Notices of Intent

NOTICE OF INTENT

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

Wood Infestation Report (LAC 7:XXV.121)

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 the completion of the wood destroying insect report.

The Department of Agriculture and Forestry deems it necessary to amend rules and regulations regarding the instructions as to completing WDIR form LPCA - 142. These rules comply with and are enabled by LSA-R.S. 3:3203.

No preamble concerning the proposed rules is available.

Title 7
AGRICULTURE AND ANIMALS
Part XXV. Structural Pest Control
Chapter 1. Structural Pest Control Commission
§121. Wood Infestation Report

A. - C.8. ...

C.9A. Check this block only when there is no visible evidence of wood destroying insects in accessible areas on the structure(s) inspected. Evidence includes but is not limited to: live or dead wood destroying insects, wood destroying insect parts, shelter tubes, shelter tube stains, frass, exit holes or damaged wood due to wood destroying insects.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:856 (July 1997) LR 25:

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Wood Infestation Report

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

There will be no costs or savings to state or local governmental units. The proposed rule eliminates the current requirement that only one block can be checked in Section 9 of the wood destroying insect report (LPCA-142). This change would allow for the reporting of both evidence of wood destroying insects and evidence of damage due to wood destroying insects.

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 additional costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Skip Rhorer	Robert E. Hosse
Assistant Commissioner	General Government Section Director
9811#032	Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Animal Health Services
Livestock Sanitary Board

Livestock Auction Market Requirements
(LAC 7:XXI.305-311)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., The Department of Agriculture and Forestry, Office of the Commissioner proposes to amend regulations governing livestock auction market requirements. These rules comply with and are enabled by R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

No preamble concerning the proposed rules is available.

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals
Chapter 3. Cattle
§305. Brucellosis Vaccination and Fee

A. - C. ...

D. All heifer calves between 4 and 12 months of age not vaccinated for brucellosis which are to be sold through an approved livestock auction market, and are to remain in Louisiana more that 30 days, must be vaccinated with USDA approved brucellosis vaccine prior to being sold. There shall be a fee to be paid by the seller of $2 for each heifer calf required to be vaccinated for brucellosis, which fee shall be known as the brucellosis vaccination fee. The brucellosis vaccination fee shall be collected on the date of the sale from the seller by the approved livestock auction market and forwarded to the Louisiana Department of Agriculture and Forestry no later that the tenth day of the month following the month in which the fee was collected.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2221 and R.S. 3:2223.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 15:75 (February 1989), amended LR 22:960 (October 1996), LR 25:

§307. Livestock Auction Market Requirements

A. - A.1.c.iv ...

d. All heifer calves, between 4 and 12 months of age not vaccinated for brucellosis must be vaccinated with USDA approved Brucellosis vaccine prior to being sold. Failure to accomplish this vaccination shall be a violation of this regulation and violators shall be subject to penalties which may be imposed by the Louisiana Livestock Sanitary Board as granted in R.S. 3:2093.

d.i. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:237 (March 1985), amended LR 11:615 (June 1985), amended LR 12:501 (August 1986), LR 12:598 (September 1986), LR 13:556 (October 1987), LR 14:220 (April 1988), LR 14:695(October 1988), LR 15:813 (October 1989), LR 17:30 (January 1991), LR 18:837 (August 1992), amended LR 22:960 (October 1996), LR 25:

§309. Governing the Sale of Cattle in Louisiana by Livestock Dealers

A. - 2.b.ii. ...

3.a. All heifer calves between 4 and 12 months of age must be vaccinated with USDA approved Brucellosis vaccine prior to being sold. Failure to accomplish this vaccination shall be a violation of this regulation and violators shall be subject to penalties which may be imposed by the Louisiana Livestock Sanitary Board as granted in R.S. 3:2093.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:562, R.S. 3:2221 and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:237 (March 1985), LR 11:651 (June 1985), amended LR 12:502 (August 1986), LR 13:558 (October 1987), LR 14:221 (April 1988), LR 17:31 (January 1991), LR 18:838 (August 1992), LR 22:960 (October 1996), LR 25:

§311. Governing the Sale of Purchases, within Louisiana, of All Livestock not Governed by Other Regulations (Brucellosis Requirements)

A. ...

1. Heifer calves 4 to 12 months of age, must be official brucellosis calfhood vaccinates to be eligible to be sold other than to slaughter or to a quarantined feedlot.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 2221 and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:238 (March 1985), LR 11:615 (June 1985), amended 12:502 (August 1986), LR 13:559 (October 1987), LR 17:31 (January 1991), LR 18:837 (August 1992), LR 25:

All interested persons should submit written comments on the proposed amendments by the end of business on December 28, 1998 to Dr. Maxwell Lea, Jr., Louisiana Department of Agriculture and Forestry at 5825 Florida Boulevard, Baton Rouge, LA 70806.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Livestock Auction Market Requirements

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

It is estimated that there will be no costs or savings to state or local governmental units to implement the proposed rule. Currently, there are approximately 80,000 calves sold yearly at Louisiana livestock auction barns in which veterinarian contractors perform brucellosis vaccinations at a cost to buyers of $2.00 per calf. The $2.00 feed collected is forwarded to the department. The department pays $1.75 per calf to the veterinarian and keeps $.25 per calf for administrative costs. Although the current rule requires that calves sold in-state be vaccinated, the current practice is that all calves, including those sold out-of-state be vaccinated. This rule change is intended to make the department's rule consistent with current practice.

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

It is anticipated that there will be no effect on revenue collections of state or local governmental units. All calves 4 to 12 months old are currently vaccinated and the state is already collecting the fees associated with these vaccinations.

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

The proposed rule change will impose the $2.00 per calf brucellosis vaccination fee on the seller. The prior rule required buyers of 4 to 12 month old calves to pay the brucellosis vaccination fee.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is estimated that the proposed action will have no impact on competition in the public or private sectors due to a nation-wide initiative to eradicate brucellosis.

Skip Rhorer	Robert E. Hosse
Assistant Commissioner	General Government Section Director
9811#033	Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Marketing
Market Commission

Fees and Costs (LAC 7:V.1615)

In accordance with the provisions of the Administrative Procedure Act. R.S. 49:950 et seq., the Department of Agriculture and Forestry, State Market Commission proposes to amend regulations regarding the certification and inspection of all meat, poultry and seafood products at state institutions and local school districts. These rules comply with and are enabled by R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

No preamble concerning the rule is available.

Title 7
AGRICULTURE AND ANIMALS
Part V. Advertising, Marketing and Processing
Chapter 16. Meat, Poultry and Seafood Grading and Certification Program
§1615. Fees and Costs

A. ...

B. Any vendor delivering a food product inspected and certified by the Department, under these regulations, shall pay an inspection fee of $.025 per pound for each such meat, poultry or seafood product, or in the case of eggs, a fee of $.025 per dozen. All fees and costs shall be immediately due and payable to the Department upon presentation to the vendor by the Department of the statement for services rendered.

C. If any product received by the public entity is in noncompliance with these regulations or purchase order requirements, but is accepted by the public entity because the product is needed for immediate consumption by either students, residents, patients or inmates then the vendor delivering such products shall pay the to the Department an inspection fee of $.025 per pound for each such meat, poultry or seafood product, or in the case of eggs, a fee of $.025 per dozen. Any public entity accepting a product that is in noncompliance with these regulations or purchase order