of the samples unless the laboratory is located in any geographic area that the commissioner has declared to be a location where chloramphenicol is being used on or found in food producing animals, or in products from such animals. The commissioner shall resolve any questions about whether a laboratory is qualified to perform the testing and analysis.

6. The laboratory that tests and analyzes a sample or samples for chloramphenicol shall certify the test results in writing.

7. A copy of the certified test results along with the written documentation necessary to show the methodology used for the sampling, identification, sample preparation, testing and analysis of each sample shall be sent to and actually received by the department prior to the shrimp or crawfish being held for sale, offered or exposed for sale, or sold in Louisiana.

a. The test results and accompanying documentation must contain a test reference number.

b. The certified test results and the accompanying documentation must be in English and contain the name and address of the laboratory and the name and address of a person who may be contacted at the laboratory regarding the testing of the shrimp or crawfish.

8. Upon actual receipt by the department of a copy of the certified test results and written documentation required to accompany the certified test results then the shrimp or crawfish may be held, offered or exposed for sale, or sold in Louisiana, unless a written stop-sale, hold or removal order is issued by the commissioner.

9. A copy of the test results, including the test reference number, shall either accompany every shipment and be attached to the documentation submitted with every shipment of such shrimp or crawfish sent to each location in Louisiana or shall be immediately accessible to the department, upon request, from any such location.

G. Any person who is seeking to bring shrimp or crawfish that is required to be sampled and tested under this Section, into Louisiana, or who holds, offers or exposes for sale, or sells such shrimp or crawfish in Louisiana shall be responsible for having such shrimp or crawfish sampled and tested in accordance with Subsection F. Any such person must, at all times, be in full and complete compliance with all the provisions of this Section.

H. The commissioner may reject the test results for any shrimp or crawfish if the commissioner determines that the methodology used in sampling, identifying, sample preparation, testing or analyzing any sample is scientifically deficient so as to render the certified test results unreliable, or if such methodology was not utilized in accordance with, or does not otherwise meet the requirements of this Section.

I. In the event that any certified test results are rejected by the commissioner then any person shipping or holding the shrimp or crawfish will be notified immediately of such rejection and issued a stop-sale, hold or removal order by the commissioner. Thereafter, it will be the duty of any such person to abide by such order until the commissioner lifts the order in writing. Any such person may have the shrimp or crawfish retested in accordance with this Section and apply for a lifting of the commissioner's order upon a showing that the provisions of this Section have been complied with and that the shrimp or crawfish are certified as being free of chloramphenicol.

J. The department may inspect, and take samples for testing, any shrimp or crawfish, of whatever origin, being held, offered or exposed for sale, or sold in Louisiana.

K. A stop-sale, hold or removal order, including a prohibition on disposal, may be placed on any shrimp or crawfish that does not meet the requirements of this Section. Any such order shall remain in place until lifted in writing by the commissioner.

L. The department may take physical possession and control of any shrimp or crawfish that violate the requirements of this Section if the commissioner finds that the shrimp or crawfish presents an imminent peril to the public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

M. The commissioner declares that he has information that would lead a reasonable person to believe that chloramphenicol is being used on or found in food producing animals, or in products from such animals, in the following geographic area(s).

1. The geographic area or areas are:
 - a. the country of the People's Republic of China.
2. All shrimp and crawfish harvested from or produced, processed or packed in any of the above listed geographic areas are hereby declared to be subject to all the provisions of this Section, including sampling and testing provisions.

N. The records and information required under this Section shall be maintained for two years and shall be open to inspection by the department.

O. Penalties for any violation of this Section shall be the same as and assessed in accordance with R.S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 31:

§139. Labeling of Foreign Shrimp and Crawfish by Country of Origin

A. Definitions

Foreign Shrimp or Crawfish Any shrimp or crawfish, as defined herein that is harvested from or produced, processed or packed in a country other than the United States.

Shrimp or Crawfish Any shrimp or crawfish, whether whole, de-headed, de-veined or peeled, and any product containing any shrimp or crawfish.

B. All foreign shrimp or crawfish, imported, shipped or brought into Louisiana shall indicate the country of origin, except as otherwise provided in this Section.

C. Every package or container that contains foreign shrimp or crawfish, shall be marked or labeled in a conspicuous place as legibly, indelibly, and permanently as the nature of the package or container will permit so as to indicate to the ultimate retail purchaser of the shrimp or crawfish the English name of the country of origin.

1. Legibility must be such that the ultimate retail purchaser in the United States is able to find the marking or label easily and read it without strain.

2. Indelibility must be such that the wording will not fade, wash off or otherwise be obliterated by moisture, cold or other adverse factors that such shrimp or crawfish are normally subjected to in storage and transportation.

3. Permanency must be such that, in any reasonably foreseeable circumstance, the marking or label shall remain on the container until it reaches the ultimate retail purchaser unless it is deliberately removed. The marking or label must be capable of surviving normal distribution and storing.

D. When foreign shrimp or crawfish are combined with domestic shrimp or crawfish, or products made from or containing domestic shrimp or crawfish, the marking or label on the container or package or the sign included with any display shall clearly show the country of origin of the foreign shrimp or crawfish.

E. In any case in which the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, appear on any container or package containing foreign shrimp or crawfish, or any sign advertising such foreign shrimp or crawfish for sale, and those words, letters or names may mislead or deceive the ultimate retail purchaser as to the actual country of origin of the shrimp or crawfish, then the name of the country of origin preceded by "made in," "product of," or other words of similar meaning shall appear on the marking, label or sign. The wording indicating that the shrimp or crawfish is from a country other than the United States shall be placed in close proximity to the words, letters or name that indicates

the shrimp or crawfish is a product of the United States in a legible, indelible and permanent manner. No provision of this Section is intended to or is to be construed as authorizing the use of the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, if such use is deceptive, misleading or prohibited by other federal or state law.

F. Foreign shrimp or crawfish shall not have to be marked or labeled with the country of origin if such shrimp or crawfish are included as components in a product manufactured in the United States and the shrimp or crawfish is substantially transformed in the manufacturing of the final product. But in no event shall thawing, freezing, packing, packaging, re-packing, re-packaging, adding water, de-heading, de-veining, peeling, partially cooking or combining with domestic shrimp or crawfish shall not be considered to be a substantial transformation.

G. The commissioner shall have all the powers granted to him by law, or in accordance with any cooperative endeavor with any other public agency, to enforce this Section, including the issuance of stop-sale, hold or removal orders and the seizing of shrimp or crawfish mislabeled or misbranded as to the country of origin.

H. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 31:

Bob Odom
Commissioner

0410#003

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Weights and Measures Commission

Petroleum Products (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. This Emergency Rule supersedes the Emergency Rule adopted on July 6, 2003. The only change is in the definition of invoice cost.

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, October 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 The Commissioner of Agriculture and Forestry.

Cost to the Retailer

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

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

Held for Sale 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 Person.

Invoice 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 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.

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, LR 31:

§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, LR 31:

§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, LR 31:

§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, LR 31:

§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, LR 31:

§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, LR 31:

§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, LR 31:

§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, LR 31:

Bob Odom
Commissioner

0410#052

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodologies (LAC 50:V.Chapter 3)

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 final Rule, whichever occurs first.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 3. Disproportionate Share Hospital Payment Methodologies

§301. General Provisions

A. The reimbursement methodology for inpatient hospital services incorporates a provision for an additional payment adjustment for hospitals serving a disproportionate share of low income patients.

B. The following provisions govern the disproportionate share hospital (DSH) payment methodologies for qualifying hospitals.

1. Total cumulative disproportionate share payments under any and all disproportionate share hospital payment methodologies shall not exceed the federal disproportionate share state allotment for Louisiana for each federal fiscal year or the state appropriation for disproportionate share payments for each state fiscal year. The department shall make necessary downward adjustments to hospital's disproportionate share payments to remain within the federal disproportionate share allotment and the state disproportionate share appropriated amount.

2. Appropriate action including, but not limited to, deductions from DSH, Medicaid payments and cost report settlements shall be taken to recover any overpayments resulting from the use of erroneous data, or if it is determined upon audit that a hospital did not qualify.

3. DSH payments to a hospital determined under any of the methodologies described in this Chapter 3 shall not exceed the hospital's net uncompensated cost as defined in §305-313 or the disproportionate share limits as defined in Section 1923(g)(1)(A) of the Social Security Act for the state fiscal year to which the payment is applicable. Any Medicaid profit shall be used to offset the cost of treating the uninsured in determining the hospital specific DHH limits. High Medicaid hospitals can also qualify as other uninsured hospitals. Public hospitals included in §313 shall receive DSH payments up to 175 percent of the hospital's net uncompensated costs.

4. Qualification is based on the hospital's latest filed cost report as of March 31 of the current state fiscal year and related uncompensated cost data as required by the department. Qualification for small rural hospitals is based on the latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports and related uncompensated cost data will be assumed to be ineligible for disproportionate share payments. Only hospitals that return timely disproportionate share qualification documentation will be considered for disproportionate share payments. After the final payment during the state fiscal year has been issued, no adjustment will be given on DSH payments with the exception of public state-operated hospitals, even if subsequently submitted documentation demonstrates an increase in uncompensated care costs for the qualifying hospital. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

5. Hospitals shall be notified by letter at least 60 days in advance of calculation of DSH payment to submit

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule to adopt the provisions governing the disproportionate share payment methodologies for hospitals in May of 1999 (*Louisiana Register*, Volume 25, Number 5). The May 20, 1999 Rule was later amended to change the criteria used to define rural hospitals and to clarify the policy governing final payments and adjustments (*Louisiana Register*, Volume 29, Number 1).

The Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000 made provisions for public hospitals to receive disproportionate share hospital adjustment payments up to 175 percent of their allowable uncompensated care cost. Act 1024 of the 2001 Regular Session directed the Department of Health and Hospitals, as the federally designated Medicaid state agency, to specify in the Medicaid State Plan how uncompensated care is defined and calculated and to determine what facilities qualify for uncompensated care payments and the amount of the payments. In determining payments, the department shall prioritize local access to primary health care for the medically indigent and uninsured, and shall not include unreimbursed costs resulting from excess inpatient hospital capacity. For the period July 1, 2003 through June 30, 2005, the state's Medicaid uncompensated care payments shall be distributed in proportion to the amount and type of uncompensated care reported by all qualified facilities as required by Senate Bill No. 883 of the 2001 Regular Session. Nothing shall be construed to impede or preclude the Department of Health and Hospitals from implementing the provisions in the Rural Hospital Preservation Act. Further, Senate Concurrent Resolution 94 of the 2001 Regular Session and Senate Concurrent Resolution 27 of the 2002 Regular Session of the Louisiana Legislature requested the Department of Health and Hospitals, the Louisiana State University Health Sciences Center-Health Services Division, and the Louisiana State University Health Sciences Center-Shreveport to study and recommend common acute hospital payment methodologies for state and non-state hospitals participating in the Medicaid Program and the Medicaid Disproportionate Share Program. In accordance with the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000 and the findings and recommendations contained in the final reports of the study committees, the department repealed and replaced all provisions governing disproportionate share hospital payments (*Louisiana Register*, Volume 29, Number 6). Acts 14, 526 and 1148 of the 2003 Regular Session of the Louisiana Legislature directed the department to amend the qualifying criteria and the payment methodology for disproportionate share payments to small rural hospitals. In compliance with Acts 14, 526 and 1148, the bureau amended the July 1, 2003 Emergency Rule (*Louisiana Register*, Volume 29, Number 9). This Emergency Rule is being promulgated to continue provisions contained in the July 1, 2003 Rule. This action is being taken to enhance federal revenue.

Effective October 27, 2004 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby repeals and replaces all rules governing disproportionate share hospital payment methodologies.

documentation required to establish DSH qualification. Only hospitals that timely return DSH qualification documentation will be considered for DSH payments. The required documents are:

- a. obstetrical qualification criteria;
- b. low income utilization revenue calculation;
- c. Medicaid cost report; and
- d. uncompensated cost calculation.

6. Hospitals and/or units which close or withdraw from the Medicaid Program shall become ineligible for further DSH pool payments for the remainder of the current DSH pool payment cycle and thereafter.

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

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

§303. Disproportionate Share Hospital Qualifications

A. In order to qualify as a disproportionate share hospital, a hospital must:

1. have at least two obstetricians who have staff privileges and who have agreed to provide obstetric services to individuals who are Medicaid eligible. In the case of a hospital located in a rural area (i.e., an area outside of a metropolitan statistical area), the term *obstetrician* includes any physician who has staff privileges at the hospital to perform nonemergency obstetric procedures; or

2. treat inpatients who are predominantly individuals under 18 years of age; or

3. be a hospital which did not offer nonemergency obstetric services to the general population as of December 22, 1987; and

4. have a utilization rate in excess of one or more of the following specified minimum utilization rates:

a. Medicaid utilization rate is a fraction (expressed as a percentage). The numerator is the hospital's number of Medicaid (Title XIX) inpatient days. The denominator is the total number of the hospital's inpatient days for a cost reporting period. Inpatient days include newborn and psychiatric days and exclude swing bed and skilled nursing days. Hospitals shall be deemed disproportionate share providers if their Medicaid utilization rates are in excess of the mean, plus one standard deviation of the Medicaid utilization rates for all hospitals in the state receiving payments; or

b. hospitals shall be deemed disproportionate share providers if their low-income utilization rates are in excess of 25 percent. Low-income utilization rate is the sum of:

i. the fraction (expressed as a percentage). The numerator is the sum (for the period) of the total Medicaid patient revenues plus the amount of the cash subsidies for patient services received directly from state and local governments. The denominator is the total amount of revenues of the hospital for patient services (including the amount of such cash subsidies) in the cost reporting period from the financial statements; and

ii. the fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for inpatient services which are attributable to charity (free) care in a period, less the portion of any cash subsidies as described in §303.A.4.b.i in the period which are reasonably attributable to inpatient hospital services. The denominator is the total amount of the hospital's charges for inpatient

hospital services in the period. For public providers furnishing inpatient services free of charge or at a nominal charge, this percentage shall not be less than zero. This numerator shall not include contractual allowances and discounts (other than for indigent patients ineligible for Medicaid), i.e., reductions in charges given to other third-party payers, such as HMOs, Medicare, or Blue Cross; nor charges attributable to Hill-Burton obligations. A hospital providing "free care" must submit its criteria and procedures for identifying patients who qualify for free care to the Bureau of Health Services Financing for approval. The policy for free care must be posted prominently and all patients must be advised of the availability of free care and the procedures for applying. Hospitals not in compliance with free care criteria will be subject to recoupment of DSH and Medicaid payments; or

c. hospitals shall be deemed disproportionate share providers eligible for reimbursement for inpatient services if their inpatient uninsured utilization rates are in excess of 3 percent.

i. Inpatient uninsured utilization rate is a fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for inpatient services furnished to uninsured persons for the period. The denominator is the total amount of the hospital's charges for inpatient services furnished to all persons for the period; or

d. hospitals shall be deemed disproportionate share providers eligible for reimbursement for outpatient services if their outpatient uninsured utilization rates are in excess of 3 percent:

i. outpatient uninsured utilization rate is a fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for outpatient services furnished to uninsured persons for the period. The denominator is the total amount of the hospital's charges for outpatient services furnished to all persons for the period; or

5. effective November 3, 1997, be a small rural hospital as defined in §311.A.1.a-h; and

6. in addition to the qualification criteria outlined in §303.A.1-5, effective July 1, 1994, must also have a Medicaid inpatient utilization rate of at least 1 percent.

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

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

§305. High Uninsured Hospitals

A. Definitions

High Uninsured Utilization Rate Hospital—a hospital that has an uninsured utilization rate in excess of the mean, plus one standard deviation of the uninsured utilization rates for all hospitals.

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients.

B. DSH payments to individual high uninsured hospitals shall be calculated as follows:

1. Inpatient High Uninsured – Payments shall be equal to 100 percent of the hospital's cost of furnishing inpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients. DSH payments calculated under this payment

methodology shall be subject to the adjustment provision below in Subsection E.; and/or

2. Outpatient High Uninsured. Payments shall be equal to 100 percent of the hospital's cost of furnishing outpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients. DSH payments calculated under this payment methodology shall be subject to the adjustment provision below in Subsection E.

C. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid and other third party carriers and payments from patients. Hospitals must certify that excluded from net uncompensated cost are any costs for the care of persons eligible for Medicaid at the time of registration. Hospitals must maintain a log documenting the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an annual attestation that patients whose care is included in the hospitals' net uncompensated cost are not Medicaid eligible at the time of registration; and

2. supporting patient-specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the department, including:

- a. patient age;
- b. family size;
- c. number of dependent children; and
- d. household income.

D. DSH payments to individual high uninsured hospitals shall be equal to 100 percent of the hospital's net uncompensated costs and subject to the adjustment provision in §301.B.

E. In the event that it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH-appropriated amount, the department shall calculate a pro rata decrease for each high uninsured hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying high uninsured hospitals during the state fiscal year; and then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH-appropriated amount.

F. A hospital receiving DSH payments shall furnish emergency and nonemergency services to uninsured persons with family incomes less than or equal to 100 percent of the federal poverty level on an equal basis to insured patients.

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

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

§307. Other Uninsured Hospitals

A. Definitions

Net Uncompensated Cost The cost of furnishing inpatient and outpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients.

Other Uninsured Utilization Rate Hospital A qualifying hospital that is not included in §305, §311, §313 or §315.

B. DSH payments to an individual other uninsured hospital shall be calculated as follows.

1. Inpatient Other Uninsured A qualifying hospitals shall be arrayed from lowest to highest rate according to their inpatient uninsured utilization rate. DSH payments to hospitals in the first quintile of the distribution shall be equal to 25 percent of the hospital's cost of furnishing inpatient hospital services to uninsured persons, supported by patient-specific data, net of payments received from such patients and subject to the adjustment provision below. DSH payments to hospitals in the second through the fifth quintiles of the distribution shall be equal to 40, 55, 70 and 85 percent of the hospital's cost of furnishing inpatient hospital services to uninsured persons, supported by patient-specific data, net of payments received from such patients, respectively and subject to the adjustment provision below in Subsection E.

2. Outpatient Other Uninsured A qualifying hospitals shall be arrayed from lowest to highest rate according to their outpatient uninsured utilization rate. DSH payments to hospitals in the first quintile of the distribution shall be equal to 25 percent of the hospital's cost of furnishing inpatient hospital services to uninsured persons, supported by patient-specific data, net of payments received from such patients and subject to the adjustment provision below. DSH payments to hospitals in the second through the fifth quintiles of the distribution shall be equal to 40, 55, 70 and 85 percent of the hospital's cost of furnishing inpatient hospital services to uninsured persons, supported by patient-specific data, net of payments received from such patients, respectively and subject to the adjustment provision below in Subsection E.

C. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid and other third party carriers and payments from patients. Hospitals must certify that excluded from net uncompensated cost are any costs for the care of persons eligible for Medicaid at the time of registration. Hospitals must maintain a log documenting the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an attestation that patients whose care is included in the hospitals' net uncompensated cost are not Medicaid eligible at the time of registration; and

2. supporting patient-specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the department, including:

- a. patient age;
- b. family size;
- c. number of dependent children; and
- d. household income.

D. DSH payments to an individual other uninsured hospital shall be based on the hospital's uninsured utilization rate and the distribution of all other uninsured hospitals uninsured utilization rates. DSH payments to hospitals in the first quintile of the distribution shall be equal to 25 percent of the hospital's net uncompensated costs and subject to the

adjustment provision in §301.B. DSH payments to hospitals in the second through the fifth quintiles of the distribution shall be equal to 40, 55, 70 and 85 percent of the hospital's net uncompensated cost, respectively.

E. In the event it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH-appropriated amount, the department shall calculate a pro rata decrease for each other uninsured hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying other uninsured hospitals during the state fiscal year; and then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH-appropriated amount.

F. A hospital receiving DSH payments shall furnish emergency and nonemergency services to uninsured persons with family incomes less than or equal to 100 percent of the federal poverty level on an equal basis to insured patients.

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

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

§309. High Medicaid Hospitals

A. Definition. *High Medicaid Utilization Rate Hospital*-a hospital that has a Medicaid utilization rate in excess of the mean, plus one standard deviation of the Medicaid utilization rates for all hospitals in the state receiving payments and that is not included in §305.

1. Medicaid utilization rate is a fraction (expressed as a percentage). The numerator is the hospital's number of Medicaid (Title XIX) inpatient days. The denominator is the total number of the hospital's inpatient days for a cost-reporting period.

B. DSH payments to individual high Medicaid hospitals shall be based on actual paid Medicaid days for a six-month period ending on the last day of the last month of that period, but reported at least 30 days preceding the date of payment. Annualization of days for the purposes of the Medicaid days pool is not permitted. The amount will be obtained by DHH from a report of paid Medicaid days by service date.

C. Disproportionate share payments for individual high Medicaid hospitals shall be calculated based on the product of the ratio determined by:

1. dividing each qualifying high Medicaid hospital's actual paid Medicaid inpatient days for a six-month period ending on the last day of the month preceding the date of payment (which will be obtained by DHH from a report of paid Medicaid days by service date) by the total Medicaid inpatient days obtained from the same report of all qualified high Medicaid hospitals. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days; and

2. multiplying by an amount of funds for high Medicaid hospitals to be determined by the director of the Bureau of Health Services Financing.

D. A pro rata decrease necessitated by conditions specified in §301.B. for high Medicaid hospitals will be calculated based on the ratio determined by:

1. dividing the hospitals' Medicaid days by the Medicaid days for all qualifying high Medicaid hospitals; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

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

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

§311. Small Rural Hospitals

A. Definitions

Net Uncompensated Cost-the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients. Any uncompensated costs of providing health care services in a rural health clinic licensed as part of a small rural hospital as defined below shall be considered outpatient hospital services in the calculation of uncompensated costs.

Small Rural Hospital-a hospital (excluding a long-term care hospital, rehabilitation hospital, or freestanding psychiatric hospital but including distinct part psychiatric units) that meets the following criteria:

- a. had no more than 60 hospital beds as of July 1, 1994, and is located in a parish with a population of less than 50,000 or in a municipality with a population of less than 20,000; or

- b. meets the qualifications of a sole community hospital under 42 CFR §412.92(a); or

- c. had no more than 60 hospital beds as of July 1, 1999 and is located in a parish with a population of less than 17,000 as measured by the 1990 census; or

- d. had no more than 60 hospital beds as of July 1, 1997 and is a publicly-owned and operated hospital that is located in either a parish with a population of less than 50,000 or a municipality with a population of less than 20,000; or

- e. had no more than 60 hospital beds as of June 30, 2000 and is located in a municipality with a population, as measured by the 1990 census, of less than 20,000; or

- f. had no more than 60 beds as of July 1, 1997 and is located in a parish with a population, as measured by the 1990 and 2000 census, of less than 50,000; or

- g. was a hospital facility licensed by the department that had no more than 60 hospital beds as of July 1, 1994, which hospital facility:

- i. has been in continuous operation since July 1, 1994;

- ii. is currently operating under a license issued by the department; and

- iii. is located in a parish with a population, as measured by the 1990 census, of less than 50,000; or

- h. has no more than 60 hospital beds or has notified the department as of March 7, 2002 of its intent to reduce its number of hospital beds to no more than 60, and is located in a municipality with a population of less than 13,000 and in a

parish with a population of less than 32,000 as measured by the 2000 census; or

i. has no more than 60 hospital beds or has notified DHH as of December 31, 2003, of its intent to reduce its number of hospital beds to no more than 60; and

i. is located, as measured by the 2000 census, in a municipality with a population of less than 7,000;

ii. is located, as measured by the 2000 census, in a parish with a population of less than 53,000; and

iii. is located within 10 miles of a United States military base; or

j. has no more than 60 hospital beds as of September 26, 2002; and

i. is located, as measured by the 2000 census, in a municipality with a population of less than 10,000; and

ii. is located, as measured by the 2000 census, in a parish with a population of less than 33,000; or

k. has no more than 60 hospital beds as of January 1, 2003; and

i. is located, as measured by the 2000 census, in a municipality with a population of less than 11,000; and

ii. is located, as measured by the 2000 census, in a parish with a population of less than 90,000.

B. Payment based on uncompensated cost for qualifying small rural hospitals shall be in accordance with the following three pools:

1. *Public (Nonstate) Small Rural Hospitals*—small rural hospitals as defined in §311.A.1, which are owned by a local government.

2. *Private Small Rural Hospitals*—small rural hospitals as defined in §311.A.1, that are privately owned.

3. *Small Rural Hospitals*—small rural hospitals as defined in §311.A.1.i - k.

C. Payment to hospitals included in §311.B.1, §311.B.2, and §311.B.3 is equal to each qualifying rural hospital's pro rata share of uncompensated cost for all hospitals meeting these criteria for the latest filed cost report multiplied by the amount set for each pool. If the cost reporting period is not a full period (12 months), actual uncompensated cost data from the previous cost reporting period may be used on a pro rata basis to equate a full year.

D. Pro Rata Decrease

1. A pro rata decrease necessitated by conditions specified in §301.B. for rural hospitals described in this §311 will be calculated using the ratio determined by:

a. dividing the qualifying rural hospital's uncompensated costs by the uncompensated costs for all rural hospitals in §311; then

b. multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment or the state DSH appropriated amount.

2. No additional payments shall be made after the final payment for the state fiscal year is disbursed by the department. Recoupment shall be initiated upon completion of an audit if it is determined that the actual uncompensated care costs for the state fiscal year for which the payment is applicable is less than the actual amount paid.

E. Qualifying hospitals must meet the definition for a small rural hospital contained in §311.A.1. Qualifying hospitals must maintain a log documenting the provision of uninsured care as directed by the department.

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

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

§313. Public State-Operated Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients.

Public State-Operated Hospital—a hospital that is owned or operated by the state of Louisiana.

B. DSH payments to individual public state-owned or operated hospitals shall be up to 175 percent of the hospital's net uncompensated costs. Final payment will be based on the uncompensated cost data per the audited cost report for the period(s) covering the state fiscal year.

C. In the event that it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH-appropriated amount, the department shall calculate a pro rata decrease for each public state-owned or operated hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying public state-owned or operated hospitals during the state fiscal year; and then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH-appropriated amount.

D. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid and other third party carriers and payments from patients. Hospitals must certify that excluded from net uncompensated cost are any costs for the care of persons eligible for Medicaid at the time of registration. Acute hospitals must maintain a log documenting the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an attestation that patients whose care is included in the hospitals' net uncompensated cost are not Medicaid eligible at the time of registration; and

2. supporting patient-specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the department, including:

- a. patient age;
- b. family size;
- c. number of dependent children; and
- d. household income.

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, LR 31:

§315. Psychiatric Hospitals

A. Definitions

Net Uncompensated Cost The cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients.

Psychiatric Hospital A free standing psychiatric hospital that is not included in §313.

B. DSH payments to individual free standing psychiatric hospitals shall be based on actual paid Medicaid days for a six-month period ending on the last day of the last month of that period, but reported at least 30 days preceding the date of payment. Annualization of days for the purposes of the Medicaid days pool is not permitted. The amount will be obtained by DHH from a report of paid Medicaid days by service date.

C. Disproportionate share payments for individual free standing psychiatric hospitals shall be calculated based on the product of the ratio determined by:

1. dividing each qualifying free standing psychiatric hospital's actual paid Medicaid inpatient days for a six-month period ending on the last day of the month preceding the date of payment (which will be obtained by DHH from a report of paid Medicaid days by service date) by the total Medicaid inpatient days obtained from the same report of all qualified free standing psychiatric hospitals. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days; and

2. multiplying by an amount of funds for free standing psychiatric to be determined by the director of the Bureau of Health Services Financing

D. A pro rata decrease necessitated by conditions specified in §301.B. for hospitals in §315 will be calculated based on the ratio determined by:

1. dividing the hospitals' Medicaid days by the Medicaid days for all qualifying hospitals in §315; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

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

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

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

Interested persons may submit written comments to Ben A. Bearden 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

0410#068

DECLARATION OF EMERGENCY

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

Early and Periodic Screening, Diagnosis and Treatment Program Health Services (LAC 50:XV.Chapter 71)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby amends LAC 50:XV.Chapter 71 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 coverage and reimbursement for health services provided for recipients under the age of 21 under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. The bureau now proposes to promulgate the service descriptions and the staffing requirements for EPSDT health services and to amend the reimbursement methodology for services rendered by local education agencies. This action is being taken to promote the health and welfare of Medicaid recipients and to maintain access to EPSDT school-based services. It is estimated that implementation of this Emergency Rule will increase expenditures for EPSDT services by approximately \$29,704,271 for state fiscal year 2004-2005.

Effective October 20, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the service descriptions and the staffing requirements for EPSDT health services and amends the reimbursement methodology for services rendered by local education agencies.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening,

Diagnosis, and Treatment

Chapter 71. Health Services

§7101. Covered Services

A. Health services for children are covered if they are included on the Individualized Family Service Plan (IFSP) for ages 0 to 3 years of age, and on the Individualized Education Plan (IEP) for ages 3 to 21 years of age.

1. Audiology services are for the identification of children with auditory impairment, using at risk criteria and appropriate audiologic screening techniques. Audiology services include:

- a. determination of range, nature and degree of hearing loss and communications, by use of audiological procedures;

- b. referral for medical and other services necessary for the rehabilitation of children with auditory impairment; and

- c. provision of auditory training, aural rehabilitation, speech reading and listening device orientation and training, and other services.

2. Speech pathology services are for the identification of children with communicative or oropharyngeal disorders and delays in development of communication skills including diagnosis and treatment. These services include:

a. referral for medical or other professional services necessary for the rehabilitation of children with communicative or oropharyngeal disorders and delays in development of communication skills; and

b. provision of services for the rehabilitation or prevention of communicative or oropharyngeal disorders and delays in development of communication skills.

3. Occupational therapy services address the functional needs of a child related to the performance of self-help skills, adaptive behavior, play and sensory, motor and postural development. Occupational therapy services include:

a. identification, assessment, and intervention;

b. adaptation of the environment;

c. selection, design, and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and

d. prevention or reduction of the impact of initial or future impairment, delays in development, or loss of functional ability.

4. Physical therapy services are designed to improve the child's movement dysfunction. Physical therapy services include:

a. screening of infants and toddlers to identify movement dysfunction;

b. obtaining, interpreting and integrating information appropriate to program planning; and

c. services to prevent or alleviate movement dysfunction and related functional problems.

5. Psychological services are designed to obtain, integrate, and interpret information about child behavior, and child and family conditions related to learning, mental health, and development. Psychological services include:

a. administering psychological and developmental tests and other assessment procedures;

b. interpreting assessment results;

c. planning and managing a program of psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.

B. Services Provided by Local Education Agencies. Services provided by local education agencies include the health services as defined above and specified related services as described below that are provided to children ages 3 to 21 determined to be medically necessary and are listed on the child's Individualized Education Plan (IEP).

1. Transportation to and from school is covered for Medicaid children only when a child's medical needs require the use of specialized transportation services and when the child receives another covered EPSDT Health Service at the school on the day the transportation is provided. The EPSDT Health Service and the child's specialized transportation needs **MUST** be identified in the child's IEP.

2. Counseling services are services provided to the child and/or parents for the assessment, understanding and treatment of the child's disability, the special needs of the child, and the child's development. Providers of counseling

services must meet all licensing requirements for their respective licensing boards.

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 29:176 (February 2003), amended LR 30:1034 (May 2004), LR 31:

§7103. Professional Staffing Requirements

A. Audiological Services. Audiological services must be provided by an audiologist or physician licensed in Louisiana to provide these services. A referral must be made by the child's physician, preferably the primary care physician, at least annually in accordance with federal Medicaid regulations. The audiologist must have one of the following:

1. a certificate of clinical competence from the American Speech and Hearing Association;

2. completion of the equivalent educational requirements and work experience necessary for certification; or

3. completion of the academic program and is acquiring supervised work experience to qualify for a certificate.

B. Speech Pathology Services. Speech pathology services must be provided by or under direction of a speech pathologist or audiologist in accordance with licensing standards of the State Examiners Board for Speech Pathologists or Audiologists. The speech pathologist or audiologist must be licensed in the state of Louisiana to provide these services and have one of the following:

1. a certificate of clinical competence from the American Speech and Hearing Association;

2. completion of the equivalent educational requirements and work experience necessary for certification; or

3. completion of the academic program and is acquiring supervised work experience to qualify for a certificate.

C. Occupational Therapy Services. Occupational therapy services must be provided by or under the direction of a qualified occupational therapist licensed in Louisiana to provide these services in accordance with the licensing standards of the State Examiners Board of Occupational Therapists. Occupational therapy treatment services require a written referral or prescription by a physician licensed in Louisiana on at least an annual basis. An initial evaluation may be done without a referral or prescription.

1. The occupational therapist must also be:

a. registered (OTR) by the American Occupational Therapy Association, Inc. (AOTA); or

b. a graduate of a program approved by the Council on Medical Education of the American Medical Association and engaged in the supplemental clinical experience before registration by the AOTA.

2. Services provided under the direction of an occupational therapist must be provided by an occupational therapist assistant certified by the AOTA, who is licensed to assist in the practice of occupational therapy under the supervision of an occupational therapist licensed in Louisiana.

D. Physical Therapy Services. Physical therapy services must be provided by or under the directions of a qualified physical therapist in accordance with state licensing standards of the State Examiners Board for Physical Therapists. The physical therapist must be a graduate of a program of physical therapy approved by both the Council in Medical Education of the American Medical Association and the American Physical Therapy Association or its equivalent. Physical therapy treatment requires a written referral or prescription by a physician licensed in Louisiana on at least an annual basis. An initial evaluation does not require such referral or prescription.

E. Psychological services must be provided by a:

1. Louisiana licensed physician;
2. psychiatrist;
3. psychologist; or
4. certified school psychologist.

F. Counseling services must be provided by a:

1. licensed professional counselor;
2. licensed clinical social worker; or
3. graduate social worker with supervision in accordance with the state licensing standards of the State Board of Social Work Examiners.

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 30:1034 (May 2004), amended LR 31:

§7105. Reimbursement

A. Early Intervention Centers. Reimbursement for rehabilitation services rendered to Medicaid recipients who are age 0 up to 3 provided by EPSDT early intervention center providers is as follows.

Procedure	Rate
Electrical stimulation	\$ 17
Physical therapy-one area—therapeutic-30 minutes	\$ 17
Physical therapy-neuromuscular reed-30 minutes	\$ 17
Physical therapy-gait training-30 minutes	\$ 34
Orthotic training	\$ 14
Kinetic act one area-30 minutes	\$ 14
Physical performance test	\$ 14
Physical therapy evaluation/re-evaluation	\$ 92
Occupational therapy evaluation/re-evaluation	\$ 70
Speech/language evaluation/re-evaluation	\$ 70
Speech/language therapy—30 minutes	\$ 26
Speech/language therapy-add 15 minutes	\$ 13
Group speech/language/hearing therapy—30 minutes	\$ 26
Speech group therapy—20 minutes	\$ 13
Speech group therapy—add 15 minutes	\$ 13
Group Speech/language/hearing therapy—1 hour	\$ 52
Speech/language/hearing therapy—20 minutes	\$ 17
Speech/language/hearing therapy—1 hour	\$ 52
Procedures and modalities—30 minutes	\$ 34
Procedures and modalities—45 minutes	\$ 52

B. Local Educational Agencies. All local education agencies that participate in Medicaid as EPSDT health services providers must submit a signed school system certification of understanding (PE-50 EPSDT provider supplement agreement "C") in order to receive the new reimbursement rates for these services. The new

reimbursement rates will not be activated until a completed PE-50 EPSDT provider supplement agreement form has been received from all of the local education agencies enrolled as EPSDT health services providers.

C. Rates for services provided by local education agencies will be established by dividing total costs related to providing the service, less any federal funds, by the total units of service provided. This will be determined as follows:

1. total costs will consist of salaries, benefits and an allocation of indirect costs;
2. annual salaries and benefits will be obtained each rebasing year for all direct service personnel;
3. indirect costs will be allocated using the unrestricted indirect cost rate calculated by the Department of Education;
4. a time study will be conducted each rebasing year using the random moment sampling methodology. The time study will determine the percentage of time direct service personnel spend on billable services;
5. total costs will be multiplied by the percentage of direct service time to determine the amount of allocable costs;
6. allocable costs will then be multiplied by the Medicaid discount factor for this program;
7. discounted costs will be divided by total units of service billed for the year to determine cost per unit of service;
8. current rates will be inflated and paid as an interim rate. At the end of the first year, costs and time study results will be obtained and rates will be calculated for a representative sample of the school districts. The median of this sample will then be used to set a state-wide rate. The State will then calculate the difference between the calculated state-wide rate time the units billed and compare this to the amount paid to the district during the base year. A retroactive adjustment will then be paid to each district;
9. the state-wide rate will be inflated using wage inflation factors, and become the per unit rate for the year "Base Year Plus 1;" and
10. rebasing will be done at least every three years.

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

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

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

Interested persons may submit written comments to Ben A. Bearden 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

0410#066

DECLARATION OF EMERGENCY

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

Non-Emergency Medical Transportation
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 provides coverage and reimbursement for non-emergency medical transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third party coverage would pay. As a result of the allocation of additional funds by the Legislature during the 2003 Regular Session, the bureau increased the reimbursement fees for certain designated procedures (*Louisiana Register*, Volume 30, Number 1). As a result of the allocation of additional funds by the Legislature during the 2004 Regular Session, the bureau has determined that it is necessary to increase the reimbursement fees for non-emergency medical transportation services. This action is being taken to promote the health and welfare of recipients and to maintain access to non-emergency medical transportation services by encouraging the continued participation of these providers in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures for non-emergency medical transportation services by approximately \$337,265 for the state fiscal year 2004-2005.

Emergency Rule

Effective for dates of service November 1, 2004 through January 31, 2005, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for non-emergency medical transportation services by 15 percent of the rates in effect on October 31, 2004. Non-emergency medical transportation provided by friends and family is not included in this reimbursement increase.

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 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

0410#067

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 repealed the April 1, 2004 Rule and promulgated 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. (*Louisiana Register*, Volume 30, Number 7) This Emergency Rule is being promulgated to continue the provisions contained in the July 1, 2004 Rule. 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.

Emergency Rule

Effective for dates of service on or after October 30, 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

0410#070

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 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 promulgated an Emergency Rule to increase 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. (*Louisiana Register*, Volume 30, Number 7) This Emergency Rule is

being promulgated to continue provisions contained in the July 1, 2004 Rule. 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.

Emergency Rule

Effective for dates of service on or after October 30, 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

0410#069

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 November 4, 2004. This Emergency Rule shall remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule of July 7, 2004, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule will be published in February 2005).

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 6 through 17 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. 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 6 through 17 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 a calendar year based on the availability of TANF funding. The child must be at least 6 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 31:

Ann Silverberg Williamson
Secretary

0410#059

DECLARATION OF EMERGENCY

Department of Social Services
Office of Family Support

CCAP Immunization and Age Verification
(LAC 67:III.5103 and 5107)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III.5103 and 5107 in the Child Care Assistance Program (CCAP), effective October 1, 2004. This Rule shall remain in effect for a period of 120 days.

Amendments are necessary to the CCAP Program in order to comply with the federal mandate that all children receiving child care services be immunized and that verification of such be provided and to comply with the findings of the state audit regarding agency responsibility in monitoring immunization in Family Child Day Care Homes.

In order to comply with federal regulations and to avoid severe penalties or sanctions, the agency intends to amend §5103, Conditions of Eligibility, to require that families provide proof of immunization as an eligibility requirement for the receipt of Child Care Assistance. Additionally, §5107, Child Care Providers, is being amended to remove the provision that Family Child Day Care Home providers retain an immunization record signed/stamped by a physician or physician's designee on each child in care verifying the child has had or is in the process of receiving all age-appropriate immunizations.

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 12. Child Care Assistance
Chapter 51. Child Care Assistance
Subchapter B. Child Care Assistance Program
§5103. Conditions of Eligibility

A. ...

B. Low-income families not receiving FITAP cash assistance, including former FITAP recipients who are given priority consideration, must meet the following eligibility criteria:

1. - 6. ...

7. The family requests child care services, provides the information and verification necessary for determining eligibility and benefit amount, and meets appropriate application requirements established by the State. Required verification includes birth verification for all children under 18 years of age, proof of all countable household income,

proof of the hours of all employment/education/training and effective October 1, 2004, proof of immunization for each child in need of care.

C. ...

D. Effective October 1, 2004, all children receiving services must be age-appropriately immunized according to the schedule of immunizations as promulgated by the Louisiana Office of Public Health, or be in the process of receiving all age-appropriate immunizations. No person is required to comply with this provision if that person or his/her parent or guardian submits a written statement from a physician stating that the immunization procedure is contraindicated for medical reasons, or if the person or his/her parent or guardian objects to the procedure on religious grounds.

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 29:1106 (July 2003), LR 29:1833 (September 2003), LR 30:496 (March 2004), LR 30:1487 (July 2004), LR 31:

§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. - f. ...

g. Repealed.

B.2 - G.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 30:1484 (July 2004), LR 30:1487 (July 2004), LR 31:

Ann Silverberg Williamson
Secretary

0410#017

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

**STEP/FITAP/KCSP Disability Definition and Time Limits
(LAC 67:III.1221, 1247, 5321, 5705, 5715, and 5727)**

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III, Subpart 16, Chapter 57, Strategies to Empower People (STEP) Program, Subpart 2, Chapter 12, Family

Independence Temporary Assistance Program (FITAP), Chapter 53, Kinship Care Subsidy Program (KCSP) effective October 1, 2004. This Rule shall remain in effect for a period of 120 days.

Studies indicate that for the majority of FITAP recipients, 24 months is not sufficient to achieve the education level or training needed to attain living wage employment or progress in their employment. An evaluation of the Louisiana FITAP Program performed by Berkeley Policy Associates (BPA) indicated that "40 percent who leave at month 24 are not employed in the first quarter after exit" from the program and that "those who do leave for employment at month 24 are no better prepared in terms of education or skill levels than other leavers." Therefore, pursuant to Act 675 of the 2004 Legislative Session, the agency is amending §1247 to: modify those situations which constitute an exemption from the 24-month time limit; allow FITAP recipients to receive benefits beyond the state's 24-month time limit if they maintain compliance with the STEP Family Success Agreement; and modify the criteria of hardships that must exist in order for cash assistance to be provided to a family that includes an adult who has received assistance for 60 months. Section 1221 is being amended to clarify the criteria necessary to be classified as a dependent child. Section 5321 of the Kinship Care Subsidy Program is being amended to align the age limit eligibility criteria in FITAP and KCSP.

Pursuant to Act 110 of the 2004 Regular Legislative Session, the agency is amending §5705, §5715, and §5727 of the STEP Program. Section 5705 is being amended by redefining a work-eligible family and work-eligible recipient in the STEP Program to remove the requirement that a recipient be permanently disabled and by removing temporary incapacity or illness from the definition of temporary exception. Section 5715 is being amended regarding temporary exceptions and the state's 24-month time limit. Section 5727 is being amended to clarify criteria for completion of a Family Transition Assessment.

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

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 2. Family Independence Temporary Assistance Program

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1221. Age Limit

A. A dependent child must be:

1. ...

2. 18 years of age and enrolled in a secondary school or its equivalent.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.2; Act 58, 2003 Reg. Session, Act 675, 2004 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2448 (December 1999), amended LR 30:494 (March 2004), LR 31:

§1247. Time Limits

A. ...

B. The following situations represent exemptions from the 24-month time limit:

1. effective October 1, 2004, all adults included in the assistance unit are incapacitated or disabled; or

2. ...

C. An extension of the 24-month time limit may be granted in the following situations effective October 1, 2004:

1. an individual maintains compliance with the Family Success Agreement (FSA);

2. - 3. ...

4. other hardships have occurred which affect the individual's ability to obtain employment.

D. Eligibility for cash assistance under a program funded by Part IV of the Social Security Act is limited to a lifetime limit of 60 months. No cash assistance will be provided to a family that includes an adult who has received assistance for 60 months (whether or not consecutive) unless one of the following hardships exist (in households with two caretaker relatives, both caretaker relatives must meet at least one of these criteria) effective October 1, 2004:

1. factors relating to job availability are unfavorable;

2. an individual loses his job as a result of factors not related to his job performance;

3. other hardships have occurred which affect the individual's ability to obtain employment.

E. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.6, and R.S. 46:460.5(A)(3); Act 58, 2003 Reg. Session; Act 675, 2004 Regular Session

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999), amended LR 26:349 (February 2000), LR 27:2263 (December 2001), LR 30:494 (March 2004), LR 31:

Subpart 13. Kinship Care Subsidy Program (KCSP)
Chapter 53. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§5321. Age Limit

A. A dependent child must be:

1. ...

2. 18 years of age and enrolled in a secondary school or its equivalent.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B and R.S. 46:237; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:352 (February 2000), amended LR 30:496 (March 2004), LR 31:

Subpart 16. Strategies to Empower People (STEP) Program

Chapter 57. Strategies to Empower People (STEP) Program

Subchapter A. Designation and Authority of State Agency

§5705. Definitions

* * *

Temporary Exception—A limited time period in which the work-eligible recipient does not have to participate in an assigned work activity due to unavailable child care or a domestic violence situation.

Work-Eligible Family—A FITAP family (including cases which do not receive cash because their benefit would be less than \$10) which includes at least one adult under age 60

or a teen head of household who is not disabled or incapacitated, or who is not caring for a family member who is disabled or incapacitated as documented by a medical professional.

Work-Eligible Recipient—An adult under age 60 or a teen head of household who is included in a work-eligible family and who is not disabled or incapacitated, or who is not caring for a family member who is disabled or incapacitated, as documented by a medical professional.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session; Act 110, 2004 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:497 (March 2004), amended LR 31:

Subchapter C. Participation Requirements
§5715. Temporary Exceptions

A. A work-eligible applicant or recipient of cash assistance shall immediately participate in work activities for the minimum number of hours per week required by federal law unless one of the following exceptions applies. These temporary exceptions shall not exceed six months in a 12-month period. Effective October 1, 2004, the exceptions include:

1. inability to obtain appropriate child care; or

2. status as a victim of domestic violence based on evidence presented to the department which may include, but not limited to, information from law enforcement agencies or domestic violence providers. This exception shall only be granted if a participant develops a plan to address the domestic violence situation and incorporates this plan in the FSA.

B. ...

C. Participants who receive a temporary exception shall be informed that this time is counted against their federal 60-month time limit and state 24-month time limit for receipt of cash assistance.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session; Act 110 and Act 675, 2004 Reg. Session .

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:498 (March 2004), amended LR 31:

Subchapter C. Step Program Process
§5727. Family Transition Assessment

A. The department shall complete a Family Transition Assessment (FTA) to assist participants with their transition from cash assistance. Effective October 1, 2004, the plan will be completed with participants who have received three of the first six months of earned income disregard, or who are within six months of an expected transition from FITAP for reasons other than non-compliance with program requirements, whichever is earlier.

B. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session; Act 110 and Act 675, 2004 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:500 (March 2004), amended LR 31:

Ann Silverberg Williamson
Secretary

0410#019

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Initiatives (LAC 67:III.Chapters 55 and 56)

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 repeal LAC 67:III, Subpart 15, Chapter 55, §§5501, 5509-5513, 5525, 5527, 5533, 5537, 5539, 5547, 5553, 5557, 5567, 5569, 5577 and Chapter 56, Diversion Assistance Program, in its entirety and to adopt §5579, Earned Income Tax Credit as a new TANF Initiative. Additionally, §5541, Court-Appointed Special Advocates, is being amended to remove specific language regarding the TANF partner who will be administering the program and §5561, Child-Parent Enrichment Services Program, is being amended to specify the public awareness portion of this quality child care initiative program. This Emergency Rule effective September 30, 2004, will remain in effect for a period of 120 days.

Pursuant to Act 1 of the 2004 Regular Session of the Louisiana Legislature, the agency proposes to repeal several of the TANF Initiatives, as funding is no longer available for these programs. Additionally, §5579 is being adopted to promote a public awareness and training program regarding the benefits of claiming the earned income tax credit and §§5541 and 5561 are being amended as noted above. 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

§5501. Starting Points Early Childhood Development Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:2265 (December 2001), amended LR 29:715 (May 2003), repealed LR 31:

§5509. Domestic Violence Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:351 (February 2002), amended LR 30:501 (March 2004), repealed LR 31:

§5511. Micro-Enterprise Development

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:871 (April 2002), amended LR 28:2373 (November 2002), repealed LR 31:

§5513. Post-Release Skills Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:351 (February 2002), amended LR 29:715 (May 2003), repealed LR 31:

§5525. Pre-GED/Skills Option Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session; Act 14, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), amended LR 30:501 (March 2004), repealed LR 31:

§5527. Program Evaluation, Comprehensive Needs Assessment, and Training

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), repealed LR 31:

§5533. Transportation Services Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session, Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), LR 29:190 (February 2003), repealed LR 31:

§5537. Education and Training

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:353 (February 2002), repealed LR 31:

§5539. Truancy Assessment and Service Centers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session; Act 14, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:353 (February 2002), amended LR 30:502 (March 2004), repealed LR 31:

§5541. Court-Appointed Special Advocates

A. OFS shall enter into Memoranda of Understanding to provide services to needy children identified as abused or neglected who are at risk of being placed in foster care or, are already in foster care. Community advocates provide information gathering and reporting, determination of and advocacy for the children's best interests, and case monitoring to provide for the safe and stable maintenance of the children or return to their own home.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session; Act 1, 2004 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:871 (April 2002), amended LR 31:

§5547. Housing Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:871 (April 2002), amended LR 28:2374 (November 2002), repealed LR 31:

§5553. Substance Abuse Treatment Program for Office of Community Services Clients (Effective July 1, 2002)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2375 (November 2002), repealed LR 31:

§5557. Energy Assistance Program for Low-Income Families (Effective July 1, 2002)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2375 (November 2002), repealed LR 31:

§5561. Child-Parent Enrichment Services and Public Awareness Program (Effective September 30, 2004)

A. The Department of Social Services, Office of Family Support, shall enter into Memoranda of Understanding or contracts to create quality, early childhood education and parenting programs at various sites, such as schools, Head Start Centers, churches, and Class A Day Care Centers to provide children with age-appropriate services during the school year, school holidays, summer months and before-and-after school and to provide parents, legal guardians, or caretaker relatives of children with parenting and adult/family educational services. A Public Awareness Program will develop public education materials for parents, providers, professionals, and interested parties to: promote applications for CCAP; assist providers; encourage eligible families to apply for services offered through OFS; and educate parents and others who have an interest in children and families about criteria of quality child care and the needs of young children.

B. Services offered by providers meet the TANF goals to prevent and reduce the incidence of out-of-wedlock births by providing supervised, safe environments for children thus limiting the opportunities for engaging in risky behaviors, and to encourage the formation and maintenance of two-parent families by providing educational services to parents or other caretakers to increase their own literacy level and effectiveness as a caregiver, and to foster positive interaction with their children.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:190 (February 2003), amended LR 31:

§5567. Parental Involvement Services Program (Effective September 30, 2002)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:191 (February 2003), repealed LR 31:

§5569. Alternatives to Abortion Services Program (Effective September 30, 2002)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:191 (February 2003), repealed LR 31:

§5577. Skills Training for Incarcerated Fathers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 14, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:502 (March 2004), repealed LR 31:

§5579. Earned Income Tax Credit (EITC) Program

A. The agency has entered into contracts to provide a public awareness and education regarding the benefits of claiming the Earned Income Tax Credit (EITC) Program. Strategies include collaboration with the IRS and the expansion of existing outreach activities that work in conjunction with free taxpayer assistance.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is not limited to needy families.

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

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 31:

Chapter 56. Diversion Assistance Program (DAP)

§5601. General Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2566 (December 2002), repealed LR 31:

Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§5603. Application Date

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2566 (December 2002), repealed LR 31:

§5605. Standard Filing Unit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2566 (December 2002), repealed LR 31:

§5607. Application Time Limit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2566 (December 2002), repealed LR 31:

§5609. Certification Period and Payment Amounts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2566 (December 2002), repealed LR 31:

§5611. Domestic Violence

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2567 (December 2002), repealed LR 31:

Subchapter B. Conditions of Eligibility

§5613. Citizenship

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2567 (December 2002), repealed LR 31:

§5615. Enumeration

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2567 (December 2002), repealed LR 31:

§5617. Living in the Home of a Qualified Relative

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2567 (December 2002), repealed LR 31:

§5619. Income

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2567 (December 2002), repealed LR 31:

§5621. Residency

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2568 (December 2002), repealed LR 31:

§5623. Resources

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2568 (December 2002), repealed LR 31:

§5625. Work Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2568 (December 2002), repealed LR 31:

§5627. Job Loss Factors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2568 (December 2002), repealed LR 31:

§5629. Fleeing Felons and Probation/Parole Violators

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2569 (December 2002), repealed LR 31:

§5631. Strikers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2569 (December 2002), repealed LR 31:

Ann Silverberg Williamson
Secretary

0410#018

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Initiatives Developmental and Socialization
Activities Program for Foster Children (LAC 67:III.5579)

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 November 4, 2004. This Emergency Rule will remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule of July 7, 2004, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule will be published in February 2005.)

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 31:

Ann Silverburg Williamson
Secretary

0410#060

DECLARATION OF EMERGENCY

**Department of Treasury
Board of Trustees of the Louisiana
State Employees' Retirement System**

Emergency Refunds (LAC 58.I.1301)

Under the authority of R.S. 11:515 and in accordance with R.S. 49:951 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") advertises its intent to amend LAC 58.I.1301.

This emergency enactment is necessary to more efficiently administer refunds of accumulated employee contributions. The Rule is also being adopted in identical form through the ordinary promulgation process.

This Rule shall become effective on October 8, 2004, and shall remain in effect for 120 days or until they become effective through the normal promulgation process, whichever comes first.

**Title 58
RETIREMENT**

Part I. Louisiana State Employees' Retirement System

Chapter 13. Emergency Refunds

§1301. Conditions Giving Rise to an Emergency Refund

A. - B. ...

C. Emergency refunds are available on a one-time basis only. Once a member has taken advantage of this single opportunity and has received a refund under the terms of this chapter, that member shall no longer be eligible for an emergency refund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:537(B).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:1710 (December 1997) LR 31:

Cindy Rougeou
Assistant Director

0410#056

Rules

RULE

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Organic Farming (LAC 7:XLIII.Chapter 1)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, hereby adopts regulations governing the state's organic certification program.

The United States Congress passed legislation that preempts the regulations of organic certification programs by the states. The United States Department of Agriculture has adopted rules and regulations governing organic certification programs. Therefore, the Department of Agriculture and Forestry is repealing the department's rules and regulations governing the organic certification program in Louisiana. The department is enacting a fee schedule for providing organic certification services as authorized by federal regulations.

All previous regulations, Sections 101-129, of the department governing the organic certification program are repealed. Sections 101 and 103 are re-enacted to read as follows.

This Rule is enabled by R.S. 40:608.3.

Title 7

AGRICULTURE AND ANIMALS

Part XLIII. Organic Farming

Chapter 1. Organic Certification Program

§101. Organic Certification

A. Organic certification is governed by federal regulations which may be found in the Code of Federal Regulations Volume 65, Number 246, Part IV, 7 CFR Part 205, Subparts A-E, and Subpart G, Sections 600-607, 642-663, 670-681.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3 and 7 CFR 205.642.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 30:2255 (October 2004).

§103. Organic Certification Fees

A. Producers, processors, handlers, and distributors participating in the National Organic Program certified by the Department of Agriculture and Forestry will be charged organic certification fees.

B. The organic application fee, organic certification fee or annual update fee shall be paid by new applicants or those applicants updating organic certification and shall be paid in accordance with the following schedule.

Organic Certification Fee Schedule		
A nonrefundable \$25 application fee is required for all business types. (Submitted with organic certification application.)		
Organic Business Type	Initial	Annual Update
Producer Land Area Based on Acres	\$	
Less than 5 acres	150	75

5 to 25 acres	200	100
Greater than 25 acres	300	150
Plus Each additional Increment of 25 acres	50	50
Processor Land Area Based on Square Feet	\$	
Less than 250 sq. ft.	100	50
250 to 1000 sq. ft.	150	75
Greater than 1000 sq. ft.	200	100
Plus Each Additional Increment of 250 sq. ft.	50	50
Handler/Processor	\$	
Handler/Processor	500	500
Handler Distributor only	300	300

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3 and 7 CFR 205.642.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 30:2255 (October 2004).

§105. Certification; Evaluation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:394 (April 1994), repealed LR 30:2255 (October 2004).

§107. Certification; Transitional Period

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:395 (April 1994), repealed LR 30:2255 (October 2004).

§109. Recertification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:395 (April 1994), repealed LR 30:2255 (October 2004).

§111. Required Records; Verification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:395 (April 1994), repealed LR 30:2255 (October 2004).

§113. Auditing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:395 (April 1994), repealed LR 30:2255 (October 2004).

§115. Louisiana Certified Organic Mark

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:395 (April 1994), repealed LR 30:2255 (October 2004).

§117. Conditions of Retail Sale

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:396 (April 1994), repealed LR 30:2256 (October 2004).

§119. Drugs and Medicinal Claims

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:396 (April 1994), repealed LR 30:2256 (October 2004).

§121. Enforcement and Complaint Investigation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:396 (April 1994), repealed LR 30:2256 (October 2004).

§123. Organic Certification Inspection Fees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:396 (April 1994), repealed LR 30:2256 (October 2004).

§125. Louisiana Organic Standards Advisory Council

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:397 (April 1994), repealed LR 30:2256 (October 2004).

§127. Prohibited Acts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:397 (April 1994), repealed LR 30:2256 (October 2004).

§129. Penalties

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:397 (April 1994), repealed LR 30:2256 (October 2004).

Bob Odom
Commissioner

0410#078

RULE

Board of Elementary and Secondary Education

Bulletin 111 Louisiana School, District, and State
Accountability System
(LAC 28:LXXXIII.Chapters 7, 15, 17, and 31)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *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 changes more closely align the State's Accountability System with the "No Child Left Behind Act of 2001" and allow staff to expedite the release of preliminary School Performance Scores as follows.

Recent guidelines from the U.S. Department of Education allow some additional flexibility when considering limited English proficient students, and consecutive years failing the adequate yearly progress test. Appealing only current data allows accountability decisions to be made before school begins each fall as required by the "No Child Left Behind Act of 2001."

Title 28

EDUCATION

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

Chapter 7. Subgroup Component

**§703. Inclusion of Students in the Subgroup
Component**

A. - C.3. ...

a. Scores shall not be included in AMO or improvement in percent proficient calculations for LEP students who have not been enrolled in an English-speaking school for one full school year.

D. - 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 30:1619 (August 2004), repromulgated LR 30:1996 (September 2004), amended LR 30:2256 (October 2004).

§709. Failing the Subgroup Component

A. - B. ...

C. Any school that has failed the subgroup component in the same subject for two consecutive years will enter school improvement 2 (e.g. special education in mathematics in year one and economically disadvantaged in math in year two. The school has failed the subgroup component for two consecutive years and therefore, must enter SI 2).

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 30:2256 (October 2004).

Chapter 15. School Improvement (formerly Corrective Actions)

§1503. Entry into School Improvement

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

2. Any school that fails the subgroup component in the same subject for two consecutive years is in school improvement 2.

A.3. - C. ...

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 30:2257 (October 2004).

§1505. Exit from School Improvement

A. - A.2. ...

3. it is in school improvement for failure to meet its required growth on the SPS component, and it meets its required growth for one year and is not academically unacceptable and has not failed the subgroup component in the same subject for two consecutive years.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2746 (December 2003), amended LR 30:1619 (August 2004), repromulgated LR 30:1996 (September 2004), amended LR 30:2257 (October 2004).

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

§1703. School Improvement 2 Requirements (SI 2)

A.1. ...

2. it fails the subgroup component in the same subject for two consecutive years; or

A.3. - B.1. ...

2. it passes the subgroup component in the same subject that caused it to enter SI 2 for the current year, but not two consecutive years; or

B.3. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2746 (December 2003), amended LR 30:2257 (October 2004).

§1704. School Improvement 3 Requirements

A. - A.2. ...

3. it fails the subgroup component in the same subject that caused it to enter SI 2 for the current year; or

A.4. - B.1. ...

2. it passes the subgroup component in the same subject that caused it to enter SI 3 for the current year, but not two consecutive years; or

B.3. - D. ...

E. All Title I schools in SI 3, who have failed the subgroup component in the same subject that caused them to enter SI 2, shall offer supplemental educational services to their students as stated in Chapter 27.

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2746 (December 2003), amended LR 30:2257 (October 2004).

§1705. School Improvement 4 Requirements

A. - B.2. ...

3. it fails the subgroup component in the same subject that caused it to enter SI 3 for the current year; or

B.4. - C.1. ...

2. it passes the subgroup component in the same subject that caused it to enter SI 4 for the current year, but not two consecutive years; or

C.3. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2747 (December 2003), amended LR 30:2257 (October 2004).

§1706. School Improvement 5 Requirements

A. - B.2. ...

3. it fails the subgroup component in the same subject that caused it to enter SI 4 for the current year; or

B.4. - C.1. ...

2. it passes the subgroup component in the same subject that caused it to enter SI 5 for the current year, but not two consecutive years; or

C.3. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2747 (December 2003), amended LR 30:2257 (October 2004).

§1707. School Improvement 6 Requirements

A. - B.2. ...

3. it fails the subgroup component in the same subject that caused it to enter SI 5 for the current year; or

B.4. - C.1. ...

2. it passes the subgroup component in the same subject that caused it to enter SI 6 for the current year, but not two consecutive years; or

C.3. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2747 (December 2003), amended LR 30:2257 (October 2004).

Chapter 31. Data Correction and Appeals/Waivers Procedure

§3101. Appeals/Waivers Process

A. ...

B. Districts may address data errors from the most recent spring test administration, and attendance and dropout data from the prior academic year that were not addressed during the data clean-up period by submitting a data correction request letter (signed by the district superintendent) by August 1st of each year. The LDE shall review data correction requests and make decisions regarding the requests by September 1st. The LDE shall notify LEAs of its decision and/or actions regarding the request by October 1st. All data corrections approved by LDE shall be completed for the fall final accountability results release each fall.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2751 (December

2003), amended LR 30:1620 (August 2004), repromulgated LR 30:1996 (September 2004), amended LR 30:2257 (October 2004).

§3103. Definitions

Appeal A request for the calculation or recalculation of the School Performance Score (SPS), growth target, and/or subgroup component scores based on the most recent spring test administration, and attendance and dropout data from the prior academic year.

Waiver A temporary "withholding" of accountability decisions for no more than one accountability year. Waivers shall be denied to aggrieved parties attempting to subvert the intent of provisions outlined in the state statute.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2751 (December 2003), amended LR 30:2258 (October 2004).

§3107. General Guidelines: Local Board of Education- Level Requests

A. - B. ...

C. Supporting documentation for appeal/waiver requests should clearly outline those data from the most recent spring tests administration, and attendance and dropout data from the prior academic year that are erroneous. Further, computations by the local boards of education should provide evidence that the school's SPS and/or subgroup component results are significantly affected by the data in question and that corrections impact rewards, or school improvement status. The local school system shall be responsible for supplying the LDE with information necessary for recalculating the school's SPS and/or subgroup component results per LDE's instructions.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2752 (December 2003), amended LR 30:2258 (October 2004).

Weegie Peabody
Executive Director

0410#006

RULE

Board of Elementary and Secondary Education

Bulletin 741 **L**ouisiana Handbook for School Administrators **C**High School Diploma and Endorsements (LAC 28:I.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* **C***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). This policy change removes the requirement that students complete a high school major (4 primary courses + 2 related courses, including a computer/technology course) to graduate from high school. It restores the previous requirements for a standard diploma of 15 required courses and 8 elective courses. Regarding the Academic Endorsement, the policy replaces the requirement that students complete a high school major with the requirement

that students complete an "academic area of concentration" as an eligibility requirement. "Academic area of concentration" is defined as the TOPS curriculum plus one additional math, science, or social studies course. The optional articulated credit requirement for the Career/Tech Endorsement is changed from 3 Carnegie credits to 3 college hours to align with the requirement for the Academic Endorsement. The policy establishes that the diploma endorsement policy shall be effective for incoming freshmen in 2003-2004 and thereafter.

The policy change also reflects the changes to the mathematics program of studies. These changes are also reflected in Policy 2.105.17. A separate Fiscal Impact Statement has been completed for that policy change.

This change to the graduation requirements will allow school districts more time to provide the courses necessary for students to complete an area of concentration and will not prevent students from receiving a diploma if they do not complete an area of concentration but meet all other requirements for graduation.

Title 28 EDUCATION

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

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education, LR 26:635 (April 2000), LR 26:1260 (June 2000), LR 27:694, 695 (May 2001), LR 28:269, 272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 28:1724, 1725, 1726 (August 2004), LR:1936, 1937 (September 2002) LR 28:2182 (October 2002), LR 28:2322, 2323 (November 2002) LR 28:2498 (December 2002), LR 29:33 (January 2003), LR 29:117 (February 2003), LR 29:286, 287, 299 (March 2003), LR 29:552, 553 (April 2003), LR 29:670 May (2003), LR 20:865, 866 (June 2003), LR 29:1070 (July 2004), LR 29:1802, 1812 (September 2003) LR 20:2014 (October 2003), LR 29:2367, 2368 (November 2003), LR 29:2757, 2760 (December 2003), LR 30:394, 395 (March 2004), LR 30:773, 774 (April 2004), LR 30:1148, 1149, (June 2003), LR 30:1457 (July 2003), LR 30:1620, 1621 (August 2003), (LR 30:2258 (October 2004).

2.099.02 High School Diploma and Endorsements Standard Diploma

The 23 units required for graduation shall include 15 required units and 8 elective units; the elective units can be earned at technical colleges as provided in Standard 2.103.35.

High School Area of Concentration

All high schools shall provide students the opportunity to complete an area of concentration with an academic focus and/or a career focus.

1. To complete an academic area of concentration, students shall meet the current course requirements for the Tuition Opportunity Program for Students (TOPS) Opportunity Award plus one additional Carnegie unit in mathematics, science, or social studies.

2. To complete a career area of concentration, students shall meet the minimum requirements for graduation including four elective primary credits in the area of concentration and two related elective credits, including one computer/technology course.

The computer/technology course shall be one of the following:

- Computer/Technology Literacy (1/2 credit)
- Computer Applications or Business Computer Applications (1 credit)
- Computer Architecture (1 credit)
- Computer Science I, II (1 credit each)
- Computer Systems and Networking I, II (1 credit each)
- Desktop Publishing (1/2 credit)
- Digital Graphics & Animation (1/2 credit)
- Multimedia Presentations (1 credit)
- Web Mastering or Web Design (1/2 credit)
- Independent Study in Technology Applications (1 credit)
- Word Processing (1 credit)
- Telecommunications (1/2 credit)
- Introduction to Business Computer Applications (1 credit)
- Technology Education Computer Applications (1 credit)
- Advanced Technical Drafting (1 credit)
- Computer Electronics I (1 credit)
- Computer Electronics II (1 credit)

Academic Endorsement

Graduating seniors in 2005 and thereafter who meet the requirements for a standard diploma, and satisfy the following performance indicators shall be eligible for an academic endorsement to the standard diploma.

1. Students shall complete the academic area of concentration.
2. Students shall pass all four components of the GEE 21 with a score of Basic or above, or one of the following combinations of scores with the English Language Arts score at Basic or above.
 - One Approaching Basic, 1 Mastery or Advanced, Basic or above in the remaining two
 - Two Approaching Basic, 2 Mastery or above
3. Students shall complete one of the following requirements.
 - Senior Project
 - One Carnegie unit in an AP course with a score of 3 or higher on the AP exam
 - One Carnegie unit in an IB course with a score of 4 or higher on the IB exam
 - Three college hours of non-remedial, articulated credit in mathematics, social studies, science, foreign language, or English Language Arts
4. Students shall meet the current minimum grade-point average requirement for the TOPS Opportunity Award.
5. Students shall achieve an ACT Composite Score of 23.

Career/Technical Endorsement

Graduating seniors in 2005 and thereafter who meet the requirements for a standard diploma, and satisfy the following performance indicators shall be eligible for a career/technical endorsement to the standard diploma.

1. Students shall meet the current course requirements for the Tuition Opportunity Program for Students (TOPS) Opportunity Award or the TOPS Tech Award.

2. Students shall complete the career area of concentration.

3. Students shall pass the English Language Arts, mathematics, science, and social studies components of the GEE 21 at the Approaching Basic level or above.

4. Students shall complete a minimum of 90 work hours of work-based learning experience (as defined in the SDE Diploma Endorsement Guidebook) and complete one of the following requirements:

- Industry-based certification from the list of industry-based certifications approved by BESE
- Three college hours in a Career/Technical area that articulate to a postsecondary institution, either by actually obtaining the credits and/or being waved from having to take such hours

Industry-based certification is a portable, recognized credential (tangible evidence) that an individual has successfully demonstrated skill competencies on a core set of content and performance standards in a specific set of work-related tasks, single occupational area, or a cluster of related occupational areas.

Articulated credit/dual enrollment is a program of study allowing high school students to earn credits toward a high school diploma and a postsecondary degree or certification simultaneously. Written agreements formalize programs of study, the transfer of academic and vocational credits among institutions, and the role of secondary and postsecondary instructors.

5. Students shall meet the current minimum grade-point average requirement for the TOPS Opportunity Award or the TOPS Tech Award.

6. Students shall achieve the current minimum ACT Composite Score (or SAT Equivalent) for the TOPS Opportunity Award or the TOPS Tech Award.

Minimum Requirements for High School Graduation

English 4 units
 Shall be English I, II, and III, in consecutive order; and English IV or Business English.

Mathematics 3 units
 (Effective for incoming freshmen 2005-2006 and beyond.)

All students must complete one of the following:

- Algebra I (1 unit) or
- Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units) or
- Integrated Mathematics I (1 unit)

The remaining unit(s) shall come from the following: Integrated Mathematics II, Integrated Mathematics III, Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics

(Effective for incoming freshmen 1997-98-2004-2005) Shall be selected from the following courses and may include a maximum of 2 entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced

Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics

Science 3 units

Shall be 1 unit of Biology I;
1 unit of Physical Science or Integrated Science (but not both), or Chemistry I, Physics I, or Physics of Technology I;
1 unit from Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience I, Agriscience II, or any other course not already taken from the Physical Science cluster, or a locally designed elective.

- If a student takes Physical Science or Integrated Science, s/he may then take Chemistry I, Physics I, or Physics of Technology I as the required science course. If a student takes Chemistry I, Physics I, or Physics of Technology I to fulfill the Physical Science requirement, s/he may not then take Physical Science or Integrated Science as the third required science course but may take such courses as one of the eight allowed elective graduation requirements.

- Both Agriscience I and II must be completed for one unit of science credit.

All Advanced Placement Science Courses will be accepted for credit.

Social Studies 3 units

Shall be American History, one-half unit of Civics, one-half unit of Free Enterprise; and one of the following: World History, World Geography, or Western Civilization.

Health Education 1/2 unit

Physical Education 1 1/2 units

Shall be Physical Education I and Physical Education II, or Adaptive Physical Education for eligible special education students.

NOTE: The substitution of JROTC is permissible. A maximum of four units may be used toward graduation.

Electives 8 units

Total 23 units

Refer to Standards 2.037.02 and 2.058.02 relative to appropriate student scheduling and counseling.

Weegie Peabody
Executive Director

0410#007

RULE

Board of Elementary and Secondary Education

Bulletin 741 Louisiana Handbook for School Administrators Mathematics (LAC 28:I.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 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). This

policy change revises the mathematics program of studies. It requires all students to take either Algebra I, Algebra I-Pt.1 and Algebra I-Pt.2, or Integrated Math I. The remaining unit(s) shall come from the following: Integrated Mathematics II, Integrated Mathematics III, Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.

The mathematics program of study was revised to ensure that all students complete Algebra I or the equivalent, to eliminate the possibility of students taking courses that repeat much of the same content (e.g., Algebra I and Integrated Math I), to reduce the number of courses, and to ensure that all students are completing a rigorous curriculum that meets the requirements of the Content Standards and Grade-level Expectations.

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 (February 2002), LR 28:272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 30:2260 (October 2004).

* * *

Mathematics

2.105.17 Effective for 2005-2006 incoming freshmen and thereafter, three units of mathematics shall be required for graduation. All students must complete one of the following:

- Algebra I (1 unit) or
- Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units)
- or
- Integrated Mathematics I (1 unit)

The remaining unit(s) shall come from the following:

Integrated Mathematics II, Integrated Mathematics III, Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.

(Effective for incoming freshmen 1997-98-2004-2005)

The three required courses shall be selected from the following courses and may include a maximum of two entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.

Students who score at the unsatisfactory achievement level on the mathematics component of Grade 8 LEAP 21 shall pass a high school remedial course in mathematics before enrolling in any course in the Secondary Program of Studies for Mathematics.

The mathematics course offerings shall be as follows.

Course Title	Unit(s)
Advanced Mathematics I	1
Advanced Mathematics II	1
Algebra I	1
Algebra I-Part I	1
Algebra I-Part II	1
Algebra II	1
Calculus	1
Discrete Mathematics	1
Financial Mathematics	1
Geometry	1
Integrated Mathematics I	1
Integrated Mathematics II	1
Integrated Mathematics III	1
Pre-Calculus	1
Probability and Statistics	1

Financial Mathematics may be taught by teachers certified in Business Education.

Weegie Peabody
Executive Director

0410#008

RULE

Board of Elementary and Secondary Education

Bulletin 746 **L**ouisiana Standards for State Certification of School Personnel **C**ertification Add-On (Endorsement) Policy for Teaching Levels and Teaching Areas Within Levels (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, 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 expands certification add-on (endorsement) options for teaching levels and for teaching areas within levels as follows: (a) Adds the requirement of the appropriate content area exam for individuals holding middle, secondary, mild/moderate, or an all-level K-12 certificate who wish to add Grades PK-3; (b) Expands options for demonstrating content mastery to include course work OR the Praxis exam for individuals holding middle, secondary, mild/moderate, or all-level K-12 certificates who wish to add Elementary Grades 1-5; (c) Streamlines the process by which an individual can obtain a secondary level add-on in a non-core academic area; and (d) Allows for individuals to obtain an all-level K-12 add-on in health and physical education in a streamlined fashion similar to the other all-level K-12 add-on certification areas, and clarifies the distinction between the two all-level music certifications (instrumental, vocal).

Changes to this policy expand options for teachers to add teaching area endorsements to existing certificates. This will ease school district compliance with certification regulations in staffing the schools and may provide greater employment opportunities for teachers who add endorsements to their certificates.

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, 541 (April, July, September, December 1975), amended LR 28:2505 (December 2002), LR 29:117 (February 2003), LR 29:119 (February 2003), LR 29:121 (February 2003), LR 30:2261 (October 2004).

Certification Add-On (Endorsement) Policy 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):

- 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., 6-12, 7-12, 9-12), special education mild/moderate certificate, or all-level K-12 certificate (art, dance, foreign language, health, PE, H&PE, music):

- Achieve passing score for PRAXIS Elementary Education: Content Knowledge Exam (#0014)

- Achieve passing score for PRAXIS Early Childhood Education Exam (#0020)

or

Accumulate 12 credit hours of combined Nursery School and Kindergarten coursework.

- 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):

- Achieve passing score for PRAXIS Elementary Education: Content Knowledge (#0014).

- Achieve passing score for PRAXIS Principles of Learning and Teaching K-6.

- Accumulate 9 semester hours of reading, 12 semester hours of mathematics, 12 semester hours of science, and 12 semester hours of social studies coursework.

- Requirements for individual holding a valid upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 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)
or
Accumulate 12 semester hours of mathematics, 12 semester hours of science, 12 semester hours of English language arts, and 12 semester hours of social studies coursework.
2. Achieve passing score for PRAXIS Principles of Learning and Teaching K-6.
3. Accumulate 9 semester hours of reading coursework.

To add Middle School (Grades 4-8) Specialty Area English, Mathematics, Science, or Social Studies:

- Requirements for individual holding a valid early childhood certificate (e.g., PK-K, 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., 6-12, 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 score for PRAXIS 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 (English, Foreign Language, Math, Sciences, Social Studies, Speech):

- Requirements for individual holding a valid early childhood certificate (e.g., PK-K, 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 score for PRAXIS secondary specialty area exam in the content area
or
Accumulate 30 credit hours in the specialty content area.
2. Achieve passing score for PRAXIS Principles of Learning and Teaching 7-12.

- Requirements for individual holding a valid secondary certificate (e.g., 6-12, 7-12, 9-12) or an all-level K-12 certificate [art, dance, foreign language, health, H&PE, music]:

1. Achieve passing score for PRAXIS secondary specialty area exam in the content area
or
Accumulate 30 credit hours in the specialty content area.

To add Secondary Specialty Non-NCLB Content Area (agriculture, business, computer science, family and consumer sciences, journalism, marketing, and technology education):

- Requirements for individual holding a valid early childhood certificate (e.g., PK-K, 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 score for PRAXIS secondary specialty area exam in the content area
or
Accumulate 21 credit hours in the specialty content area.
2. Achieve passing score for PRAXIS Principles of Learning and Teaching 7-12.

- Requirements for individual holding a valid secondary certificate (e.g., 6-12, 7-12, 9-12) or an all-level K-12 certificate (art, dance, foreign language, health, H&PE, music):

1. Achieve passing score for PRAXIS secondary specialty area exam in the content area
or
Accumulate 21 credit hours in the specialty content area.

To add Special Education Mild/Moderate:

- Requirements for individual holding a valid early childhood certificate (e.g., PK-K, 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., 6-12, 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 PRAXIS special education mild/moderate pedagogy exam(s) required in Louisiana.

To add an All-Level (K-12) Area (art, dance, foreign language, health & physical education, music):

- Requirements for individual holding a valid early childhood certificate (e.g., PK-K, 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., 6-12, 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.

NOTE: An individual already certified in one Music Education area (Instrumental Music or Vocal Music) may add the second music area with coursework, as follows:
 To add Instrumental Music, 12 semester hours to include brass, percussion, string, and woodwind instruments;
 To add Vocal Music, 12 semester hours to include piano and voice.

NOTES:

1. For purposes of add-on endorsements, reference to a PRAXIS exam means the current applicable exam in policy with the current established passing scores.
2. Add-on (endorsement) certifications not identified in this policy will continue to follow requirements currently in place in Bulletin 746.

* * *

Weegie Peabody
 Executive Director

0410#009

RULE

Board of Elementary and Secondary Education

Bulletin 746 **L**ouisiana Standards for State Certification of School Personnel **C**General-Special Education Mild/Moderate Undergraduate Blended Program (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to *Bulletin 746 Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903(A). This policy amends the new undergraduate certification program structure for Special Education Mild to Moderate Disabilities, as follows: (1) Delete PK-3 program option for

Mild Moderate Disabilities, leaving options for Grades 1-5, 4-8, and 6-12 only, and thus a three-tiered rather than a four-tiered structure; (2) Delete narrative pages detailing licensure options and the Council for Exceptional Children [CEC] performance based standards and review procedures; and (3) Add footnotes stipulating that the Council for Exception Children [CEC] performance-based standards for accreditation and licensure must be met; that 50 percent of student teaching hours must include working with and actually teaching students with disabilities; that three of the flexible hours must be in the humanities to satisfy Board of Regents requirements; and that minimum credit hours have been listed in the structure, but addition of content hours may occur within flexible hours and needed further credit hours may be added to meet additional Board of Regents and/or institutional 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), LR 28:2505 (December 2002), LR 29:117, 119 (February 2003), LR 29:119, 121 (February 2003), LR 30:2263 (October 2004).

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SPECIAL EDUCATION MILD/MODERATE UNDERGRADUATE BLENDED PROGRAM FOR GRADES 1-5, GRADES 4-8, GRADES 6-12¹
Effective July 1, 2006

Mild/Moderate Special Education Undergraduate Program Structure		Mild/Moderate Special Education Grades 1-5	Mild/Moderate Special Education Grades 4-8	Mild/Moderate Special Education Grades 6-12
General Education Coursework	English	12 hours	12 hours	6 hours
	Mathematics	12 hours	12 hours	6 hours
	Sciences	15 hours	15 hours	9 hours
	Social Studies	12 hours	12 hours	6 hours
	Arts	3 hours	3 hours	3 hours
FOCUS AREA SPECIAL EDUCATION AND CONTENT		Special Education, Reading/ Language Arts and Mathematics	Special Education and One Middle School Content Area	Special Education and One High School Content Area
		Special Education Focus Area: A total of 18 hours of special education coursework. ² Reading/Language Arts Focus Area: A total of 12 hours of content/methodology. Mathematics Focus Area: A total of 9 hours of content/methodology	Special Education Focus Area: A total of 18 hours of special education coursework. ² One Middle School Content Focus Area: Total of 19 hours in one of the following content areas: English, Mathematics, Science, or Social Studies. (Note: General Education coursework may be used to create the 19 hours.)	Special Education Focus Area: A total of 18 hours of special education coursework. ² One High School Content Focus Area: A total of 31 hours in one content area (Note: General Education coursework may be used to create the 31 hours.)

Knowledge of the Learner and the Learning Environment	Child Development/Psychology, Adolescent Psychology, Educational Psychology, The Learner with Special Needs, Classroom Organization and Management, and Multicultural Education.	15 hours	15 hours	15 hours
Methodology and Teaching	Reading		6 hours	3 hours
	Teaching Methodology and Strategies	6 hours (Science and Social Studies must be addressed.)	6 hours	6 hours
	Student teaching ³	9 hours	9 hours	9 hours
Flexible Hours for the University's Use⁴		1 hour	9-12 hours	12-21 hours
TOTAL HOURS⁵		124 hours	124 hours	124 hours

¹Students who do not possess basic technology skills should be provided coursework or opportunities to develop those skills early in their program.

²Council for Exceptional Children (CEC) performance-based standards for accreditation and licensure must be met.

³Students must spend a minimum of 270 clock hours in student teaching, with at least 180 of such hours spend in actual teaching. A substantial portion of the 180 hours of actual student teaching shall be

on an all-day basis. Fifty percent (50%) of the student teaching must include working with and actual teaching of students with disabilities.

⁴Three of the flexible hours must be in the humanities. This must occur to meet General Education Requirements for the Board of Regents.

⁵In addition to the student teaching experience, students should be provided actual teaching experience (in addition to observations) in classroom settings during the sophomore, junior, and senior years within schools with varied socioeconomic and cultural characteristics. It is recommended that pre-service teachers be provided a minimum of 180 hours of direct teaching experience in field-based settings prior to student teaching.

Minimum credit hours have been listed. Programs may use available flexible hours to add more content hours to the various elements of the program. Institutions may add credit hours to meet additional Board of Regents and/or institutional requirements.

No final grade below a "C" will be accepted by the State Department of Education in any coursework within the undergraduate program, with the exception of general education requirements.

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Weegie Peabody
Executive Director

0410#011

RULE

Board of Elementary and Secondary Education

Bulletin 746 **Louisiana Standards for State Certification of School Personnel** **Reading Competencies Policy for Alternate Teacher Certification Programs (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 change in current Bulletin 746 policy allows an option for alternate teacher certification program candidates to either complete a specified number of semester hours in reading or pass a reading competency assessment as a demonstration of proficiency in the reading competencies adopted by the State Board of Elementary and Secondary Education.

These changes to current Bulletin 746 policy amend language in the reading competencies policy for alternate teacher certification programs to align this policy with statute that specifies coursework reading requirements for undergraduate teacher education programs.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations §Section 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, 541 (April, July, September, December 1975), amended LR 26:635, 638 (April 2000, LR 27:825, 828 (June 2001), LR 28:2505 (December 2002), LR 29:117 (February 2003), LR 29:117, 119, 121 (February 2003), LR 30:2264 (October 2004).

* * *

Louisiana Alternate Certification Programs

Practitioner Teacher Program **Alternative Path to Certification**

State-approved private providers and Louisiana colleges or universities with an approved teacher education program may choose to offer a Practitioner Teacher Program. Practitioner Teacher Programs may offer certification in Grades 1-5, 4-8, 6-12, All-Level K-12 (art, dance, foreign language, health and physical education, and music), or Mild-Moderate Special Education. The Practitioner Teacher Program is a streamlined certification path that combines intensive coursework and full-time teaching.

1. Admission to the Program. Program providers will work with district personnel to identify Practitioner Teacher Program candidates who will be employed by districts during the fall and spring. To be admitted, individuals should:

a. Possess a baccalaureate degree from a regionally accredited university.

b. Have a 2.50 GPA on undergraduate work. Appropriate, successful work experience can be substituted for the required GPA, at the discretion of the program provider. However, in no case may the GPA be less than 2.20. (Note: State law requires that upon completion of the program, the teacher candidate has a 2.50 GPA for certification.)

c. Pass the PRAXIS Pre-Professional Skills Test (e.g., reading, writing, and mathematics). (Individuals who

already possess a graduate degree will be exempted from this requirement.)

d. Pass the PRAXIS content specific examinations:

(1) Candidates for Grades 1-5 (regular and special education): pass the Elementary Education: Content Knowledge (0014) specialty examination;

(2) Candidates for Grades 4-8 (regular and special education): pass the middle school subject-specific licensing examination(s) for content area(s) to be certified;

(3) Candidates for Grades 6-12 (regular and special education): pass the secondary subject-specific examination(s) in the content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area.

(4) Candidates for All-Level K-12 areas of art, dance, foreign language, health and physical education, and music: pass the subject-specific examination for content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area. Provider must develop a process to assure that candidates demonstrate necessary performance skills in the all-level certification area.

e. Meet other non-course requirements established by the college or university.

2. Teaching Preparation (Summer)

9 credit hours

(or equivalent 135 contact hours)

All teachers will participate in field-based experiences in school settings while completing the summer courses (or equivalent contact hours).

GRADES 1-5, 4-8, and 6-12 practitioner teachers will successfully complete courses (or equivalent contact hours) pertaining to child or adolescent development or psychology, the diverse learner, classroom management/organization, assessment, instructional design, and instructional strategies before starting their teaching internships.

MILD/MODERATE SPECIAL EDUCATION 1-12 practitioner teachers will successfully complete courses (or equivalent contact hours) that focus on special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods and materials for mild/moderate exceptional children, and vocational and transition services for students with disabilities.

ALL-LEVEL K-12 practitioner teachers will successfully complete courses (or equivalent contact hours) pertaining to child AND adolescent psychology, the diverse learner, classroom management and organization, assessment; instructional design, and instructional strategies across grade levels K-12 before starting their teaching internships.

3. Teaching Internship and First-Year Support

12 credit hours

(or equivalent 180 contact hours)

Practitioner teachers will assume full-time teaching positions in districts. During the school year, these individuals will participate in two seminars (one seminar during the fall and one seminar during the spring) that address immediate needs of the Practitioner Teacher

Program teachers and will receive one-on-one supervision through an internship provided by the program providers. The practitioner teacher will also receive support from school-based mentor teachers provided by the Louisiana Teacher Assistance and Assessment Program (LaTAAP) and principals. NOTE: For all-level areas (art, dance, foreign language, health and physical education, and music), experiences should be provided across grades K-12.

4. Teaching Performance Review (End of First Year)

Program providers, principals, mentors, and practitioner teachers will form teams to review first-year teaching performance of practitioner teachers and determine the extent to which the practitioner teachers have demonstrated teaching proficiency. If practitioner teachers demonstrated proficiency, they will enter into the assessment portion of the Louisiana Teacher Assistance and Assessment Program during the next fall. (If a practitioner teacher who passed the assessment portion of the Louisiana Teacher Assistance and Assessment program prior to entering the Practitioner Teacher Program continues to demonstrate the Louisiana Components of Effective Teaching at the "competent" level, the team may, by unanimous decision, exempt the teacher from completing the assessment part of the Louisiana Teacher Assistance and Assessment Program.)

If weaknesses are cited, teams will identify additional types of instruction needed to address the areas of need. Prescriptive plans that require from one to nine credit hours (or 15 to 135 equivalent contact hours) of instruction will be developed for practitioner teachers. In addition, teams will determine whether practitioner teachers should participate in the new teacher assessment during the fall or whether the practitioner teachers should receive additional mentor support and be assessed after the fall.

5. Prescriptive Plan Implementation

(Second Year) 1-9 credit hours

(15 to 135 contact hours)

Practitioner teachers who demonstrate areas of need will complete prescriptive plans.

6. PRAXIS Review (Second Year)

Program providers will offer review sessions to prepare practitioner teachers to pass remaining components of the PRAXIS.

7. Certification Requirements

(Requirements must be met within a three-year time period. A practitioner teacher's license will not be renewed if all course requirements are not met with these three years.)

Private providers and colleges or universities will submit signed statements to the Louisiana Department of Education that indicate that the student completing the Practitioner Teacher Program alternative certification path met the following requirements:

A. Passed the PPST components of the PRAXIS (Note: This test was required for admission.)

B. Completed the Teaching Preparation and Teaching Internship segments of the program with an overall 2.50 or higher GPA.

C. Completed prescriptive plans (if weaknesses were demonstrated).

D. Passed the specialty examination (PRAXIS) for the area(s) of certification. (Note: This test was required for admission.)

(1) Grades 1-5 (regular and special education): Elementary Education: Content Knowledge Examination #0014

(2) Grades 4-8 (regular and special education): Middle school subject-specific licensing examination(s) for the content area(s) to be certified.

(3) Grades 6-12 (regular and special education): Secondary subject-specific examination(s) in the content area(s) to be certified. If no examination was adopted for Louisiana in the certification area, candidates were required to present a minimum of 31 semester hours of coursework specific to the content area for admission to the program.

(4) All-Level K-12 areas (art, dance, foreign language, health and physical education, and music): Subject-specific examination(s) for content area(s) to be certified. If no examination was adopted for Louisiana in the certification area, candidates were required to present a minimum of 31 semester hours of coursework specific to the content area for admission to the program.

E. Passed the pedagogy examination (PRAXIS)

a. Grades 1-6: Principles of Learning and Teaching K-6

b. Grades 4-8: Principles of Learning and Teaching 5-9

c. Grades 7-12: Principles of Learning and Teaching 7-12

d. All-Level K-12 Certification: Principles of Learning and Teaching 1-6, 5-9, or 7-12

e. Mild/Moderate Special Education 1-12: Education of Exceptional Students: Core Content Knowledge (0353) and Education of Exceptional Students: Mild to Moderate Disabilities (0542)

F. All candidates who enter an alternate certification program after May 1, 2004, will be required to demonstrate proficiency in the Reading Competencies as adopted by the State Board of Elementary and Secondary Education through either (1) completion of the same amount of semester hours in reading as required for undergraduate teacher preparation programs, or (2) a reading competency assessment, prior to receiving a Level 1 or higher professional teaching certificate.

8. Ongoing Support (Second and Third Year)

Program providers will provide support services to practitioner teachers during their second and third years of teaching. Types of support may include on-line support, Internet resources, special seminars, etc.

9. Professional License (Practitioner License to Level 2)

Practitioner teachers will be issued a Practitioner License when they enter the program. They will be issued a Level 1 Professional License once they have successfully completed all requirements of the program; after three years of teaching, they will be eligible for a Level 2 license.

Undergraduate/Graduate Courses and Graduate Programs

Universities may offer the courses at undergraduate or graduate levels. Efforts should be made to allow students to use graduate hours as electives if the students are pursuing a graduate degree.

Masters Degree Program Alternative Path to Certification

A Louisiana college or university with an approved teacher education program may choose to offer an

alternative certification program that leads to a master's degree. The college or university may choose to offer the masters degree program as either a Master of Education or a Master of Arts in Teaching. Masters Degree Programs may offer certification in Grades PK-3, 1-5, 4-8, 6-12, All-Level K-12 (art, dance, foreign language, health and physical education, and music), or Mild-Moderate Special Education.

Admission to the Program

To be admitted, individuals should:

1. Possess a baccalaureate degree from a regionally accredited university.

2. Have a 2.50 GPA, or higher, on undergraduate work.

3. Pass the Pre-Professional Skills Test (e.g. reading, writing, and mathematics) on the PRAXIS (Individuals who already possess a graduate degree will be exempted from this requirement.)

4. Pass the PRAXIS content-specific subject area examination:

a. Candidates for PK-3 (regular and special education): pass the Elementary Education: Content Knowledge (#0014) specialty examination;

b. Candidates for Grades 1-5 (regular and special education): pass the Elementary Education: Content Knowledge (#0014) specialty examination;

c. Candidates for Grades 4-8 (regular and special education): pass the middle school subject-specific licensing examination(s) for the content area(s) to be certified;

d. Candidates for Grades 6-12 (regular and special education): pass the secondary subject-specific examination(s) for the content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area.

e. Candidates for All-Level K-12 areas of art, dance, foreign language, health and physical education, and music: pass the subject-specific examination(s) for the content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area. Provider must develop a process to assure that candidates demonstrate necessary performance skills in the all-level certification area.

5. Meet other non-course requirements established by the college or university.

Program Requirements

1. Knowledge of Learner and the Learning Environment
15 credit hours

Grades PK-3, 1-5, 4-8, and 6-12: Child or adolescent development or psychology, the diverse learner, classroom management/organization, assessment, instructional design and instructional strategies

Mild/Moderate Special Education 1-12: Special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods and materials for mild/moderate exceptional children, vocational and transition services for students with disabilities

All-Level (grades K-12): Child AND adolescent psychology, the diverse learner, classroom management/organization, assessment, instructional design and instructional strategies, across grade levels K-12

2. Methodology and Teaching 12-15 credit hours
Methods courses and field experiences. NOTE: For all-level K-12 areas (Art, Dance, Foreign Language, Health and Physical Education, and Music), experiences should be provided across grades K-12.

3. Student Teaching or Internship 6-9 credit hours
NOTE: For all-level K-12 areas (Art, Dance, Foreign Language, Health and Physical Education, and Music), experiences should be provided across grades K-12.

TOTAL: 33-39 credit hours

Certification Requirements

Colleges or universities will submit signed statements to the Louisiana Department of Education which indicate that the student completing the Masters Degree Program alternative certification path met the following requirements:

1. Passed PPST components of the PRAXIS. (Note: This test was required for admission.)

2. Completed coursework (undergraduate and masters program) with an overall 2.50 or higher GPA.

3. Passed the specialty examination (PRAXIS) for the area of certification. (Note: This test was required for admission.)

a. Grades PK-3 (regular and special education): Elementary Education: Content Knowledge (#0014) specialty examination

b. Grades 1-5 (regular and special education): Elementary Education: Content Knowledge (#0014) specialty examination

c. Grades 4-8 (regular and special education): Middle school subject-specific licensing examination(s) for content area(s) to be certified;

d. Grades 6-12 (regular and special education): Secondary subject-specific examination(s) in the content area(s) to be certified. If no examination was adopted for Louisiana in the certification area, for admission purposes, candidates were required to present a minimum of 31 semester hours of coursework specific to the content area.

e. All-Level K-12 Certification: Subject-specific examination(s) in the content area(s) to be certified. If no examination was adopted for Louisiana in the certification area, for admission purposes, candidates were required to present a minimum of 31 semester hours of coursework specific to the content area.

4. Passed the pedagogy examination (PRAXIS)

a. Grades PK-3: Early Childhood Education (0020)

b. Grades 1-5: Principles of Learning and Teaching K-6

c. Grades 4-8: Principles of Learning and Teaching 5-9

d. Grades 6-12: Principles of Learning and Teaching 7-12

e. All-Level K-12 Certification: Principles of Learning and Teaching K-6, 5-9, or 7-12

f. Mild/Moderate Special Education 1-12: Education of Exceptional Students: Core Content Knowledge (0353) and Education of Exceptional Students: Mild to Moderate Disabilities (0542)

5. All candidates who enter an alternate certification program after May 1, 2004, will be required to demonstrate proficiency in the Reading Competencies as adopted by the State Board of Elementary and Secondary Education through either (1) completion of the same amount of semester hours in reading as required for undergraduate teacher preparation

programs, or (2) a reading competency assessment, prior to receiving a Level 1 or higher professional teaching certificate.

Non-Masters/Certification-Only Program Alternative Path to Certification

This program is designed to serve those candidates who may not elect participation in or be eligible for certification under either the Practitioner Teacher Alternate Certification Program or the Master's Degree Alternate Certification Program. The program may also be accessible in some areas of the state in which the other alternate certification programs are not available. Non-Master's/ Certification-Only Programs may offer certification in PK-3, 1-5, 4-8, and 6-12, All-Level K-12 (art, dance, foreign language, health and physical education, and music), or Mild-Moderate Special Education.

Admission to the Program

To be admitted, individuals should:

1. Possess a baccalaureate degree from a regionally accredited university;

2. Have a 2.20 GPA, or higher, on undergraduate coursework. (An overall 2.50 GPA is required for certification; those candidates with a GPA lower than 2.50 may have to take additional courses in the program to achieve a 2.50 GPA);

3. Pass the PRAXIS Pre-Professional Skills Tests (PPST) (Individuals who already possess a graduate degree will be exempted from this requirement.); and

4. Pass the PRAXIS content-specific subject area examination:

a. Candidates for PK-3 (regular and special education): pass the Elementary Education: Content Knowledge (#0014) specialty examination;

b. Candidates for Grades 1-5 (regular and special education): pass the Elementary Education: Content Knowledge (#0014) specialty examination;

c. Candidates for Grades 4-8 (regular and special education): pass the middle school subject-specific examination(s) in the content area(s) to be certified;

d. Candidates for Grades 6-12 (regular and special education): pass the secondary subject-specific examination(s) in the content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area.

e. Candidates for All-Level K-12 areas of art, dance, foreign language, health and physical education, and music: pass the subject-specific examination(s) in the content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area. Provider must develop a process to assure that candidates demonstrate necessary performance skills in the all-level certification area.

Program Requirements

This program will provide the same rigor as other certification routes provided by aligning with such empirically-based standards as National Council for the Accreditation of Teacher Education (NCATE), Interstate New Teacher Assessment and Support Consortium (INTASC), Louisiana Components of Effective Teaching (LCET), and the Louisiana Content Standards. This program

will also emphasize collaboration between the university and the school districts in order to share and exchange strategies, techniques, and methodologies; and integrate field-based experiences into the curriculum.

Program Structure

1. Knowledge of Learner and the Learning Environment* 12 hours

GRADES PK-3, 1-5, 4-8, and 6-12: Child or adolescent development/psychology, the diverse learner, classroom management/organization/environment, assessment, instructional design, and reading/instructional strategies that are content and level appropriate.

MILD/MODERATE SPECIAL EDUCATION 1-12: Special needs of the Special Education Mild/Moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods and materials for Special Education Mild/Moderate exceptional children, vocational and transition services for students with disabilities.

ALL-LEVEL K-12 AREAS: Child psychology AND adolescent psychology; the diverse learner; classroom management/organization/environment; assessment; instructional design, and reading/instructional strategies across grade levels K-12.

*All courses for regular and special education will integrate effective teaching components, content standards, technology, reading, and portfolio development. Field-based experiences will be embedded in each course.

2. Methodology and Teaching 6 hours

Methods courses to include case studies and field experiences. NOTE: For all-level K-12 areas (Art, Dance, Foreign Language, Health and Physical Education, and Music), experiences should be provided across grades K-12.

3. Internship or Student Teaching 6 hours

Will include methodology seminars that are participant-oriented. NOTE: For all-level K-12 areas (Art, Dance, Foreign Language, Health and Physical Education, and Music), internship or student teaching experiences should be provided across grades K-12.

4. Prescriptive Plan 1-9 hours

The prescriptive plan can be pre-planned courses for individual programs or can be individualized courses for the candidate who demonstrates areas of need, not to exceed 9 semester hours.

TOTAL 24-33 hours

Certification Requirements

Colleges or universities will submit signed statements to the Louisiana Department of Education that indicate the student completing the Non-Master's/Certification-Only alternative certification path met the following requirements:

1. Passed the PPST components of the PRAXIS. (Note: This test was required for admission.) (Individuals who already possess a graduate degree will be exempted from this requirement).

2. Completed all coursework (including the certification program) with an overall 2.50 or higher GPA.

3. Passed the specialty examination (PRAXIS) for the area(s) of certification. (Note: This test was required for admission.)

a. Grades PK-3 (regular and special education): Elementary Education: Content Knowledge (#0014) specialty examination

b. Grades 1-5 (regular and special education): Elementary Education: Content Knowledge (#0014) specialty examination

c. Grades 4-8 (regular and special education): Middle school subject-specific licensing examination(s) in area(s) to be certified;

d. Grades 6-12 (regular and special education) and All-Level K-12 Certification: Subject-specific examination in content areas to be certified. If no examination was adopted for Louisiana in the certification area, candidates were required to present a minimum of 31 semester hours of coursework specific to the content area for admission to the program.

4. Passed the pedagogy examination (PRAXIS)

a. Grades PK-3: Early Childhood Education (0020)

b. Grades 1-5: Principles of Learning and Teaching K-6

c. Grades 4-8: Principles of Learning and Teaching 5-9

d. Grades 6-12: Principles of Learning and Teaching 7-12

e. All-Level K-12 Certification: Principles of Learning and Teaching K-6, 5-9, or 7-12

f. Mild/Moderate Special Education 1-12: Education of Exceptional Students: Core Content Knowledge (0353) and Education of Exceptional Students: Mild to Moderate Disabilities (0542)

5. All candidates who enter an alternate certification program after May 1, 2004, will be required to demonstrate proficiency in the Reading Competencies as adopted by the State Board of Elementary and Secondary Education through either (1) completion of the same amount of semester hours in reading as required for undergraduate teacher preparation programs, or (2) a reading competency assessment, prior to receiving a Level 1 or higher professional teaching certificate.

Deadline Dates For Louisiana Alternate Programs
No students should be accepted into an old post-baccalaureate alternate certification program in the areas of PK-3, 1-5, 4-8, 6-12, and mild/moderate special education after Spring Semester 2003. Candidates in these areas who are already in the old alternative certification programs would be allowed until August 31, 2006, to complete their programs.
No students should be accepted into an old post-baccalaureate alternate certification program in the all-level (K-12) areas of art, dance, foreign language, H&PE, and music after Spring Semester 2005. Candidates in these areas who are already in the old alternative certification programs would be allowed until August 31, 2008, to complete their programs.

Weegie Peabody
Executive Director

0410#012

RULE

Board of Elementary and Secondary Education

Bulletin 746 Louisiana Standards for State Certification of School Personnel Suspension, Revocation, and Reinstatement of Certificates Policy; Denial of Certificates for Criminal Offenses 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 revision amends language to current Bulletin 746 policy for the suspension, revocation, and reinstatement of teaching certificates as well as for the denial of teaching certificates for criminal offenses provides for the following: (1) a period of three years must lapse from time of criminal offense until time of application for a teaching certificate; (2) convictions set aside, expunged, or pardoned (per Louisiana first offender pardon laws) will be treated as convictions for purposes of suspension and/or revocation; (3) gubernatorial pardons will be honored; (4) the board may deny a request for reinstatement based on applicant's dishonesty in failing to disclose a prior criminal conviction; (5) applicant must contact the board and request a hearing; and (6) if the board denies reinstatement, the applicant must wait one year prior to re-application.

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, 311, 399, 541 (April, July, September, December 1975), amended LR 28:2505 (December 2002), LR 29:117 (February 2003), LR 29:119 (February 2003), LR 29:121 (February 2003), LR 30:2269 (October 2004).

* * *

Suspension, Revocation, and Reinstatement of Certificates for Criminal Offenses

I. A Louisiana teaching certificate shall be suspended and revoked if the individual holding the certificate has been convicted of any offense listed in R.S. 15:587.1(C) (see Attachment 1) or any felony offense whatsoever. A person convicted of an offense as defined herein may apply for a certificate after three years have passed from date of entry of final conviction pursuant to the procedures and rules set forth in Section V.

II. For the purposes of this policy:

The term "offense" or "crime" shall include those listed in R.S. 15:587.1(C) and any felony offense whatsoever.

The term "teaching certificate" or "certificate" shall include any license, permit, or certificate issued by the Division of Teacher Certification and Higher Education of the Department of Education.

The term "teacher" shall include any person holding any permanent, ancillary, or temporary teaching certificate.

The term "applicant" shall include any person applying for any permanent, ancillary, provisional or temporary certificate.

The term "convicted" or "conviction" shall include any proceedings in which the accused pleads guilty or no contest and those proceedings that are tried and result in a judgment of guilty.

The term "Department" refers to the Louisiana Department of Education.

The term "Board" refers to the Board of Elementary and Secondary Education as a whole and/or any of its standing committees.

III. Convictions that are set aside pursuant to Articles 893 or 894 of the Louisiana Code of Criminal Procedures, expunged, or which are pardoned subject to Louisiana first offender pardon laws nonetheless, shall be treated as convictions for the purposes of suspension and/or revocation.

IV. When the department is notified that any teacher has been convicted of a specific crime:

A. Department staff shall attempt to contact the teacher to inform him/her that the department has information regarding a criminal conviction and is proceeding under this policy to suspend the certificate.

B. The teacher shall have 10 working days from the date of notification to provide verification that he/she has not been convicted of a criminal offense. This opportunity for response is intended as a check against mistaken identity or other incorrect information and the requested verification may be provided through a telephone conversation or written correspondence.

C. If the teacher cannot be reached and/or if his/her employment status cannot be determined, suspension of the certificate shall proceed, as will all other steps in the process outlined in this policy.

D. If the department determines that there is evidence that a teacher has been convicted of a criminal offense, that teacher's certificate shall be suspended. The board, the teacher, and the employing school system shall be notified that the teacher's certificate has been suspended pending official board action.

E. The teacher shall be notified by certified mail and by any other appropriate means of notice that his/her certificate has been suspended and that the certificate will be revoked unless the teacher can provide documentation that he/she was not convicted of the crime. The teacher shall provide copies of any documentation that verifies his/her identity and refutes the existence of a criminal conviction.

If the conviction upon which a teacher's certificate has been suspended and/or revoked is reversed, such action shall be communicated to the board through documentation provided by the applicant. The board may receive such information and order immediate reinstatement of the teacher's certificate.

Upon official action by the board, any teacher whose certificate has been revoked, shall be notified of such action by certified mail. The correspondence shall include instructions for and identification of the date when the individual may apply to the Board for reinstatement of his/her certificate.

V. Procedures and Rules for Applications for Reinstatement:

A. Reinstatement will never be considered for teachers convicted of the following crimes: 14:30, 14:30.1, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:45, 14:78, 14:79.1, 14:80, 14:81, 14:81.1, 14:81.2, 14:82.1, 14:86, 14:89, 14:89.1, 14:93, 14:93.2.1, and 14:286 (see Attachment 1).

B. Reinstatements of certificates shall not be considered for any felony conviction until at least three years have elapsed from the date of the conviction.

C. An applicant may apply to the board for reinstatement of his/her teaching certificate after the lapse of time indicated above and under the following conditions:

1. There have been no other arrests or convictions. The applicant must provide a current FBI criminal history background check from state police that is clean and clear.

2. There has been successful completion of all conditions/requirements of parole and/or probation. The applicant must provide relevant-documentation.

D. The applicant must:

1. Contact the office of the Board of Elementary and Secondary Education and request a hearing for reinstatement of the certificate.

2. Provide each item identified above in Section C and further documentation evidencing rehabilitation. The applicant is recommended to provide letters of support from past/present employers, school board employees and officials, faculty, and administrative staff from the college education department, law enforcement officials and/or from other community leaders.

E. The board will consider the request for reinstatement and documentation provided. The board is not required to conduct a reinstatement hearing and may summarily deny a request for reinstatement.

F. If the board or its designees decide to conduct a reinstatement hearing, board staff shall notify the applicant of a date, time, and place when a committee of the board shall consider the applicant's request. The applicant may be represented/accompanied by legal counsel. In addition to the applicant and his/her legal counsel, a maximum of three witnesses may be called to provide testimony regarding the applicant's rehabilitation. Testimony and information considered will be limited to evidence of rehabilitation. The conviction itself will be given full faith and credit. The written documentation provided prior to the hearing will also be considered.

G. The Board of Elementary and Secondary Education reserves the right to accept or reject any document or testimony offered as evidence of rehabilitation and the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for reinstatement of a teaching certificate. The board further reserves the right to deny a request for reinstatement based on the applicant's dishonesty in failing to disclose a prior criminal conviction.

H. If the board denies reinstatement, the applicant must wait one year prior to re-application.

I. The committee of the board shall make a recommendation to the full board regarding whether the applicant's teaching certificate should be reinstated, suspended for an additional period of time, or remain

revoked. Board staff shall notify the applicant of the board's action.

Attachment 1

The following crimes are reported under R.S.15:587.1:

R.S. 14:30, R.S. 14:30.1, R.S. 14:31, R.S. 14:41 through R.S.14:45, R.S. 14:74, R.S. 14:78, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S. 4:89.1, R.S. 14:92, R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3, R.S. 14:106, R.S. 14:282, R.S. 14:286, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A), R.S. 40:969(A), and R.S. 40:970(A) or convictions for attempt or conspiracy to commit any of those offenses; Those of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with responsibility for responding to the request, would constitute a crime under the provisions cited in this Subsection, and Those under the Federal Criminal Code having analogous elements of criminal and moral turpitude (Federal Criminal Code provisions are in Title 18 of U.S.C.A.). Specifically:

- *R.S. 14:30 First degree murder
- *R.S. 14:30.1 Second degree murder
- R.S. 14:31 Manslaughter
- *R.S. 14:41 Rape
- *R.S. 14:42 Aggravated rape
- *R.S. 14:42.1 Forcible rape
- *R.S. 14:43 Simple rape
- *R.S. 14:43.1 Sexual battery
- *R.S. 14:43.2 Aggravated sexual battery
- *R.S. 14:43.3 Oral sexual battery
- *R.S. 14:43.4 Aggravated oral sexual battery
- *R.S. 14:43.5 Intentional exposure to the AIDS virus
- *R.S. 14:44 Aggravated kidnapping
- *R.S. 14:44.1 Second degree kidnapping
- *R.S. 14:45 Simple kidnapping
- R.S. 14:74 Criminal neglect of family
- *R.S. 14:78 Incest
- *R.S. 14:79.1 Criminal abandonment
- *R.S. 14:80 Carnal knowledge of a juvenile
- *R.S. 14:81 Indecent behavior with a juvenile
- *R.S. 14:81.1 Pornography involving juveniles
- *R.S. 14:81.2 Molestation of a juvenile
- R.S. 14:82 Prostitution
- *R.S. 14:82.1 Prostitution; Persons under seventeen; additional offenses
- R.S. 14:83 Soliciting for prostitutes
- R.S. 14:83.1 Inciting prostitution
- R.S. 14:83.2 Promoting prostitution
- R.S. 14:83.3 Prostitution by massage
- R.S. 14:83.4 Massage; sexual content prohibited
- R.S. 14:84 Pandering
- R.S. 14:85 Letting premises for prostitution
- R.S. 14:85.1 Letting premises for obscenity
- *R.S. 14:86 Enticing persons into prostitution
- *R.S. 14:89 Crime against nature
- *R.S. 14:89.1 Aggravated crime against nature
- R.S. 14:92 Contributing to the delinquency of juveniles
- *R.S. 14:93 Cruelty to juveniles
- *R.S. 14:93.2.1 Child desertion
- R.S. 14:93.3 Cruelty to the infirm
- R.S. 14:106 Obscenity

- R.S. 14:282 Operation of places of prostitution prohibited
- *R.S. 14:286 Sale of minor children
- R.S. 40:966(A) Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; Manufacture; Distribution
- R.S. 40:967(A) Prohibited acts; Schedule II, penalties; Manufacture; Distribution
- R.S. 40:968(A) Prohibited acts; Schedule III; penalties; Manufacture; Distribution
- R.S. 40:969(A) Prohibited acts; Schedule IV; penalties; Manufacture; Distribution
- R.S. 40:970(A) Prohibited acts; Schedule V; penalties; Manufacture; Distribution

*Reinstatement will never be considered for crimes marked with an asterisk.

Denial of Certificates for Criminal Offenses

I. An application for a Louisiana teaching certificate shall be denied if the individual applying for the certificate has been convicted of any offense listed in R.S. 15:587.1(C) (see Attachment 1) or any felony offense whatsoever. A person convicted of an offense as defined herein may apply for a certificate after three years have passed from date of entry of final conviction pursuant to the procedures and rules set forth in Section V.

II. For the purposes of this policy:

The term "offense" or "crime" shall include those listed in R.S. 15.587.1(C) and any felony offense whatsoever.

The term "teaching certificate" or "certificate" shall include any license, permit, or certificate issued by the Division of Teacher Certification and Higher Education of the Department of Education.

The term "applicant" shall include any person applying for any permanent, ancillary, provisional or temporary certificate.

The term "convicted" or "conviction" shall include any proceedings in which the accused pleads guilty or no contest and those proceedings that are tried and result in a judgment of guilty.

The term "Department" refers to the Louisiana Department of Education.

The term "Board" refers to the Board of Elementary and Secondary Education as a whole and/or any of its standing committees.

III. Convictions that are set aside pursuant to Articles 893 or 894 of the Louisiana Code of Criminal Procedures, expunged, or which are pardoned subject to Louisiana first offender pardon laws nonetheless, shall be treated as convictions for the purpose of denial.

IV. The applicant shall be notified by certified mail and by any other appropriate means of notice that his/her certificate has been denied. If the conviction upon which the certificate has been denied is reversed, such action should be communicated to the department through documentation provided by the applicant. The applicant shall provide copies of any documents that verify his/her identity and refute the existence of a criminal conviction.

V. Procedures for Issuance of Certificate to a Person Whose Final Conviction Was Entered More Than Three Years Prior to Application:

A. Certificate issuance will never be considered for teachers convicted of the following crimes: 14:30, 14:30.1, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:45, 14:78, 14:79.1, 14:80, 14:81, 14:81.1, 14:81.2, 14:82.1, 14:86, 14:89, 14:89.1, 14:93, 14:93.2.1, and 14:286 (see Attachment 1).

B. An applicant may apply to the board for issuance of his/her teaching certificate after three years have passed since conviction of an offense as defined herein under the following conditions:

1. There have been no other arrests or convictions. The applicant must provide a current FBI criminal background check from the state police that is clean and clear.
2. There has been successful completion of all conditions and/or requirements of parole and/or probation. The applicant must provide relevant documentation.

C. The applicant must:

1. Contact the office of the Board of Elementary and Secondary Education and request a hearing for issuance of a certificate.
2. Provide each item identified above in Section B, and further documentation evidencing rehabilitation. It is recommended that the applicant provide letters of support from past/present employers, school board employees and officials, faculty and administrative staff from the college education department, law enforcement officials and/or from other community leaders.

D. The board is not required to conduct an issuance hearing and may summarily deny a request for issuance.

E. If the board or its designees decide to conduct an issuance hearing, board staff shall notify the applicant of a date, time, and place when a committee of the board shall consider the applicant's request. The applicant may be represented/accompanied by legal counsel. In addition to the applicant and his/her legal counsel, a maximum of three witnesses may be called to provide testimony regarding the applicant's rehabilitation. Testimony and information considered will be limited to evidence of rehabilitation. The conviction itself will be given full faith and credit.

F. The committee of the board shall make a recommendation to the full board regarding whether the teaching certificate should be granted, or denied. Board staff shall notify the applicant of the board's action.

G. The Board of Elementary and Secondary Education reserves the right to accept or reject any document or testimony offered as evidence of rehabilitation and the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for a teaching certificate. The board further reserves the right to deny issuance based on the applicant's dishonesty in failing to disclose a prior criminal conviction.

Attachment 1

The following crimes are reported under R.S.15:587.1:

R.S. 14:30, R.S. 14:30.1, R.S. 14:31, R.S. 14:41 through R.S.14:45, R.S. 14:74, R.S. 14:78, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S. 14:89.1, R.S. 14:92, R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3, R.S. 14:106, R.S. 14:282, R.S. 14:286, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A), R.S. 40:969(A), and R.S. 40:970(A) or convictions for attempt or conspiracy to commit any of those

offenses; Those of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with responsibility for responding to the request, would constitute a crime under the provisions cited in this Subsection, and Those under the Federal Criminal Code having analogous elements of criminal and moral turpitude (Federal Criminal Code provisions are in Title 18 of U.S.C.A.). Specifically:

- *R.S. 14:30 First degree murder
- *R.S. 14:30.1 Second degree murder
- R.S. 14:31 Manslaughter
- *R.S. 14:41 Rape
- *R.S. 14:42 Aggravated rape
- *R.S. 14:42.1 Forcible rape
- *R.S. 14:43 Simple rape
- *R.S. 14:43.1 Sexual battery
- *R.S. 14:43.2 Aggravated sexual battery
- *R.S. 14:43.3 Oral sexual battery
- *R.S. 14:43.4 Aggravated oral sexual battery
- *R.S. 14:43.5 Intentional exposure to the AIDS virus
- *R.S. 14:44 Aggravated kidnapping
- *R.S. 14:44.1 Second degree kidnapping
- *R.S. 14:45 Simple kidnapping
- R.S. 14:74 Criminal neglect of family
- *R.S. 14:78 Incest
- *R.S. 14:79.1 Criminal abandonment
- *R.S. 14:80 Carnal knowledge of a juvenile
- *R.S. 14:81 Indecent behavior with a juvenile
- *R.S. 14:81.1 Pornography involving juveniles
- *R.S. 14:81.2 Molestation of a juvenile
- R.S. 14:82 Prostitution
- *R.S. 14:82.1 Prostitution; Persons under seventeen; additional offenses
- R.S. 14:83 Soliciting for prostitutes
- R.S. 14:83.1 Inciting prostitution
- R.S. 14:83.2 Promoting prostitution
- R.S. 14:83.3 Prostitution by massage
- R.S. 14:83.4 Massage; Sexual content prohibit
- R.S. 14:84 Pandering
- R.S. 14:85 Letting premises for prostitution
- R.S. 14:85.1 Letting premises for obscenity
- *R.S. 14:86 Enticing persons into prostitution
- *R.S. 14:89 Crime against nature
- *R.S. 14:89.1 Aggravated crime against nature
- R.S. 14:92 Contributing to the delinquency of juveniles
- *R.S. 14:93 Cruelty to juveniles
- *R.S. 14:93.2.1 Child desertion
- R.S. 14:93.3 Cruelty to the infirm
- R.S. 14:106 Obscenity
- R.S. 14:282 Operation of places of prostitution prohibited
- *R.S. 14:286 Sale of minor children
- R.S. 40:966(A) Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; Manufacture; Distribution
- R.S. 40:967(A) Prohibited acts; Schedule II, penalties; Manufacture; Distribution
- R.S. 40:968(A) Prohibited acts; Schedule III; penalties; Manufacture; Distribution
- R.S. 40:969(A) Prohibited acts; Schedule IV; penalties; Manufacture; Distribution

R.S. 40:970(A) Prohibited acts; Schedule V; penalties; Manufacture; Distribution
 *Reinstatement will never be considered for crimes marked with an asterisk.

* * *

Weegie Peabody
 Executive Director

0410#013

RULE

Board of Elementary and Secondary Education

Bulletin 1525 Guidelines for Personnel Evaluation (LAC 28:CIII.Chapters 1-7)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 1525 Guidelines for Personnel Evaluation*, referenced in R.S. 17:3883(A)(5),(6),and(7), and (B)(2), 3903(A) and 3904(A)(1), and R.S. 17:3883(B)(5) and 3905, promulgated by the Board of Elementary and Secondary Education in LR 5:168 (July 1979). This is the first time that *Bulletin 1525* appears in its codified form. The State Board of Elementary and Secondary Education (SBESE) at its January meeting approved revisions to the Louisiana Components of Effective Teaching (LCET) that appears as Section 703 of *Bulletin 1525 Guidelines for Personnel Evaluation*. The LCET are the assessment criteria for the first and second year teachers participating in the Louisiana Teacher Assistance and Assessment Program as well as all experienced teachers participating in local personnel evaluation programs. Revisions to the LCET were necessitated by the May 2001 Governor's Blue Ribbon Commission Teacher Quality Recommendations Year Two Report.

Title 28

EDUCATION

Part CIII. Bulletin 1525 Guidelines for Personnel Evaluation

Chapter 1. Overview

§101. Guidelines of the Program

A. As required by R.S. 17:391.5, R.S. 17:24.3 (Act 621 and Act 9) of the 1977 Louisiana Legislature; and R.S. 17:391.10 (Act 605) of 1980, all local educational agencies (LEAs) in Louisiana developed accountability plans to fulfill the requirements as set forth by the laws. Specifically, Act 621 of 1977 established school accountability programs for all certified and other professional personnel. Act 9 of 1977 established a statewide system of evaluation for teachers and principals. Act 605 of 1980 gave the Louisiana Department of Education (LDE) the authority to monitor the LEAs' personnel evaluation programs. In passing these acts, it was the intent of the legislature to establish within each LEA a uniform system for the evaluation of certified and other professional personnel.

B. Act 506, R.S. 17:391.5, as enacted and amended during the 1992 Regular Session of the Louisiana Legislature, revised and reenacted previous LEA accountability legislation. It included provisions to strengthen and make more uniform the local teacher evaluation practices within the public schools of Louisiana.

C. During the spring of 1992, the State Board of Elementary and Secondary Education (SBESE) authorized the convening of a Local Teacher Evaluation Program Panel (Panel II) to develop guidelines for strengthening and standardizing the teacher evaluation programs employed by school districts across the state. Superintendents, principals, and teachers were represented on this panel. Panel II operated under the assumption that local teacher evaluation programs would be standardized if they were grounded in the same statement of philosophy and purposes, if they used common criteria to evaluate teachers, and if they included uniform procedures and guidelines.

D. The guidelines to strengthen local teacher evaluation programs including the Louisiana Components of Effective Teaching were entitled "*Toward Strengthening and Standardizing Local School Districts' Teacher Evaluation Programs*" (Appendix A) and were approved by the SBESE in September 1992. These guidelines are integrated into the content of this document. Appendix A, along with the requirements of the local accountability legislation, formed the basis for the local evaluation programs.

E. The SBESE also authorized the convening of the Louisiana Components of Effective Teaching (LCET) Panel (Panel I) during the spring of 1992. The charge of Panel I was to determine and to define the components of effective teaching for Louisiana's teachers. The components were to reflect what actually takes place in the classroom of an effective teacher. This 35 member panel was composed of a majority of teachers. The resulting *Louisiana Components of Effective Teaching* (Appendix B), which is a descriptive framework of effective teacher behavior, is intended to be a uniform element that serves as evaluation criteria in the local teacher evaluation programs.

F. In 1994, Act I of the Third Extraordinary Session of the 1994 Louisiana Legislature was passed. Act I amended and reenacted several statutes related to Local Personnel Evaluation. In April 2000, Act 38 of the Extraordinary Session of the 2000 Louisiana Legislature was passed. Act 38 amended, enacted, and repealed portions of the legislation regarding the local personnel evaluation process. While local school districts are expected to maintain the elements of the local personnel evaluation programs currently in place and set forth in this document, Act 38 eliminated the LDE's required monitoring of the local implementation. Monitoring of local personnel evaluation programs is to occur as requested by the SBESE.

G. *Bulletin 1525* reflects the most recent local personnel evaluation legislation as well as the State-approved guidelines for its implementation. The intent of the *Bulletin 1525* is to present a framework or template for local school systems to use in the development or review of their personnel evaluation programs. These programs must fulfill the requirements of the enacted legislation, establish a uniform system of evaluation, and denote the philosophy and unique characteristics of the local school system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2272 (October 2004).

§103. Philosophy of Personnel Evaluation

A. It is clear that public schools must provide a high quality education that prepares our youth for the demands of

the 21st century. In order to meet these challenges, educators must focus on providing the best educational opportunities for all children. Recognizing this charge, the SBESE has established uniform guidelines for personnel evaluation.

B. Personnel evaluation is directed toward the continued enhancement of learning through a process of encouraging professional growth for all educators by establishing a system of professional accountability. It is an ongoing, shared process aimed at improving the instruction of and the learning environment for all students.

C. Supplementing many of the traditional concepts of personnel evaluation, the LDE affirms and supports the belief that evaluation is a humanistic process directed toward the growth and development of all professional personnel who determine the educational programs in the state. This vast human potential will ultimately determine the direction the educational programs will follow.

D. Therefore, it is crucial that every effort possible be expended toward the identification and retention of the most competent and qualified personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2273 (October 2004).

§105. Purposes of Personnel Evaluation

A. The purposes for which personnel evaluation will be used in Louisiana are as follows:

1. to assure the public that the educational system provides the best opportunities for all children to learn;
2. to assure the public that the most qualified personnel are employed in every position and that effective teaching continues in the classroom;
3. to foster the continuous improvement of teaching and learning by providing opportunities for the professional growth of all educators;
4. to provide support for the professional development of new teachers during their first year of teaching;
5. to provide procedures that are necessary to fulfill the objectives of retaining competent professional employees, to embrace sound educational principles, and to ensure the strengthening of the formal learning environment;
6. to provide procedures for self-evaluation, personal reflection, and peer collaboration;
7. to promote among all school personnel positive interpersonal relationships that will continually increase professional competencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2273 (October 2004).

§107. Implementation of Personnel Evaluation Programs

A. Activities to include in the annual implementation cycle of Local Personnel Evaluation Programs are presented below.

1. The LEA's steering committee reviews and refines plans annually for implementing its local personnel evaluation program during the school year.

2. Local school districts may elect to submit their personnel evaluation plans and/or revisions to the LDE prior to the beginning of the next school year. The LDE receives

and reviews, per request, local personnel evaluation plans and/or revisions according to the guidelines presented in *Bulletin 1525*.

3. Each LEA's steering committee implements its refined personnel evaluation program with LEA Board approval and meets annually to monitor its implementation.

4. Each LEA provides ongoing staff development for teachers and administrators.

5. Each LEA annually reports the summary results of personnel evaluation to the LDE by July 15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2273 (October 2004).

§109. Framework for LEA Personnel Evaluation Programs

A. Each local school board has the responsibility of providing a program for the evaluation of certified and other professional personnel employed within the system. Programs should be appropriate and tailored to the particular needs of the school district. Each school board shall have the responsibility to institute programs that address the particular needs of the school district it represents and the guidelines developed by the LDE pursuant to the laws.

B. Certain requirements relative to the design and development of local personnel evaluation programs have been set forth in an effort to facilitate the construction and implementation process. Organizing and numbering the personnel evaluation program plan in a manner consistent with the proposed format will be helpful to the LEA in determining that all elements of evaluation have been included. A numerical outline will also assist all parties in the review of the plan should such a review be requested or mandated by the SBESE. The remainder of this document presents information relative to the criteria for each of the following sections or elements that should be included in the LEA personnel evaluation program plan.

C. The list below identifies those sections that are considered essential to an effective personnel evaluation program.

Section 1.0	Focus on Educational Improvement
Section 2.0	Staff Involvement in the Personnel Evaluation Program
Section 3.0	Philosophy and Purposes of Personnel Evaluation
Section 4.0	LEA Personnel Evaluation Glossary
Section 5.0	Impact of Personnel Evaluation
Section 6.0	Evaluation Process Description
Section 6.1	Evaluation Criteria
Section 6.1A	Instructional Personnel
Section 6.1B	Non-Instructional Certified and Other Professional Personnel
Section 6.2	Accountability Relationships Register
Section 6.3	Programs Instruments Register
Section 6.4	Observation Process
Section 6.5	Developing the Professional Growth Plan
Section 6.6	Personnel Self-Evaluation
Section 6.7	The Evaluation Period
Section 6.8	Intensive Assistance Programs
Section 6.9	Induction of New Teachers
Section 6.10	Procedures for Resolving Conflict Due Process
Section 7.0	Staff Development for Personnel Involved in Evaluation
Section 8.0	Process Instruments
Section 9.0	Job Descriptions
Section 10.0	Employment Requirements

Section 11.0	Evaluation Exemption
Section 12.0	Statement of Assurance

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2274 (October 2004).

§111. Definitions

A. In order that consistency in terminology be maintained on a statewide basis, the LDE has established a list of terms and the definitions of each. Careful consideration of each should be given during the development of the LEA personnel evaluation programs. If additional terms are necessary in establishing a clear and concise understanding of evaluation procedures, they must be included in the LEA plan for personnel evaluation. The definitions below must be adopted by all LEAs.

Accountability Shared responsibility for actions relating to the education of children.

Administrator Any person whose employment requires professional certification issued under the rules of the board in *Bulletin 746*, or who is employed in a professional capacity other than a teacher.

Assessment The process by which the Louisiana Department of Education determines whether a new teacher who is seeking to retain or to acquire a regular teaching certificate can sufficiently demonstrate the Louisiana Components of Effective Teaching to qualify for the teaching credential being sought.

Assistance Level The number of times assistance has been prescribed.

Certified School Personnel Those persons whose positions require LDE certification.

Criteria Demonstrable levels of performance upon which a judgment or decision may be based.

Due Process Fair and impartial treatment as guaranteed under the law, including, but not limited to, the 1st, 5th, and 14th Amendments to the Constitution of the United States; Section 1983 of the Civil Rights Act of 1871; Title VII of the Civil Rights Act of 1964; and Title IX of the Educational Amendment of 1972, relative to substantive and procedural requirements.

Duties Those actions normally required of a position as assigned and/or described in the position description that are necessary to enable the class, school, or school district to accomplish its objectives.

Educational Accountability The respective shared responsibilities and duties of the following groups: local school boards, administrators, principals, teachers, and other personnel; the LDE; parents and students; and other governing authorities as specified by the constitution and laws of the state.

Evaluatee One who is evaluated.

Evaluation The process of making considered judgments concerning the professional accomplishments and competencies of a certified employee, as well as other professional personnel, based on a broad knowledge of the area of performance involved, the characteristics of the situation of the individual being evaluated, and the specific standards of performance pre-established for the position.

Evaluation Period The period of time during each school year during which the evaluation program will be conducted.

Evaluator One who evaluates.

Goal A statement of broad direction or intent which is general and timeless and which is not concerned with a particular achievement within a specified time period.

Instructional Personnel Those LEA personnel who provide classroom instruction (e.g., classroom teacher, special education teacher, special projects teacher).

Intensive Assistance Plan The plan that is implemented when experienced personnel do not meet the local school system's standards of performance through the personnel evaluation process. This plan specifies what the evaluatee needs to do to strengthen his/her performance, what assistance/support is provided by the local system, the timelines and procedures for monitoring the progress, and the action that will be taken if improvement is not demonstrated.

Job Description A statement of the position title, qualifications, supervisor, supervisory responsibilities, duties, job tasks, and standard performance criteria that specify the level of job skill required. (The *Louisiana Components of Effective Teaching* must be included for instructional personnel, and the *Standards for Principals* must be included for building-level administrators.) Space must be provided for signature and date.

LEA Local educational agency, parish/city school board, local school system.

LEA Steering Committee A local school district committee representing instructional, certified, and other professional personnel to review the current personnel evaluation program.

LDE Louisiana Department of Education.

Multi-Opportunity More than one opportunity.

New Teacher Any full-time employee of a local board who is engaged to provide instruction directly and regularly to students in any elementary, secondary, or special education school setting; one who is not an administrator and who is employed for the first time in a public school in this state after August 1, 1994; one who holds a regular teaching certificate, which when issued was valid for three years; or one who is authorized under law or board regulation to teach temporarily while seeking a regular teaching certificate.

Non-Instructional Certified and Other Professional School Personnel Those LEA personnel who do not provide classroom instruction.

Objective A devised accomplishment that can be verified within a given time, under specifiable conditions, and by evidence of achievement.

Observation The process of gathering facts, noting occurrences, and documenting evidence of performance.

Other Professional School Personnel All school employees whose positions do not require a teaching certificate but do require a college degree and/or employees without a college degree who assume major management functions by directing, administering, or managing significant departments or divisions within the LEA.

Performance Criteria General and specific standards by which personnel may be evaluated and on which judgments and decision making may be based.

Philosophy A composite statement of the relationship between the individual and society based upon beliefs, concepts, and attitudes from which the goals and purposes of the district's mission are derived.

Professional Growth Plan A written plan formulated by the satisfactorily-performing evaluatee to enhance his/her skills and performance. The plan includes specific goal(s), objective(s), action plans, timelines, and evaluation criteria.

Public Schools Public elementary and secondary schools governed by parish or city school boards and under the supervision of the State Board of Elementary and Secondary Education (SBESE).

School Board Parish or city school board governing public elementary and secondary schools.

School District The area of each parish or municipality under the jurisdiction of a local school board.

School Personnel Teachers, librarians, counselors, administrators, and other professional personnel of the public schools of the state, including members of the professional staff of the LDE.

Self-Evaluation The process of making considered judgments of one's own performance concerning professional accomplishments and competencies as a certified employee or other professional person based upon personal knowledge of the area of performance involved, the characteristics of the given situation, and the specific standards for performance pre-established for the position; to be submitted by the evaluatee to the appropriate evaluator for use in the compilation of the individual's evaluation report.

Single Official Personnel File Single personnel file maintained in the LEA central office. At minimum, the contents of the single official personnel file must include 1) documentation for the annual review or update of job descriptions and self-evaluations, 2) copies of completed observations and evaluations, and 3) completed professional growth plans or evidence to support the initiation and annual review of long term growth plans.

Staff Development Process designed for groups of LEA personnel with similarities guided by school/district goals and plans. It should encourage collective growth in a common direction and lead to an enhanced repertoire of skills/concepts.

Standard That which is set up and established by an authority or by mutual acceptance as a basis for the measure of quantity, value, or quality.

Standard of Performance An authoritative or mutually established level of accomplishment.

Teacher Any full-time employee of a local board who is engaged to provide instruction directly and regularly to students in any elementary, secondary, or special education school setting including a librarian, an assessment teacher, a speech therapist, and a counselor; one who is not an administrator; and who has successfully completed the Teacher Assistance and Assessment Program or who is not required to participate in the Teacher Assistance and Assessment Program.

Triennial Occurring every third year.

Uniform Evaluation System A system of evaluation that applies the same procedures in a consistent manner to all employees of each type or class of certified employees, as well as other professional school personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2274 (October 2004).

Chapter 3. Template for Personnel Evaluation Plans

§301. Focus on Educational Improvement

A. The first Section of the local personnel evaluation plan should present an overview of the district's philosophy and educational goals. The LEA personnel evaluation program should be well-grounded in the local school district's educational philosophy and goals. A clear message is provided as to how LEA personnel evaluation will be used to facilitate more effectively the attainment of short and long term goals for educational improvement at the district and school building levels. The overview of the district's philosophy should describe not only the LEA's philosophy and educational goals but also their relationship to the LDE's philosophy and purpose of personnel evaluation. The district's philosophy should also include the relationship of the personnel evaluation program to goals for educational improvement at the district and school building level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2276 (October 2004).

§303. Staff Involvement in the Personnel Evaluation Program

A. The LEA will form a balanced personnel evaluation steering committee that is representative of administrators, instructional, and support services personnel who are selected by the groups they represent. In Section 2.0 of the LEA personnel evaluation plan, the LEA describes the composition and work of the LEA steering committee. This standing committee is responsible for assessing the strengths and weaknesses of the LEA's personnel evaluation program in light of the guidelines set forth in *Bulletin 1525*. The steering committee oversees the planning and implementation of any revisions necessary to strengthen the personnel evaluation process. This committee annually evaluates the extent to which the purposes of the local personnel evaluation program are being achieved, and presents any revision of the plan to the LEA Board for its approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2276 (October 2004).

§305. Philosophy and Purposes of Personnel Evaluation

A. Key elements of Section 3.0 of the LEA personnel evaluation plan include a clear description of the philosophy and the purposes for which personnel evaluation is used in the local school district. The philosophy that is presented should be supported by contemporary research and grounded in the belief that all students can learn, that good teaching increases the opportunities for students' learning, and that a collegial, collaborative relationship between a teacher and evaluator creates the appropriate climate for effective teaching.

B. One purpose of the LEA personnel evaluation program is to assure the public that the educational system is

providing the best opportunities for all children to learn, that the most qualified personnel are employed in every position, and that effective teaching continues in the classroom. Additional purposes to include and describe in Section 3.0 are the improvement of the teaching-learning process, the encouragement of creativity and innovation in planning, and the implementation of teaching strategies. Teaching strategies should foster parental involvement, integrate technology into instruction, develop student assessment practices, and employ school improvement practices that are consistent with contemporary research on effective classroom processes.

C. All of the purposes of the LEA personnel evaluation program should promote the professional growth and development of staff, as well as the support of new teachers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2276 (October 2004).

§307. LEA Personnel Evaluation Glossary

A. When developing Section 4.0 of the LEA personnel evaluation plan, the LEA should include a complete listing of all evaluation terms used in the school district. Definitions of each term should be provided to assist with program consistency and standardization. A minimal list of terms and definitions to include in the LEA Personnel Evaluation Glossary is provided in Section 111 of this document. The LEA may include other terms and definitions as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2276 (October 2004).

§309. Impact of Personnel Evaluation

A. Section 5.0 of the LEA personnel evaluation plan contains a description of the methods the LEA will use to document the impact of the LEA personnel evaluation process on improving teaching and learning at the school building and district levels. This Section includes a plan for annually documenting, celebrating, and sharing the accomplishments of certified and other professional personnel with the school community. The impact of personnel evaluation on the teaching and learning process at the school building and district level may be documented through the inclusion of newsletters, brochures, newspaper articles, and meeting agendas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2276 (October 2004).

§311. Evaluation Process Description

A. Section 6.0 contains a description of the LEA's evaluation process. The various procedures involved in the evaluation of personnel must reflect the guidelines presented within this Section. All procedures should be written clearly so that all evaluation procedures are readily discernible to all of the individuals involved.

B. It is important to note that Section 6.0 of *Bulletin 1525* incorporates the work of Panel II (Appendix A) as it applies to classroom teachers. The evaluation process for principals must comply with the *Standards for School Principals in Louisiana, 1998* (Appendix C). Furthermore,

the LEA's description of the evaluation process should integrate and apply the content that is applicable and appropriate for all certified and other professional personnel. The guidelines to use in developing the description of the evaluation process for all certified and professional personnel follow.

1. The evaluator's assessment of performance shall be based on the criteria specified in the written job description, including the *Louisiana Components of Effective Teaching* for instructional personnel and the *Standards for School Principals in Louisiana* for building-level administrators.

2. The evaluator's assessment of the progress the evaluatee has made toward achieving those objectives included in the professional growth plan that was developed collaboratively with the evaluator shall be documented.

3. The evaluatee's self-evaluation, as well as progress toward achieving those objectives included in his/her professional growth plan shall be included in evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2276 (October 2004).

§313. Evaluation Criteria

A. In Section 6.1 the LEA defines the criteria used in the evaluation of all certified and other professional personnel. Evaluation criteria for all certified and other professional personnel must be defined clearly in writing in the job description. When designing evaluation instruments, the LEA must include a description of the standards for satisfactory performance for all personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2277 (October 2004).

§315. Evaluation of Instructional Personnel

A. Section 6.1A outlines the evaluation criteria that the LEA will use when evaluating instructional personnel. It is important that instructional personnel know that they are evaluated on the basis of the criteria defined in their respective job descriptions including the *Louisiana Components of Effective Teaching* (Appendix B) and any other appropriate criteria identified by the local school district. The *Louisiana Components of Effective Teaching* is a broad, general description of good teaching. Because teacher evaluation results in an in-depth analysis of teaching, it is usually not advisable to use only a rating scale or checklist to rate a successful, experienced teacher on all the criteria in the job description. Instead, these criteria should be used as a frame of reference for a descriptive review and analysis of teaching that focuses the evaluation process on strengthening and/or enhancing a few critical aspects of teaching. The evaluation criteria must conform to the following guidelines.

1. The evaluation criteria for all instructional personnel shall be stated clearly in writing in the job description.

2. The *Louisiana Components of Effective Teaching* shall be included in the job descriptions of instructional personnel.

3. The evaluation criteria shall provide a frame of reference for a descriptive review and analysis of teaching

rather than only a rating scale or checklist of teaching effectiveness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2277 (October 2004).

§317. Evaluation of Non-Instructional Certified and Other Professional Personnel

A. In this Section, the plan describes the design of appropriate instrumentation that is used in the evaluation of non-instructional certified and other professional personnel. The design of the instrument(s) must provide for the evaluation of standard criteria (the job description for which non-instructional personnel are held responsible) and the specific Professional Growth Plan designed by the evaluatee and the evaluator. The design of the instrument(s) must conform to the guidelines listed below.

1. The criteria included in the job description shall be evaluated; a description of the standards for satisfactory performance shall be indicated.

2. The evaluation criteria for all building-level administrators shall include the *Standards for School Principals in Louisiana* (Appendix C).

3. The criteria for the evaluation of Professional Growth Plans shall be specified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2277 (October 2004).

§319. Accountability Relationships Register

A. Section 6.2 of the LEA personnel evaluation program plan contains an Accountability Relationships Register. The register clearly defines the LEA's accountability relationships for all certified and other professional personnel. It is important that the LEA describe the process by which all accountability relationships are communicated annually so that all certified and other personnel know who is accountable to whom for the purposes of personnel evaluation. An example of an Accountability Relationships Register follows.

B. Accountability Relationships Register

Evaluatee	Evaluator
Classroom Teachers	Principals
Principals	Supervisors
Supervisors	Superintendent
Note: The Register must contain a list of all categories of evaluatees in the school district. Titles of evaluatees should match those presented on the job descriptions.	Note: The Register must contain a list of the evaluators for each evaluatee in the district. Titles of evaluators should match those presented on the job descriptions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2277 (October 2004).

§321. Program Instruments Register

A. Section 6.3 of the LEA personnel evaluation program plan contains a register or listing of all evaluation program instruments. A numerical coding system may be used to identify all of the various evaluation forms. It is extremely helpful to standardize the location and size of the coding that

is selected. A sample of a Program Instruments Register is provided below.

B. Program Instruments Register

Instruments	Codes
Professional Growth Plan Form(s)	PGP 1
Personnel Observation Form(s)	POF 1
Personnel Evaluation Form(s)	PEF 1
Self-Evaluation Form(s)	SEF 1
Intensive Assistance Form(s)	IAF 1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2277 (October 2004).

§323. Observation Process

A. The observation procedures for all certified and other professional personnel employed in the district are included in Section 6.4. A detailed narrative of the procedures to be employed is to be included in this subsection. Guidelines that must be addressed and incorporated in the LEA observation procedures are listed below.

1. The LEA must specify who will conduct the observation(s). The evaluator must conduct at least one of the required number of observation(s).

2. The LEA must specify how often observations will occur. A minimum of one observation every year for personnel with 0-3 years experience, and one observation every 3 years for personnel with 4+ years experience is required. (Teachers participating in the Louisiana Teacher Assistance and Assessment Program may substitute elements of evaluation according to the LEA plan.)

3. The evaluator of each teacher or administrator shall conduct a preobservation conference during which the teacher or administrator shall provide the evaluator with relevant information.

4. The LEA must notify the evaluatee in advance when observation(s) will occur. All types of observations used must be defined in the LEA's plan.

5. The LEA must specify how the post-observation conference will be conducted.

6. The LEA must specify how copies of the completed observation forms will be disseminated and filed.

7. The LEA must specify how intensive assistance, if necessary, will be initiated following the observation procedures.

B. Instructional Personnel. In addition to the guidelines listed above, the following observation procedures are required for instructional personnel. Classroom observation is a critical aspect of the teacher evaluation process. Guidelines that must be considered and included in the LEA plan when evaluators conduct classroom observations follow.

1. Periodic classroom observations shall be used to evaluate teaching.

2. A pre-observation conference shall be held to review the teacher's lesson plan; the review may include information about the use of technology, student assessment practices, and school improvement efforts.

3. Observations shall be of sufficient duration to see the lesson begin, develop, and culminate.

4. A post-observation conference shall be held to discuss and analyze the lesson as well as to prepare an observation report.

5. The primary purpose of the classroom observation shall not be to rate the teacher, but rather, to reach consensus on not only commendations, but also recommendations to strengthen or enhance teaching.

6. Follow-up observations shall be conducted to reinforce positive practice and to determine how recommendations have impacted the quality of the teaching-learning process.

7. Classroom visits may be conducted to monitor progress toward achievement of professional growth plan objectives and to provide support or assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2278 (October 2004).

§325. Developing the Professional Growth Plan

A. The process that is used to develop and evaluate the Professional Growth Plan (PGP) is specified in Section 6.5. Periodic evaluation conferences are conducted to discuss and analyze job performance for the purpose of developing longer term PGPs to strengthen or enhance the job performance of all certified and other professional personnel. These PGPs must be developed at the beginning of the evaluation period and be based on a descriptive analysis of job performance rather than on only the results of a checklist or a rating scale. Appropriate timelines must be determined in regard to these procedures. Usually such plans include two to three objectives developed collaboratively by the evaluatee and evaluator. These plans must be reviewed and updated annually. For successful, experienced personnel, these objectives may extend beyond the professional responsibilities included in the job description and may be used to explore new, untried, innovative ideas or projects. Each objective includes a plan of action to guide the evaluatee's progress, as well as observable evaluation criteria that the evaluatee and evaluator can use to determine the extent to which each objective has been achieved. The evaluation criteria should show clearly how achievement of the objective will impact the quality of the job performance.

B. The LEA process for developing and reviewing professional growth plans must conform to the guidelines listed below.

1. All longer term (one, two, or three year) PGPs must be reviewed and updated annually.

2. The PGP shall be developed at the beginning of the evaluation period. Appropriate timelines must be determined in regard to these procedures and such timelines must be given in the narrative of this subsection. The LEA must develop forms for the PGP.

3. PGPs shall be based on objectives developed collaboratively by the evaluatee and evaluator. These plans must be reviewed and updated annually. (Note: Successful teachers or other professional personnel shall not be mandated to participate in any one specific growth activity.)

4. A plan of action and evaluation criteria shall be specified for each objective. During the annual review, documentation must be presented to support completion of the professional growth plan activities.

5. For successful, experienced personnel, objectives shall be used to explore new, untried, innovative ideas or projects.

6. The evaluator(s) and evaluatee(s) must sign and date each completed PGP form after it has been developed and again after it has been reviewed. All forms must be signed and dated prior to dissemination and filing.

7. It is recommended that the evaluator and the evaluatee maintain a copy of all completed forms. A copy of the PGP must be filed in the single official file at the central office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2278 (October 2004).

§327. Personnel Self-Evaluation

A. In this Section, the LEA delineates its personnel self-evaluation process. The LEA must encourage all certified and other professional personnel to assume significant responsibility for the evaluation of their performances. Ample opportunities should be provided throughout the personnel evaluation process for personal reflection, self-evaluation, and peer collaboration. The products of such efforts are shared in self-evaluation reports that certified and other professional personnel submit as part of the personnel evaluation process. Training should be provided for all certified and other professional personnel in techniques for reflection and self-evaluation. For instructional personnel, additional staff development opportunities should be provided for those teachers who wish to work as peer coaches or in other peer support and assistance roles (i.e., mentors, peer support persons in intensive assistance programs for experienced teachers). Participation in such peer support roles is voluntary. Teachers serving as peer coaches or providing other peer support and assistance are not evaluators as defined in these guidelines.

B. In developing Section 6.6, the LEA plan for self-evaluation must address the following components.

1. A plan for ensuring that certified and other professional personnel are provided opportunities throughout the evaluation process for personal reflection, self-evaluation, and peer collaboration should be included.

2. Self-evaluation must be included as part of the overall annual evaluation process for all certified and professional personnel.

3. The plan should specify how the self-evaluation will be documented and how copies will be disseminated and filed. Documentation that self-evaluations have been completed should be placed in the evaluatee's single official file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2279 (October 2004).

§329. The Evaluation Period

A. The evaluation of staff may vary depending on their experience and proficiency. The evaluation process for new teachers tends to focus on strengthening proficiency in the classroom, while the evaluation process for successful, experienced certified and other professional personnel tends to focus on professional growth and school improvement.

New teachers and those new to the school district or new to a position will be evaluated each year through observations for the first three years in that position. (See Section 341, Evaluation Exemption Provisions.) More experienced certified and other professional personnel will be evaluated on the basis of observations at least once every three years. Successful, experienced certified and other professional personnel may be evaluated on a multi-year cycle that encourages staff to pursue longer-term professional growth and school improvement initiatives. An evaluation cycle may be implemented as follows.

1. Year One. Certified and other professional personnel are evaluated formally based on observations of the criteria listed on job descriptions, professional growth plans, and self-evaluations.

2. Year Two-Three. Certified and other professional personnel are evaluated on the basis of progress toward those objectives in their professional growth plan and self-evaluations. It is imperative that all certified and other professional personnel clearly understand the procedures and timelines that will be used to evaluate their performances.

B. The LEA must incorporate the guidelines listed below in the description of its evaluation process and time period.

1. The process must specify the number of evaluators per evaluatee.

2. The process must include how the evaluatee will be informed of the criteria of expected performance.

3. Provision for the annual written evaluation of all certified and other professional personnel must be included in the process.

4. The evaluation process should be tailored to the levels of experience and proficiency of the certified and other professional personnel.

5. Successful, certified and other professional personnel who are evaluated on a multi-year cycle should be encouraged to pursue more meaningful, longer-term professional growth and school improvement initiatives.

6. The plan must specify the procedures to be used in conducting post-evaluation conferences.

7. The plan must include a process for the dissemination and filing of completed evaluation forms. One copy shall be maintained in the evaluatee's single official file at the central office.

C. The LDE recommends that personnel who are determined, through the evaluation process, to be in need of intensive assistance and/or reinforcement, be evaluated until such performance(s) is/are corrected or dismissal is recommended. Procedural due process is mandatory in the personnel evaluation programs, and a breach in this matter will be considered serious.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2279 (October 2004).

§331. Intensive Assistance Programs

A. This program must be designed for use by all evaluators when it becomes necessary to prepare an Intensive Assistance Program for an evaluatee who has been determined to be in need of certain assistance. (The Intensive Assistance Program does not apply to teachers in the Louisiana Teacher Assistance and Assessment Program.)

B. If it is determined through the evaluation process that an evaluatee does not satisfactorily meet the local school district's standards of performance, then that evaluatee is placed in an intensive assistance program. When the evaluatee is placed in such a program, he/she is informed in writing of the reason(s) for the placement. Then an intensive assistance plan is developed with the evaluatee. This plan specifies:

1. what the evaluatee must do to strengthen his/her performance, what objective(s) must be accomplished, and what level(s) of performance is/are expected;

2. what assistance/support shall be provided by the school district;

3. a timeline (not to exceed two years) for achieving the objectives and the procedures for monitoring the evaluatee's progress including observations and conferences; and

4. the action that will be taken if improvement is not demonstrated. Evaluatees must continue to be evaluated until the need for intensive assistance no longer exists.

C. LEAs must delineate the procedures to be followed if the evaluatee fails to improve within the timelines of the intensive assistance program. R.S. 17:3902 mandates that, if an evaluatee completes the intensive assistance program and still performs unsatisfactorily on a formal evaluation, the local board shall initiate termination proceedings within six months following such unsatisfactory performance.

D. In this Section of the LEA evaluation program description, the LEA delineates its process for intensive assistance. The LEA intensive assistance process must conform to the following guidelines.

1. An intensive assistance program shall be provided for evaluatees who do not meet the local school district's standards of satisfactory performance.

2. Any evaluatee placed in an intensive assistance program shall be informed in writing of the reason(s) for this placement.

3. An intensive assistance plan shall be developed for any evaluatee placed in such a program.

4. The local school district shall document the professional development support that is necessary to enable the certified and other professional personnel to meet the objectives of his/her plan.

5. The local school district shall take appropriate action in accordance with legislative, SBESE, and local school board mandates if satisfactory improvement is not demonstrated.

6. The intensive assistance plan must be developed collaboratively by the evaluator and the evaluatee and must contain specific information:

a. what the evaluatee needs to do to strengthen his/her performance including a statement of the objective(s) to be accomplished and the expected level(s) of performance;

b. an explanation of the assistance/support/resource to be provided by the school district;

c. the evaluatee's and evaluator(s)' names and position titles;

d. a space for indicating the date that the assistance program shall begin;

e. the date when the assistance program shall be completed;

f. the evaluator's and evaluatee's signatures and date lines (Signatures and dates must be affixed at the time the assistance is prescribed and again after follow-up comments are completed.);

g. the timeline for achieving the objective and procedures for monitoring the evaluatee's progress (not to exceed two years);

h. an explanation of the provisions for multiple opportunities for the evaluatee to improve (The intensive assistance programs must be designed in such a manner as to provide the evaluatees with more than one opportunity to improve.);

i. the action that will be taken if improvement is not demonstrated.

7. The intensive assistance form must be designed in a manner that would provide for the designation of the level of assistance and a description of performance.

8. Completed intensive assistance plans and all supporting documents, such as observations, correspondence, and any other information pertinent to the intensive assistance process, must be filed in the evaluatee's single official file at the central office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2279 (October 2004).

§333. Induction of New Teachers

A. In this Section, the LEA describes its process for coordinating the induction of new teachers into the school system. Mentor support should be provided through the Louisiana Teacher Assistance and Assessment Program for the induction and professional growth of new teachers. A concerted effort should be made to insure that new teachers are socialized in a professional manner and that they experience success in the classroom. Assistance made available through the LEA personnel evaluation is coordinated with the state's assistance and assessment program designed for any new teacher with a provisional or temporary teaching certificate.

B. The LEA's induction process must consider that mentor support is provided for the induction of new teachers, that the *Louisiana Components of Effective Teaching* is a focus for the evaluation of new teachers, and that all assistance made available through the LEA personnel evaluation process is coordinated with the State's assistance and assessment program for new teachers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2280 (October 2004).

§335. Procedures for Resolving Conflict/Due Process

A. This Section of the LEA personnel evaluation program must include the procedures for resolving disagreement or conflict in a fair, efficient, effective, and professional manner. All due process mandates in R.S. 17:3883(7), R.S. 17:3884, and R.S. 17:3902 must be included in the evaluation process.

B. The LEA must address the following components of due process.

1. The evaluator shall provide the evaluatee with a copy of the evaluation results within 15 working days after

the completion of the evaluation. (The LDE strongly recommends that this same procedure be employed with regard to observation reports.)

2. A post-evaluation conference must be held following the evaluation and prior to the end of the school year in order that the results of the evaluation can be discussed. (This discussion should concern the strengths and weaknesses of the evaluatee.)

3. The evaluation program shall include procedures for resolving conflict in a fair, efficient, effective, and professional manner.

4. The evaluatee may file his/her own written response to the evaluation. (A self-evaluation form may not serve as an evaluatee's written response.)

5. The evaluatee may file a written response to the evaluation that will become a permanent attachment to the evaluatee's single official personnel file. The response may be a signed statement clarifying or rebutting the issue in question. (The LDE recommends that a timeline for the written response be given.)

6. When evaluatees are not performing satisfactorily, they must be informed in writing.

7. The evaluatee has the right to receive proof, by documentation, of any item contained in the evaluation that the evaluatee believes to be inaccurate, invalid, or misrepresented. If documentation does not exist, the item in question must be amended or removed from the evaluation.

8. The evaluatee must be provided with ample assistance to improve performance.

9. The evaluatee may request that an evaluation be conducted by another source. (The LDE recommends that the LEA name the source from which another evaluator may be selected.)

10. The confidentiality of evaluation results must be maintained as prescribed by law. (The LDE strongly recommends that copies of all evaluation documents be maintained in the files of both the evaluator and evaluatee; however, these documents must be maintained in the evaluatee's single official file.) The school board in each school district must take official action in regard to naming the individuals who shall be authorized to enter the official personnel files. The positions of these individuals must be included.

11. Personnel evaluation grievance procedures must be established to follow the proper lines of authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2280 (October 2004).

§337. Staff Development for Personnel Involved in Evaluation

A. In this Section of the LEA personnel evaluation program description, the LEA delineates its plan for staff development. The school district provides training on a continuing basis for all staff involved in the evaluation process (i.e., district level administrators and supervisors, principals and assistant principals, and classroom teachers). District staff development training is supported by the LDE. When developing the LEA staff development plan, it is recommended that the training concentrate on fostering the elements listed below:

1. a positive, constructive attitude toward teacher evaluation;

2. a knowledge of state laws and LEA policies governing the teacher evaluation process and associated due process procedures;

3. an understanding of the Louisiana components of effective teaching;

4. an understanding of the Standards for School Principals in Louisiana; and

5. an understanding of the LEA's personnel evaluation program, including the philosophy and purposes, criteria, and procedures.

B. The LEA's plan may include a description of additional training of evaluators. Evaluator training should focus on developing the skills needed to diagnose, strengthen, and/or enhance teaching effectively. It is recommended that the following skill areas be included in the plan and description of the LEA training for evaluators:

1. data collection skills necessary to document a teacher's performance accurately;

2. data analysis skills necessary to make accurate judgments about a teacher's performance;

3. conferencing skills necessary to provide clear, constructive feedback regarding a teacher's performance;

4. skills in developing and facilitating meaningful professional growth plans that strengthen or enhance teaching effectiveness; and

5. skills in writing effective evaluation reports that document how evaluation has impacted the quality of the teaching-learning process in the classroom.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2281 (October 2004).

§339. Process Instruments

A. This Section contains a copy of each instrument that is currently used in the LEA's evaluation process. (Note: Included instruments should be listed in the Program Instrument Register in Section 6.3.) Suggestions that should be included in the development of the required evaluation instruments are included in the chart on the following page.

Instrument	Description
Professional Growth Plan Form	<ul style="list-style-type: none"> • Developed for all certified and other professional personnel • Includes space for objectives, as well as a plan of action and evaluation criteria for each objective • Includes signature and date lines to document the initiation/development of the plan and the annual review/update Note: Multi-year PGP forms must include space for the annual review dates and signature.
Observation Form	<ul style="list-style-type: none"> • Developed to complement the evaluation form Note: For instructional personnel, it is not acceptable to use only a rating scale or checklist to rate a successful, experienced teacher on all of the criteria included in the job description.
Evaluation Form	<ul style="list-style-type: none"> • Designed for use in the evaluation process Note: A checklist or rating scale is not acceptable for the evaluation of instructional personnel; rather, space must be provided for a narrative description of the evaluator's commendations and recommendations for the evaluatee.

Self-Evaluation Form	Developed for all personnel to use in assessing their own performances
Intensive Assistance Form	<ul style="list-style-type: none"> Developed for use in the evaluation process Provides space for evaluators to delineate what the evaluatee needs to do to strengthen his/her performance Describes the assistance/support provided by the school district Specifies the timelines and procedures for evaluating the evaluatee's progress

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2281 (October 2004).

§341. Job Descriptions

A. The LEA Personnel Evaluation Plan must contain a copy of the job descriptions currently in use in the LEA. The local board shall establish a job description for every category of teacher and administrator pursuant to its evaluation plan. The LEA must also provide copies of job descriptions to all certified and professional personnel prior to employment. The chart that follows identifies a minimum listing of the categories and titles of personnel for which job descriptions must be developed.

Personnel Category	Position or Title
Administration	1. Superintendent
	2. Assistant Superintendent
	3. Director
	4. Supervisor
	5. Coordinator
	6. Principal
	7. Assistant Principal
	8. Any employee whose position does not require certification but does require a minimal education attainment of a bachelor's degree from an accredited institution of higher learning
	9. Any employee whose position requires certification, but whose title is not given in this list
	10. Any employee who holds a major management position, but who is not required to have a college degree or certification
Instructional Personnel	1. Teachers of Regular and Special Education students
	2. Special Projects Teachers
Support Services	1. Guidance Counselors
	2. Librarians
	3. Therapists
	4. Any employee whose position does not require certification but does require a minimal educational attainment of a bachelor's degree from an accredited institution of higher learning
	5. Any employee whose position requires certification, but whose title is not given in this list
	6. Any employee who holds a major management position, but who is not required to have a college degree or certification

B. The local board has the responsibility of developing job descriptions for the various positions in the LEA in accordance with its evaluation program. The following components must be included in each job description developed by the LEA:

1. position title;
2. position qualifications must be at least the minimum requirements as stated in *LDE Bulletin 746: Louisiana Standards for State Certification of School Personnel* (The qualifications must be established for the position, rather than for the evaluatee.);
3. title of the person to whom the evaluatee reports;
4. title of the person whom the evaluator supervises;
5. performance responsibilities of the evaluatee (Refer to * below.);
6. a space for the evaluatee's signature and date (Note: Job descriptions must be reviewed annually. Current signatures must be on file at the central office in the single official file to document the annual review and/or receipt of job descriptions.); and
7. all certified and other personnel shall be provided with their job descriptions prior to the beginning of their employment in the school system in their position and each time their job description is revised.

*Job descriptions for instructional personnel must include the *Louisiana Components of Effective Teaching*; job descriptions for building-level administrators must include the *Standards for School Principals in Louisiana* as part of the performance responsibilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2282 (October 2004).

§343. Employment Requirements

A. Section 10.0 of the personnel evaluation plan should describe the LEA's policy for providing evaluation results to any school board wishing to hire a person evaluated by the LEA. In the development of this policy, the LEA must adhere to the legislation governing employment requirements. R.S. 17:3884(D) requires that any local board wishing to hire a person who has been evaluated pursuant to Act I of 1994 and Act 38 of 2000, whether that person is already employed by that school system or not, shall request such person's assessment and/or evaluation results as part of the application process. The board to which application is being made shall inform the applicant that, as part of the mandated process, the applicant's assessment and/or evaluation results shall be requested from the previous employer. The applicant shall be given the opportunity to apply, review the information received, and provide any response or information the applicant deems appropriate.

B. The LEA must adhere to the following guidelines when developing Section 10.0.

1. The school board shall request the assessment and/or evaluation results of any person it wishes to hire.
2. The school board shall provide other school boards with assessment and/or evaluation results of persons that the other school boards wish to hire.
3. The evaluatee shall be given the opportunity to review those assessment and/or evaluation results and provide any response or information that the evaluatee deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2282 (October 2004).

§345. Evaluation Exemption

A. In this Section, the LEA describes its procedures for including/exempting from Local Evaluation those persons assessed under the statewide assistance and assessment program during the year(s) in which they are assessed. Key points to consider in the development of the LEA evaluation exemption policy follow.

1. Teachers participating in the Louisiana Teacher Assistance and Assessment Program may be exempt from all or part of the local evaluation accountability required by law during the year(s) that they are assessed.

2. An exemption from local personnel accountability shall not interfere with the right and duty of the appropriate LEA personnel to observe and evaluate the teachers in the performance of their duties.

3. LEAs shall maintain the right to make employment decisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2283 (October 2004).

§347. Statement of Assurance

A. This Section of the plan includes a statement signed by the superintendent of schools and by the president of the school board assuring that the LEA personnel evaluation program has been revised and approved by the school board that governs the affairs of the LEA. The statement of assurance includes a statement that the LEA personnel evaluation program shall be implemented as written. The original Statement of Assurance must be signed and dated by the LEA Superintendent of Schools and by the President of the LEA School Board; the LDE requests that the LEA submit the statement of assurance prior to the opening of each school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2283 (October 2004).

Chapter 5. Reporting and Monitoring

§501. Annual Summary Reporting Format

A. Each LEA will submit an annual personnel evaluation report to the Louisiana Department of Education. Information included in the reporting format reflects data deemed necessary in presenting annual reports to the Louisiana Department of Education, as well as to the LEAs. The reporting of such information includes a variety of responses directed toward the collection of data useful to an analysis of the evaluation process from a statewide perspective. Items that are reported by the LEAs on forms provided by the LDE include, but are not limited to, the following items:

1. the types of degrees obtained from accredited institutions and the number of certified personnel holding each type of degree;

2. the years of experience of teachers, administrators, central office staff (years in position);

3. the number of teachers teaching in each area of certification, as well as the number of administrators who are certified for their specific tasks;

4. the total number of teachers employed in the system, including T-certified personnel and personnel given an emergency permit, an internship, or SBESE waiver;

5. the total number of administrators, by categories (principals, assistant principals, certified central office personnel), employed in the system;

6. the number of certified and other professional personnel evaluated by categories (teachers, principals, etc.) under previous systems as opposed to the number evaluated under the current evaluation programs based on written, documented evaluations from the preceding year;

7. the number of certified and other professional personnel, by categories, who were evaluated as performing satisfactorily;

8. the number of certified and other professional personnel, by categories, who were evaluated as performing unsatisfactorily;

9. the number of certified and other professional personnel, by categories, who resigned because of less than satisfactory evaluations or for other reasons related to job performance;

10. the number of certified and other professional personnel, by categories, who were terminated because of not having improved performance within the specified time allotment (Include the reasons for termination.);

11. the number of evaluations, by categories, used to evaluate certified and other professional personnel during the reporting period (Distinguish between the number of evaluations performed for personnel in position 0-3 years as opposed to personnel in position 4 or more years.);

12. the number of certified personnel, by categories, who improved (from unsatisfactory to satisfactory) as a result of the evaluation process (Report the data by distinguishing between personnel in position 0-3 years and personnel in position 4 or more years.);

13. the number of formal grievances filed because of unsatisfactory performance ratings or disagreement with evaluation results;

14. the number of formal hearings held because of unsatisfactory performance or disagreement with evaluation results;

15. the number of court cases held because of unsatisfactory job performance (the number reinstated and basic reasons for reinstatement of personnel); and

16. the number of evaluatees who received intensive assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2283 (October 2004).

§503. Technical Assistance Program

A. The LDE strives to provide assistance relative to particular problems that LEAs might encounter in the implementation of their personnel evaluation program. Upon the request of a school district, the LDE will provide professional advice and assistance in all matters concerned with personnel evaluation. This assistance and advice may be provided through contacts with local systems by LDE personnel or by contacts with the LDE by the LEA's personnel evaluation authorities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2283 (October 2004).

§505. Monitoring LEA Personnel Evaluation Programs

A. The Legislative mandate through R.S. 17:3883 (B)(5) requires the LDE to monitor programs of educational accountability when requested by the SBESE as deemed necessary. To fulfill the requirements of the legislation as it relates to the component of LEA personnel evaluation, the LDE is mandated to develop and implement guidelines when the monitoring of an LEA program is requested by the State Board of Elementary and Secondary Education.

B. To assist in the operation of LEA personnel evaluation programs as formulated by the LEAs and submitted to the LDE, the LDE established the methodology to be used when monitoring is requested. The process that the LDE will use is described in the narrative below.

C. Purpose. The purpose of personnel evaluation monitoring is to determine whether the LEAs evaluation has been implemented, to what extent it has been implemented, and whether it complies with the provisions of the shared accountability legislation. The monitoring is designed to attest to the assurance that the policies and procedures are in actuality the processes being implemented within the LEA. Monitoring will specifically observe the process to ascertain the extent to which the LEA is, or is not, following through on the process designated in their plan. The LDE has established the following goals and objectives for the monitoring of LEA personnel evaluation.

1. Goals:

- a. to verify the implementation of R.S. 17:3883(B)(2) and R.S. 17:3883(B)(5);
- b. to determine whether such programs have been implemented; and
- c. to determine to what extent they have been implemented.

2. Objectives:

- a. to implement R.S. 17:3883(B)(2) and R.S. 17:3883(B), as requested;
- b. to collect and compile data;
- c. to document and analyze the implementation of the personnel evaluation plan;
- d. to disseminate data to proper authorities at the conclusion of monitoring;
- e. to maintain appropriate records/files of the monitoring process; and
- f. to review and revise the monitoring guidelines as needed or requested by the SBESE.

D. Procedures. Written notification will be provided to the LEAs prior to monitoring. The LDE team will function as a unit to monitor the LEA personnel evaluation program. Data will be collected, local personnel evaluation plans and evaluation records will be reviewed, and interviews may be completed as means of documentation. After monitoring has been completed, the LDE Team will submit a report to the appropriate authorities, which will include, but not necessarily be limited to, the State Superintendent of Education, the State Board of Elementary and Secondary Education, and the Superintendent of the LEA.

E. The LDE Team shall perform the following tasks when monitoring is deemed necessary:

1. notify the LEA superintendent and contact person and secure necessary preliminary documentation (e.g., the local personnel evaluation plan);
2. prepare a pre-monitoring report;
3. inform the superintendent or designee and other appropriate personnel of the monitoring method and timelines to be observed when monitoring is being conducted;
4. visit the LEA; collect data; compile the data by one or more of the means listed below:
 - a. a pre-monitoring conference (LDE Team);
 - b. a review of the pre-monitoring report with the contact person and/or other appropriate personnel; and
 - c. a determination by the LDE Team of the compliance or failure to comply through on-site visits, completion of interviews, and/or viewing records;
5. review the LEA's personnel evaluation program; check the areas of the LEA's personnel evaluation programs including the following elements:
 - a. the method of dissemination for the personnel evaluation program plans;
 - b. the method of documenting the achievement of the purposes of the LEA personnel evaluation program;
 - c. the accuracy of the evaluators/observers listed in Section 6.2 Accountability Relationships;
 - d. the assurance that all certified and other professional personnel are included in the evaluation process;
 - e. the development of professional growth plans by all of the evaluatees;
 - f. the implementation of stated observation procedures;
 - g. the implementation of stated evaluation procedures;
 - h. the verification of the evaluatees' knowledge of evaluation criteria;
 - i. the verification of the dissemination of job descriptions; and
 - j. the verification of necessary intensive assistance schedules;
6. conduct a post-monitoring conference; conduct a "close-out" session with the LEA Superintendent, contact person, and/or appropriate personnel;
7. inform the LEA in writing of compliance, the areas of noncompliance, and of recommendations;
8. provide assistance to the LEA in developing a plan of action to strengthen any noncompliance areas of the LEA's plan;
9. plan for and conduct follow-up monitoring as necessary to determine implementation status of the plan of action;
10. notify the SBESE of the LEA's compliance status; and
11. make recommendations to the SBESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2284 (October 2004).

Chapter 7. Appendices

§701. Appendix A

Panel II Report

Introduction

Teaching is thinking,

- thinking about what students need to know and be able to do,
- thinking about what the teacher can do to foster such learning,
- thinking about how successful the teacher has been in achieving the desired learning outcomes, and
- thinking about how the teacher should teach that lesson next time.

Teacher evaluation focuses on what students know and are able to do and what the teacher can do to strengthen or enhance the level of learning in the classroom. Teacher evaluation is meaningful, in that it deals with aspects of instruction that make sense to both the teacher and evaluator. Teacher evaluation is productive and results in recommendations that improve the quality of the teaching-learning process. This conception of teacher evaluation guided the panel as it pursued its charge.

The panel's conception of teacher evaluation is consistent with the definition of evaluation found within *Bulletin 1525: Personnel Evaluation Accountability, A Guide for Implementation*, page 7, #10:

The process of making considered judgments concerning the professional accomplishments and competencies of a certified employee, as well as other professional personnel, based on a broad knowledge of the area of performance involved, the characteristics of the situation of the individual being evaluated, and the specific standards of performance pre-established for the position.

Distinctions between Assessment and Evaluation

The panel realized that it was important to make some distinctions between assessment and evaluation. The purpose of the state assessment program is to determine whether a teacher can teach effectively, whereas the local evaluation program determines whether a teacher does teach effectively. The Louisiana Department of Education (LDE) is responsible for the state assessment program while the local school districts are responsible for the local teacher evaluation programs. *The Louisiana Components of Effective Teaching* is utilized as performance criteria in both programs. Panel II's responsibility was to establish guidelines for strengthening and standardizing local teacher evaluation. A standardized performance-based instrument for state assessment, the Louisiana Teacher Appraisal Instrument, will be developed by Panel IV.

The Panel's Charge

The panel was charged to make recommendations for strengthening and standardizing the teacher evaluation programs employed by school districts across the state. The panel operated under the assumption that local teacher evaluation programs would be standardized if they were a) grounded in the same statement of philosophy and purposes, b) used common criteria to evaluate teachers, and c) included procedures that complied with uniform guidelines for teacher evaluation programs. Furthermore, the panel believed that teacher evaluation programs would be

strengthened, if such philosophy and purposes, criteria, and guidelines reflected the best current thinking and research about effective teacher evaluation practices. Thus, panel members considered the current literature on teacher evaluation and then developed a statement of philosophy and purposes for teacher evaluation in Louisiana, as well as uniform guidelines for local teacher evaluation programs across the state. These guidelines include reference to common criteria that would be used to evaluate teachers, the *Louisiana Components of Effective Teaching*. The *Louisiana Components of Effective Teaching* were developed by another panel.

In addition to developing a common set of state guidelines for teacher evaluation programs, the panel developed criteria for each guideline that can be used to determine whether a local school district's teacher evaluation program complies with that guideline. The panel recommends that these guidelines be used by the Louisiana Department of Education to strengthen and to standardize teacher evaluation programs at the local school district level according to the following timeline:

- 1992-93 All school districts will review their current teacher evaluation programs in light of the new state guidelines and will develop plans to strengthen their programs if necessary.
- 1993-94 All school districts will implement the new practices needed to strengthen their teaching evaluation programs.
- 1994-95 All school districts will continue to implement their new teacher evaluation practices and make refinements if necessary.

As local school districts proceed to review and to strengthen their current teacher evaluation programs, the panel recommends that the Louisiana Department of Education provide them with resources that can assist them in this process. Such resources could include information about teacher evaluation staff development opportunities available at the state and regional levels, examples of some more effective teacher evaluation practices being implemented in Louisiana school districts, and readings such as *A Handbook for Teacher Evaluation and Professional Growth in More Productive Schools*¹, among others.

The statement of philosophy and purposes of teacher evaluation, as well as the guidelines for teacher evaluation programs developed by this panel are presented in the subsequent sections of this report. It is important to note that the panel viewed teacher evaluation in the generic sense, a process for the evaluation of all certified professional staff (i.e., classroom teachers, special services staff, and building, as well as district level administrators).

Philosophy and Purposes of Teacher Evaluation

As we move through the decade of the nineties, it is clear that public schools must provide a high quality education that prepares our youth for the demands of the 21st century. In order to meet these challenges, educators must focus on providing the best educational opportunities for all children. Recognizing this, the State Board of Elementary and Secondary Education has established uniform guidelines for personnel evaluation.

Personnel evaluation is directed toward the continued enhancement of learning through a process of encouraging professional growth for all educators by establishing a

system of professional accountability. It is an ongoing, shared process aimed at improving instruction and the learning environment for all students.

The purposes for which teacher evaluation will be used in Louisiana are as follows:

1. To assure the public that
 - the educational system is providing the best opportunities for all children to learn,
 - the best qualified personnel are employed in every position, and
 - effective teaching continues in the classroom;
2. To foster the continuous improvement of teaching and learning by providing opportunities for the professional growth of all educators; and
3. To provide support for the professional development of new teachers during their period of internship.

Guidelines for Teacher Evaluation Programs

Guidelines for local school district teacher evaluation programs in Louisiana are presented in the subsequent sections of this report. Compliance criteria are provided for each guideline.

- **Yes** indicates that the school district meets the criterion.
- **No** indicates that the school district does not meet the criterion.
- **Partial** indicates that the school district has a plan for meeting the criterion.

A school district's teacher evaluation program is approved with respect to a particular guideline if it meets all criteria for that guideline. The program receives conditional approval if it meets some criteria and has a plan for meeting all the others. Disapproval results when the school district does not meet all the criteria for a particular guideline and has no plan to rectify this situation.

1. Focus on Educational Improvement

The teacher evaluation program is well grounded in the local school district's educational philosophy and goals. An overview of the district's philosophy and priority educational goals is provided and related to the philosophy and purposes of teacher evaluation. A clear message is provided as to how teacher evaluation will be used more effectively to facilitate the attainment of short and long term goals for educational improvement at the district and school building levels.

Compliance criteria:

District's philosophy and priority educational goals are related to the philosophy and purposes of teacher evaluation.	Y	N	P
Teacher evaluation is related to goals for educational improvement at the district level.	Y	N	P
Teacher evaluation is related to goals for educational improvement at the school building level.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

2. Staff Involvement in the Teacher Evaluation Program

A teacher evaluation steering committee is formed at the local school district level. Representative of administrators and classroom teachers, the committee is selected by each of these groups. This standing committee is responsible for assessing the strengths and weaknesses of the school district's teacher evaluation program in light of the Louisiana Guidelines for Teacher Evaluation Programs. Furthermore, it will oversee the planning and implementation of any revisions necessary to strengthen the teacher evaluation process. Periodically, at least every three years, this committee will evaluate the extent to which the purposes of the local teacher evaluation program are being achieved.

Compliance criteria:

A representative teacher evaluation steering committee has been formed to review the current local teacher evaluation program in light of new state guidelines. Y N P

This committee has balanced representation of both teachers and administrators. Y N P

The committee has developed a plan for strengthening the current teacher evaluation process where necessary. Y N P

The committee has developed a plan for evaluating whether the purposes of the teacher evaluation program are being achieved. Y N P

Overall assessment: () Approval () Conditional approval () Disapproval

3. Philosophy and Purposes of Teacher Evaluation

The philosophy and purposes for which teacher evaluation is used in the local school district are stated clearly in writing. This philosophy is grounded in the beliefs that all students can learn; good teaching increases the chances of students learning; and a collegial, collaborative relationship between a teacher and evaluator creates the appropriate climate for good teaching.

A purpose of the teacher evaluation program is to assure the public that the educational system is providing the best opportunities for all children to learn, that the best qualified personnel are employed in every position, and that effective teaching continues in the classroom.

Another purpose of the teacher evaluation program is the improvement of the teaching/learning process. This purpose includes the encouragement of creativity and innovation in the planning and implementation of teaching strategies that are consistent with the contemporary research on effective classroom processes. Teacher evaluation includes promoting the professional growth and development of staff, as well as providing support for new teachers during their period of internship.

In summary, teacher evaluation is pursued with the spirit that it is a process for making good teachers better, rather than one that is directed toward finding fault with teaching.

Compliance criteria:

The philosophy and purposes of the local teacher evaluation program are stated clearly in writing. Y N P

The philosophy and purposes of the local teacher evaluation program have been explained to and discussed with teachers. Y N P

The purposes provide the public assurances that only effective teachers continue to be employed by the school district. Y N P

The purposes reflect sound principles of effective teaching and learning that are supported by contemporary research. Y N P

The purposes support the improvement of the teaching-learning process, as well as the continued professional growth and development of instructional personnel. Y N P

Overall assessment: () Approval () Conditional approval () Disapproval

4. Accountability Relationships

Accountability relationships are defined clearly in writing. These relationships are communicated effectively so all professional staff know who is accountable to whom for the purposes of teacher evaluation.

Compliance criteria:

Accountability relationships are defined clearly in writing. Y N P

Teachers are informed each year as to who is responsible for their evaluation. Y N P

Overall assessment: () Approval () Conditional approval () Disapproval

5. Evaluation Criteria

The evaluation criteria for each professional staff position (i.e., teachers, principals, librarians, etc.) are stated clearly in writing in the job description. Classroom teachers are evaluated on the basis of job descriptions that include the *Louisiana Components of Effective Teaching* and any other appropriate criteria identified by the local school district. The *Louisiana Components of Effective Teaching* is a broad, general description of good teaching. Because teacher evaluation results in an in-depth analysis of teaching, it is usually not advisable to use only a rating scale or checklist to rate a successful, experienced teacher on all of the criteria included in the job description. Instead, these criteria should be used as a frame of reference for a descriptive review and analysis of teaching that focuses the evaluation process on strengthening and/or enhancing a few critical aspects of teaching.

Compliance criteria:

The evaluation criteria for each professional staff position are stated clearly in writing in the job description. Y N P

The Louisiana Components of Effective Teaching are included in the job descriptions of instructional personnel. Y N P

The evaluation criteria provide a frame of reference for a descriptive review and analysis of teaching rather than only a rating scale or checklist of teaching effectiveness. Y N P

Overall assessment: () Approval () Conditional approval () Disapproval

6. The Classroom Observation Process

Classroom observation is a critical aspect of the teacher evaluation process. The evaluator conducts observations that are of sufficient duration to see the lesson begin, develop, and culminate. A pre-observation conference is conducted to review the teacher's lesson plan. A post-observation conference is arranged to discuss and analyze the lesson, as well as to prepare an observation report. The primary purpose of this report is not to rate the teacher on a scale or checklist, but rather, to reach consensus on commendations, as well as recommendations for strengthening or enhancing teaching. Follow-up classroom visits and observations are conducted to determine what impact these recommendations have had on improving the quality of the teaching-learning process in the teacher's classroom.

Compliance criteria:

Teaching is evaluated through periodic classroom Observations Y N P

Observations are of sufficient duration to see the lesson begin, develop, and culminate. Y N P

The primary purpose of the classroom observation is not to rate the teacher, but rather, to reach consensus on commendations, as well as to make recommendations to strengthen or enhance teaching. Y N P

Follow-up classroom visits and observations are conducted to reinforce positive practice and to determine how recommendations have impacted the quality of the teaching-learning process. Y N P

Overall assessment: () Approval () Conditional approval () Disapproval

7. Developing the Professional Growth Plan

Periodic evaluation conferences are conducted to discuss and to analyze teaching for the purpose of developing longer

term (1-2 year) professional growth plans to strengthen or enhance the teaching-learning process in the classroom. These professional growth plans are based on a descriptive analysis of teaching rather than on only the results of a checklist or rating scale. Usually such plans include two to three objectives developed collaboratively by the teacher and evaluator. For successful, experienced teachers, these objectives may extend beyond the professional responsibilities included in the job description and may be used to explore new, untried, innovative ideas or projects. Each objective includes a plan of action to guide the teacher's progress, as well as observable evaluation criteria that the teacher and evaluator can use to determine the extent to which each objective has been achieved. The evaluation criteria show clearly how achievement of the objective will impact the quality of the teaching-learning process in the classroom.

Compliance criteria:

Teachers develop longer-term professional growth plans to strengthen or enhance the teaching-learning process.	Y	N	P
Professional growth plans are based on objectives developed collaboratively by the teacher and evaluator.	Y	N	P
A plan of action and evaluation criteria are specified for each objective.	Y	N	P
For successful, experienced teachers, objectives are used to explore new, untried, innovative ideas or projects.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

8. Teacher Self-Evaluation

Teachers are encouraged to assume significant responsibility for the evaluation of their performance. Ample opportunities are provided throughout the teacher evaluation process for personal reflection, self-evaluation, and peer collaboration. The products of such efforts are shared in self-evaluation reports which teachers submit as part of the teacher evaluation process. Training is provided for all teachers in techniques for reflection and self-evaluation. Additional staff development opportunities are provided for those teachers who wish to work as peer coaches or in other peer support and assistance roles (i.e., mentors, peer support persons in intensive assistance programs for experienced teachers). Participation in such peer support roles is voluntary. Teachers serving as peer coaches or providing other peer support and assistance are not evaluators as defined in these guidelines.

Compliance criteria:

Training is provided for teachers in techniques for personal reflection, self-evaluation, and peer collaboration.	Y	N	P
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Teachers are provided opportunities throughout the evaluation process for personal reflection, self-evaluation, and peer collaboration. Y N P

Teachers include a self-evaluation as part of the overall evaluation of their teaching. Y N P

Overall assessment: () Approval () Conditional approval () Disapproval

9. The Evaluation Period

All professional staff are evaluated in writing each year. How professional staff are evaluated may vary depending on their experience and proficiency in the classroom. The evaluation process for intern teachers tends to focus on strengthening proficiency in the classroom, while the evaluation process for tenured, experienced teachers tends to focus on professional growth and school improvement. Beginning teachers and those new to the school district will be evaluated each year through classroom observations for their first three years of employment. More experienced teachers will be evaluated on the basis of classroom observations at least once every three years. Successful, tenured teachers may be evaluated on a multi-year cycle that encourages staff to pursue longer term professional growth and school improvement initiatives: for example, a three-year cycle may be implemented as follows:

- Year 1 Teacher is evaluated formally on the basis of classroom observation.
- Years 2-3 Teacher is evaluated on the basis of progress toward those objectives included in his/her professional growth plan. Periodic classroom visits and/or observations may be conducted as necessary at the discretion of the evaluator or at the request of the teacher.

It is imperative that professional staff clearly understand the procedures and timelines that will be used to evaluate their performance.

Compliance criteria:

All professional staff are evaluated in writing each year.	Y	N	P
The evaluation process is tailored to the levels of experience and classroom proficiency of the teacher.	Y	N	P
Successful, tenured teachers are evaluated on a multi-year cycle that encourages staff to pursue more meaningful, longer term professional growth and school improvement initiatives.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

10. Information Included in the Teacher Evaluation Process

The evaluation of teaching is based on one or a combination of the following:

a. Evaluator's assessment of teaching based on the criteria specified in the teacher's written job description, including the *Louisiana Components of Effective Teaching*,

b. Evaluator's assessment of the progress the teacher has made toward achieving those objectives included in the professional growth plan that was developed collaboratively with the evaluator, and

c. Teacher's self-evaluation of teaching as well as progress toward achieving those objectives included in his/her professional growth plan.

Compliance criteria:

Evaluator's assessment of teaching is based on the job description, including the *Louisiana Components of Effective Teaching*. Y N P

Evaluator's assessment of teaching is based on progress toward the objectives included in the teacher's professional growth plan. Y N P

Evaluation includes the teacher's self-evaluation of teaching, as well as his/her progress toward objectives included in the professional growth plan. Y N P

Overall assessment: () Approval () Conditional approval () Disapproval

11. Coordination with the Induction of Intern Teachers

Mentor support is provided through the teacher evaluation process for the induction and professional growth of intern teachers. A concerted effort is made to insure that intern teachers are socialized in a professional manner and that they experience success in the classroom. Assistance made available through the local teacher evaluation process is coordinated with the state support and assessment program for any beginning teacher with a Provisional or Temporary Teaching Certificate.

Compliance criteria:

Mentor support is provided for the induction of intern teachers. Y N P

The *Louisiana Components of Effective Teaching* is a focus for the evaluation of beginning teachers. Y N P

Assistance made available through the local teacher evaluation process is coordinated with the state support and assessment program for beginning teachers. Y N P

Overall assessment: () Approval () Conditional approval () Disapproval

12. Intensive Assistance for Experienced Teachers

If it is determined through the teacher evaluation process that an experienced teacher does not satisfactorily meet the local school district's standards of performance, then that teacher is placed in an intensive assistance program. When the teacher is placed in such a program, he/she is informed in writing of the reason(s) for the placement. Then an intensive assistance plan is developed with the teacher.

The plan specifies:

a. what the teacher needs to do to strengthen his/her performance including a statement of the objective(s) to be accomplished and the expected level(s) of performance;

b. what assistance/support is provided by the school district;

c. a timeline for achieving the objectives and the procedures for monitoring the teacher's progress including classroom observations and conferences; and

d. the action that will be taken if improvement is not demonstrated.

Experienced teachers can assume that they are performing satisfactorily unless they have been placed in an intensive assistance program.

Compliance criteria:

An intensive assistance program is provided for teachers who do not meet the local district's standards of satisfactory performance. Y N P

Any teacher placed in an intensive assistance program is informed in writing of the reason(s) for this placement. Y N P

An intensive assistance plan is developed for any teacher placed in such a program. Y N P

The local school district provides the professional development support necessary to enable the teacher to meet the objectives of this plan. Y N P

The local school district takes appropriate action in accordance with legislative, SBESE and local school board mandates if satisfactory improvement is not demonstrated. Y N P

Overall assessment: () Approval () Conditional approval () Disapproval

13. Procedures for Resolving Conflict

The teacher evaluation program includes procedures for resolving disagreement or conflict in a fair, efficient, effective, and professional manner. A teacher must sign any evaluation report placed in his/her personnel file. Signature indicates only that the teacher has received a copy of the

report. If the teacher does not agree with any aspect of a report, he/she meets with the evaluator to resolve the disagreement. If the disagreement cannot be resolved, the teacher will attach a signed statement clarifying or rebutting that aspect of the report. Also the teacher may initiate any grievance procedures that apply.

Compliance criteria:

The evaluation program includes procedures for resolving conflict in a fair, efficient, effective, and professional manner. Y N P

If the conflict cannot be resolved, the teacher is encouraged to submit a signed statement clarifying or rebutting the issue in question. Y N P

Grievance procedures are clearly specified for situations where conflict cannot be resolved. Y N P

Overall assessment: () Approval () Conditional approval () Disapproval

14. Staff Development for Teacher Evaluation

The school district provides training on a continuing basis for all staff involved in the teacher evaluation process (i.e., district level administrators and supervisors, principals and assistant principals, classroom teachers). This training is supported by the LDE and coordinated through the Regional Service Centers (RSCs). Initial training focuses on developing the following:

- a. a positive, constructive attitude toward teacher evaluation;
- b. a knowledge of state laws and local school district policies governing the teacher evaluation process and associated due process procedures;
- c. an understanding of the Louisiana Components of Effective Teaching; and
- d. an understanding of the local school district's teacher evaluation program, including the philosophy and purposes, criteria, and procedures.

Further training focuses on developing those skills needed to diagnose and to strengthen or enhance teaching effectively. The skills addressed in such training are as follows:

- a. data collection skills necessary to document a teacher's performance accurately;
- b. data analysis skills necessary to make accurate judgments about a teacher's performance;
- c. conferencing skills necessary to provide clear, constructive feedback regarding a teacher's performance;
- d. skills in developing and facilitating meaningful professional growth plans, plans that strengthen or enhance teaching effectiveness; and
- e. skills in writing effective evaluation reports, reports that document how evaluation has impacted the quality of the teaching-learning process in the classroom.

Training undertaken by administrators to implement the teacher evaluation process effectively is counted toward the accumulation of Louisiana Administrative Leadership Academy points.

Compliance criteria:

The local school district provides initial training that focuses on developing the following:

- a. a positive constructive attitude toward teacher evaluation Y N P
- b. a knowledge of the laws/policies governing teacher evaluation associated due process procedures Y N P
- c. an understanding of the Louisiana Components of Effective Teaching Y N P
- d. an understanding of the school district's teacher evaluation program Y N P

The local school district provides further training in the following skill areas:

- a. data collection skills necessary to document teaching accurately Y N P
- b. data analysis skills needed to make accurate judgments about teaching Y N P
- c. conferencing skills needed to provide clear, constructive feedback Y N P
- d. skills in developing meaningful professional growth plans Y N P
- e. skills in writing effective teacher evaluation reports Y N P

Overall assessment: () Approval () Conditional approval () Disapproval

15. Impact of the Teacher Evaluation Process

The impact of the teacher evaluation process on improving teaching and learning at the school building and district levels is documented and discussed by the staff each spring. The accomplishments of teachers and administrators in this regard are celebrated and shared with the school community.

Compliance criteria:

The impact of the teacher evaluation process on improving teaching and learning at the school building and district levels is documented and discussed each spring. Y N P

The accomplishments of teachers and administrators in this regard are celebrated and shared with the school community. Y N P

Overall assessment: () Approval () Conditional approval () Disapproval

Implementation and Staff Development Plan

Earlier in this report, this panel recommended that the guidelines just presented be used by the LDE to strengthen and standardize local teacher evaluation programs over a three-year period. An implementation and staff development plan is provided below to guide this process.

September/October 1992

The LDE and the Regional Service Center (RSC) staff, as well as superintendents and personnel evaluation contact persons, are oriented to a) the Louisiana Guidelines for Teacher Evaluation Programs and b) the procedure for using these guidelines to strengthen and standardize teacher evaluation programs at the local school district level.

Teachers and administrators are provided a copy of the Louisiana Guidelines for Teacher Evaluation Programs and are informed how these guidelines will be used to strengthen and standardize local teacher evaluation programs.

October 1992

The local education agencies (LEAs) form an eight to twelve member teacher evaluation steering committee. The superintendent (or his/her designee) and the personnel evaluation contact person will serve on this committee. Two other members of this committee, a teacher and a building administrator, will be selected to serve as the LEA's teacher evaluation resource persons. These two resource persons, the superintendent (or his/her designee) and the personnel evaluation contact person will comprise the LEA's Core Team for teacher evaluation. This Core Team will be trained by the LDE through the RSCs to serve as a teacher evaluation staff development resource to the local school district and its steering committee. Also, the two resource persons on this team will assist the LDE in its review of the teacher evaluation programs of other school districts in the service region.

October/November 1992

The LDE conducts regional workshops to orient the LEA Core Teams to a) the Louisiana Guidelines for Teacher Evaluation Programs and b) the procedures for reviewing current teacher evaluation programs in light of these guidelines.

December 1992

The Core Team orients the LEA's teacher evaluation steering committee to a) the Louisiana Guidelines for Teacher Evaluation Programs and b) the procedures for reviewing its current teacher evaluation program in light of these new guidelines. Then this steering committee develops and implements a plan to review and revise its teacher evaluation program. The revision plan includes:

- a list of the modifications/changes needed,
- a process and timeline for making these modifications/changes
- a procedure for sharing the work of the committee with other teachers and administrators in the school district for their reaction and feedback.

January 1993

The local steering committee completes its review of the LEA's teacher evaluation program and submits a Teacher Evaluation Self-Assessment Report to the LDE by February 1, 1993. This is a self-assessment to the extent to which the LEA believes it complies with each of the Louisiana Guidelines for Teacher Evaluation Programs. The steering

committee shares the essence of this Self-Assessment Report with other teachers and administrators in the school district.

February/March 1993

The LDE conducts regional workshops to orient the LEA teacher evaluation resource persons to its process for reviewing the Teacher Evaluation Self-Assessment Reports submitted by the local teacher evaluation steering committees. The LDE proceeds with its review of the Teacher Evaluation Self-Assessment Reports. The Self-Assessment Report submitted by each local teacher evaluation steering committee is examined by a three member state review team comprised of an LDE staff member and a teacher and an administrator resource person from another school district. The state review team examines the steering committee's Self-Assessment Report to determine the extent to which the LEA's teacher evaluation program complies with the Louisiana Guidelines for Teacher Evaluation Programs. The results of this review are summarized in a Teacher Evaluation Status Report that is shared later with the LEA.

March 1993

The LDE completes its review of the Teacher Evaluation Self-Assessment Reports and shares the Teacher Evaluation Status Reports with the LEAs. Then the local teacher evaluation steering committee reviews its LEA's Status Report. Once the steering committee completes this review, it can meet with the LDE staff if it wishes to discuss any aspects of the Status Report or pose any questions it has about discrepancies between the Status Report and the LEA's Self-Assessment Report.

March-May 1993

The local steering committee follows its plan for making changes/modifications in its teacher evaluation program. This process includes trying out any new techniques or approaches to teacher evaluation with a small sample of teachers to determine whether they would have the impact desired. Also during this period, the LDE conducts a five-day training program for Core Team members through the RSCs. The purpose of this program is to help teachers and administrators to develop the appropriate understanding of critical teacher evaluation skills to be able to go back to their school districts to train their colleagues in these skills. Topics addressed in this program would include analyzing teaching using the *Louisiana Components of Effective Teaching*, classroom observation, conferencing, writing effective evaluation reports, developing professional growth plans, and facilitating self-evaluation.

June 1993

The local steering committee completes its plan for implementing the local teacher evaluation program during the 1993-94 school year. Then the committee a) orients its teachers and administrators to this plan and b) submits this plan to the LDE by June 15, 1993 as part of its yearly Personnel Evaluation Report.

July-August 1993

The local steering committee conducts appropriate workshops with teachers and evaluators to prepare them for the implementation of the teacher evaluation program during the 1993-94 school year.

September 1993-May 1994

The local steering committee implements its revised teacher evaluation program and meets monthly to monitor its

implementation. Implementation is supported by an ongoing staff development program for teachers and administrators.

November 1993 and March 1994

The state review teams conduct fall and spring site visits. During these visits the local steering committee meets with its Review Team to provide an update on the progress it has made in implementing and strengthening its teacher evaluation program. Also, the steering committee indicates what staff development resources it would like to see provided through the RSC to support the further implementation of its teacher evaluation program. The review team prepares a Site Visit Report to document the outcomes of each visit and shares this report with the LDE and RSC staff.

June 1994

The local steering committee reviews what it has accomplished during the 1993-94 school year and refines its plan for implementing the local teacher evaluation program during the 1994-95 school year. Then the committee a) orients its teachers and administrators to this plan and b) submits this plan to the LDE by June 15, 1994 as part of its yearly Personnel Evaluation Report.

July-August 1994

The local steering committee conducts appropriate workshops with teachers and evaluators to prepare them for the implementation of the teacher evaluation program during the 1994-95 school year.

September 1994-May 1995

The local steering committee implements its refined teacher evaluation program and meets monthly to monitor its implementation. Implementation is supported by an ongoing staff development program for teachers and administrators.

November 1994 and March 1995

The state review teams conduct fall and spring site visits. During these visits the local steering committee meets with its review team to provide an update on the progress it has made in implementing and strengthening its teacher evaluation program. Also, the steering committee indicates what staff development resources it would like to see provided through the RSC to support the further implementation of its teacher evaluation program. The review team prepares a Site Visit Report to document the outcomes of each visit and shares this report with the LDE and RSC staff.

June 1995

The local steering committee reviews what it has accomplished during the 1994-95 school year and refines its plan for implementing the local teacher evaluation program during the 1995-96 school year. Then the committee a) orients its teachers and administrators to this plan and b) submits this plan to the LDE by June 15, 1995 as part of its yearly Personnel Evaluation Report.

Building a Capacity for Staff Development

The Implementation and Staff Development Plan just presented requires that the LDE build a capacity for staff development through its LEAs and RSCs.

In building such a capacity, it is important that training be provided by personnel that are both knowledgeable in techniques of teacher evaluation, as well as in the process of effective staff development. In summary, there is a need to identify or develop a cadre of good people to conduct the

training necessary to strengthen local teacher evaluation practices.

While some out-of-state consultants could be used, it is important to develop a local, Louisiana capacity for staff development in teacher evaluation. This capacity could be accomplished by meeting with the deans in schools of education to learn what staff development resources could be provided through higher education. In addition, superintendents could be polled to obtain their recommendations of people in their districts who are doing some good things in teacher evaluation that could be called on to do training. Depending on what resources are identified through contacts with deans and superintendents, a decision would need to be made as to whether there is a need to develop further staff development resources for teacher evaluation through a trainer of trainers program for select LEA or RSC personnel.

In addition to identifying staff development resources, it is important to determine where the training will take place. Certainly, much of the training will be conducted at the RSCs and in the LEAs. Also, consideration should be given to whether some professional development centers might be established for training in teacher evaluation. These centers would be schools where good teacher evaluation is being practiced. Teachers and administrators would go to these schools to strengthen their evaluation skills through direct involvement in the teacher evaluation process under the supervision of knowledgeable practitioners.

In concluding, this panel believes it is critical that the LDE build an adequate capacity for staff development in teacher evaluation to support its initiative to strengthen local teacher evaluation practices. Also, the LDE must develop a long range plan that clearly conveys to the LEAs those staff development resources that will be available to support local efforts to strengthen teacher evaluation programs over the next three years.

Developing a Process for the Review and Approval of Local Teacher Evaluation Programs

The focus of the first year of this plan to strengthen and standardize local teacher evaluation programs is on the review and approval of such programs. This panel recommends that an efficient and effective process be developed by the LDE for the local review, as well as State approval of teacher evaluation programs in light of the Louisiana Guidelines for Teacher Evaluation Programs. More specifically, the panel recommends that a *Teacher Evaluation Self-Assessment Report* such as the one presented in Exhibit 1 be developed to facilitate the local review of teacher evaluation programs. This *Report* would be completed first by individual steering committee members. Next their individual ratings for each guideline would be discussed and consensus would be reached as a committee. Then the LEA would submit to the LDE a *Teacher Evaluation Self-Assessment Report* that represents the consensus opinion of its teacher evaluation steering committee.

As noted earlier, the *Teacher Evaluation Self-Assessment Report* submitted by an LEA would be examined by a three-member state review team comprised of an LDE staff member and two teacher evaluation resource persons, a teacher and an administrator from another school district. This team would share the results of its review with the LEA

using a *Teacher Evaluation Status Report* such as the one presented in Exhibit 2. The review team's assessment of an LEA's teacher evaluation program with respect to the Louisiana Guidelines for Teacher Evaluation Programs would consist of a consensus rating, as well as comments regarding the program's strengths and aspects that might be improved. If the review team does not approve the LEA's teacher evaluation program with respect to a particular guideline, it must justify this decision clearly in writing.

Once the LEA receives its *Teacher Evaluation Status Report*, it has 30 working days to respond to the LDE, if either it does not agree with the team's assessment or it wishes to submit a plan to comply with any guidelines for which its teacher evaluation program was not approved. In situations in which an LEA submits such a plan, the state review team for that school district would be reconvened to review this plan and to submit a revised *Teacher Evaluation Status Report*. Also, the state review team may be reconvened to deal with those situations in which the LDE does not agree with the team's assessment.

Exhibit 1

Teacher Evaluation Self-Assessment Report

This *Report* has been developed to help your local school districts to assess the status of its teacher evaluation program in light of the new Louisiana Guidelines for Teacher Evaluation Programs. You are being asked to complete this *Report* as a member of your school district's teacher evaluation steering committee. Later your steering committee will meet to a) discuss the responses of committee members and b) reach consensus as to the status of your school district's teacher evaluation program with respect to each guideline.

The Louisiana Guidelines for Teacher Evaluation Programs are listed in the subsequent Section of this *Report*. Following each guideline are criteria for determining whether a school district complies with that guideline. Please review each of the criteria and circle the appropriate response. Circle . . .

Y for Yes, if you believe your school district meets the criterion;

N for No, if you believe your school district does not meet the criterion; or

P for Partial, if you believe your school district has a plan for meeting the criterion.

If you circle **Y**, please indicate where evidence can be found to support your rating. For example, you may simply refer to a section of your teacher evaluation plan, see pages 7-8 of District Plan. If you circle **P**, either attach your school district's plan for meeting that criterion or indicate in the evidence section where it can be found (Example: see page 12 of our School Improvement Plan for 1992-93).

After you have rated each of the criteria for a particular guideline, provide an overall assessment of whether you believe your school district's teacher evaluation program should be approved with respect to that guideline. Check . . .

Approval, if your school district meets all the criteria for that guideline;

Conditional Approval, if your school district has met some of the criteria and has a plan for meeting the others; or

Disapproval, if your school district does not meet all of the criteria for that guideline and has no plan to rectify the situation.

After you have assessed the status of your school district's teacher evaluation program with respect to a particular guideline, please make a note in the Comments section of any issues or questions you want to address with your teacher evaluation steering committee when you meet later to discuss your ratings.

Your cooperation and assistance in carefully completing this *Report* are appreciated. Thank you!

1. Focus on Education Improvement

The teacher evaluation program is well grounded in the local school district's educational philosophy and goals. An overview of the district's philosophy and priority educational goals is provided and related to the philosophy and purposes of teacher evaluation. A clear message is provided as to how teacher evaluation will be used to facilitate the attainment of short and long term goals for educational improvement at the district and school building levels more effectively.

Compliance criteria:

District's philosophy and priority educational goals are related to the philosophy and purposes of teacher evaluation. Y N P

Evidence: _____

Teacher evaluation is related to goals for educational improvement at the district level. Y N P

Evidence: _____

Teacher evaluation is related to goals for educational improvement at the school building level. Y N P

Evidence: _____

Overall assessment: () Approval () Conditional approval () Disapproval

Comments:

(. . . The remaining guidelines will be presented in this same format on the subsequent pages of the *Report* . . .)

Exhibit 2

Teacher Evaluation Status Report

Overall Summary

District: _____ Review Team: _____

Date: _____

1. Focus on Educational Improvement

Overall assessment: () Approval () Conditional approval () Disapproval

2. Staff Involvement in the Teacher Evaluation Process

Overall assessment: () Approval () Conditional approval () Disapproval

3. Philosophy and Purposes of Teacher Evaluation

Overall assessment: () Approval () Conditional approval () Disapproval

4. Accountability Relationships

Overall assessment: () Approval () Conditional approval () Disapproval

5. Evaluation Criteria

Overall assessment: () Approval () Conditional approval () Disapproval

6. The Classroom Observation Process

Overall assessment: () Approval () Conditional approval () Disapproval

7. Developing the Professional Growth Plan

Overall assessment: () Approval () Conditional approval () Disapproval

8. Teacher Self-Evaluation

Overall assessment: () Approval () Conditional approval () Disapproval

9. The Evaluation Period

Overall assessment: () Approval () Conditional approval () Disapproval

10. Information Included in the Teacher Evaluation Process

Overall assessment: () Approval () Conditional approval () Disapproval

11. Coordination with the Induction of Intern Teachers

Overall assessment: () Approval () Conditional approval () Disapproval

12. Intensive Assistance for Experienced Teachers

Overall assessment: () Approval () Conditional approval () Disapproval

13. Procedures for Resolving Conflict

Overall assessment: () Approval () Conditional approval () Disapproval

14. Staff Development for Teacher Evaluation

Overall assessment: () Approval () Conditional approval () Disapproval

15. Impact of the Teacher Evaluation Process

Overall assessment: () Approval () Conditional approval () Disapproval

General Comments:

Name: _____ Title: _____

Signed: _____

Teacher Evaluation Status Report

Analysis by Guideline

1. Focus on Educational Improvement

Compliance criteria:

District's philosophy and priority educational goals are related to the philosophy and purposes of teacher evaluation.	Y	N	P
--	---	---	---

Teacher evaluation is related to goals for educational improvement at the district level.	Y	N	P
---	---	---	---

Teacher evaluation is related to goals for educational improvement at the school building level.	Y	N	P
--	---	---	---

Overall assessment: () Approval () Conditional approval () Disapproval

Comments:

(. . .The remaining guidelines will be presented in this same format on the subsequent pages of the Report . . .)

Focusing Beyond the Classroom Teacher

As local school districts review their teacher evaluation programs, it is essential that the evaluation process is strengthened for all professional staff, not just for classroom teachers. Just as the LDE took leadership in the development of the *Louisiana Components of Effective Teaching* and appropriate procedures for the evaluation of classroom teachers, this panel recommends that the LDE take leadership in developing state criteria and appropriate procedures for the evaluation of their professional staff such as principals, special area teachers, and guidance counselors. Until this issue is addressed by the LDE for school

principals, the panel encourages the LEAs to consider the purposes, criteria, and procedures which follow when reviewing their process for evaluating school principals.

Purposes of Principal Evaluation

The purposes of evaluation state why the principal is being evaluated. The basic reasons for which a principal is evaluated are as follows:

- *School Improvement* to promote the improvement of school programs and the enhancement of student learning,
- *Professional Growth and Development* to foster the professional growth and development of new and continuing principals,
- *Selection* to select the best qualified persons for principalships, and
- *Accountability* to ensure that only effective principals continue in that role in the school district.

School districts tend to place more emphasis on those purposes dealing with school improvement and professional growth, and less emphasis on those dealing with accountability. This approach is most appropriate, since the goal is to select highly qualified principals who focus their attention on school improvement needs, and to strengthen the performance of these administrators using an evaluation process which fosters professional growth and development. In settings where this approach is taken, less attention needs to be paid to the traditional accountability purpose of evaluation.

Proficiencies of the Effective Principal

The Proficiencies of the Effective Principal² presented on the next page are criteria that can be applied when evaluating a school principal. The term *proficiencies* is used here rather than *competencies*, since *competency* merely suggests adequacy, while *proficiency* connotes a high degree of knowledge or skill. The principal behaviors included in these proficiencies are very similar to those identified through a recent study conducted by the Louisiana Administrative Leadership Academy.

Leadership

Defining Direction. . .

1. Exercises vision in defining the school mission and goals
2. Effectively and clearly communicates goals within and without the community
3. Sets high expectations and standards for attainment of school goals
4. Identifies and analyzes relevant information before making decisions or committing resources
5. Provides incentive to excel for both teachers and student
6. Communicates clearly and persuasively
7. Serves as a role model

Instructional Development. . .

8. Monitors student achievement
9. Collects, analyzes and interprets student and school data to identify areas for instructional and program development
10. Uses knowledge of research in curriculum and instruction to initiate school improvement

11. Evaluates professional and support staff constructively
12. Coaches teachers to enhance their instructional effectiveness
13. Engages in a program of ongoing professional development

Human Relations

Consideration. . .

14. Gives specific and frequent feedback
15. Maintains positive school climate through the use of humor
16. Recognizes and praises the accomplishments of students, teachers and staff

Collaboration. . .

17. Fosters teamwork and collegiality
18. Elicits participation in decision making
19. Facilitates group processes and resolves conflict
20. Encourages participatory leadership on the part of the staff
21. Listens to others

Management

School Program Management. . .

22. Plans and prepares an appropriate budget and manages funds effectively
23. Seeks and allocates appropriate resources (materials, money, time) to support curriculum
24. Implements school programs within the confines of district goals and policies
25. Schedules curricular and co-curricular activities efficiently and effectively
26. Understands and applies knowledge of organizations and community politics in generating support for the school
27. Fosters community support for the school and its programs

The Rules and Regulations. . .

28. Identifies norms, guidelines and procedures for school operation
29. Develops clear school rules
30. Develops effective discipline and attendance policies
31. Accepts responsibility for in-school behavior of students, teachers and staff

General Operations. . .

32. Monitors the overall operation of the school
33. Ensures that the physical plant is kept in good order
34. Protects instructional time
35. Maintains a visible presence in the school

Procedures for Principal Evaluation

The most commonly accepted process for evaluating principals is the performance objectives approach. This approach is outlined below.

A Step-by-Step Evaluation Procedure for Principals³

I. Determine Needs

1. The principal reviews:
 - a. position description
 - b. administrative skills
 - c. current district and/or building goals
2. The supervisor (evaluator) reviews:
 - a. the above four items
 - b. current performance in relation to the requirements of the job

II. Formulate Work Plan for the Year

1. Principal identifies needs for the coming year based on perceptions of past and current performance.
2. Supervisor reflects on the principal's needs based on past and current performance.
3. Both confer to decide whether the evaluation objective should be a development plan to upgrade existing competencies and/or an improvement plan to correct specific deficiencies.
4. Both discuss necessary activities to achieve the goals of jointly agreed-upon plan.

III. Complete and Implement Work Plan

1. Principal puts work plan in writing, gets approval of supervisor and carries out plan's activities.
2. Supervisor reviews and reacts to principal's work plan and monitors progress in carrying it out.
3. Both parties meet to conduct progress reviews in December and make modifications in plan if needed.
4. Principal completes implementation of work plan.

IV. Assess Results

1. Principal completes self-evaluation form and transmits it to supervisor.
2. Supervisor receives evaluation from principal, completes evaluation of principal's performance and notifies principal of date and place of evaluation conference.

V. Discuss Results

1. Principal and supervisor meet and review principal's evaluation and supervisor's evaluation.
2. They sign final forms.
3. They plan for next evaluation cycle.

Concluding Remarks

This panel has made a number of recommendations directed toward strengthening and standardizing local school districts' teacher evaluation programs. While these recommendations will change teacher evaluation practices in most school districts, simply change was not the primary goal of the panel. Throughout its efforts, the primary intent of the panel was to improve the quality of teaching and learning continually in our schools' classrooms. This improvement was the goal of the Children First Act that led to the reform of teacher evaluation practices in Louisiana. This goal should be the foremost in the minds of teacher evaluation steering committees as they revise or refine their teacher evaluation practices. The true test of whether a teacher evaluation process is effective is evidence that the process has a demonstrable impact on what happens to children in our schools. We are confident that teachers and administrators will perceive our recommendations as an opportunity to implement teacher evaluation practices that improve or enhance the quality of education for children in Louisiana.

¹Iwanicki, E.F. (1992) *A Handbook for Teacher Evaluation and Professional Growth in More Productive Schools*. Storrs, CT: The Connecticut Institute for Personnel Evaluation, Department of Educational Leadership, The University of Connecticut.

²Iwanicki, E.F. & Shibles, M. (1990). *A Guide to the Process of Evaluating School Principals*. P.O. Box 220, East Lyme, CT: The Connecticut Principals' Academy, p. 7.

³McCurdy, J. (1983). *The Role of the Principal in Effective Schools: Problems & Solutions* (an AASA Critical Issues Report). Arlington, VA: American Association of School Administrators, p. 89.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2285 (October 2004).

§703. Appendix B

Louisiana Components of Effective Teaching

Domain I. Planning

Planning is an important aspect of the teaching/learning process. An important part of the Assessment is the new teacher portfolio. Planning is assessed as part of Entry A - The Teacher Work Sample.

Component A. The teacher plans effectively for instruction.

Attributes:

1. Specifies learner outcomes in clear, concise objectives

It is not necessary to specify different objectives for each child or groups of children.

2. Includes activity/activities that develop objectives

A required number of activities is not specified because this decision must be made by the teacher.

3. Identifies and plans for individual differences

It is not necessary to specifically describe ways individual differences are to be met in written plans. This will be discussed in the informal interview.

4. Identifies materials, other than standard classroom materials, as needed for lesson

Standard classroom materials include such things as textbooks, chalkboard, pencils, paper, etc.

5. States method(s) of evaluation to measure learner outcomes

Evaluation may be formal or informal.

6. Develops an Individualized Education Program (IEP), and/or Individualized Family Service Plan (IFSP) as needed for the lesson*

The Individualized Education Program (IEP), and/or Individualized Family Service Plan (IFSP) will meet state guidelines.

* For special education teachers only.

Domain II. Management

Management is the organization of the learning environment and maintenance of student behavior. Focus should be placed on teacher behavior. Management is assessed in the Classroom Observation.

Component A. The teacher maintains an environment conducive to learning.

Attributes:

1. Organizes available space, materials, and/or equipment to facilitate learning

2. Promotes a positive learning climate

Component B. The teacher maximizes the amount of time available for instruction.

Attributes:

1. Manages routines and transitions in a timely manner

2. Manages and/or adjusts allotted time for activities planned

Component C. The teacher manages learner behavior to provide productive learning opportunities.

Attributes:

1. Establishes expectations for learner behavior

2. Uses monitoring techniques to facilitate learning

This may include reinforcing positive behavior, redirecting disruptive behavior, as well as other methods.

Domain III. Instruction

The teacher, as the knowledgeable professional, is the person best suited to determine effective instruction for his/her classroom. Domain III is measured in both the new teacher portfolio and the classroom observation.

Component A. The teacher delivers instruction effectively.

Attributes:

1. Uses technique(s) which develop(s) lesson objective(s)

Technique(s) may include teacher-directed activity/activities or student-centered activity/activities.

2. Sequences lesson to promote learning

Sequencing means that the teacher initiates, develops, and closes the lesson with continuity.

3. Uses available teaching material(s) to achieve lesson objective(s)

4. Adjusts lesson when appropriate

5. The teacher integrates technology into instruction.

Component B. The teacher presents appropriate content.

Attributes:

1. Presents content at a developmentally appropriate level

The teacher is knowledgeable of the content and relates it to the abilities and interests of the students.

2. Presents accurate subject matter

3. Relates relevant examples, unexpected situations, or current events to the content

Component C. The teacher provides opportunities for student involvement in the learning process.

Attributes:

1. Accommodates individual differences

The teacher recognizes that students perform at different levels and provides opportunities for them to become involved. There are many ways of accommodating individual differences among children. Some of these are not always evidenced in observations, but in the planning. It may be necessary for the observer to ask the teacher for clarification of this in the Informal Conference.

2. Demonstrates ability to communicate effectively with students

3. Stimulates and encourages higher-order thinking at the appropriate developmental levels

4. Encourages student participation

Component D. The teacher demonstrates ability to assess and facilitate student academic growth.

Attributes:

1. Consistently monitors ongoing performance of students

2. Uses appropriate and effective assessment techniques

Assessing student performance may include formal and/or informal assessment procedures as well as formative and summative. Feedback may be verbal or non-verbal.

3. Provides timely feedback to students

4. Produces evidence of student academic growth under his/her instruction

Domain IV. Professional Development

Professional development is assessed as entry B in the New Teacher Portfolio. The Professional Growth Plan will provide the data to measure the new teacher's professional development activities.

Component A. The experienced teacher plans for professional self-development.

These recommended activities are not limited to, but may include, being a mentor teacher; developing curriculum; delivering inservices; serving on textbook committees; developing teaching materials; promoting positive public relations; reading professional literature; conducting research; evaluating programs; and participating in workshops, conferences, professional organizations, school-based activities, classroom observation of peers, and parent/teacher organizations, etc. These activities shall be monitored on the local level.

Note: Component A specifications apply only to experienced teachers (those who have met certification requirements).

Component B. The new teacher plans for professional self-development.

The intent of Component B is that the new teacher will concentrate on necessary improvements in Domains I, II, III, and/or V as agreed upon with his/her mentor and principal (during first semester of assistance period) and the members of the assessment team (during the assessment semester).

Attributes:

1. Identifies areas of instruction that need strengthening and develops with mentor and/or principal a plan for improvement and works to complete the plan

2. Seeks ideas and strategies from resources (i.e., books, professional journals, websites, etc.) or colleagues that will improve teaching and learning and employs them

Note: Component B specifications apply only to new teachers (those who are in their first two years of teaching in the public school system of Louisiana, and have not yet met all requirements for full certification).

Domain V. School Improvement

Domain V is included in the new teacher portfolio.

Component A. The teacher takes an active role in building-level decision making.

Attributes:

1. Participates in grade level and subject area curriculum planning and evaluation

2. Serves on task force(s) and/or committees

3. Implements school improvement plan at the classroom level

Component B. The teacher creates partnerships with parents/caregivers and colleagues.

Attributes:

1. Provides clear and timely information to parents/caregivers and colleagues regarding classroom expectations, student progress, and ways they can assist learning

2. Encourages parents/caregivers to become active partners in their children's education and to become involved in school and classroom

3. Seeks community involvement in instructional program

Louisiana Components of Effective Teaching for Special Education-II

Field and Pilot tests of the Louisiana Teacher Assessment Program revealed that some of the Component, Attribute, and performance specifications developed by Panel I needed to be rewritten to fit the instruction of certain groups of special education students (i.e., students classified as severe and profound). While the conceptualizations of teacher knowledge and skills embodied in the original Components list capture the essence of effective instruction, their description and the conditions under which they occur are quite different in certain special education settings.

Domain I. Planning

Planning is an important aspect of the teaching/learning process. An important part of the Assessment is the new teacher portfolio. Planning is assessed as part of Entry A C The Teacher Work Sample.

Component A. The teacher plans effectively for instruction.

Attributes:

1. Specifies learner outcomes in clear, concise objectives

2. Includes activity/environments that develop objectives

4. Identifies materials/ equipment/ resources/ adaptations, other than standard classroom materials, as needed for lesson/activity

5. States method(s) of evaluation to measure learner outcomes

6. Develops/implements an Individualized Education Program (IEP), and/or Individualized Family Service Plan (IFSP), when appropriate

Domain II. Management

Management is the organization of the learning environment and maintenance of student behavior. Focus should be placed on teacher behavior. Management is assessed in the Classroom Observation.

Component A. The teacher maintains an environment conducive to learning.

Attributes:

1. Organizes available space, materials, and/or equipment to facilitate learning

2. Promotes a positive learning climate

3. Promotes a healthy, safe environment

Component B. The teacher maximizes the amount of time available for instruction.

Attributes:

1. Manages routines and transitions in a timely manner

2. Manages and/or adjusts allotted time for activities and provision of auxiliary services

Component C. The teacher manages learner behavior to provide productive learning opportunities.

Attributes:

1. Establishes expectations for learner behavior
2. Uses monitoring techniques to facilitate learning

Domain III. Instruction

The teacher, as the knowledgeable professional, is the person best suited to determine effective instruction for his/her classroom. Domain III is measured in both the new teacher portfolio and the classroom observation.

Component A. The teacher delivers instruction effectively.

Attributes:

1. Uses technique(s) which develop(s) lesson/activity objective(s)
2. Sequences lesson/activity to promote student learning/development
3. Uses available teaching material(s), equipment, and environment to achieve lesson/activity objective(s)
4. Adjusts lesson/activity when appropriate
5. The teacher integrates technology into instruction.

Component B. The teacher presents appropriate content.

Attributes:

1. Presents functional content appropriate to the learners' capacities
2. Presents relevant subject matter/curriculum content in appropriate settings
3. Illustrates applications of content through examples, unexpected situations, and other means

Component C. The teacher provides opportunities for student involvement in the learning process.

Attributes:

1. Accommodates individual differences
2. Demonstrates ability to communicate effectively with students
3. Stimulates and encourages independent performance and optimal levels of thinking
4. Promotes student participation

Component D. The teacher demonstrates ability to assess and facilitate student academic growth.

Attributes:

1. Consistently monitors ongoing performance of students
2. Uses assessment techniques effectively
3. Provides timely feedback to students, caregivers, parents, and appropriate professional personnel regarding student progress
4. Produces evidence of student academic growth under his/her instruction

Domain IV. Professional Development

Professional development is assessed as entry B in the New Teacher Portfolio. The Professional Growth Plan will provide the data to measure the new teacher's professional development activities.

Component A. The experienced teacher plans for professional self-development.

These recommended activities are not limited to, but may include, being a mentor teacher; developing curriculum;

delivering inservices; serving on textbook committees; developing teaching materials; promoting positive public relations; reading professional literature; conducting research; evaluating programs; and participating in workshops, conferences, professional organizations, school-based activities, classroom observation of peers, and parent/teacher organizations, etc. These activities shall be monitored on the local level.

Note: Component A specifications apply only to experienced teachers (those who have met certification requirements).

Component B. The new teacher plans for professional self-development.

The intent of Component B is that the new teacher will concentrate on necessary improvements in Domains I, II, III, and/or V as agreed upon with his/her mentor and principal (during first semester of assistance period) and the members of the assessment team (during the assessment semester).

Attributes:

1. Identifies areas of instruction that need strengthening and develops with mentor and/or principal a plan for improvement and works to complete the plan
2. Seeks ideas and strategies from resources (i.e., books, professional journals, websites, etc.) or colleagues that will improve teaching and learning and employs them

Note: Component B specifications apply only to new teachers (those who are in their first two years of teaching in the public school system of Louisiana, and have not yet met all requirements for full certification).

Domain V. School Improvement

Domain V is included in the new teacher portfolio.

Component A. The teacher takes an active role in building-level decision making.

Attributes:

1. Participates in grade level and subject area curriculum planning and evaluation
2. Serves on task force(s) and/or committees
3. Implements school improvement plan at the classroom level

Component B. The teacher creates partnerships with parents/caregivers and colleagues.

Attributes:

1. Provides clear and timely information to parents/caregivers and colleagues regarding classroom expectations, student progress, and ways they can assist learning
2. Encourages parents/caregivers to become active partners in their children's education and to become involved in school and classroom
3. Seeks community involvement in instructional program

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2296 (October 2004).

§705. Appendix C

**Standards for School Principals in Louisiana
Standard #1 Vision:**

The principal engages the school community in developing and maintaining a student-centered vision for

education which forms the basis for school goals and guides the preparation of students as effective, lifelong learners in a pluralistic society.

Standard #2 Teaching and Learning:

The principal uses a knowledge of teaching and learning in working collaboratively with the faculty and staff to implement effective and innovative teaching practices which engage students in meaningful and challenging learning experiences.

Standard #3 School Management:

The principal promotes the success of all students by ensuring management of the organization, operations, and resources for a safe and orderly learning environment.

Standard #4 School Improvement:

The principal works with the school community to review data from multiple sources to establish challenging standards, monitor progress, and foster the continuous growth of all students.

Standard #5 School Community Relations:

The principal uses an understanding of the culture of the community to create and sustain mutually supportive school-community relations.

Standard #6 Professional Development:

The principal works collaboratively with the school faculty and staff to plan and implement professional development activities that promote both individual and organizational growth and lead to improved teaching and learning.

Standard #7 Professional Ethics:

The principal demonstrates honesty, integrity, and fairness to guide school programs in an ethical manner.

Elaborated Standard: Vision

Vision: The principal engages the school community¹ in developing and maintaining a student-centered vision for education which forms the basis for school goals and guides the preparation of students as effective, lifelong learners in a pluralistic society.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

- a "preferred" future² regarding the success of all students;
- group process strategies for melding the diverse values and expectations of the school community into a shared understanding of desired student outcomes;
- theories of child and human development, the teaching-learning process, and models of and processes for on-going school improvement; and
- relevant research findings and strategies for using data to develop and maintain the school vision.

Dispositions

The principal believes in, values, and commits to:

- the centrality of students to the school vision and goals;
- involving the school community in establishing the school vision and goals;
- respecting the existing school and community cultures while working for changes that improve outcomes for all students;

- stewardship of the school vision, and sponsorship of school goals; and
- enabling students to think critically about complex issues.

Performances

The principal demonstrates the ability to:

- work collaboratively with the school community to develop and maintain a shared school vision;
- bring the school vision to life by using it to guide decision making about students and the instructional programs;
- maintain faculty focus on developing learning experiences that will enable students to prosper in subsequent grades and as adults;
- maintain open communication with the school community and effectively convey high expectations for student learning to the community;
- provide opportunities and support for collaboration, the exchange of ideas, experimentation with innovative teaching strategies, and ongoing school improvement;
- monitor, assess, and revise the school vision and goals as needed; and
- foster the integration of students into mainstream society while valuing diversity.

Elaborated Standard: Teaching and Learning

Teaching and Learning: The principal uses a knowledge of teaching and learning in working collaboratively with the faculty and staff to implement effective and innovative teaching practices which engage students in meaningful and challenging learning experiences.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

- research and theories related to teaching, learning, curriculum development and integration, and motivation;
- methods for effectively communicating high standards and high expectations for student achievement;
- strategies for creating an empowering environment that supports innovative teaching and powerful learning³;
- supervisory and observational techniques that promote effective teaching and learning in a growth oriented environment;
- authentic, psychometrically sound⁴, methods for assessing student learning; and
- emerging technologies and their use in enhancing student learning.

Dispositions

The principal believes in, values, and commits to:

- all children's learning at high levels;
- excellence and life-long learning;
- collaborative development of teaching strategies and curricular modifications that ground student learning in real-world situations and promote critical thinking; and
- developing a caring environment that nurtures teaching and learning.

Performances

The principal demonstrates the ability to:

- recognize, model, and promote effective teaching strategies that enable students to apply what they learn to real world experiences;
- encourage and support both the use of innovative, research-based teaching strategies to engage students actively in solving complex problems and methods of student assessment which will enhance learning for all students;
- conduct frequent classroom visits and periodic observations, provide constructive feedback to faculty and staff, and suggest models of effective teaching techniques when needed;
- foster a caring, growth-oriented environment for faculty and students, one in which high expectations and high standards for student achievement are emphasized; and
- promote collaboration and team building among faculty.

Elaborated Standard: School Management

School Management: The principal promotes the success of all students by ensuring management of the organization, operations, and resources for a safe and orderly learning environment.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

- organizational theory and principles of organizational development;
- human resources management and development, including related/support/ancillary services;
- local, state, and federal laws, policies, regulations, and procedures;
- sound fiscal procedures and practices;
- time management to maximize the effectiveness of the organization; and
- current technologies that support management functions.

Dispositions

The principal believes in, values, and commits to:

- building a safe, orderly environment;
- upholding local, state, and federal laws, policies, regulations, and procedures, including being fiscally responsible and ensuring quality support services;
- upholding high standards in the day-to-day operations of the school and using current technology;
- making management decisions to enhance learning and teaching; and
- involving members of the school community⁵ in shared decision-making processes.

Performances

The principal demonstrates the ability to:

- maintain a safe, secure, clean, and aesthetically pleasing physical school plant;
- establish and/or implement laws, policies, regulations, and procedures that promote effective school operations;
- maintain a positive school environment where good student discipline is the norm;

- manage fiscal resources responsibly, efficiently, and effectively and monitor whether others do so as well;
- manage human resources responsibly by selecting and inducting new personnel appropriately, assigning and evaluating all staff effectively, and taking other appropriate steps to build an effective school staff;
- monitor support services such as transportation, food, health, and extended care responsibly;
- provide and coordinate appropriate co-curricular and extra-curricular activities;
- use shared decision making effectively in the management of the school;
- manage time and delegate appropriate administrative tasks to maximize attainment of the school goals;
- use available technology effectively to manage school operations; and
- monitor and evaluate school operations and use feedback appropriately to enhance effectiveness.

Elaborated Standard: School Improvement

School Improvement: The principal works with the school community to review data from multiple sources to establish challenging standards, monitor progress, and foster the continuous growth of all students.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

- methods by which information from various sources can be used to establish challenging standards for self, faculty, students, and the school;
- strategies for monitoring progress toward reaching the standards established;
- professional literature related to teaching, learning, curriculum, organizational and staff development, and change processes;
- the school culture, community expectations, and the strengths and weaknesses of self, faculty, students, and community; and
- methods of data collection, analysis, interpretation, and program evaluation.

Dispositions

The principal believes in, values, and commits to:

- empowering others by engaging in collaborative problem solving and decision making, building capacity through staff development, and encouraging divergent perspectives from the school community;
- working toward consensus and compromise among members of the school community, guided by the school vision and goals;
- examining one's own assumptions, practices, and beliefs in the light of new knowledge;
- accepting limitations and mistakes from self and others while maintaining commitment to the standards established;
- encouraging faculty experimentation in order to maximize opportunities for all students to learn; and
- promoting a school culture that values and promotes individual and collaborative reflection and learning.

Performances

The principal demonstrates the ability to:

- provide ongoing opportunities for staff to reflect on their roles and practices in light of student standards and school goals;

- grow professionally by engaging in professional development activities and making such activities available to others;
- facilitate school-based research and use these and other research findings to plan school improvement initiatives, pace the implementation of these changes, and evaluate their impact on teaching and learning;
- foster the genuine continuous involvement and commitment of the school community in promoting the progress of all students toward attaining high standards; and
- enhance school effectiveness by appropriately integrating the processes of teacher selection/evaluation and professional development with school improvement.

Elaborated Standard: Professional Development

Professional Development: The principal works collaboratively with the school faculty and staff to plan and implement professional development activities that promote both individual and organizational growth and lead to improved teaching and learning.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

- theories related to motivation, adult learning, and staff development;
- sound pedagogical practices and emerging technologies;
- current trends in terms of social, political and cultural influences on education;
- research, measurement, and assessment strategies;
- organizational learning for school cultures, goal setting, change processes, and group dynamics; and
- resource management.

Dispositions

The principal believes in, values, and commits to:

- life long learning for self and others;
- ongoing change processes;
- faculty expertise and collaborative work strategies; and
- fostering creativity and establishing high expectations in self and others.

Performances

The principal demonstrates the ability to:

- communicate a focused vision for both school and individual professional growth;
- use research and data from multiple sources to design and implement professional development activities;
- secure the necessary resources for meaningful professional growth, including the time for planning and the use of emerging technologies;
- provide opportunities for individual and collaborative professional development;
- provide incentives for learning and growth and encourage participation in professional development activities at the national, state, and parish levels; and

- assess the overall impact of professional development activities on the improvement of teaching and student learning.

Elaborated Standard: School-Community Relations

School-Community Relations: The principal uses an understanding of the culture of the community to create and sustain mutually supportive school-community relations.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

- the composition of the school community including relevant demographic statistics and trends, competing issues and values, and available resources;
- successful strategies for establishing positive school-community relations and fostering parental and community participation;
- techniques for promoting the positive aspects of the school and communicating with the media effectively; and
- effective interpersonal communication skills.

Dispositions

The principal believes in, values, and commits to:

- establishing a partnership with the school community for mutually supportive relationships;
- promoting the school as an integral part of the community;
- diversity as a strength; and
- promoting the positive aspects of the school, celebrating successes, acknowledging the school's shortcomings, and involving the community in overcoming problems within the school.

Performances

The principal demonstrates the ability to:

- be visible and involved in the community and treat members of the school community equitably;
- involve the school in the community while keeping the school community informed;
- use school-community resources to enhance the quality of school programs, including those resources available through business and industry;
- recognize and celebrate school successes publicly; and
- communicate effectively both interpersonally and through the media.

Elaborated Standard: Professional Ethics

Professional Ethics: The principal demonstrates honesty, integrity, and fairness to guide school programs in an ethical manner.

Knowledge and Skills:

The principal has knowledge, skills, and understanding of:

- various perspectives on ethics;
- his/her own principled convictions about what is best for students and the ethical implications of those convictions;
- relevant laws, policies, regulations, and procedures and the relationship of these to protecting the rights of individuals; and

- ethical means for improving school programs.
- Dispositions**
The Principal believes in, values, and commits to:
- being accurate in providing information while respecting the rights of others;
 - caring for the feelings of others;
 - principled action in upholding the substance of laws, policies, regulations, and procedures; and
 - using the influence of the principalship constructively and productively in the service of all students.

- Performances**
The principal demonstrates the ability to:
- model ethical behavior at both the school and community levels;
 - communicate to others expectations of ethical behavior;
 - respect the rights and dignity of others;
 - provide accurate information without distortion or violating the rights of others;
 - develop a caring school environment in collaboration with the faculty and staff;
 - apply laws, policies, regulations, and procedures fairly, consistently, wisely, and compassionately;
 - minimize bias in self and others and accept responsibility for his/her own decisions and actions; and
 - address unethical behavior in self and others.

¹School community individuals who have interests in or are affected by events at the school, including administrators, faculty, staff, students, parents, and external community members, such as those associated with business, civic, and service organizations, etc.

²Preferred future understanding and conviction to teachers and students that opportunities available to students are not limited.

³Powerful learning learning that occurs when students are proactive in developing skills through intrinsically challenging activities that build both cognitive and affective skills, and that require both group work and individual effort (adapted from Levin, H. (1996). Accelerated Schools: The background (pp.3-23). In C. Finnan, E.P. St. John, J. McCarthy, and S.P. Slovacek (Eds.). Accelerated schools in action: Lessons from the field. Thousand Oaks, CA: Corwin)

⁴Psychometrically sound data that are valid and reliable; refers to data from tests and other forms of assessment.

⁵School community individuals who have interests in or are affected by events at the school including administrators, faculty, staff, students, parents, and external community members, such as those associated with business, civic, and service organizations, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2298 (October 2004).

Weegie Peabody
Executive Director

0410#014

RULE
Tuition Trust Authority
Office of Student Financial Assistance

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

The Louisiana Tuition Trust Authority amends 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 Tuition Trust Authority, Office of Student Financial Assistance, 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 30:2302 (October 2004).

George Badge Eldredge
General Counsel

0410#005

RULE
Tuition Trust Authority
Office of Student Financial Assistance

START Saving Program Definitions and Deposits
(LAC 28:VI.107 and 305)

The Louisiana Tuition Trust Authority amends its START Savings Program Rules (R.S. 17:3091 et seq.).

Title 28
EDUCATION
Part VI. Student Financial Assistance Higher
Education Savings
Chapter 1. General Provisions
Subchapter A. Tuition Trust Authority
§107. Applicable Definitions

Account Owner the person(s), independent student, organization or group that completes the START Saving Program owner's agreement on behalf of a beneficiary and is the account owner of record of all funds credited to the account.

Beneficiary The person named by the account owner in the Education Savings Account (ESA) owner's agreement (or the person named by LATTA when authorized to make such a designation by the owner of an account that is classified under §303.A.5, as the individual entitled to apply the account balance, or portions thereof, toward payment of their qualified higher education expenses.

Beneficiary's Family For the purpose of §303.A.5, one of the following persons:

1. the beneficiary's parent(s) or court order custodian; or
2. a person who claims the beneficiary as a dependent on his or her federal income tax return for the previous year; or
3. a person who certified that the beneficiary lives with him, that he provides more than 50 percent of the beneficiary's support for the previous year and that he was not required to file an income tax return for the previous year.

Current Value The value of an education savings account at a given point in time.

1. The current value of fixed earnings investment options includes the accumulated value of the principal deposited, earnings on deposits, Earnings Enhancements (EEs) allocated to the account and the earnings on the EEs.

2. The current value of variable earnings investment options includes the number of units in the investment option purchased multiplied by the current value of each unit plus the Earnings Enhancements (EEs) allocated to the account and the earnings on the EEs. This value may be more or less than the amount originally deposited.

Disabled or Disability Can individual who is considered to be disabled because he/she is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. An individual shall not be considered disabled unless he furnishes proof of the existence thereof in such form and manner as LATTA may require.

Earnings Enhancement (EE) A payment allocated to an ESA, on behalf of the beneficiary of the account, by the state. The amount of the annual EE is calculated based upon the classification of an account, the annual federal adjusted gross income of the account owner, and total annual deposits of principal into an ESA, including deposits in fixed earning and variable earnings options. Earnings Enhancements, and the interest earned thereon, may only be used to pay the beneficiary's qualified higher education expenses, or portion thereof, at an eligible educational institution and cannot be refunded.

Education Savings Account (ESA) A savings account established by a natural person or a legal entity to pay qualified higher education expenses of the designated beneficiary.

Educational Term A semester, quarter, term, summer session, inter-session, or an equivalent unit.

Eligible Educational Institution, either

1. a state college or university or a technical college or institute or an independent college or university located in this state that is accredited by the regional accrediting association, or its successor, approved by the U.S. Secretary of Education and eligible to participate in a program under

Title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended; or

2. a public or independent college or a university located outside this state that is accredited by one of the regional accrediting associations, or its successor, approved by the U.S. Secretary of Education and eligible to participate in a program under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended; or

3. a Louisiana licensed proprietary school, licensed pursuant to R.S. Chapter 24-A of Title 17, and any subsequent amendments thereto and is eligible to participate in a program under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended.

False or Misleading Information A statement or response made by a person, which is knowingly false or misleading, and made for the purpose of establishing a program account and/or receiving benefits to which the person would not otherwise be entitled.

Fixed Earnings The placement of all deposits in an ESA, to include the interest earned thereon, in investments that normally provide a fixed rate of return for a specific period of time.

Fully Funded Account An account in which the current value has equaled or exceeded the amount that is five times the annual qualified higher education expenses at the highest cost Louisiana public college or university, projected to the scheduled date of first enrollment. The projected qualified higher education expenses at each eligible educational institution shall be updated by the administering agency. On the date of the beneficiary's first enrollment in an eligible educational institution, the fully funded amount will be fixed at five times the annual qualified higher education expenses at the highest cost Louisiana public college or university, for the academic year of enrollment or the projected amount, whichever is greater.

Independent Student A person who is defined as an independent student by the Higher Education Act of 1965 (20 U.S.C. 1088) (HEA), as amended, and if required, files an individual federal income tax return in his/her name and designates him/herself as the beneficiary of an ESA.

1. The HEA defines independent student as a student who:

- a. reached 24 years of age prior to January of the year preceding the academic year for which the student is applying for aid;
- b. is a veteran of the U.S. Armed Forces, including a student who was activated to serve in Operation Desert Storm;
- c. is an orphan or a ward of the court or was a ward of the court until age 18;
- d. has legal dependents other than a spouse;
- e. is a graduate or professional student;
- f. is married; or
- g. has been determined independent by a financial aid officer exercising professional judgment in accordance with applicable provisions of the HEA.

2. An independent student may only open an account as an account owner if he/she is 18 years or older.

Legal Entity Juridical person including, but not limited to, groups, trusts, estates, associations, organizations, partnerships, and corporations that are incorporated, organized, established or authorized to conduct business in

accordance with the laws of one or more states or territories of the United States. A natural person is not a legal entity.

Louisiana Education Tuition and Savings Fund (the Fund) is a special permanent fund maintained by the Louisiana State Treasurer for the purpose of the START Saving Program, and is the account into which all initial deposits made to ESAs are deposited. The fund includes the Savings Enhancement Fund, which is a special sub-account designated to receive Earnings Enhancements appropriated by the state, and interest earned thereon.

Louisiana Office of Student Financial Assistance (LOSFA) is the agency of state government responsible for administering the START Saving Program under the direction of the Louisiana Tuition Trust Authority.

Louisiana Resident

1. any person who resided in the state of Louisiana on the date of the application and who has manifested intent to remain in the state by establishing Louisiana as legal domicile, as demonstrated by compliance with all of the following:

- a. if registered to vote, is registered to vote in Louisiana;
- b. if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license;
- c. if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle;
- d. if earning an income, has complied with state income tax laws and regulations;

2. a member of the Armed Forces stationed outside of Louisiana, who claims Louisiana on his/her official DD Form 2058 as his/her *legal residence* for tax purposes, and is in compliance with state income tax laws and regulations, shall be considered eligible for program participation. A member of the Armed Forces stationed in Louisiana under permanent change of station orders shall be considered eligible for program participation;

3. persons less than 21 years of age are considered Louisiana residents if they reside with and are dependent upon one or more persons who meet the above requirements;

4. a legal entity is considered to be a Louisiana resident if it is incorporated, organized, established or authorized to conduct business in accordance with the laws of Louisiana or registered with the Louisiana Secretary of State to conduct business in Louisiana and has a physical place of business in Louisiana.

Louisiana Tuition Trust Authority (LATTA) is the statutory body responsible for the administration of the START Saving Program.

Maximum Allowable Account Balance is the amount, determined annually, and effective on August 1 of each year, and expressed as a current dollar value, which is equal to five times the qualified higher education expenses at the highest cost institution in the state. Once the current value of an ESA equals or exceeds the maximum allowable account balance, principal deposits will no longer be accepted for the account. However, if subsequent increases occur in the maximum allowable account balance, principal deposits may resume until the current value equals the most recently determined maximum allowable account balance.

Member of the Family, with respect to the designated beneficiary

1. the spouse of such beneficiary; or
2. an individual who bears one of the following relationships to such beneficiary:
 - a. a son or daughter of the beneficiary, or a descendant of either;
 - b. a stepson or stepdaughter of the beneficiary;
 - c. a brother, sister, stepbrother, or stepsister of the beneficiary;
 - d. the father or mother of the beneficiary, or an ancestor of either;
 - e. a stepfather or stepmother of the beneficiary;
 - f. a son or daughter of a brother or sister of the beneficiary;
 - g. a brother or sister of the father or mother of the beneficiary; or
 - h. a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the beneficiary; or
 - i. a first cousin of the beneficiary; or
3. the spouse of an individual listed in Items 2(a) through (i).

Natural Person is a human being.

Other Person, with respect to any designated beneficiary is any person, other than the beneficiary, whether natural or juridical, who is not a member of the family, including but not limited to individuals, groups, trusts, estates, associations, organizations, partnerships, corporations, and custodians under the Uniform Transfer to Minors Act (UTMA).

Owner's Agreement is the agreement for program participation that the account owner completes and signs. It incorporates, by reference, R.S. 17:3091, et seq., and the rules promulgated by LATTA to implement this statutory provision and any other state or federal laws applicable to the agreement and the terms and conditions as set forth therein.

Person is a human being or a juridical entity.

Qualified Higher Education Expenses

1. tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible educational institution; and
2. room and board; and
3. expenses for special needs services in the case of a special needs beneficiary, which are incurred in connection with such enrollment or attendance.

Rate of Expenditure is the rate [see §309.B] per educational term at which the EEs may be disbursed from an ESA to pay for the beneficiary's qualified higher education expenses at an eligible educational institution. For each disbursement requested by an account owner, EEs and the earnings thereon will be disbursed from the account in the same ratio that they bear to the current value of the account.

Redemption Value is the cash value of the moneys in an ESA invested in a fixed earnings option that are attributable to the sum of the principal deposited and the earnings on principal authorized to be credited to the account by LATTA, less any disbursements and refunds. The redemption value does not include any EEs allocated to the account or the earnings on EEs. Redemption value is not applicable to an ESA invested in variable earnings.

Refund Recipient is the person designated by the account owner in the START Saving Program owner's agreement or

by operation of law to receive refunds from the account. The refund recipient can only be the account owner or the beneficiary.

Room and Board The reasonable cost for the educational term incurred by the designated beneficiary for room and board while attending an eligible educational institution on at least a half time basis, not to exceed the maximum amount included for room and board for such period in the cost of attendance (as currently defined in §472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll) as determined by the eligible educational institution for such period, or if greater, the actual invoice amount the student residing in housing owned or operated by the eligible education institution is charged by such institution for room and board.

Saving Enhancement Fund The sub-account established within the Tuition and Savings Fund by the State Treasurer to receive funds appropriated by the legislature or donated from any other source for the purpose of funding EEs.

Scheduled Date of First-Enrollment, for a dependent Beneficiary is the month and year in which the beneficiary turns 18 years of age. For an independent student over the age of 18, the scheduled date of first-enrollment is the date the account is opened. This date is used to determine eligibility for EEs. See the term *fully funded account*.

Special Needs Services and Beneficiary Services provided to a beneficiary because the student has one or more disabilities.

Trade Date The date that a deposit to an investment option that includes variable earnings is assigned a value in units or the date a disbursement or refund from an investment option that includes variable earnings is assigned a value or the date of a change in investment options that includes variable earnings is assigned a value, whichever is applicable.

Tuition The mandatory educational charge required as a condition of enrollment and is limited to undergraduate enrollment. It does not include non-residence fees, laboratory fees, room and board nor other similar fees and charges.

Variable Earnings That portion of funds in an ESA invested in equities, bonds, short-term fixed income investments or a combination of any of the three.

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 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:786 (April 2004), LR 30:2302 (October 2004).

Chapter 3. Education Savings Account

§305. Deposits to Education Savings Accounts

A. - E.1. ...

2. Deposits for investment options that include variable earnings will be assigned a trade date based on the method of deposit and the date of receipt.

a. Deposits by check will be assigned a trade date five business days after the business day during which they were received.

E.2.b - 3. ...

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 23:715 (June 1997), amended LR 24:1270 (July 1998), LR 26:2263 (October 2000), LR 27:1880 (November 2001), LR 30:788 (April 2004), LR 30:2302 (October 2004).

George Badge Eldredge
General Counsel

0410#016

RULE

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 hereby amends LAC 46:XXXIII.301, 306, 507, 710, 1204, 1506, 1611, and 1613.

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 30:2305 (October 2004).

§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 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001), amended LR 28:1777 (August 2002), LR 30:2305 (October 2004).

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 30:2306 (October 2004).

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), LR 27:1892, 1894 (November 2001), LR 28:1779 (August 2002), LR 30:2306 (October 2004).

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), LR 30:2306 (October 2004).

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 30:2306 (October 2004).

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 30:2307 (October 2004).

§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 30:2307 (October 2004).

C. Barry Ogden
Executive Director

0410#015

RULE

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 adopts the following Rule to become effective November 1, 2004.

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 §117.

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 30:2307 (October 2004).

§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 30:2308 (October 2004).

§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 30:2308 (October 2004).

§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, 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 27:197 (February 2001), LR 28:1974 (September 2002), LR 30:2311 (October 2004).

§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 30:2311 (October 2004).

§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 30:2311 (October 2004).

§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 30:2312 (October 2004).

§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 30:2312 (October 2004).

§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 ~~C~~\$30.
- 6. Upgrade of provisional speech-language pathologist, provisional audiologist, speech-language pathology assistant or provisional speech-language pathology assistant ~~C~~\$30.
- 7. Address listing-all licensees ~~C~~\$25.
- 8. Brochures/Pamphlets ~~C~~\$0.10 ea. plus postage and handling.
- 9. Continuing Education Pre-Approval Fee for Corporations or Individuals Who Are Not LBESPA Licensees ~~C~~\$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 30:2313 (October 2004).

§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 30:2314 (October 2004).

§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 30:2314 (October 2004).

§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 30:2315 (October 2004).

§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 30:2316 (October 2004).

§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 30:2317 (October 2004).

§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 30:2318 (October 2004).

§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 30:2319 (October 2004).

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 30:2319 (October 2004).

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 30:2320 (October 2004).

§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 30:2321 (October 2004).

§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 30:2321 (October 2004).

§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 30:2322 (October 2004).

§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 30:2323 (October 2004).

§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 30:2323 (October 2004).

§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 30:2323 (October 2004).

§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 30:2323 (October 2004).

§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 30:2324 (October 2004).

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.

1. 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 30:2324 (October 2004).

Richard N. Burt
Administrator

0410#047

RULE

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) hereby amends 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 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 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 adds 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 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 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 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

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), LR 30:1194 (June 2004), LR 30:2326 (October 2004).

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 30:2327 (October 2004).

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 May 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, published in the October 20, 2004 *Louisiana Register* (LR 30:2326), 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 30:2327 (October 2004).

§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 30:2327 (October 2004).

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

0410#076

RULE

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

Federally Qualified Health Centers
(LAC 50:XI.Chapters 103-105)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XI.Chapters 103-105 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title

XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Rule governing federally-qualified health centers under the Medical Assistance Program.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 13. Federally-Qualified Health Centers

Chapter 103. Provider Requirements

§10301. Standards for Participation

A. Federally-qualified health centers (FQHCs) must comply with the applicable licensure, accreditation and program participation standards for all services rendered. If a FQHC wishes to initiate participation, it shall be responsible for meeting all enrollment criteria of the program.

B. The FQHC provider shall:

1. maintain an acceptable fiscal record keeping system that will enable the services provided by the FQHC to be readily distinguished from each other type of service that the facility may provide;

2. retain all records as are necessary to fully disclose the extent of services provided to recipients; furnish information regarding such records and any payments claimed for providing such services as the Medicaid Program, the Secretary, or the Medicaid Fraud Control Unit may request for five years from date of service;

3. abide by and adhere to all federal and state regulations, guidelines, policies, manuals, etc.; and

4. if an FQHC receives approval for a satellite site, the satellite site must enter into a separate provider agreement and obtain its own Medicaid number.

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 30:2328 (October 2004).

§10303. Service Limits

A. FQHC visits (encounters) are limited to 15 visits per year for services rendered to Medicaid recipients who are 21 years of age or older. FQHC visits for eligibles who are under 21 years of age and for prenatal and postpartum care are excluded from the maximum allowable number of physician visits per year.

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 30:2328 (October 2004).

Chapter 105. Reimbursement Methodology

§10501. Prospective Payment System

A. In accordance with Section 1902(aa) of the Social Security Act and the provisions of the Benefits Improvement Act (BIPA) of 2000, payments to federally qualified health centers for Medicaid-covered services will be made under a Prospective Payment System (PPS) and paid on a per visit basis.

B. The PPS per visit rate will be provider specific. To establish the baseline rate for 2001, each FQHC's 1999 and 2000 Medicaid allowable costs, as taken from the FQHC's filed 1999 and 2000 Medicaid cost reports, will be totaled

and divided by the total number of Medicaid patient visits for 1999 and 2000. A *visit* is defined as a face-to-face encounter with a licensed practitioner, including:

1. doctors;
2. dentists;
3. clinical psychologists;
4. clinical social workers;
5. nurse practitioners; and
6. physician assistants.

C. For those FQHCs that began operation in 2000 and have only a 2000 cost report available for the determination of the initial PPS per visit rate, the 2000 allowable costs will be divided by the total number of Medicaid patient visits for 2000. Upon receipt of the 2001 cost report, the rate methodology will be applied using 2000 and 2001 costs and Medicaid patient visits to determine a new rate.

D. Upon receipt of the final audited cost reports for 1999 and 2000, the rate will be recalculated using costs and Medicaid patient visits from these reports. Payments will be reconciled against the initial PPS per visit rate with recoupments and lump sum payments issued in accordance with existing state processes for cost report settlement.

E. The baseline calculation will include all Medicaid-covered services provided by the FQHC, regardless of existing methods of reimbursement for said services. This includes, but is not limited to, ambulatory, transportation, laboratory (where applicable), and KidMed and dental services previously reimbursed on a fee-for-service or other nonencounter basis. The per visit rate will be all inclusive. FQHCs shall not bill separately for any Medicaid-covered services.

F. FQHCs are responsible for apportioning visits and statistical data in the 2001 cost report. The apportionment is for the period from the first day of the 2000 cost reporting period through December 31, 2000. This data is used to calculate cost settlements due from or to providers for the final cost-based reimbursement period in calendar year 2000.

1. Providers with a December 31st fiscal year end do not have to conduct the apportionment cited in Subsection F.

G. Upon completion and implementation of PPS rate determination, the state will reconcile payments back to January 1, 2001 by:

1. calculating a payment amount for eligible patient visits under PPS; and

2. comparing the calculation to payments made for encounters under the previous cost-based reimbursement methodology.

H. No interim or alternate payment methodologies will be developed by the state without prior notification to each enrolled Medicaid FQHC.

I. The FQHC is responsible for notifying the Bureau of Health Services Financing, Rate and Audit Review Section, in writing, of any increases or decreases in the scope of services as defined by the Bureau of Primary Health Care (BPHC) Policy Information Notice 2002-07. If the change is for inclusion of an additional service or deletion of an existing service, the FQHC shall include the following in this notification: the approval by BPHC, the current approved organization budget and a budget for the addition or deletion of services. The notice shall also include a presentation of the impact on total visits and Medicaid visits.

A new interim rate will be established based upon the reasonable allowable cost contained in the budget information. Then a final PPS rate will be calculated using the first two years of audited cost reports which include the change in services.

J. If an FQHC receives approval for a satellite site, the PPS per visit rate paid for the services performed at the satellite would be the weighted average cost payment rate per encounter for all FQHCs.

K. The PPS per visit rate for a facility which enrolls and receives approval to operate on or after January 1, 2001 will be the statewide weighted average payment rate per encounter for all FQHCs.

L. Beginning with federal fiscal year 2002, the PPS per visit rate for each facility will be increased on July first of each year by the percentage increase in the published *Medicare Economic Index* (MEI) for primary care services.

M. FQHC services furnished to dual eligibles will be reimbursed reasonable cost which is equivalent to the provider specific prospective payment rate.

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 30:2328 (October 2004).

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

0410#075

RULE

Department of Labor Office of the Secretary

Customized Training Fund (LAC 40:XVI.101, 105, 109, 111, and 113)

In accordance with R.S. 49:950 et seq. the Louisiana Department of Labor, pursuant to authority vested in the department by R.S. 23:1514, amends and reenacts 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 Department of Labor, Office of the Secretary, LR 30:2329 (October 2004).

§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 Department of Labor, Office of the Secretary, LR 30:2329 (October 2004).

§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 Department of Labor, Office of the Secretary, LR 30:2329 (October 2004).

§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 Department of Labor, Office of the Secretary, LR 30:2330 (October 2004).

§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 Department of Labor, Office of the Secretary, LR 30:2330 (October 2004).

John Warner Smith
Secretary

0410#045

RULE

**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, has adopted 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 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: Individual

**§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 30:2330 (October 2004).

Cynthia Bridges
Secretary

0410#004

RULE

**Department of Transportation and Development
Office of Highways/Engineering**

Design Standards (LAC 70:I.Chapter 13)

Editor's Note: This Rule is being repromulgated to correct the Chapter codification. The original Rule may be viewed on pages 805-812 of the April, 2004 issue of the *Louisiana Register*.

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development hereby adopts Chapter 13 of Title 70 entitled "Design Standards for Freeways, Arterial, Collector and Local Highways Under the Jurisdiction of Political Subdivisions and Not in the State-Maintained System," in accordance with R.S. 48:35(C).

Title 70

TRANSPORTATION

Part I. Highway Construction

Chapter 13. Design Standards for Freeways, Arterial, Collector and Local Highways Under the Jurisdiction of Political Subdivisions and Not in the State-Maintained System

§1301. Design Standards for Rural Arterial Roads

Item No.	Item	Rural		
		RA-1	RA-2	RA-3
1	Design Speed (mph)	50 1	60 2	70
2	Number of Lanes (minimum) 3	2	2	4
3	Width of Travel Lanes (ft)	11 – 12 4	12	12
4	Width of Shoulders (minimum) (ft)			
	(a) Two Lane	8 5	8 5	N/A
	(b) Divided facilities			
	(1) Inside	4 (Paved)	4 (Paved)	4 6 (Paved)
	(2) Outside	8 5	8 5	8 – 10 7
5	Outside Shoulder Type	Aggregate (2' min paved)	Aggregate (2' min paved)	Paved
6	Parking Lane Width (ft)	N/A	N/A	N/A
7	Width of Median on Divided Facilities (ft)			
	(a) Depressed	42 – 60	42 – 60	60
	(b) Raised	N/A	N/A	N/A
	(c) Two way left turn lane	N/A	N/A	N/A
8	Fore slope (vertical – horizontal)	1:6	1:6	1:6
9	Back slope (vertical – horizontal)	1:4	1:4	1:4
10	Pavement Cross-slope (%) 8	2.5	2.5	2.5
11	Stopping Sight Distance (ft)	425	570	730
12	Maximum Superelevation (%) 9	10	10	10
13	Minimum Radius (ft) 10 (with full superelevation)	700	1,100	1,700
14	Maximum Grade (%) 11	4	3	3
15	Minimum Vertical Clearance (ft) 12	16	16	16
16	Minimum Horizontal Clearance (ft) (from edge of travel lane)	20	30 13	34
17	Bridge Design Live Load 14	AASHTO	AASHTO	AASHTO
18	Width of Bridges (min) (face to face of bridge rail at gutter line) (ft)	Roadway width	Roadway width	Roadway width

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:806 (April 2004), repromulgated LR 30:2332 (October 2004).

§1303. Footnotes for Rural Arterial Design Standards

A. The design speed may not be less than the current posted speed of the overall route.

B. Consider using RA-3 criteria for roadways that will be widened in the future.

C. Consider increasing to a 4-lane facility if design volume is greater than 6000 vehicles per day and 6 lanes if design volume is greater than 25,000 vehicles per day. If more than two lanes are to be provided, outside shoulders should be paved.

D. Twelve feet required when design ADT is 1500 or greater.

E. Six foot shoulders are allowed if design volume is between 400 to 2000 vehicles per day. Four foot shoulders are allowed if design volume is less than 400 vehicles per day.

F. Eight to ten feet on six lane facilities.

G. Consider using ten foot outside shoulders where trucks are greater than ten percent or if large agricultural vehicles use the roadway.

H. Two percent acceptable on rehabilitation projects.

I. In Districts 04 and 05, where ice is more frequent, superelevation should not exceed eight percent from the emax = 10 percent table.

J. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum 12 feet) to provide adequate stopping sight distance on the structure.

K. Grades 1 percent higher are permissible in rolling terrain.

L. An additional six inches should be added for additional future surfacing.

M. On multilane facilities, use 32 feet.

N. For LFD and ASD designs an HST, 18 vehicle should be included as one of the live load vehicles.

O. General Note: Overlay design standards shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R. S. 48:35(C).

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§1305. Design Standards for Freeways

Item No.	Item	Urban		Rural
		F-1	F-2	F-3 1
1	Design Speed (mph)	50	60	70
2	Level of Service	C 3	C 3	B 2
3	Number of Lanes (minimum)	4	4	4
4	Width of Travel Lanes (ft)	12	12	12
5	Width of Shoulders (ft)			
	(a) Inside 4	6	6	6
	(b) Outside 5	10	10	10
6	Shoulder Type	Paved	Paved	Paved
7	Width of Median (minimum) (ft)			
	(a) Depressed	50	68 (min) – 100 (des)	72 (min) – 100 (des)
	(b) Continuous barrier (4 lane) 6	15	15	15
	Continuous barrier (6 lane) 6	27	27	27
8	Fore Slope (vertical – horizontal)	1:4 to 1:6	1:6	1:6
9	Back Slope (vertical – horizontal)	1:4	1:4	1:4
10	Pavement Cross Slope (%) 7	2.5	2.5	2.5
11	Stopping Sight Distance (ft)	425	570	730
12	Maximum Superelevation (%) 8	10	10	10
13	Minimum Radius (ft) 9 (with 10% superelevation)	700	1,100	1,700
14	Maximum Grade (%) 10	4	3	3
15	Minimum Vertical Clearance (ft) 11	16	16	16
16	Width of Right-of-Way (ft)			
	(a) Depressed median	As Needed	As Needed	Varies 12
	(b) Median barrier	As Needed	As Needed	As Needed
	(c) Minimum from edge of bridge structure 13	15 – 20	15 – 20	15 – 20
17	Bridge Design Live Load 14	AASHTO	AASHTO	AASHTO
18	Minimum Width of Bridges (face to face of bridge rail at gutter line) (ft)	Roadway Width	Roadway Width	Roadway Width
19	Horizontal Clearance (from edge of travel lane) (ft)			
	(a) 1:4 Fore slope	30	N/A	N/A
	(b) 1:6 Fore slope	22	32	34

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:807 (April 2004), repromulgated LR 30:2333 (October 2004).

§1307. Footnotes for Freeway Design Standards

- A. These standards may be used in urban areas.
- B. Level of Service C can be used in urban areas.
- C. Level of Service D can be used in heavily developed urban areas.
- D. Four feet to be paved, 10 feet to be paved on 6 lane facilities, 12 feet to be paved on 6 lane facilities with truck DDHV greater than 250.
- E. Twelve feet paved when truck DDHV is greater than 250.
- F. For larger medians two barriers may be required. The maximum offset of 15 feet from barrier to edge of travel lane shall not be exceeded.
- G. Two percent permissible for rehabilitation projects.
- H. In Districts 04 and 05, where ice is more frequent, superelevation should not exceed 8 percent from the emax = 10 percent table.

I. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

J. Grades 1 percent higher may be used in urban areas.

K. An additional 6 inches should be added for additional future surfacing. Seventeen feet is required for trusses and pedestrian overpasses.

L. As needed for urban projects: 300 feet to 330 feet for rural projects depending on median width.

M. Twenty-five feet shall generally be provided in accordance with EDSM II.1.1.1.

N. For LFD and ASD designs a HST-18 vehicle should be included as one of the live load vehicles.

O. General Note: Overlay design standards (separate sheet) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:807 (April 2004), repromulgated LR 30:2333 (October 2004).

§1309. Design Standards for Local Roads and Streets

Item No.	Item	Rural			Urban	
		RL-1	RL-2	RL-3	UL-1	UL-2
1	Design Speed (mph) 1	30	40	50	20	30
2	Average Daily Traffic	0 – 250	250 – 400	Over 400	N/A	N/A
3	Typical Number of Lanes	2	2	2	2	2
4	Minimum Width of Travel Lanes (ft)	9	9	11 – 12 2	10 – 11 3	10 – 11 3
5	Minimum Width of Shoulders (ft) 4	2	2	5 – 8 5	When used 6	When used 6
6	Shoulder Type	Aggregate	Aggregate	Aggregate	Paved	Paved
7	Minimum Width of Parking Lanes (where used) (ft)	N/A	N/A	N/A	7 – Residential 8 – Industrial	7 – Residential 8 – Industrial
8	Minimum Width of Sidewalk (where used) (ft)					
	(a) Offset from curb	N/A	N/A	N/A	4	4
	(b) Adjacent to curb	N/A	N/A	N/A	6	6
9	Fore Slope (vertical – horizontal)	1:3 7	1:3 7	1:4	1:3	1:3
10	Back Slope (vertical – horizontal)	1:2	1:2	1:3	1:2	1:2
11	Pavement Cross Slope (%) 8	2.5	2.5	2.5	2.5	2.5
12	Stopping Sight Distance (ft)	200	305	425	115	200
13	Maximum Superelevation (%)	10 9	10 9	10 9	4	4
14	Minimum Radius (ft) 10, 11					
	(a) With normal crown (-2.5% cross slope)	7,585	11,625	16,700	100	325
	(b) With 2.5% superelevation	1,930	3,250	5,000	85	250
	(c) With full superelevation	250	450	700	80	235
15	Maximum Grade (%) 12	7	7	6	10	9
16	Minimum Vertical Clearance (ft)	15	15	15	15	15
17	Minimum Horizontal Clearance (ft)					
	(a) From edge of travel lane	10 7	10 7	Varies 13	7 – Shoulder facilities	10 – Shoulder facilities
	(b) From back of curb	N/A	N/A	N/A	1 (min) – 6 (des)	1 (min) – 6 (des)
18	Bridge Design Load Live 14	AASHTO	AASHTO	AASHTO	AASHTO	AASHTO
19	Minimum Width of Bridges (face to face of bridge rail at gutter line)	Traveled way plus 4'	Traveled way plus 4'	Traveled 15 way plus 6'	Traveled 16, 17 way plus 8'	Traveled 16,17 way plus 8'
20	Bridge End Treatment	Yes	Yes	Yes	16	16

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:808 (April 2004), repromulgated LR 30:2334 (October 2004).

§1311. Footnotes for Local Road and Street Design Standards

A. The design speed may not be less than the current posted speed of the overall route.

B. For ADT greater than 2000, use 12-foot lane widths.

C. Lane widths in residential areas may be reduced to 9 feet if necessary. Twelve foot lane widths are preferred in industrial areas.

D. Where bicycles are prevalent, a paved 4-foot shoulder should be provided.

E. For ADT less than 1500, the minimum shoulder width may be reduced to 4 feet if necessary. For ADT 1500 to 2000, use 6-foot shoulders. For ADT over 2000, use 8-foot shoulders.

F. Select the shoulder width that corresponds to the ADT shown in the rural local standards.

G. The value shown should be provided on new roadways. A lesser value may be used on existing roads depending on soil stability, right-of-way constraints, the safety record of the road, and the size vehicles using the road. Guidance is available in the publication entitled

"AASHTO Guidelines for Geometric Design of Very Low Volume Local Roads (ADT < 400)."

H. Two percent acceptable for rehabilitation projects.

I. In Districts 04 and 05, where ice is more frequent, superelevation should not exceed 8 percent from the emax = 10 percent table.

J. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

K. On roadways with an ADT < 400, a sharper radius may be used on fully superelevated roadways if necessary. For specific values refer to the publication entitled "AASHTO Guidelines for Geometric Design of Very Low Volume Local Roads (ADT < 400)." Different radii apply at divisional islands.

L. Grades 2 percent higher may be used in rural rolling terrain.

M. Varies from 14 feet to 28 feet. Refer to the Roadside Design Guide for the applicable value. For spot replacement projects refer to the applicable part of Footnote G.

N. For LFD and ASD designs a HST-18 vehicle should be included as one of the live load vehicles.

O. For ADT greater than 2000, use roadway width.

P. Refer to EDSM II.3.1.4 when sidewalks will be provided and for guardrail requirements.

Q. When shoulders are provided, the minimum bridge width shall be the larger of that shown or the roadway width.

R. These standards shall not apply to:

1. dead end roads (open at one end only);
2. roads that are dependent on dead end roads for access.

S. Urban standards may be applied to any street for which curb is to be used and the posted speed is less than 50 mph, or any street for which a posted speed of 30 mph or less would be appropriate.

T. On spot replacement projects the existing geometry and superelevation may remain providing there are no safety problems.

U. The appropriate local governing body is authorized to make design exceptions for specific items listed in these standards, with proper engineering justification.

V. General Note: Overlay design standards (separate sheet) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

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§1313. Design Standards for Rural Collector Roads

Item No.	Item	Rural		
		RC-1	RC-2	RC-3
1	Average Daily Traffic 1	Under 400	400 – 2000	Over 2000
2	Design Speed (mph)	40 – 60 2	50 – 60 2	60
3	Number of Lanes	2	2	2 – 4 3
4	Width of Travel Lanes (ft)	11	11 – 12 4	12
5	Width of Shoulders (ft)			
	(a) Inside on multilane facilities	N/A	N/A	4
	(b) Outside	2 5	4 – 5 6	8
6	Shoulder Type	Paved	Aggregate (2' min paved)	Aggregate (2' min paved) (4' min paved on 4-lane facilities)
7	Width of Parking Lanes (ft)	N/A	N/A	N/A
8	Width of Median on multilane facilities (ft)			
	(a) Depressed	N/A	N/A	42 – 60
	(b) Raised	N/A	N/A	N/A
	(c) Two way left turn lane	N/A	N/A	N/A
9	Width of Sidewalk (minimum) (ft)			
	(a) Offset from curb	N/A	N/A	N/A
	(b) Adjacent to curb	N/A	N/A	N/A
10	Fore Slope (vertical – horizontal)	1:4	1:4	1:6
11	Back Slope (vertical – horizontal)	1:4 7	1:4	1:4
12	Pavement Cross Slope (%) 8	2.5	2.5	2.5
13	Stopping Sight Distance (ft)	305 (40 mph)	425 (50 mph)	570
		425 (50 mph)	570 (60 mph)	
		570 (60 mph)		
14	Maximum Superelevation (%) 9	10	10	10
15	Minimum Radius (ft) 10 (with full superelevation)	450 11	700 12	1,100
16	Maximum Grade (%)	7 (40 mph)	6 (50 mph)	5
		6 (50 mph)	5 (60 mph)	
		5 (60 mph)		
17	Minimum Vertical Clearance (ft) 13	15	15	15
18	Minimum Horizontal Clearance (ft) (from edge of travel lane)	10, 14, 24 14	26 (50 mph) 32 (60 mph)	30
19	Bridge Design Live Load 15	AASHTO	AASHTO	AASHTO
20	Minimum Width of Bridges (face to face of bridge rail at gutter line) (ft)	30	Roadway width	Roadway width

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:809 (April 2004), repromulgated LR 30:2335 (October 2004).

§1315. Footnotes for Rural Collector Design Standards

A. Current traffic may be used to determine the appropriate classification.

B. The design speed may not be less than the current posted speed of the overall route.

C. For rolling terrain, limited passing sight distance and high percentage trucks, further analysis should be made to determine if additional lanes are required when ADT is above 7,000.

D. For design speeds greater than 50 mph and ADT greater than 1,500 use 12-foot lanes.

E. Where bicycle activity is observed, a 4-foot shoulder should be provided.

F. For ADT greater than 1,500 use 6 foot shoulders.

G. 1:3 back slopes are allowed where right-of-way restrictions dictate.

H. Two percent acceptable for rehabilitation projects.

I. In Districts 04 and 05, where ice is more frequent, superelevation should not exceed 8 percent from the emax = 10 percent table.

J. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

K. Radius based on 40 mph. Radii for 50 mph and 60 mph are shown under the RC-2 and RC-3 classifications respectively.

L. Radius based on 50 mph. The radius for 60 mph is shown under the RC-3 classification.

M. Where the roadway dips to pass under a structure, a higher vertical clearance may be necessary. An additional 6 inches should be added for additional future surfacing.

N. The lower value is based on a 40 mph design speed, the middle value for 50 mph and the upper value for 60 mph.

O. For LFD and ASD designs a HST-18 vehicle should be included as one of the live load vehicles.

P. General Note: Overlay design standards (separate sheet) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:809 (April 2004), repromulgated LR 30:2335 (October 2004).

§1317. Design Standards for Urban and Suburban Arterial Roads and Streets

Item No.	Item	Urban			Suburban 1	
		UA-1	UA-2	UA-3	SA-1	SA-2
1	Design Speed (mph)	40	45	50	50	55
2	Level of Service	C 2	C 2	C 2	C	C
3	Number of Lanes	2 (min) – 4 (typ)	2 (min) – 4 (typ)	2 (min) – 4 (typ)	2 (min) – 4 (typ)	2 (min) – 4 (typ)
4	Width of Travel Lanes (ft)	11	11 – 12	12	12	12
5	Width of Shoulders (minimum) (ft) 3					
	(a) Inside on multilane facilities	N/A	N/A	4	4	4
	(b) Outside	8	8	8	8	8
6	Shoulder Type	Paved	Paved	Paved	Paved	Paved
7	Parking Lane Width (ft)	10 – 12	10 – 12	N/A	N/A	N/A
8	Width of Median on Multilane Facilities (ft)					
	(a) Depressed	N/A	N/A	30	30 – 42	42
	(b) Raised	6 – 30 4	6 – 30 4	30	30	30
	(c) Two way left turn lane	11 – 14 typ.	11 – 14 typ.	N/A	N/A	N/A
9	Width of Sidewalk (minimum) (where used) (ft) 5					
	(a) Offset from curb	4	4	4	4	4
	(b) Adjacent to curb	6	6	N/A	N/A	N/A
10	Fore slope (vertical – horizontal)	1:3 (min) – 1:4 (des)	1:3 (min) – 1:4 (des)	1:4	1:4 to 1:6	1:6
11	Back slope (vertical – horizontal)	1:3	1:3	1:3	1:3	1:4
12	Pavement Cross-slope (%) 6	2.5	2.5	2.5	2.5	2.5
13	Stopping Sight Distance (ft)	305	360	425	425	495
14	Maximum Superelevation (%)	4	4	4	4	6
15	Minimum Radius (ft) 7, 8					
	(a) With normal crown (-2.5% cross-slope)	700	1,000	16,700	16,700	19,700
	(b) With 2.5% superelevation	550	750	3,500	3,500	5,250
	(c) With full superelevation	500	700	1,000	1,000	1,100
16	Maximum Grade (%)	7	6	6	4 9	4
17	Minimum Vertical Clearance (ft) 10	16	16	16	16	16
18	Minimum Horizontal Clearance (ft)					
	(a) From edge of travel lane	18 11	25 11	28	20 – 28 12	24
	(b) Outside (from back of curb) (when curb is used)	6 (min) – 15 (des)	6 (min) – 15 (des)	19	10 (1:6) 18 (1:4)	14
	(c) Median (from back of curb) (when curb is used)	4 (min) – 15 (des)	4 (min) – 15 (des)	13	12	18
19	Bridge Design Live Load 13	AASHTO	AASHTO	AASHTO	AASHTO	AASHTO
20	Width of Bridges (minimum) (face to face of bridge rail at gutter line) 14					
	(a) Curbed facilities (without sidewalks)	Traveled 15 way plus 8'	Traveled 15 way plus 8'	Roadway width	Roadway width	Roadway width
	(b) Shoulder facilities	Roadway width	Roadway width	Roadway width	Roadway width	Roadway width
21	Guardrail Required at Bridge Ends	15	15	Yes	Yes	Yes

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:810 (April 2004), repromulgated LR 30:2336 (October 2004).

§1319. Footnotes for Urban and Suburban Arterial Design Standards

A. These standards may be used only on a rural roadway section that adjoins a roadway section currently classified as urban. The standard selected should be based on the posted speed.

B. Level of service D allowable in heavily developed urban areas.

C. Curb may be used in place of shoulders on UA-1 and UA-2 facilities. If used on suburban facilities, it shall be placed at the edge of shoulder on two lane facilities and 1 foot beyond the edge of the shoulders on multilane facilities. If used on UA-3 facilities, it shall be placed at the edge of the shoulder. For design speeds greater than 45 mph, curb will not be placed in front of guardrail.

D. The minimum median width may be reduced to 4 feet if curb offsets are not provided. On principal arterials, particularly at intersections, the upper limit should be considered.

E. If shoulders are used, sidewalks should be separated from the shoulder.

F. Two percent acceptable for rehabilitation projects.

G. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

H. Different radii apply at divisional islands.

I. Grades one percent higher are permissible in rolling terrain.

J. An additional 6 inches should be added for additional future surfacing.

K. Applies to facilities with shoulders. Refer to the Roadside Design Guide when 1:3 fore slopes are used.

L. Use the larger value when 1:4 fore slopes are used.

M. For LFD and ASD designs a HST-18 vehicle should be included as one of the live load vehicles.

N. For suburban roads with shoulders and curbs, consider widening each bridge 8 feet to allow for a future lane and 4 foot offsets to bridge rail.

O. Refer to EDSM II.3.1.4 when sidewalks will be provided and for guardrail requirements.

P. General Note: Overlay design standards (separate sheet) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

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§1321. Design Standards for Urban and Suburban Collector Roads and Streets

Item No.	Item	Urban		Suburban 1		
		UC-1	UC-2	SC-1	SC-2	SC-3
1	Average Daily Traffic	N/A	N/A	N/A	N/A	N/A
2	Design Speed (mph)	30 - 40	45	40	45	50
3	Number of Lanes (minimum)	2 - 4	2 - 4	2 - 4	2 - 4	2 - 4
4	Width of Travel Lanes (ft)	11 - 12	12	11	11	11 - 12 2
5	Width of Shoulders (ft)					
	(a) Inside on multilane facilities	N/A	N/A	N/A	N/A	4 3
	(b) Outside	8 2, 4	8 2, 4	4 - 5 4	4 - 5 4	6, 8 5
6	Shoulder Type	Paved	Paved	Paved	Paved	Paved
7	Width of Parking Lanes (where used) (ft)	7 - 10 6	11	7 - 10 6	11	N/A
8	Width of Median on multilane facilities (ft)					
	(a) Depressed	N/A	N/A	N/A	N/A	30
	(b) Raised	4 (min) - 30 (des)	4 (min) - 30 (des)	4 (min) - 30 (des)	4 (min) - 30 (des)	26
	(c) Two way left turn lane	11 - 14 typ.	11 - 14 typ.	11 - 14 typ.	11 - 14 typ.	N/A
9	Width of Sidewalk (minimum) (where used) (ft) 7					
	(a) Offset from curb	4	4	4	4	4
	(b) Adjacent to curb	6	6	6	6	N/A
10	Fore Slope (vertical - horizontal)	1:3 - 1:4 8	1:3 - 1:4 8	1:4	1:4	1:4
11	Back Slope (vertical - horizontal)	1:3 9	1:3	1:3	1:3	1:3
12	Pavement Cross Slope (%) 10	2.5	2.5	2.5	2.5	2.5
13	Stopping Sight Distance (ft)	200 (30 mph) 305 (40 mph)	360	305	360	425
14	Maximum Superelevation (%)	4	4	4	4	6
15	Minimum Radius (ft) 11, 12					
	(a) With normal crown (-2.5% cross slope)	325 (30 mph) 700 (40 mph)	1,000	700	1,000	16,700
	(b) With 2.5% superelevation	250 (30 mph) 550 (40 mph)	750	550	750	4,400
	(c) With full superelevation	235 (30 mph) 500 (40 mph)	700	500	700	900
16	Maximum Grade (%)	9	8	7	6	6
17	Minimum Vertical Clearance (ft) 13	15	15	15	15	15

Minimum Horizontal Clearance (ft)						
18	(a) From edge of travel lane	10	10	10	10	26 – 28 14
	(b) Outside (from back of curb) (when curb is used)	1 (min) – 6 (des)	6 (min) – 15 (des)	1 (min) – 6 (des)	6 (min) – 15 (des)	17 – 19 15
	(c) Median (from back of curb) (when curb is used)	1 (min) – 6 (des)	4 (min) – 15 (des)	1 (min) – 6 (des)	4 (min) – 15 (des)	13
19	Bridge Design Live Load 16	AASHTO	AASHTO	AASHTO	AASHTO	AASHTO
Minimum Width of Bridges (face to face of bridge rail at gutter line)						
20	(a) Curbed facilities (without sidewalks)	Traveled 17 way plus 8'	Traveled 17 way plus 8'	Traveled 17 way plus 8'	Traveled 17 way plus 8'	Roadway width
	(b) Shoulder facilities	Roadway width	Roadway width	Roadway width	Roadway width	Roadway width
21	Guardrail Required at Bridge Ends	17	17	17	17	Yes

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

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§1323. Footnotes for Urban and Suburban Collector Design Standards

A. These standards may be used only on a rural roadway section that adjoins a roadway section currently classified as urban. The standard selected should be based on the posted speed.

B. For ADT less than 2,000 refer to Exhibit 6-5 on page 429 in the "AASHTO 2001 Policy on Geometric Design of Highways and Streets."

C. Applicable to depressed medians only.

D. Curb may be used instead of shoulder. Where bicycle activity is observed, a bike lane should be considered.

E. If curb will not be used, shoulder widths may be reduced, see Footnote B. When curb is used on multilane facilities, it shall be placed at the edge of shoulder. When curb is used on two-lane facilities, 8 foot shoulders will be required if a future center turn lane will be added. Curb will not be placed in front of guardrail.

F. Seven and 8-foot widths are limited to residential areas for 30 and 40 mph respectively.

G. If shoulders are used, sidewalks should be separated from shoulder.

H. Where shoulders are used, 1:4 minimum fore slopes are required through the limits of horizontal clearance.

I. 1:2 back slopes are allowed where right of way restrictions dictate.

J. Two percent acceptable for rehabilitation projects.

K. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

L. Different radii apply at divisional islands.

M. Where the roadway dips to pass under a structure, a higher vertical clearance may be necessary. An additional 6 inches should be added for additional future surfacing.

N. The higher value is applicable to roadways with an ADT greater than 6,000.

O. These values apply to roadways with 8-foot shoulders.

P. For LFD and ASD designs a HST-18 vehicle should be included as one of the live load vehicles.

Q. Refer to EDSM II.3.1.4 when sidewalks will be provided and for guardrail requirements.

R. General Note: Overlay design standards (separate sheet) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:812 (2004), repromulgated LR 30:2338 (October 2004).

Kam K. Movassaghi, Ph.D., P.E.
Secretary

0410#064

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Alligator Licenses, Permits, Fees (LAC 76:V.701)

The Wildlife and Fisheries Commission does hereby suspend a portion of the alligator tag fee.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 7. Alligators

§701. Alligator Regulations

A. The Department of Wildlife and Fisheries does hereby establish regulations governing the harvest of wild populations of alligators and alligator eggs, raising and propagation of farmed alligators, tanning of skins and regulations governing the selling of hides, alligator parts and farm raised alligators. The administrative responsibility for these alligator programs shall rest with the department secretary; the assistant secretary, Office of Wildlife; and the Fur and Refuge Division.

1. - 3. ...

4. Licenses, Permits and Fees

a. The licenses and fees required for activities authorized by these regulations are as prescribed under provisions of Title 56, or as prescribed in these regulations, and are:

i. - x. ...

xi. \$4 for each alligator hide tag; provided however, that this commission does hereby suspend the collection of \$1 of the \$4 tag fee. This suspension shall commence on September 20, 2004 and continue for a period of 2 years or until such time this commission takes further action, whichever occurs first.

4.a.xii. - 17.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:259, R.S. 56:262, R.S. 56:263 and R.S. 56:280.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), amended LR 17:893 (September 1991), LR 19:215 (February 1993), LR 20:321 (March 1994), LR 26:1492 (July 2000), LR 28:1996 (September 2002), LR 30:2338 (October 2004).

Dwight Landreneau
Secretary

0410#049

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Black Bass Daily Take and Size Limits (LAC 76:VII.149)

The Wildlife and Fisheries Commission amends the following Rule on black bass (*Micropterus* spp.) on Poverty Point Reservoir, located north of the town of Delhi in Richland Parish, Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§149. Black Bass Regulations Daily Take and Size Limits

A. - B.3. ...

4. Poverty Point Reservoir (Richland Parish)

a. Size limit: 15-inch-9-inch slot. A 15-19 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 15 inches and 19 inches, both measured inclusive.

b. Daily Take: 8 fish with only one fish over 19 inches per person:

i. on water possession same as daily limit per person.

*Maximum total length the distance in a straight line from the tip of the snout to the most posterior point of the depressed caudal fin as measured with the mouth closed on a flat surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:325(C), R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR:14:364 (June 1988), amended LR 17:277 (March 1991), repromulgated LR 17:488 (May 1991), amended LR 17:1122 (November 1991), LR 20:796 (July 1994), LR 23:1168 (September 1997), LR 24:505 (March 1998), LR 26:97 (January 2000), LR 28:104 (January 2002), LR 29:373 (March 2003), LR 30:2339 (October 2004).

Dwight Landreneau
Secretary

0410#050

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Crappie Daily Take (LAC 76:VII.197)

The Wildlife and Fisheries Commission hereby establishes the following Rule on Crappie (*Pomoxis* spp.) on Poverty Point Reservoir, located north of the town of Delhi in Richland Parish, Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§197. Crappie Regulations Daily Take

A. Poverty Point Reservoir (Richland Parish)

1. Daily limit: 25 fish per person:

a. on water possession same as daily limit per person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:325.1(c).

HISTORICAL NOTE: Promulgated in accordance with Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 30:2339 (October 2004).

Dwight Landreneau
Secretary

0410#051

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Livestock Sanitary Board

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

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

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

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

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 1. General Provisions

§111. Livestock Auction Market Requirements

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

B. Conditions for Issuing a Livestock Auction Market Permit

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

2. The livestock auction market must provide the following:

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

b. separate pens for holding brucellosis reactors;

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

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

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

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

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

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

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

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

Family Impact Statement

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

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

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

Bob Odom
Commissioner

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

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

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

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

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

NOTICE OF INTENT

**Department of Agriculture and Forestry
Seed Commission**

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

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

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

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

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 1. Louisiana Seed Law

Subchapter B. General Seed

§125. Definitions

* * *

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

accepted packaging weight in pounds for a specific commodity.

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

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

§143. Fees

A. - C. ...

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

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

E. Fees for Sweet Potatoes

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

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

F. Fees for Bulk Seed Certification

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

G. - I. ...

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

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

Family Impact Statement

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

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

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

Bob Odom
Commissioner

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

RULE TITLE: Seed Certification Standards

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

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

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

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

NOTICE OF INTENT

Board of Elementary and Secondary Education

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

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111 Louisiana School, District, and State Accountability System* (LAC

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

**Title 28
EDUCATION**

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

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

§3501. Option Choices

A. ...

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

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

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

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

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

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

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

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

Chapter 43. District Accountability

§4310. Subgroup Component AYP (Adequate Yearly Progress)

A. District Subgroup Component Indicators

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

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

a. - c. ...

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

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

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

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

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

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

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

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

b. the subgroup:

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

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

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

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

E. Failing the Subgroup Component

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

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

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

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

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

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

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

§4313. Corrective Actions

A. - B.1. ...

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

1. The DOE shall review each District Improvement Plan.

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

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

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

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

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

Family Impact Statement

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

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

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

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

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

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

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

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

Weegie Peabody
Executive Director

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

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

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

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

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

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

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

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

There will be no effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
0410#020

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

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

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 746 Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy specifies the specific Praxis exam and passing score for certification in Middle School English/Language Arts. This action continues the board's alignment of the Praxis testing policies of the No Child Left Behind Act of 2001.

**Title 28
EDUCATION**

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

**§903. Teacher Certification Standards and Regulations
A. Bulletin 746**

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

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

Middle School Certification Testing Policy

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

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

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

Family Impact Statement

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

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

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

Weegie Peabody
Executive Director

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

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

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

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

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

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

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Radiation Protection regulations, LAC 33:XV.102, 113, 325, 326, 351, 361, 399, 421, 499, 575, 588, 756, 757, 1503, 1505, and 2017 (Log #RP037).

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

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

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

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

Chapter 1. General Provisions

§102. Definitions and Abbreviations

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

* * *

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

* * *

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

1. - 4. ...

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

* * *

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

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

§113. Appeal Procedure, Administrative Review

A. ...

B. Applications to Request a Hearing

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

B.2. - F. ...

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

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

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

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

§325. General Requirements for the Issuance of Specific Licenses

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

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

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

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

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

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

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

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

b. Greater than 10^3 but less than or equal to 10^4 times the applicable quantities of LAC 33:XV.399.Appendix D in unsealed form (for a combination of isotopes, if R, as defined in Paragraph D.1 of this Section, divided by 10^3 is greater than 1 but R divided by 10^4 is less than or equal to 1). \$150,000

c. Greater than 10^{10} times the applicable quantities of LAC 33:XV.399.Appendix D in sealed sources or plated foils (for a combination of isotopes, if R, as defined in Paragraph D.1 of this Section, divided by 10^{10} is greater than 1). \$75,000

5. - 7.d.iv. ...

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

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

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

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

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

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

i. - k. ...

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

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

§351. Financial Assurance Arrangements

A. ...

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

A.2. - E. ...

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

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

§361. Registration of Product Information

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

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

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

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

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

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

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

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

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

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

Subchapter Z. Appendices

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

Schedule A. - Schedule B. ...

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

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

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

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

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

Appendix D	
Quantities For Use With Decommissioning	
Material	Microcurie*
Promethium-147	10
Promethium-149	10
Radium-226	0.01
Rhenium-186	100
Rhenium-188	100
Rhodium-103m	100
Rhodium-105	100
Rubidium-86	10
Rubidium-87	10
Ruthenium-97	100
Ruthenium-103	10
Ruthenium-105	10
Ruthenium-106	1
Samarium-151	10
Samarium-153	100
Scandium-46	10
Scandium-47	100
Scandium-48	10
Selenium-75	10
Silicon-31	100
Silver-105	10
Silver-II0m	1
Silver-111	100
Sodium-22	10
Sodium-24	10
Strontium-85	10
Strontium-89	1
Strontium-90	0.1
Strontium-91	10
Strontium-92	10
Sulfur-35	100
Tantalum-182	10
Technetium-96	10
Technetium-97m	100
Technetium-97	100
Technetium-99m	100
Technetium-99	10
Tellurium-125m	10
Tellurium-127m	10
Tellurium-127	100
Tellurium-129m	10
Tellurium-129	100
Tellurium-131m	10
Tellurium-132	10
Terbium-160	10
Thallium-200	100
Thallium-201	100
Thallium-202	100
Thallium-204	10
Thorium (natural)**	100
Thulium-170	10
Thulium-171	10
Tin-113	10
Tin-125	10
Tungsten-181	10
Tungsten-185	10
Tungsten-187	100
Uranium (natural)***	100
Uranium-233	0.01
Uranium-234	0.01
Uranium-235	0.01
Vanadium-48	10
Xenon-131m	1,000
Xenon-133	100
Xenon-135	100
Ytterbium-175	100
Yttrium-90	10
Yttrium-91	10
Yttrium-92	100

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

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

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

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

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

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

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

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

Chapter 4. Standards for Protection Against Radiation

Subchapter B. Radiation Protection Programs

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

A. - E. ...

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

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

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

Subchapter Z. Appendices

§499. Appendices A, B, C, D, E

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

Subchapter B. Personal Radiation Safety Requirements for Radiographers

§575. Training and Testing

A. - C.1. ...

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

noncompliance observed by the radiation safety officer or designee.

D. - E. ...

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

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

Subchapter C. Precautionary Procedures in Radiographic Operations

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

A. - A.6. ...

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

8. - 11. ...

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

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

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

A. - B.3. ...

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

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

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

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

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

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

§757. Periodic Spot-Checks

A. - A.3. ...

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

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

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

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

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

Chapter 15. Transportation of Radioactive Material

§1503. Definitions

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

* * *

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

* * *

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

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

§1505. Exemptions

A. - C.2. ...

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

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

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

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

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

A. - A.1. ...

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

3. it must meet the following requirements:

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

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

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

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

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

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

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

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

B. - E.2. ...

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

F. - F.1. ...

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

G. - H. ...

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

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

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

NOTICE OF INTENT

Department of Health and Hospitals Board of Physical Therapy Examiners

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

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

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

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

Wilbert F. Jordan, Jr.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: NRC Authorization Cleanup Package

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

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

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

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

The proposed Rule amendment is set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIV. Louisiana State Board of Physical Therapy Examiners

Subpart 2. Practice

Chapter 3. Practice

Subchapter A. General Provisions

§306. Physical Therapy Services without Prescription or Referral

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Family Impact Statement

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

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

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

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

Pat Adams, PT
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Physical Therapy Services without Prescription/Referral

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

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

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Cheryl Gaudin
Executive Director
0410#046

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Examiners of Psychologists

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

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

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXIII. Psychologists

Chapter 4. Certificate of Prescriptive Authority

§401. Preface

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

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

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

§403. Application for Certificate of Prescriptive Authority

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

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

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

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

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

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

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

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

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

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

Examination Service, is an approved proficiency examination.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§405. Limits of Practice

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

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

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

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

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

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

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

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

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

§407. Documentation of Physician Consultation

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

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

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

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

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

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

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

§409. Prescribing Practices of a Medical Psychologist

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

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

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

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

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

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

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

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

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

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

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

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

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

F. Providing Sample Medications

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

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

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

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

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

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

§411. Continuing Professional Education

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

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

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

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

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

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

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

§413. Annual Renewal of the Certificate of Prescriptive Authority

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

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

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

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

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

§415. Complaint Procedure

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

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

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

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

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

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

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

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

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

Family Impact Statement

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

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

Linda J. Hartwell, Ph.D.
Chair

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Certificate of Prescriptive Authority

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

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

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

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

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

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Brenda C. Ward
Executive Director
0410#044

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office for Citizens with Developmental Disabilities

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

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

Title 48

PUBLIC HEALTH~~OC~~GENERAL

Part IX. Mental Retardation/Developmental Disabilities Services

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

§1501. Statement of Purpose

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

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

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

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

§1503. Establishment of Pilot Programs

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

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

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

§1505. Program Definition

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

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

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

§1507. Requirements of Program Participants

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

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

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

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

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

§1509. Standards for Program Operations and Procedures

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

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

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

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

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

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

Family Impact Statement

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

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

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

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

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

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

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

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Kathy H. Kliebert
Assistant Secretary
0410#077

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

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

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

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

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

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

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XVII. Durable Medical Equipment

Subpart 5. Dentures

Chapter 301. General Provisions

§30101. Prior Authorization

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

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

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

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

Chapter 303. Provider Participation and Recipient Criteria

§30301. Participation Requirement

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

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

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

§30303. Recipient Qualifications

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

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

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

Chapter 305. Covered Services

§30501. Adult Denture Services

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

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

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

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

§30503. Denture Replacement and Denture Reline

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

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

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

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

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

Chapter 307. Reimbursement

§30701. Fees

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

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

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

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

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Durable Medical Equipment Program Adult Dentures

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

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

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Ben A. Bearden
Director
0410#071

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

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

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

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

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

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XVII. Durable Medical Equipment

Chapter 21. Hyperalimentation Therapy (Parenteral and Enteral)

Subchapter A. Parenteral Nutrition Therapy

§2101. Description

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

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

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

§2103. Medical Necessity Criteria

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

J. Documentation Requirements

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

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

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

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

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

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

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

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

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

§2105. Exclusionary Criteria

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

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

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

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

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

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

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

§2107. Prior Authorization

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§2109. Intradialytic Parenteral Nutrition

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

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

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

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

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

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

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

§2111. Additional Documentation Requirements

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

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

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

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

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

§2113. Equipment and Supplies

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

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

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

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

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

NOTICE OF INTENT

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

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

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

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

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

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

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

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

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

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

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

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

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

Implementation of this proposed rule adopts criteria that clearly establishes requirements for the authorization of Parenteral Nutritional Therapy and Intradialytic Parenteral Nutrition (IDPN). Implementation of this proposed rule will have no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Ben A. Bearden
Director
0410#073

H. Gordon Monk
Staff Director
Legislative Fiscal Office

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

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

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

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

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XVII. Durable Medical Equipment

Subpart 1. General Provisions

Chapter 1. Standard Administrative Procedures

Subchapter A. Reserved.

Subchapter B. Prior Authorization

§105. Purchase, Rental, and Repairs

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

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

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

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

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

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

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

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

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

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

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

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

Subchapter C. Provider Participation

§125. Provider Responsibilities

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

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

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

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

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

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

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

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

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

Subchapter D. Reimbursement

§133. Reimbursement Methodology

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This rule has no known impact on competition and employment.

Ben A. Bearden
Director
0410#072

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

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

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

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

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

Title 61

REVENUE AND TAXATION

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

Chapter 44. Sales and Use Tax Exemptions

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

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

B. ...

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

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

Family Impact Statement

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

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

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

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

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

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

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

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

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

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Admissions to Entertainment Tax Exemption

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

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

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Cynthia Bridges
Secretary
0410#038

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

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

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

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

Title 61

REVENUE AND TAXATION

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

Chapter 43. Sales and Use Tax

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

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

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

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

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

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

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

Family Impact Statement

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

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

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

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

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

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

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

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

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Collector's Authority to Determine Tax

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

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

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Cynthia Bridges
Secretary
0410#022

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

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

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

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

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered

by the Secretary of Revenue

Chapter 43. Sales and Use Tax

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

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

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

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

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

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

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

Family Impact Statement

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

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

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

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

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

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

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

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

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Collector's Authority to Examine Records

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

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

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

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Cynthia Bridges
Secretary
0410#026

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Corporation Franchise Tax (LAC 61:I.309)

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

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

**Title 61
REVENUE AND TAXATION**

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

Chapter 3. Corporation Franchise Tax

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

A. - B. ...

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

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

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

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

D. - H. ...

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

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

Family Impact Statement

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

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

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

Cynthia Bridges
Secretary

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

RULE TITLE: Corporation Franchise Tax

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

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

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

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Cynthia Bridges
Secretary
0410#043

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

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

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

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

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

Title 61

REVENUE AND TAXATION

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

Chapter 43. Sales and Use Tax

§4359. Dealers Required to Keep Records

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

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

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

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

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

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

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

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

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

Family Impact Statement

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

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

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

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

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

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

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

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

Raymond E. Tangney
Senior Policy Consultant

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

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

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

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

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Cynthia Bridges
Secretary
0410#024

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

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

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

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

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

Title 61

REVENUE AND TAXATION

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

Chapter 44. Sales and Use Tax Exemptions

§4402. Exemptions from Lease or Rental Tax, Helicopters

A. - B. ...

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

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

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

Family Impact Statement

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

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

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

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

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

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

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

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

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Exemptions from Lease or Rental Tax, Helicopters

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

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

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Cynthia Bridges
Secretary
0410#031

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

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

Under the authority of R.S. 47:312, R.S. 47:337.2, R.S. 47:337.32, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4365 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 43. Sales and Use Tax

4365. Failure to Pay Tax on Imported Tangible

Personal Property; Grounds for Attachment

A. The failure to pay any tax, interest, penalties or cost when due as provided in state and local sales or use tax laws and the regulations pertaining thereto automatically causes the tax, interest, penalties or costs to become immediately delinquent. Any tangible personal property, of which the sale at retail or the use, consumption, distribution and/or storage which gave rise to the incident of tax is subject to attachment irrespective of whether the delinquent taxpayer is in possession of the property or not, and irrespective of whether he is a resident of the state of Louisiana. The failure to pay the tax when due constitutes grounds for attachment as provided by R.S. 47:312 and R.S. 47:337.32. The procedure prescribed by law for attachment proceedings is to be followed except no bond is required of the taxing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:312, R.S. 47:337.2, R.S. 47:337.32, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Failure to Pay Tax; Grounds for Attachment

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4365 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a

single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#027

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**Failure to Pay Tax; Rule to Cease Business
(LAC 61:I.4367)**

Under the authority of R.S. 47:314, R.S. 47:337.2, R.S. 47:337.33, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4367 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered

by the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4367. Failure to Pay Tax; Rule to Cease Business

A. The failure to pay any tax when due as provided in state and local sales or use tax laws and regulations pertaining thereto shall cause said tax, interest, penalty and cost to become immediately delinquent. The collector has the authority to use summary process in any court of competent jurisdiction to require the dealer owing the tax to show cause why he should not be ordered to cease from further pursuit of his business. The rule to show cause shall be set for hearing at least two but not more than 10 days, exclusive of holidays, after it is filed. It may be tried out of turn, in chambers with preference and priority over all other proceedings. There is a prima facie presumption that all tangible personal property imported or held in the taxing jurisdiction by any dealer is subject to a sales or use tax. If the rule is absolute, said dealer shall be prohibited from

further pursuit of his business until such time as the delinquent tax, interest, penalties and costs have been paid. Any violation shall be considered contempt of court and punished according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:314, R.S. 47:337.2, R.S. 47:337.33, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Failure to Pay Tax;
Rule to Cease Business**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue

regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4367 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#028

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Little Theatre Tickets Tax Exemption (LAC 61:I.4406)

Under the authority of R.S. 47:305.6, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4406 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation

applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered

by the Secretary of Revenue

Chapter 44. Sales and Use Tax Exemptions

§4406. Little Theatre Tickets

A. The exemption provided by R.S. 47:305.6 excludes from state and local sales or use tax—the sale of admission tickets by little theater organizations. This exemption has been construed to cover the sale of tickets by any nonprofit organization whose sole purpose is the presentation of stage productions by nonprofessional actors and the advancement of amateur acting. The exemption extends to all such organizations whether they are officially known by the name little theater or by some other appropriate designation.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.6, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All

comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Little Theatre Tickets Tax Exemption**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4406 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#033

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Mardi Gras Specialty Items Tax Exemption
(LAC 61:I.4416)

Under the authority of R.S. 47:305.40 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4416 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered

by the Secretary of Revenue

Chapter 44. Sales and Use Tax Exemptions

§4416. Purchases of Mardi Gras Specialty Items

A. R.S. 47:305.40 grants an exemption solely from state sales or use tax on purchases of specialty items for use in connection with Mardi Gras activities. The exemption is available to:

A.1. - D....

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.40 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Mardi Gras Specialty Items Tax Exemption**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4416 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use

tax laws and will have no effect on state or local sales tax revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#039

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Motion Picture Film Rental Tax Exemption (LAC 61:I.4409)

Under the authority of R.S. 47:305.9, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4409 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 44. Sales and Use Tax Exemptions §4409. Motion Picture Film Rental

A. R.S. 47:305.9 provides a very limited exemption to the operators of motion picture theaters wherein the amount paid by operators to distributing agencies for the use of film are specifically exempted from state and local sales or use tax. Note that film is the only item covered by the exemption. Distributing agencies and suppliers for motion picture theaters are required to collect taxes on any other

supplies or materials furnished to operators. Theaters are required to collect the tax on admissions.

B. Any distributing agent who fails to collect state or local sales or use tax because of the exemption provided in R.S. 47:305.9 must be able to identify the motion picture theater operators to whom films were furnished. Failure of the distribution agency to maintain a complete record of transactions for which no taxes were collected can result in the dealer being held responsible for the tax.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.9, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 22:854 (September 1996), Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Motion Picture Film Rental Tax Exemption

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4409 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#036

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Nonprofit Organizations Tax Exemption (LAC 61:I.4418)

Under the authority of R.S. 47:305.14, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4418 to provide for

uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered

by the Secretary of Revenue

Chapter 44. Sales and Use Tax Exemptions

4418. Nonprofit Organizations; Nature of Exemption; Limitations; Qualifications

A. - A.5. ...

6. The purchase of items to be sold at these events is not exempt from the advance state or local sales or use tax, where applicable. In order to receive a credit for the tax paid on items to be sold at one of these exempt events, the organization would register with the appropriate taxing authority as an irregular filer and then file a sales tax return taking a credit for the sales tax paid on the purchases for resale.

B. - B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.14, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Division, LR 22:854 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Nonprofit Organizations Tax Exemption

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:1.4418 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#040

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Nonresident Contractors (LAC 61:I.4373)

Under the authority of R.S. 47:9, R.S. 47:306, R.S. 47:337.2, R.S. 47:337.18, R.S. 47:337.19, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4373 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered
by the Secretary of Revenue**

Chapter 43. Sales and Use Tax

§4373. Nonresident Contractors

A. General. This Section provides the procedures that must be followed by nonresident contractors who do business in this state as required by R.S. 47:9 and R.S. 47:306(D). This Section also provides the procedures that must be followed by state and local agencies charged with the responsibility for granting permits and/or licenses for the lawful commencement of construction contracts in this state as required by R.S. 47:337.18(C). This Section also provides the necessary definitions.

B. - F.1.c. ...

2. The secretary is authorized by R.S. 47:337.19(B) to evaluate and monitor parish and municipal permitting agencies to ensure compliance with these provisions.

a. - c. ...

d. The state treasurer, within 90 days of notification, shall request a hearing on the suspected violation with the House Committee on Ways and Means. The date, time, and location of this meeting will be furnished by the state

treasurer to the permitting office, the parish collector, the governing authority of the parish, and the secretary of the Department of Revenue by registered mail. Following the hearing, the state treasurer shall take action as directed by the committee, including the withholding of state funds as authorized by R.S. 47:337.19(C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9, R.S. 47:306, R.S. 47:337.2, R.S. 47:337.18, R.S. 47:337.19, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Division, LR 21:185 (February 1995), amended by the Department of Revenue, Policy Services Division, LR:31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nonresident Contractors**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are

common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4373 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#041

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**Pesticides Used for Agricultural Purposes Tax Exemption
(LAC 61:I.4408)**

Under the authority of R.S. 47:305.8, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4408 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of

Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered
by the Secretary of Revenue**

Chapter 44. Sales and Use Tax Exemptions

§4408. Pesticides Used for Agricultural Purposes

A. General. R.S. 47:305.8 provides an exemption from state and local sales or use tax for the sale at retail of pesticides used for agricultural purposes, including particularly, but not limited to, insecticides, herbicides, and fungicides used for agricultural purposes.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.8, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:401 (April 1995), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday,

November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

NOTICE OF INTENT
Department of Revenue
Policy Services Division

Property Purchased for First Use Outside the State
Tax Exemption
(LAC 61:I.4410)

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Pesticides Used for Agricultural
Purposes Tax Exemption**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4408 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#035

H. Gordon Monk
Staff Director
Legislative Fiscal Office

Under the authority of R.S. 47:305.10, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4410 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered
by the Secretary of Revenue**

Chapter 44. Sales and Use Tax Exemptions

**4410. Property Purchased for First Use Outside the
State**

A. R.S. 47:305.10 provides an exemption from state and local sales or use tax for the purchase or importation of tangible personal property in Louisiana for first use beyond the territorial taxing jurisdiction of this state. This Section provides an exemption for purchases and importations in two categories of first use: first use in another state; and first use in the offshore area beyond the borders of Louisiana or any other state.

B. Purchases or importations of tangible personal property for first use in another state for which an exemption is claimed under the provisions of R.S. 47:305.10 may be accomplished by the use of an exemption certificate LGST 9-D, entitled "Foreign Purchasers," which is available from the Department of Revenue. The transaction must meet the following requirements before the exemption will be allowed:

1. - 3. ...
a. the purchaser obtains a written authorization from the Secretary of the Department of Revenue to make the tax-exempt purchase; or

b. ...

C. - D. ...

E. Purchases or importations of tangible personal property for use in the offshore area of Louisiana or that of any other state, for which an exemption is claimed under R.S. 47:305.10, may be accomplished by use of either one of two exemption certificates available from the Department of Revenue, LGST 9-D or LGST 9-O/S, depending on the following conditions:

1. ...

2. if the exact location of first use of the property is not known at the time of purchase, and the purchaser has been assigned an "offshore registration number" by the Secretary of Revenue, then the purchaser may claim the exemption by completing an exemption certificate LGST 9-O/S and presenting it to the vendor. All accounting records of importations and purchases made through the use of this certificate will be maintained in such a manner so as to accurately account for tax-free and tax-paid inventories until they are withdrawn for use. Physical segregation of tax-free inventory is not required. In the case of fungible goods, such as diesel fuel, where usage occurs continuously in travel in and out of the offshore area, exemption certificate LGST 9 O/S may be used to make tax-free purchases of such goods in their entirety. At the end of each reporting period, the purchaser will determine that portion of the fungible goods which was actually consumed within any taxing jurisdiction and make the necessary accrual entries to record the proper tax due;

3. ...

4. an offshore registration number will be issued only to dealers who have demonstrated to the Secretary of Revenue that the nature of their business is such that consumption of tangible personal property occurs in the offshore area beyond the territorial limits of Louisiana, or that of other states or foreign nations. It must also be shown to the satisfaction of the secretary that the records maintained by the purchaser are adequate to facilitate an examination and that they document the location of first use of all tangible personal property purchased tax-free under the provisions of this Section. In the case of fungible goods, such as diesel fuel, which are purchased tax-free, the purchaser must retain, and make available for examination, all purchase invoices, vessel logs, fuel usage records, fuel transfer records, and all other pertinent information which will determine the portion which has been consumed in and/or delivered to, offshore locations, and the portion which has been consumed in, and/or delivered to, locations within the taxing jurisdiction of any state or foreign nation. Timely returns must be filed, along with the proper remittance, to report the taxes due on all withdrawals from nontax-paid inventory for taxable uses. The following shall be taxable uses:

a. - e. ...

F. R.S. 47:305.10 makes it clear that the aforementioned records shall be maintained by the purchaser or importer, and shall be made available for examination. It also provides that the offshore registration number issued under the

provisions of this Section may be revoked by the secretary at any time, if the purchaser misuses the exemption to make tax-exempt purchases of property for first use in the state, or if he fails to maintain adequate records, or fails to report and remit any tax which becomes due under this Section. In case of such a revocation, all tangible personal property which is stored in an offshore inventory site will immediately become taxable, unless the purchaser is able to identify the exact location (area name, block number, lease number) of first use of the property. Thereafter, and until the offshore registration status is reinstated, tax-free purchases may be made only in instances when the exact location of first use is known at the time of purchase, and a certificate form LGST 9-D is presented to the vendor. The offshore registration number may be reinstated at the discretion of the Secretary of Revenue, upon being provided with sufficient proof that the conditions and requirements of this Section will be adhered to by the purchaser. The burden for supplying proof of eligibility shall rest with the purchaser/importer at all times, whether the request is for initial registration or for reinstatement of a revoked registration.

G. This Section provides an exemption from the sales and use tax on tangible personal property purchased in or imported into a taxing jurisdiction under the circumstances described. All other purchases and importations of property shall be subject to state and local sales or use tax at the time of such purchase or importation, unless otherwise exempted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.10, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:108 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Property Purchased for First Use
Outside the State Tax Exemption**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4410 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#037

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**Property Used in Interstate Commerce Tax Exemption
(LAC 61:I.4420)**

Under the authority of R.S. 47:305.50, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4420 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered
by the Secretary of Revenue**

**Chapter 44. Sales and Use Tax Exemptions
§4420. Property Used in Interstate Commerce**

A. - B. ...

1. If the documentation indicates that the property was not used during the one year period following the date of its purchase for the required 80 percent or more of its total mileage in interstate commerce, the taxpayer will not qualify for the exemption and state and local sales or use tax will be due on the amount paid for the property at the rate that was applicable on the date the property was purchased, plus interest from the date the property was purchased to the date of the tax payment. The state sales or use tax must be reported on a sales tax return provided by the Department of Revenue and paid to the Department of Revenue by the 20th day of the month following the end of the one-year period in which the taxpayer fails to qualify for the exemption. The local sales or use tax must be reported and paid to the proper local taxing authority in accordance with their ordinances and the Uniform Local Sales Tax Code.

2. If, during any of the following one-year periods, the documentation indicates that the property was not used for the required 80 percent or more of its total mileage in interstate commerce, the taxpayer will no longer qualify for the exemption. If this occurs, state and local sales or use tax will be due on the lesser of the purchase price or fair market

value of the property on the first day of the one-year period that it does not meet the 80 percent test. The tax will be calculated based on the rate in effect on the first day of the one-year period in which the taxpayer no longer qualifies for the exemption, plus interest from the date the tax is due to the date of tax payment. The state sales or use tax must be reported on a sales tax return provided by the Department of Revenue and paid to the Department of Revenue by the 20th day of the month following the end of the one-year period in which the taxpayer no longer qualifies for the exemption. The local sales or use tax must be reported and paid to the proper local taxing authority in accordance with their ordinances and the Uniform Local Sales Tax Code.

C. ...

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:305.50, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:188 (February 2003), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Property Used in Interstate Commerce Tax Exemption

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4420 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#042

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Sales Returned to Dealer; Credit or Refund of Tax
(LAC 61:I.4369)

Under the authority of R.S. 47:315, R.S. 47:337.2, R.S. 47:337.34, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4369 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4369. Sales Returned to Dealer; Credit or Refund of Tax

A. R.S. 47:315(A) and 47:337.34(A) provide special rules for the handling of taxes which have been charged to the account of a purchaser, consumer, or user in cases where the property sold has been returned to the dealer or where a refund is made of the charges for services upon which a tax was based. In either case, if the tax has been collected or charged to the account of the purchaser or consumer or user and has not yet been remitted to the collector, and a refund or credit is made to the purchaser or consumer, the dealer may delete the sale and the tax due in submitting his return for the current tax period. If the merchandise is returned to the dealer or if a refund is made to the customer for any charges for services after the tax collected or charged to the customer's account has been remitted to the collector, the dealer may file an amended sales tax return for the period in which the tax so refunded was originally remitted. The blank return form must be obtained from the appropriate taxing authority to ensure that it bears the correct taxpayer identification and account information and the proper marking of an "amended" return. The dealer must complete the amended return by reporting sales and deductions after making the proper adjustments to reflect the rescinded sale or sales. The credit balance which will result from the computation of total tax, penalty, and interest will be refunded to the dealer in the same manner as a credit return which is timely filed in accordance with §4351.

B. R.S. 47:315(B) and R.S. 47:337.34(B) provide a dealer with a method for claiming refunds for the recovery of taxes which have been remitted to the collector, but are later written off as uncollectible accounts from credit customers. Dealers submitting refund claims should be aware of the following restrictions specifically provided in or authorized by R.S. 47:315(B) and 47:337.34(B).

1. The state sales or use tax is refundable on debts incurred after January 1, 1976, that ultimately become worthless. The tax will not be refunded on worthless debts incurred prior to January 1, 1976. The local sales or use tax is refundable on debts incurred after September 3, 1989, which ultimately become worthless. The tax will not be

refunded on worthless debts incurred prior to September 3, 1989.

2. Before the collector can issue a sales tax refund on a bad debt, the debt must actually have been deducted on a federal income tax return in accordance with Section 166 of the United States Internal Revenue Code. Since the issuance of refunds is tied to charge-offs on the annual federal return, the collector will process one refund per year for each dealer.

3. ...

4. The local credit or refund shall be granted whenever the Louisiana Department of Revenue has found the dealer to be entitled to reimbursement in accordance with R.S. 47:337.34(B)(1).

5. - 6. ...

7. Dealers may recover sales tax remitted on bad debts solely through the issuance of refunds by the collector. Dealers must continue to file sales tax returns reporting their total sales of merchandise during each taxable period, regardless of whether customer obligations have been collected. Deductions for bad debt losses may not be taken on sales tax returns.

C. Refund claims submitted to the collector must be accompanied by schedules detailing the names of debtors whose obligations were charged off, the uncollectible amounts, the amount of debt written off which was incurred prior to January 1, 1976, for state sales or use tax purposes or September 3, 1989, for local sales or use tax purposes, nontaxable portion of debt written off, and tax claimed.

1. - 2. ...

3. All refund claims filed with the collector are subject to office or field examination and verification, so dealers must maintain auditable records to support their claims. The records must be able to substantiate that the sales tax was charged and remitted to the collector on the original sales and that the dealers made reasonable efforts to collect the debt amounts. Dealers must have good evidence that debts charged off are worthless and will remain so in the future. The debt must actually be charged off as worthless on a federal income tax return before a refund of state sales or use tax will be processed by the Department of Revenue. The credit or refund for local sales or use tax shall be granted whenever the Louisiana Department of Revenue has found the dealer to be entitled to reimbursement in accordance with R.S. 47:337.34(B)(1). In the absence of the required records, a dealer will not be entitled to refund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:315, R.S. 47:337.2, R.S. 47:337.34, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no

effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Sales Returned to Dealer; Credit or
Refund of Tax**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4369 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#029

H. Gordon Monk
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT
Department of Revenue
Policy Services Division**

**Sales Tax Refund for Loss by Natural Disaster
(LAC 61:I.4371)**

Under the authority of R.S. 47:315.1 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4371 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

**Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered
by the Secretary of Revenue
Chapter 43. Sales and Use Tax
§4371. Sales Tax Refund for Purchases to Replace
Tangible Personal Property Lost by Natural
Disaster**

A. Under certain circumstances, a refund of state sales or use tax is authorized for the destruction of tangible personal property destroyed in any natural disaster. The conditions and requirements are as follows:

1. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:315.1 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Sales Tax Refund for Loss by Natural Disaster

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4371 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the

administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#030

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Seeds Used in Planting Crops Tax Exemption (LAC 61:I.4404)

Under the authority of R.S. 47:305.3, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4404 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered
by the Secretary of Revenue

Chapter 44. Sales and Use Tax Exemptions

§4404. Seeds Used in Planting Crops

A. The sale at retail of seeds for use in the planting of any kind of crops is specifically exempt from state and local sales or use tax. Crops are construed to mean the planting of a sufficient quantity of seed to result in a harvest of recognizable commercial value depending upon the product being planted. It is not intended to cover the planting of a garden to produce food for the personal consumption of the planter and his family. Neither is it intended to cover seed used in the planting of growth for landscape purposes unless the planter is engaged in the business of harvesting those plants and selling them in the commercial market. As an example, seeds used in planting grasses which will be harvested and sold would constitute seeds used in the planting of crops. Seeds such as alligator grass or millet planted in ponds used for the production of crawfish would also come within this exemption because the planted crop will be consumed or harvested by the crawfish which will be sold commercially by the farm operator. To the contrary, various grass seeds used to plant ponds to provide food and promote the growth of fish contained in the pond primarily for recreational purposes would not come within this exemption. If the pond is converted to the commercial production of fish, any seeds used for the promotion or health of the commercial fish crop would come within the exemption.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47.305.3, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

RULE TITLE: Seeds Used in Planting Crops
Tax Exemption

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:14404 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#032

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Tickets to Musical Performances (LAC 61:I.4407)

Under the authority of R.S. 47:305.7, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4407 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered

by the Secretary of Revenue

Chapter 44. Sales and Use Tax Exemptions

§4407. Tickets to Musical Performances of Nonprofit

Musical Organizations

A. R.S. 47:305.7 specifically exempts the sale of admission tickets by Louisiana nonprofit corporations or organizations engaged in the presentation of musical performances, or who are known as symphony organizations, from state and local sales or use tax. The exemption covers only sales of tickets made by corporations or organizations established within Louisiana and does not apply to the sales of tickets within this state which might be made by similar organizations or companies from outside of the state. The exemption does not apply to the sales of tickets by a domestic corporation or organization if the performance will be presented by a symphony group from outside of the state.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.7, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

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2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Tickets to Musical Performances

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4407 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of

sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#034

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Termination or Transfer of a Business
(LAC 61:I.4357)

Under the authority of R.S. 47:308, R.S. 47:337.2, R.S. 47:337.21, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4357 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered
by the Secretary of Revenue**

Chapter 43. Sales and Use Tax

§4357. Termination or Transfer of a Business

A. ...

B. In order to insure that all taxes are paid by a discontinuing business, R.S. 47:308 and 47:337.21 require

that the successor, successors, or assigns, if there are any, must withhold a sufficient portion of the purchase price to cover any taxes, penalties and interest due and unpaid at the time of the purchase. These funds must be withheld by the purchaser until the former owner can produce a receipt from the collector showing that the taxes have been paid or a certificate from the collector stating that there are no taxes, interest, or penalties due. If the purchaser of the business or of the stocks of goods fails to withhold sufficient funds with which to pay any taxes, penalties, or interest found to be due, he shall be held personally liable for the payment of the amount due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:308, R.S. 47:337.2, R.S. 47:337.21, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

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3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Termination or Transfer of a Business

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4357 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#023

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**Wholesalers/Jobbers Recordkeeping
(LAC 61:I.4361)**

Under the authority of R.S. 47:310, R.S. 47:337.2, R.S. 47:337.30, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4361 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered
by the Secretary of Revenue**

Chapter 43. Sales and Use Tax

**§4361. Wholesalers and Jobbers Required to Keep
Records**

A. As provided by R.S. 47:310 and R.S. 47:337.30, wholesalers and jobbers are clearly within the definition of dealers set forth in R.S. 47:301(4) and as dealers, are required to maintain complete and accurate records pertaining to all sales of tangible personal property made within a taxing jurisdiction whether such sales are for cash or on terms of credit or whether they are taxable or exempt.

B. For a complete description of records which must be kept by all dealers, see R.S. 47:309, R.S. 47:337.29, and LAC 61:I.4359.

C. In the case of wholesalers and jobbers, R.S. 47:310(B) and R.S. 47:337.30(B) provide that whoever violates this requirement shall be fined not less than \$50 nor more than \$200 or imprisoned for not less than 10 days nor more than 30 days, or both, for the first offense. For the second or each subsequent offense, the penalties double.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:310, R.S. 47:337.2, R.S. 47:337.30, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, November 24, 2004. A public hearing will be held on Tuesday, November 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Wholesalers/Jobbers Recordkeeping

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:1.4361 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0410#025

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

CCAP Immunization and Age Verification (LAC 67:III.5103 and 5107)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, LAC 67:III.5103 and 5107 in the Child Care Assistance Program (CCAP).

Effective February 1, 2004, the agency chose to make the child care provider responsible for providing proof of immunization as required by the Office of Public Health (OPH) for each child receiving child care assistance in its care. It was the agency's opinion that this amendment would remove an eligibility criterion for child care families and eliminate the need for the agency to monitor day care providers as OPH was already doing so.

State auditor disagreed and it is their position that the providers be monitored by the Office of Family Support. The auditor's position was affirmed by the Administration for Children and Families, the governing body for all Child Care Development Fund (CCDF) programs, who ordered that the agency must monitor the child care providers and that it is currently out of compliance with federal regulations.

Therefore, in order to comply with federal regulations that all children receiving child care services be immunized and that verification of such be provided and to comply with the findings of the state audit regarding agency responsibility in monitoring immunization in Family Child Day Care Homes and to avoid severe penalties or sanctions, the agency intends to amend §5103 to make verification of immunization an eligibility requirement for the receipt of child care assistance and to amend §5107 to remove the provision that Family Child Day Care Home providers retain an immunization record.

These amendments were effected by a Declaration of Emergency signed October 1, 2004, and is being published in the October issue of the *Louisiana Register*.

The text of this proposed Rule may be viewed in the Emergency Rule section of this Register.

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The Rule will have no effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

NOTICE OF INTENT

Department of Social Services Office of Family Support

STEP/FITAP Disability Definition and Time Limits
(LAC 67:III.1221, 1247, 5321, 5705, 5715, and 5727)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Chapter 57, Strategies to Empower People (STEP) Program, Chapter 12, Family Independence Temporary Assistance Program (FITAP), and Chapter 53, Kinship Care Subsidy Program (KCSP).

Pursuant to Act 675 of the 2004 Legislative Session, the agency proposes to amend §1221 and §1247 of the Family Independence Temporary Assistance Program. Section 221 is being amended to clarify the criteria necessary to be classified as a dependent child. Section 1247 is being amended to: modify those situations which constitute an exemption from the 24-month time limit; to allow FITAP recipients to receive benefits beyond the state's 24-month time limit if they maintain compliance with the STEP Family Success Agreement; and to modify the criteria of hardships that must exist in order for cash assistance to be provided to a family that includes an adult who has received assistance for sixty months. Section 5321 of the Kinship Care Subsidy Program is being amended to align the age limit eligibility criteria in FITAP and KCSP.

Pursuant to Act 110 of the 2004 Regular Legislative Session, the agency is amending §§5705, 5715, and 5727 of the STEP Program. Section 5705 is being amended by redefining a work-eligible family and work-eligible recipient in the STEP Program to remove the requirement that a recipient be permanently disabled, and by removing temporary incapacity or illness from the definition of temporary exception. Section 5715 is being amended regarding temporary exceptions and the state's 24-month time limit. Section 5727 is being amended to clarify criteria for completion of a Family Transition Assessment.

The text of this proposed Rule may be viewed in the Emergency Rule section of this Register.

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The Rule will have no effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? The Rule will have no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? The family's earning and budget could be positively impacted by this Rule. Those participants complying with their Family Success Agreement will no longer be subject to the 24-month time limit, which will

3. What effect will this have on the functioning of the family? The Rule will have no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule will not impact family earnings or budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will not impact the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this is strictly an agency function.

Interested persons may submit written comments by November 24, 2004, to Adren O. Wilson, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana, 70804-9065. He is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on November 24, 2004, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Ann S. Williamson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **CCAP Immunization and Age Verification**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no costs associated with this rule except the cost of publishing the rule and printing policy and forms which is estimated to be approximately \$5,000.

This cost is routinely covered in the agency's annual budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The rule will result in no costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The rule will have no impact on competition and employment.

Adren O. Wilson
Assistant Secretary
0410#062

H. Gordon Monk
Staff Director
Legislative Fiscal Office

afford them the opportunity for more training that could result in better employment opportunities. Better employment opportunities could result in higher paying jobs and an increase in income. Also, those participants who meet the new disability criteria will continue to receive benefits thereby boosting their income.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will not impact the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this is strictly an agency function.

Interested persons may submit written comments by November 24, 2004, to Adren O. Wilson, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana, 70804-9065. He is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on November 24, 2004, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Ann S. Williamson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: STEP/FITAP Disability Definition and
Time Limits**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Act 110 of the 2004 Regular Session of the Louisiana Legislature redefines a work-eligible recipient and a work-eligible family by removing the word "permanent" before disability in the Strategies to Empower People (STEP) Program. This will allow more participants to be exempt from the state current Family Independence Temporary Assistance Program's (FITAP) 24-month time limit. The estimated cost of this amendment is \$518,610 per fiscal year. The definition of temporary exceptions has also been revised by removing "temporary incapacity or illness".

Act 675 of the 2004 Regular Session of the Louisiana Legislature will allow FITAP recipients to receive benefits beyond the state's twenty-four month time limit if they maintain compliance with the STEP Family Success Agreement. The estimated cost of this amendment will be \$845,520 for FY 04/05; \$2,406,501 for FY 05/06; \$3,967,428 for FY 06/07; and \$4,682,868 for FY 07/08 on. These amounts are the maximum likely costs. If some cases are closed prior to the completion of the additional three years (as is likely), the actual costs will be lower than these projections.

The cost for publishing rulemaking and printing policy and forms is estimated to be \$850. A total cost for FY 04/05 is \$1,364,980, for FY 05/06 is \$2,925,114, and for FY 06/07 is \$4,486,038.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The revenue collections of state and local governmental units will be unaffected by this rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There will be no costs to any non-governmental groups or persons as a result of this rule.

Participants who comply with the STEP Family Success Agreement will no longer be subject to the 24-month time limit and will be afforded the opportunity for more training that could result in better employment opportunities. Better employment opportunities could result in higher paying jobs and an increase in income. Also, those participants who meet the new disability criteria will continue to receive benefits beyond the state's 24-month time limit.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed rule should permit increased training opportunities for STEP participants. It is anticipated that a possible result of the change would be the ability of these participants to attain higher paying jobs and to retain those jobs more successfully. This rule change has the potential to increase the pool of skilled workers in the state.

Adren O. Wilson
Assistant Secretary
0410#063

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of the Secretary
Bureau of Licensing**

Agency Profile (LAC 48:I.8001)

The Department of Social Services, Office of the Secretary, Bureau of Licensing proposes to amend the Louisiana Administrative Code, Title 48, Part I, Subpart 3, Licensing and Certification. This Rule is to outline general administrative procedures used by this office.

Title 48

PUBLIC HEALTH GENERAL

Part 1. General Administration

Subpart 3. Licensing and Certification

Chapter 80. General Administration

§8001. Agency Profile

A. Mission. To develop licensing regulations for and to carry out licensing of all child care and social care programs legislatively mandated to be licensed by DSS.

B. Program Administration. The Bureau of Licensing, hereafter referred to as Licensing, is mandated by law to license 16 social care programs, including:

1. Child Day Care Class A;
2. Child Day Care Class B;
3. Adult Day Care;
4. Adult Residential;
5. Child Residential Class A;
6. Child Residential Class B;
7. Adoption;
8. Foster Care;
9. Emergency Shelter;
10. Family Support;
11. Early Infant Intervention;
12. Maternity Homes;

13. Personal Care Attendant Services;
14. Respite Care Services;
15. Supervised Independent Living;
16. Transitional Living.

C. Types of Licenses

1. A license is defined as a permit by the department to a child care or other social service agency, authorizing the licensee to provide care in accordance with the provisions of the license, the law, and the regulations of the Department of Social Services. Issuance of a license is not an endorsement of child care methods or a provider's operational philosophy.

2. When a provider is in substantial compliance with the minimum standards, a full license will be issued. This license may be in effect for one or more years. At initial application, a provider must meet all minimum standards for the program for which he/she is applying before a license is issued.

3. When a provider has maintained a record of substantial compliance, a multi-year license may be issued. Providers receiving a multi-year license will still be required to submit an annual application and fee as required by statute and the regulations. A compliance visit will be made in lieu of the full annual survey at the time of the provider's anniversary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq., 40:2141 et seq., 46:1971 et seq., 28:380 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 31:

Family Impact Statement

In accordance with Section 972 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted the Family Impact Statement regarding the Rule proposed for adoption, repeal or amendment.

1. What effect will this Rule have on the stability of the family? There will be no effect on the stability on the family because of this Rule.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? There will be no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule is not anticipated to have any effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no effect on family earnings and family budget.

5. What effect will this have on the behavior and personal responsibility of children? There will be no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? The family or local government cannot perform the function of this Rule.

Interested persons may submit written comments within the next 20 days to Thalia Stevenson, Director Bureau of Licensing, P.O. Box 3078, Baton Rouge, LA 70821-3078.

Public hearings on this proposed Rule will be held on Friday, November 19, 2004, at the A.Z. Young Building, 755 Third Street, Second Floor, Auditorium A, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing at the

public hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TSS).

Ann S. Williamson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Agency Profile**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be a minimal cost for printing the new regulations (approximately \$136.00 for one page). There are no other implementation costs to state or local governmental units associated with this proposed rule which only clarifies administrative procedures used by this office.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections as this rule only clarifies administrative procedures used in this office.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no cost or economic benefit to any affected persons or non-governmental group as this rule only clarifies administrative procedures used in this office.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no impact anticipated on competition or employment as this rule only clarifies administrative procedures used in this office.

Thalia Stevenson
Director
0410#061

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of Highways/Engineering**

Traffic Impact Rule for New Developments
(LAC 70:I.Chapter 11)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and Development intends to promulgate a Rule entitled "Traffic Impact Rule for New Developments Affecting Traffic on State Highways," in accordance with R.S. 32:2 and R.S. 48:344, et seq.

**Title 70
TRANSPORTATION**

Part I. Highway Construction

Chapter 11. Traffic Impact Rule for New Developments Affecting Traffic on State Highways

§1101. Traffic Impact

A. Purpose

1. The Department of Transportation and Development (DOTD) has a responsibility to design, operate and maintain highway facilities that are reasonably safe and

efficient for prudent drivers using the highway system. At the same time DOTD must allow all property owners reasonable access to the highway system.

2. In an effort to balance these often conflicting needs, this rule was developed to ensure that new or expansion of existing developments generating significant traffic on state highways are evaluated in a consistent manner by using objective data to facilitate decision-making.

B. Applicability

1. This rule applies to new or expanding developments, typically generating 100 hourly trips in the peak direction or 750 average daily trips on state highways.

2. This rule also applies to developments on local public or private streets, within 0.25 mile of a state highway, adversely affecting traffic on the state system.

3. These developments include but are not limited to:

- a. new businesses;
- b. new subdivisions;
- c. new apartment complexes;
- d. additions to existing subdivisions;
- e. additions to existing apartment complexes;
- f. new streets and/or traffic control devices ;
- g. new schools;
- h. minor developments in traffic networks that are already congested;
- i. hospitals; and
- j. large commercial or industrial complexes.

4. Additional requirements (such as analysis of nearby major intersections as determined by DOTD) may be necessary for large commercial centers and regional shopping malls.

5. This rule, in certain situations, may apply to new, smaller developments located on severely congested highway corridors, as determined by the district traffic operations engineer.

C. This rule does not apply to the following:

1. access to interstate and other controlled-access facilities;
2. individuals requesting single-family residential access;
3. access to local public and private streets for developments which are greater than 0.25 miles from the state system; and
4. minor developments generating less than 100 hourly trips in the peak direction or 750 average daily trips.

D. Pre-Application Procedure

1. Prior to any permit requests, land developers shall meet with the DOTD district traffic operations engineer and the district permit specialist for a pre-application meeting during preliminary site planning for the development. The purpose of this meeting is to discuss the proposed development and determine if a traffic impact study is warranted.

2. The developer shall be notified within seven days after the pre-application meeting whether or not a traffic impact study is required. The decision will be based on the preliminary site plan layout and anticipated additional traffic.

3. DOTD will coordinate with the appropriate municipal authorities for developments not abutting the state highway system but which will adversely affect traffic on

the state system. In this case, the developer may be required to mitigate traffic on the state system as well as the local roadway system.

E. Traffic Impact Study

1. When a traffic impact study is required by DOTD, it shall be prepared before submitting an application for access. The study will include all information as outlined in the DOTD traffic impact policy, a detailed guidance document which includes forms, roadway classification, traffic volume criteria and mitigation strategies. This document may be obtained from DOTD headquarters in the office of the traffic impacts engineer. the purpose of the traffic impact study is to:

- a. determine existing traffic conditions on the network surrounding the proposed development;
- b. estimate the traffic likely to be generated by the proposed development;
- c. assess the impact of additional traffic on the existing and future road network system at full build out and the anticipated construction phasing; and
- d. identify effective roadway improvements and/or changes in the site plan of the proposed development that will minimize impact to the state highway system.

F. Responsibilities of the Developer

1. The developer is responsible for mitigating traffic caused by the development.

2. All road improvements constructed by the developer shall comply with the latest DOTD standards and specifications.

G. Letter of Compliance

1. No permit applications will be accepted until DOTD provides the developer with a letter of compliance. The letter shall be attached to any permit application.

2. The letter of compliance shall indicate the approval of the traffic impact study and the traffic mitigation required.

H. Traffic Mitigation

1. "Traffic Mitigation" is a roadway improvement or improvements designed to minimize congestion and improve the safety of the highway system.

2. The required mitigation shall be constructed prior to completion of the new development.

3. Roadway improvements constructed by developers shall have a warranty period of 5 years.

4. In some instances, the developer shall be required to permanently maintain traffic signals.

5. Types of mitigation include but are not limited to:

- a. turn lanes;
- b. traffic signal upgrade;
- c. traffic control devices;
- d. signal phasing/timing/interconnect;
- e. raised medians;
- f. roadway widening;
- g. restricted turning movements;
- h. right-of-way donation; and
- i. roadway resurfacing.

I. Approval Process

1. The Office of the DOTD district traffic operations engineer and the DOTD Headquarters (HQ) traffic impacts engineer, if requested for a joint review, will review the traffic impact study. The department shall take one of the following actions:

a. Approve the traffic impact study submitted by the developer and recommend mitigation to minimize traffic impacts. The DOTD HQ traffic impact engineer will provide the developer with a letter of compliance to indicate approved traffic impact study and mitigation. The developer may apply for access, driveway, project, or traffic signal permits.

b. Recommend alternative mitigation procedures to minimize traffic impacts.

c. Deny the traffic impact study and/or the recommended mitigation. If it is denied, no further reviews will be made. The developer may request a new review based on revisions to the traffic impact study and recommended mitigation for the proposed development, or the developer may appeal the decision.

J. Appeal Process

1. Following are provisions for a traffic impact review process for developers disagreeing with the DOTD decision on traffic mitigation.

2. The traffic impact review committee shall be composed of representatives of the following divisions within the DOTD when the HQ traffic impacts engineer is involved with a joint review with the district traffic operations engineer:

a. maintenance division (access management engineer or his designee);

b. legal division;

c. traffic engineering development administrator or director or his designee;

d. district traffic operations engineer or his designee (office of particular district in which the development is located) (nonvoting);

e. headquarters traffic impacts engineer or his designee (non-voting).

3. The traffic impact review committee shall be composed of representatives of the following divisions within the DOTD when the HQ traffic impacts engineer is not involved with a joint review with the district traffic operations engineer:

a. maintenance division;

b. legal division;

c. headquarters traffic impacts engineer;

d. traffic engineering development administrator;

e. traffic engineering division administrator;

f. district traffic operations engineer (office of particular district in which the development is located) (nonvoting).

4. The traffic impact review committee, pursuant to a majority vote, may arbitrate and resolve disputes which arise during the review process and grant or deny relief to appealing parties.

5. The appealing party must bring his/her complaint before the traffic impact review committee no later than 30 days after notification of the decision of DOTD.

6. Upon receipt of the appeal and all pertinent information, the traffic impact review committee will schedule a meeting to review the appeal. The meeting will be scheduled not earlier than 14 days and not more than 30 days after receipt of the appeal. The traffic impact review

committee shall give due notice of the meeting time and place to those filing the appeal and shall render a decision of its action within 14 days of its meeting. The maintenance division shall also be notified of the pending requirements for permit purposes.

7. The party appealing the decision shall submit the written reason for the appeal along with the appropriate exhibits to the Department of Transportation and Development, Traffic Engineering Development Section, 1201 Capitol Access Road, Baton Rouge, Louisiana 70804-9245.

8. The submittal will be checked by the department within seven days of its receipt. If the information deemed necessary for a proper review is not complete, the appealing party will be notified and the appeal will then be postponed at least one month.

9. The party submitting the appeal may appear before the traffic impact review committee to offer a brief explanation of his/her complaint.

10. Failure to submit an appeal in a timely manner shall constitute a denial of the traffic impact appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2, and R.S. 48:344 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:

Family Impact Statement

The proposed adoption of this rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed rule will have no known or foreseeable effect on the stability of the family.

2. The implementation of this proposed rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The implementation of this proposed rule will have no known or foreseeable effect on the functioning of the family.

4. The implementation of this proposed rule will have no known or foreseeable effect on family earnings and family budget.

5. The implementation of this proposed rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The implementation of this proposed rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of this Notice of Intent to Sherryl J. Tucker, Senior Attorney, Department of Transportation and Development, P. O. Box 94245, Baton Rouge, LA 70804-9245, Telephone (225)237-1359.

Johnny B. Bradberry
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Traffic Impact Policy
for New Access Requests**

NOTICE OF INTENT

**Department of Treasury
Board of Trustees of the Louisiana
State Employees' Retirement System**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no implementation costs to state or local governmental units as a result of this rule. Although Departmental employees will possibly have to process more cumbersome applications for access permits, the existing DOTD work force will be utilized at no additional cost to the Department. Although this is a new program for DOTD, several local governmental units have had similar programs for some time. This particular rule only applies to DOTD. As a general, long term benefit, the state highways should be made safer and easier to maintain as a result of this rule and the limits it places on access to state highways by businesses which generate high volume traffic counts. There should also be a small savings for DOTD as a result of instances in which a developer is required to acquire right-of-way outside of existing right-of-way in order to make improvements and typically donates said right-of-way to DOTD. Such donations eliminate the need to acquire right-of-way for future capacity improvements. The value of such donations would vary widely depending upon the nature of the area of the acquisition, i.e. urban or rural, etc. The Department should also realize some benefit because some turning lanes and signals which are now installed and maintained by the Department would be installed and maintained at the expense of developers.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no effect on revenue collections of state or local governmental units. Any permits issued pursuant to this rule-making are issued by DOTD at no charge.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This rule applies to developers of businesses on or within .25 miles of a state highway which generate such substantial traffic flows that access to the state highways must be mitigated by one or more of the methods prescribed in the rule and based on a traffic impact study. The rule also applies to smaller developers which locate on already congested highway corridors. Costs to these groups include (1) the cost of a typical traffic impact study which is \$1,500 to \$4,000 for small developments and \$10,000 to \$15,000 for large developments (Most developers already fund such studies); (2) the cost of a typical roadway improvement consisting of a short left turn lane which is \$200,000; and (3) the cost of a typical traffic signal which is \$80,000 to \$150,000 (depending upon intersection configuration), with negligible maintenance costs. Costs for restricting turning movements are usually part of the initial site development and are negligible.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

All businesses affected by this rule-making will be affected equitably. No development will have an economic advantage over any competitor as a result of this rule. Any such advantage would be created by factors outside the control of the Department.

J. Michael Bridges
Undersecretary
0410#055

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Emergency Refunds (LAC 58:I.1301)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System (LASERS) proposes to amend LAC 58.I.1301. This amendment is needed to allow LASERS to more efficiently administer refunds of accumulated employee contributions.

The text of this proposed Rule may be viewed in the Emergency Rule section of this Register.

Family Impact Statement

The proposed amendment of LAC 58.I.1301 concerns emergency refunds of accumulated contributions. This regulation should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rules.

No preamble for this Rule is necessary. Interested persons may submit written comments on the proposed changes until 4:30 p.m., November 10, 2004, to Steve Stark, Board of Trustees for the Louisiana State Employees' Retirement, P.O. Box 44213, Baton Rouge, LA 70804.

Robert L. Borden
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Emergency Funds**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No implementation costs to state or local governmental units are anticipated to result from the implementation of these rules. The rule deals with refunds of accumulated employee contributions. The enactment of the rule will limit LASERS members to a single instance of emergency refund, which is a refund granted without the usual 30-day delay from the date of termination. There should be a reduction in the administration workload, but it is not possible currently to estimate what the savings will be.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

No effect on revenue collections to state or local governmental units is expected to result from the implementation of these rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

LASERS members who have terminated employment with the State of Louisiana and who subsequently seek a refund of their accumulated employee contributions prior to the end of the 30 day waiting period set out in R.S. 11:403(22) will be directly affected by the proposed rule change. The cost to these persons will be the end of exemption from that waiting period.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is expected to result from the implementation of these rules.

Robert L. Borden
Executive Director
0410#057

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Mental Health Rehabilitation Program Sanctions

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule revising the provisions governing the grounds and levels of sanctions and the notice and appeal procedures for Mental Health Rehabilitation (MHR) providers (*Louisiana Register*, Volume 30, Number 1). The bureau now proposes to amend the January 20, 2004 Rule to allow sanctioned MHR providers to admit new clients during the appeals process, except in cases involving program integrity issues where safety and health, fraud or abuse are at issue.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the January 20, 2004 Rule to revise provisions governing sanctions for Mental Health Rehabilitation (MHR) providers.

I. ...

II. Provider Participation

A. - G.1.s ...

H. Sanctions

1. The following sanctions may be applied to any MHR agency, independently, consecutively and/or collectively. These sanctions may be imposed in addition to those sanctions cited in the Surveillance and Utilization

Systems (SURS) rule, LAC 50:I.Chapter 41 (*Louisiana Register*, Volume 29, Number 4).

a. - f. ...

g. Sanctioned MHR providers shall be allowed to admit new clients during the appeals process, except in cases involving program integrity issues where safety and health, fraud or abuse are at issue.

H.1.h. - IX. ...

Interested persons may submit written comments to: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Monday, November 29, 2004 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Mental Health Rehabilitation
Program Sanctions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that there will be no programmatic costs to the state as a result of implementation of this proposed rule. It is anticipated that \$136 (\$68 SGF and \$68 FED) will be expended in FY 04-05 for the state administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic effect on federal revenue collections. \$68 is included in FY 04-05 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule allows sanctioned Mental Health Rehabilitation (MHR) providers (approximately 130 providers, the number of sanctions will vary depending on program compliance) to admit new clients during the appeals process, except in cases involving program integrity issues where fraud or abuse are at issue. Implementation of this proposed rule will have no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Ben A. Bearden
Director
0410#074

H. Gordon Monk
Staff Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: JANUARY – SEPTEMBER 2004

LAC Title	Part.Section	Effect	Location LR 30 Month Page	LAC Title	Part.Section	Effect	Location LR 30 Month Page
4	VII.1301-1305	Amended	Aug. 1695	28	IV.504	Adopted	Sept. 2015
7	XI.115	Amended	Feb. 195		IV.703,705,803,805,903,907,1103	Amended	Sept. 2015
	XIII.109,145	Amended	Feb. 198		IV.705,805	Amended	Apr. 781
	XIII.207	Repromulgated	June 1142		IV.803,805	Amended	June 1159
	XV.321	Amended	June 1141		IV.911,1111,2105	Amended	Apr. 780
	XXVII.121	Amended	Feb. 198		IV.911,1111,2105	Amended	June 1159
	XXI.333,335,337	Adopted	June 1141		IV.Chapter 15	Adopted	Apr. 782
	XXI.2311	Amended	July 1445		IV.1701,1703,1705,1903	Amended	June 1168
	XXIII.131	Amended	Feb. 197		IV.1701, 1901, 1903, 2103	Adopted	Apr. 782
	XXV.101,119	Amended	June 1143		IV.2103,2105	Amended	June 1159
	XXV.117,119	Amended	Feb. 196		V.109	Amended	Apr. 785
	XXV.141	Amended	June 1143		VI.107	Amended	Apr. 786
	XXV.141	Repromulgated	Aug. 1614		VI.Chapter 3	Amended	Apr. 786
	XXVII.128	Amended	Feb. 197		VI.315	Amended	July 1472
	XXXIII.101	Amended	Feb. 196		XXI.Chapters 1-5	Amended	Aug. 1653
	XXXV.125	Amended	June 1142		XXI.313	Repealed	Aug. 1653
	XXXIX.301	Amended	Feb. 200		XXXIII.517	Amended	Apr. 780
	XXXIX.501	Amended	Feb. 195		XXXVII.511,701,901,1901,1903	Amended	Aug. 1655
10	XV.303-313,317	Amended	Jan. 33		XXXVII.2101-2105,2303,2305	Amended	Aug. 1655
	XV.319	Adopted	Jan. 33		XXXVII.2501,2901	Amended	Aug. 1655
	XV.320	Amended	Jan. 33		XXXIX.503,505,905,911,1301	Amended	Mar. 407
	XV.331	Adopted	Aug. 1616		XXXIX.1501	Adopted	Mar. 407
13	I.Chapter 27	Adopted	May 978		XLIII.373,517,519,904	Amended	Apr. 778
	I.Chapter 29	Adopted	May 977		XLIII.449	Repealed	Apr. 778
19	II.Chapters 1-13	Amended	Apr. 753		XLV.901	Amended	Aug. 1622
22	I.101	Amended	Jan. 75		XLV.1123,1125,1127,1131,1301	Repealed	Aug. 1622
	I.101	Repromulgated	Feb. 264		LI.Chapters 1-9	Adopted	Feb. 209
	I.102	Adopted	Jan. 77		LVII.Chapters 1-9	Adopted	Sept. 1997
	I.312	Adopted	Jan. 80		LXXVII.Chapters 1-9	Adopted	May 985
	III.4717	Adopted	Apr. 791		LXXXIII.303, 311	Amended	Apr. 763
	III.4725	Adopted	Mar. 435		LXXXIII.514	Adopted	July 1445
28	I.901	Amended	Mar. 394		LXXXIII.514	Adopted	Aug. 1619
	I.901	Amended	Mar. 394		LXXXIII.514	Repromulgated	Sept. 1996
	I.901	Amended	Mar. 395		LXXXIII.521,1301	Amended	July 1445
	I.901	Amended	Apr. 773		LXXXIII.703,1505,1701	Amended	Aug. 1619
	I.901	Amended	Apr. 774		LXXXIII.703,1505,1701	Repromulgated	Sept. 1996
	I.901	Amended	June 1146		LXXXIII.1701, 2701, 2702, 2703	Amended	Apr. 763
	I.901	Amended	June 1148		LXXXIII.2713-2719,3905	Adopted	Apr. 763
	I.901	Amended	June 1148		LXXXIII.3101, 3109	Amended	Aug. 1619
	I.901	Amended	June 1149		LXXXIII.3101, 3109	Repromulgated	Sept. 1996
	I.901	Amended	July 1457		LXXXIII.Chapter 40	Adopted	Apr. 763
	I.901	Amended	Aug. 1620		LXXXIII.Chapter 43	Amended	July 1445
	I.901	Amended	Aug. 1621		LXXXV.Chapters 1-7	Adopted	Apr. 768
	I.903	Amended	Feb. 200		XCI.Chapters 1-5	Adopted	Mar. 414
	I.903	Amended	Feb. 206		XCV.Chapters 1-17	Adopted	July 1449
	I.903	Amended	Mar. 396		XCVII.Chapters 1-7	Adopted	July 1462
	I.903	Amended	Mar. 400		CI.Chapters 1-7	Adopted	Aug. 1623
	I.903	Amended	Mar. 401				
	I.903	Amended	Mar. 404				
	I.903	Amended	Apr. 774				
	I.903	Amended	Apr. 775				
	I.903	Amended	May 981				
	I.903	Amended	June 1150				
	I.903	Amended	June 1154				
	I.903	Amended	July 1458				
	I.903	Amended	July 1460				
	I.903	Amended	July 1460				
	I.903	Amended	July 1461				
	I.903	Amended	Aug. 1621				
	IV.107	Amended	June 1168				
	IV.301,507,509,701,703,705	Amended	June 1159				
	IV.301,501,503,505,506,507	Amended	Sept. 2015				
	IV.305,309	Amended	June 1168				
	IV.503,507,703	Amended	July 1471				
				32	III.103,301,701	Amended	June 1191
					V.103,301,701	Amended	June 1189
					IX.103,301	Amended	June 1191
					IX.701	Amended	Mar. 435
				33	I.501-507,509	Amended	Apr. 742
					I.508	Repealed	Apr. 742
					I.511	Adopted	Apr. 742
					I.705	Amended	Mar. 421
					I.1307,2305	Amended	Sept. 2020
					I.3903,3915,3917,3919,3923	Amended	Aug. 1667
					I.3925,3931,6919,6923	Amended	Aug. 1667
					I.3931	Amended	Apr. 750
					III.223	Amended	July 1475
					III.504	Amended	Apr. 752
					III.507	Amended	May 1008
					III.517,519,527	Amended	Sept. 2020
					III.1105,1513,2103,2115,2303	Amended	Aug. 1667
					III.1432,2160,3003	Amended	May 1008
					III.2104,2108,2115,2123,2125	Amended	Apr. 744
					III.2121,2122	Amended	Aug. 1659
					III.2122	Repromulgated	Sept. 2030

LAC Title	Part.Section	Effect	Location LR 30 Month Page	LAC Title	Part.Section	Effect	Location LR 30 Month Page
33	III.2143,2147,2149,2151,2153	Amended	Apr. 744	46	V.4501	Amended	May 1018
	III.2201	Amended	Apr. 748		XXXV.103,105,301,503,701,707	Amended	Apr. 792
	III.2201	Amended	June 1169		XXXV.905,909,1301,1303,1305	Amended	Apr. 792
	III.2202	Adopted	June 1169		XXXV.1307,1309,1313,1503	Amended	Apr. 792
	III.2307,2719,5107,5151	Amended	Aug. 1667		XL.Chapters 1-7	Amended	Aug. 1686
	III.2723,2799,2803,5151	Amended	Sept. 2020		XL.120	Adopted	Aug. 1686
	III.5116,5122,5311,5901	Amended	May 1008		XL.323	Repealed	Aug. 1686
	V.105,2223,2299,4139	Amended	Aug. 1680		XLIII.Chapters 1-11	Amended	May 1010
	V.303	Amended	Sept. 2020		XLIII.306,902,1108,1109	Adopted	May 1010
	V.1109,1913,2271,2805,2909	Amended	Aug. 1667		XLV.125,127,131	Amended	Jan. 45
	V.3099	Amended	Apr. 750		XLV.125,127,131	Repromulgated	Feb. 238
	V.3719	Amended	Sept. 2020		XLV.139,141	Amended	Jan. 45
	V.4101,4107,4211,4241,5309	Amended	Aug. 1667		XLV.139,141,143	Repromulgated	Feb. 239
	V.10303	Amended	Mar. 447		XLV.143	Adopted	Jan. 45
	V.30112,30161,30204,30905	Repromulgated	Feb. 257		XLV.149,153	Amended	Feb. 237
	V.30452,30905	Amended	June 1216		XLV.159,161,163,165	Amended	Jan. 42
	VI.201	Amended	Aug. 1667		XLV.159,161,163,165	Repromulgated	Feb. 234
	VI.911	Amended	Sept. 2020		XLV.173,175	Amended	Jan. 44
	VII.315,711,713,715	Amended	Aug. 1667		XLV.173,175	Repromulgated	Feb. 237
	VII.503,701,711,713,715,717	Amended	Sept. 2020		XLV.185,187	Amended	Jan. 41
	VII.513,517	Amended	Sept. 2032		XLV.185,187	Repromulgated	Feb. 234
	VII.721,723,725,727	Amended	Sept. 2020		XLV.193,195	Amended	Jan. 46
	VII.1109,3001,11101	Amended	Sept. 2020		XLV.193,195, 197	Repromulgated	Feb. 239
	VII.10513	Amended	Sept. 2032		XLV.197	Adopted	Jan. 46
	IX.Chapters 1-71	Repromulgated	Feb. 229		XLV.203,205	Amended	Jan. 43
	IX.107	Amended	July 1473		XLV.203,205	Repromulgated	Feb. 236
	IX.503,2701	Amended	Aug. 1667		XLV.221,223,225	Adopted	Jan. 43
	IX.1105,1111,1113,1123	Amended	July 1473		XLV.221,223,225	Repromulgated	Feb. 235
	IX.1507,2501	Amended	Sept. 2020		XLV.1509,1517	Amended	Feb. 237
	IX.2301,4901,4903	Amended	Apr. 750		XLV.1903,1907,1917-1927,1931	Amended	Mar. 421
	IX.6703,7129,7135	Amended	Sept. 2020		XLV.1913,1947	Amended	Jan. 44
	XI.707,713,715	Amended	Aug. 1667		XLV.1913,1947	Repromulgated	Feb. 237
	XV.102,104,492	Amended	June 1171		XLV.1933,1947-1951,1955,1975	Amended	Mar. 421
XV.102,110,326,410,503,541	Amended	June 1187	XLV.2313,2345	Amended	Jan. 43		
XV.322,328,442,544	Amended	Aug. 1662	XLV.2313,2345	Repromulgated	Feb. 236		
XV.341,485,486,487,492,712	Amended	Aug. 1667	XLV.3107,3129,3157	Amended	Jan. 42		
XV.486,575	Amended	Sept. 2020	XLV.3107,3129,3157	Repromulgated	Feb. 234		
XV.Chapter 7	Amended	June 1171	XLV.3713,3743	Amended	Jan. 43		
XV.1410	Amended	June 1187	XLV.3713,3743	Repromulgated	Feb. 235		
XV.1516	Amended	Sept. 2020	XLV.4903	Amended	Mar. 421		
XV.1517	Amended	Apr. 750	XLV.4923	Repealed	Mar. 421		
XV.2004,2014	Amended	Aug. 1662	XLV.6503	Amended	June 1193		
XV.2051	Amended	Aug. 1667	XLV.Chapter 73	Adopted	Mar. 424		
35	I.1797	Amended	May 1017	XLVII.301,303,306	Amended	July 1478	
	XI.9905	Adopted	July 1476	XLVII.1105,1305	Amended	July 1478	
	XI.9913	Amended	July 1476	LV.103	Amended	Sept. 2068	
37	III.505,511,515,715	Amended	May 1017	LV.Chapter 10	Adopted	Sept. 2068	
				LVII.109	Amended	June 1303	
40	I.6664	Adopted	Sept. 2067	LXI.Chapter 1	Amended	Aug. 1704	
	VII.Chapters 1-5	Amended	Sept. 2059	LXI.Chapters 7-33	Amended	Aug. 1704	
	VII.537-541	Adopted	Sept. 2059	LXI.1903,1905, 1907,1909,1911	Repealed	Aug. 1704	
42	III.110	Amended	Aug. 1703	LXVII.3601	Adopted	June 1192	
	VII.2953	Amended	Jan. 90	LXVII.3801	Adopted	July 1477	
	IX.2922	Amended	Jan. 90	LXVII.3905	Amended	Jan. 41	
	XI.Chapter 24	Amended	Feb. 266	LXX.Chapter 63	Adopted	Jan. 38	
	XI.Chapter 24	Repromulgated	Mar. 439	LXX.9105	Amended	Aug. 1695	
	XIII.2953	Amended	Jan. 90	LXXXV.501,705	Amended	Apr. 796	
43	VI.Chapters 1-5	Amended	June 1212	LXXXVI.703	Amended	Apr. 798	
	VI.507	Adopted	June 1212	LXXXVI.901	Amended	Apr. 799	
	VI.Chapter 7	Adopted	June 1212	LXXXVI.1800-1801	Adopted	Apr. 798	
	XIII.Chapters 1-65	Amended	June 1217	XCI.303,509	Amended	July 1481	
	XIII.323,325,501,503,505,5109	Adopted	June 1217				
	XIII.Chapter 33	Adopted	June 1217				
	XIX.303	Amended	Feb. 254				
	XIX.3101,3103,3105	Amended	Feb. 255				
	XIX.3101,3103,3105	Repromulgated	Mar. 437				
46	I.317	Amended	July 1476	48	I.Chapter 16	Adopted	Jan. 46
	V.2901	Repromulgated	Apr. 792		I.1607	Repromulgated	Feb. 240
	V.2901	Repromulgated	July 1477		I.Chapter 62	Adopted	Jan. 92
	V.2901,2905	Amended	Mar. 436		I.Chapter 84	Amended	Mar. 432
	V.3606,3607	Adopted	May 1018		I.8821	Amended	Jan. 92
	V.4401,4403	Amended	Mar. 436		I.Chapter 90	Adopted	Jan. 54
					I.12501	Amended	May 1023
					I.12503	Amended	July 1483
					V.Chapters 161 and 163	Adopted	May 1019
46	I.303	Adopted	Aug. 1698	50	I.Chapter 81	Adopted	Apr. 801
	I.Chapter 81	Adopted	Apr. 801		II.10333,10349	Amended	Aug. 1700
	II.10333,10349	Amended	Aug. 1700		II.10365	Adopted	Aug. 1700
	II.10365	Adopted	Aug. 1700		II.10939	Amended	Feb. 242
	II.10939	Amended	Feb. 242				

LAC Title	Part.Section	Effect	Location LR 30 Month Page	LAC Title	Part.Section	Effect	Location LR 30 Month Page	
50	III.501	Adopted	July 1483	61	I.301-308,311-313	Repromulgated	Mar. 448	
	III.503	Adopted	May 1025		I.309	Amended	Mar. 448	
	III.939	Adopted	Aug. 1702		I.317	Repealed	Mar. 448	
	V.30527	Adopted	May 1034		I.320	Adopted	Apr. 804	
	VII.1306	Adopted	Apr. 803		I.1115,1122,1123,1128,1130,1134	Repromulgated	Mar. 470	
	VII.1309	Amended	Jan. 53		I.1137,1140,1147,1148,1168,1189	Repromulgated	Mar. 470	
	XI.Chapters 1,3,7,35,51,69	Adopted	May 1021		I.1351	Adopted	May 1045	
	XI.303	Adopted	May 1034		I.1520	Adopted	Jan. 90	
	XV.705	Adopted	Apr. 802		I.4301	Amended	June 1305	
	XV.3103, 3301	Amended	May 1024		I.4313	Repealed	May 1045	
	XV.6701	Adopted	Aug. 1697	I.4403	Amended	May 1044		
	XV.6705	Amended	Apr. 800	I.5302	Amended	May 1044		
	XV.6903	Amended	Feb. 252	V.303,309,703,907,1103,1503	Amended	Mar. 487		
	XV.7101-7103	Adopted	May 1034	V.2503,2703,2705,2707,2711	Amended	Mar. 487		
	XV.7305,7307,7311	Amended	Feb. 252	V.2713,2717,3101,3105,3501	Amended	Mar. 487		
	XV.7501	Adopted	Feb. 252	67	III.1209,1213,1221,1231	Amended	Mar. 493	
	XV.7501	Repromulgated	Mar. 429		III.1237-1249,1983,1987	Amended	Mar. 493	
	XV.Chapter 81	Adopted	Apr. 800		III.1257	Amended	July 1486	
	XV.8501	Amended	June 1210		III.1932,1995	Amended	Mar. 493	
	XV.Chapters 101-119	Adopted	May 1035		III.1998	Amended	July 1486	
	XV.11501-11505	Repealed	Sept. 2059		III.5102,5107,5109	Amended	July 1484	
	XV.16101-16107	Adopted	Mar. 434		III.5103,5104,5107,5347	Amended	July 1486	
	XVII.Chapters 3-31	Adopted	May 1026		III.5103-5107,5111,5321	Amended	Mar. 493	
	XVII.503	Repealed	May 1022		III.5109	Amended	Sept. 2078	
	XVII.1915-1919	Adopted	Aug. 1697		III.5335	Repealed	Mar. 493	
	XVII.3111-3123	Adopted	July 1481	III.5339,5341	Amended	Mar. 493		
XIX.Chapters 1-5	Adopted	Mar. 430	III.5401-5407,5529	Repealed	Mar. 500			
XIX.703	Adopted	May 1034	III.5505-5509,5525,5539	Amended	Mar. 500			
XIX.4319,4335	Adopted	May 1025	III.5575,5577	Adopted	Mar. 500			
XXI.Chapters 21-39	Repromulgated	Sept. 2034	III.5701-5729	Adopted	Mar. 493			
XXI.Chapters 81-89	Repromulgated	Aug. 1698	V.1505	Amended	Aug. 1703			
XXI.Chapters 137-141	Adopted	June 1201	VII.115,119	Amended	July 1487			
XXIII.Chapters 1-13	Adopted	Feb. 244	70	I.Chapter 9	Adopted	Apr. 805		
51	XII.101,311,367,1103,1111,1115	Amended		June 1193	I.Chapter 9	Adopted	July 1488	
	XII.1110, 1112	Adopted		June 1193	II.1509,1513	Amended	Feb. 272	
	XII.Chapters 13-15	Adopted	June 1193	71	III.701	Amended	July 1490	
55	I.2703,2705,2725	Amended	Feb. 270		73	I.1709	Amended	Sept. 2079
	I.2740-2747	Adopted	Feb. 270			I.1901	Amended	July 1490
	V.103,303	Amended	June 1303	III.Chapter 3		Amended	Mar. 502	
58	I.2713	Amended	Sept. 2079	76	III.329	Amended	Aug. 1734	
	I.Chapter 41	Adopted	June 1306		V.127	Adopted	Sept. 2080	
	III.201	Adopted	Feb. 273		VII.195	Amended	Aug. 1733	
	III.503	Amended	Jan. 100		VII.341	Amended	July 1509	
	V.101,103,105	Amended	Aug. 1685		VII.357	Amended	July 1507	
	V.1901,1903	Amended	Aug. 1684		VII.367	Adopted	Jan. 101	
	XI.Chapters 1,5	Adopted	Mar. 508		VII.513	Amended	Aug. 1733	
	XI.103	Amended	July 1491		XIX.101,103	Amended	July 1493	
	XI.301,303	Adopted	July 1491		XIX.111	Amended	July 1495	
	XI.501,505,509	Amended	July 1491					
	XI.507	Repromulgated	May 1046					

Potpourri

POTPOURRI

Board of Elementary and Secondary Education

Bulletin 746 **C**Louisiana Standards for State Certification of School Personnel **C**General-Special Education Mild/Moderate Undergraduate Blended Program for Grades 1-5, Grades 4-8, and Grades 6-12

A Notice of Intent concerning the above referenced proposed Rule was published on June 20, 2004, in the *Louisiana Register* (see LR 30:1338-1340). The Department of Education requested that the Board of Elementary and Secondary Education approve revision of the effective date of this policy from August 1, 2005, to July 1, 2006. Accordingly, notice is hereby given of the board's intention to amend the proposed Rule as stated above.

Interested persons may submit written comments until 4:30 p.m., November 10, 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

0410#010

POTPOURRI

Department of Environmental Quality Office of Environmental Assessment

Request for Public Comment **C**Modification and Revision of the Part 70 General Air Permit Template

The LDEQ, Office of Environmental Services, is accepting written comments on the revised template for the Part 70 General Air Operating Permits. The General Air Permit for the qualifying facility can be issued for an initial, modification or renewal for any company, located in the state of Louisiana. The qualifying facility can be located in any parish of the state.

The "Facility-Specific Requirements" section in the proposed General Air Permit Template (GAPT) contains the universe of regulations that may apply to the facility and associated equipment. The GAPT Briefing Sheet and associated Facility-Specific Conditions comprise the template for all the general air permits to be issued by the department. On a site specific basis, this template will be modified to describe the facility process and will list only those regulations that apply to the facility requesting a General Air Permit.

The public is invited to comment on the list of regulations and the language of each specific requirement which will be available for use in issuing General Air Permits. General Air Permits are issued according to Section 513 of the Air Quality Regulations as summarized below.

1. The permitting authority may issue a General Air Permit Template (GAPT) intended to cover numerous

similar sources or activities. A GAPT shall be issued in accordance with LAC 33:III.519 and, prior to issuance, shall undergo public notice and review by affected states and EPA in accordance with LAC 33:III.531 and 533. Each GAPT shall incorporate terms and conditions applicable to sources which would qualify for a general air permit. Any GAPT shall identify criteria by which sources may qualify for a general air permit, and may provide for applications which deviate from the requirements of LAC 33:III.517.

2. The owner or operator of any source qualifying for a general air permit may apply for authorization to operate under the GAPT. The application must include all information necessary to determine qualification for and to assure compliance with the GAPT. The owner or operator shall publish a public notice of the application in a newspaper of general circulation in the local area where the source is or would be located.

3. The permitting authority may approve an owner or operator's application for authorization to operate under the GAPT without repeating the LDEQ public noticing procedures. Such an approval shall not be a final permit action for purposes of judicial review regarding the terms and conditions of the general air permit.

4. Any source which is issued a general air permit shall be subject to enforcement action for operation without a permit if the source is later determined not to qualify for a general air permit.

5. General air permits shall not be issued for affected sources under the Acid Rain Program established pursuant to title IV of the Clean Air Act.

The proposed GAPT "Facility-Specific Requirements" section contains the universe of regulations that may apply to the facility and associated equipment. If any regulation that applies to any facility or associated emission source is not part of the attached facility-specific conditions, then that facility cannot be granted a general air permit. An exception to this is the case where the specific condition is a state-only requirement. This excludes federally enforceable specific conditions or limitations. The GAPT Statement of Basis provides additional information regarding how a facility-specific General Air Permit contains only those regulations that apply to the specific facility and its associated emission sources.

Written comments, written requests for a public hearing, or written requests for notification of the final decision regarding this permit action may be submitted to Ms. Soumaya Ghosn at LDEQ, Public Participation Group, P.O. Box 4313, Baton Rouge, LA 70821-4313. Written comments and/or written requests must be received by 12:30 p.m., Monday, November 22, 2004. Written comments will be considered prior to a final permit decision.

If LDEQ finds a significant degree of public interest, a public hearing will be held. LDEQ will send notification of the final permit decision to the applicant and to each person who has submitted written comments or a written request for notification of the final decision.

The proposed General Air Permit Template (GAPT) Statement of Basis, General Permit Briefing Sheet, General Information Sheet, Inventories, Emission Rate Report and Facility Specific Requirements are available for review at the LDEQ, Public Records Center, Room 127, 602 North 5th Street, Baton Rouge, LA. Viewing hours are from 8:00 a.m. to 4:30 p.m., Monday through Friday (except holidays). Additional copies may be reviewed at the Parish Library Headquarters in each parish of the state of Louisiana and on the LDEQ Public Web Page.

Inquiries or requests for additional information regarding this permit action should be directed to Keith Jordan, LDEQ, Permits Division, P.O. Box 4313, Baton Rouge, LA 70821-4313, phone (225) 219-3004.

Persons wishing to be included on the LDEQ permit public notice mailing list should contact Ms. Soumaya Ghosn in writing at LDEQ, P.O. Box 4313, Baton Rouge, LA 70821-4313, phone (225) 219-3276, or by email at maillistrequest@ldeq.org.

Permit public notices can be viewed on the LDEQ Permits public Web page at www.deq.state.la.us/news/PubNotice/.

Alternatively, individuals may elect to receive the permit public notices via email by subscribing to the LDEQ permits public notice List Server at http://www.state.la.us/ldbc/listservpage/ldeq_pn_listserv.htm.

All correspondence should specify AI122793, General Title V Permit, and Activity Tracking Number PER20040001.

Publication Date: October 14, 2004 This document is scheduled to be published in The Advocate, The Times-Picayune, The News Star, The Lake Charles American Press, The Times of Shreveport, The Advertiser of Lafayette, The Town Talk of Alexandria and The Courier of Houma. It will also be published in The Louisiana Register on October 20, 2004.

Wilbert F. Jordan, Jr.
Assistant Secretary

0410#058

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
Woods Petroleum Corp.	Wildcat	L	Dorothy A Pizani et al	1	136360
John W. Mecom	Chacahoula	L	Dodge Sundberry & Lotham	M-1	119256
Resource Securities Corp.	North Burtville	L	Nbrtv 9700 RA SU; Gianelloni	001	164163 (30)
Resource Securities Corp.	North Burtville	L	S J Gianelloni Jr	001-D	165504 (30)

Operator	Field	District	Well Name	Well Number	Serial Number
Resource Securities Corp.	North Burtville	L	Gulf Union Ind Inc. swd	001	200837 (29)
Great Southern Oil & Gas Co., Inc.	South Lake Charles	L	Milo Albrecht Heirs	2	148463 (30)
Carl W. Jones et al	South St. Joseph	M	H R Dickenhorst	1	155106 (30)
Great Southern Oil & Gas Co., Inc.	Abbeville	L	J A Brookshire swd	004	89641
Great Southern Oil & Gas Co., Inc.	Anse La Butte	L	L D Bergeron swd	001	54345
Great Southern Oil & Gas Co., Inc.	Anse La Butte	L	L D Bergeron	010D	71327
Great Southern Oil & Gas Co., Inc.	Anse La Butte	L	Begnaud Oil Co E	004	91497
Great Southern Oil & Gas Co., Inc.	Anse La Butte	L	Central Fee swd	001	123364
Great Southern Oil & Gas Co., Inc.	Anse La Butte	L	ALB Patin RA SU; L D Bergeron	001	203038
Great Southern Oil & Gas Co., Inc.	Bayou Mallet, South	L	A Harry Frey swd	001	114648
Great Southern Oil & Gas Co., Inc.	Bayou Mallet, South	L	A Harry Frey	003	117836
Great Southern Oil & Gas Co., Inc.	Cankton, North	L	VUA; DREE Guilbeau Estate	001	204115
Great Southern Oil & Gas Co., Inc.	Lake Long	L	T Baker Smith	001	104427 (28)
Great Southern Oil & Gas Co., Inc.	Lake Long	L	T Baker Smith et al	001D	106177 (28)
Great Southern Oil & Gas Co., Inc.	Leleux	L	E Broussard	001	213319
Great Southern Oil & Gas Co., Inc.	Midland	L	VUA; W M Hoyt Heirs	001	165171 (28)
Great Southern Oil & Gas Co., Inc.	Section 28	L	St Martin Land Co A swd	002	37751

Operator	Field	District	Well Name	Well Number	Serial Number
Great Southern Oil & Gas Co., Inc.	Section 28	L	St Martin Land Co C	004	144185
Great Southern Oil & Gas Co., Inc.	Section 28	L	E C Stuart swd	002	202930
Great Southern Oil & Gas Co., Inc.	Section 28	L	St Martin Land Co B	006	215361
Great Southern Oil & Gas Co., Inc.	Section 28	L	Stuart Heirs	001	218721
Curt Weaver et al	Cameron Meadows	L	Cameron Meadows	14	018048
Monroe Well Service	Caddo Pine Island	S	Joyce swd	1	197187
Crudo Petroleum	Caddo Pine Island	S	Thacker	001	97233
Crudo Petroleum	Caddo Pine Island	S	Thacker	003	98300
Crudo Petroleum	Caddo Pine Island	S	Thacker	002	97729
Crudo Petroleum	Caddo Pine Island	S	Thacker	004	99683
Crudo Petroleum	Caddo Pine Island	S	Thacker	005	100679
Crudo Petroleum	Caddo Pine Island	S	Thacker	006	152422
Crudo Petroleum	Caddo Pine Island	S	Thacker	007	152423

James H. Welsh
Commissioner

0410#079

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 no claims were paid or denied in the month of August 2004. There were 12 claims in the amount of \$42,656.65 received for payment during the month of September 1, 2004 - September 30, 2004.

There were 12 claims paid and 0 claims denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2915.090	8937.794	Plaquemines
2922.171	8957.094	Jefferson
2938.286	8937.565	Plaquemines
2940.380	9154.790	Vermilion
2941.710	8946.952	Plaquemines
2943.418	8938.089	St Bernard
2944.190	8950.741	Plaquemines
2947.554	8932.789	St Bernard
2947.978	8941.402	St Bernard
2948.993	8938.970	St Bernard
2950.201	8924.919	St Bernard
2990.132	8953.809	Plaquemines

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

0410#080

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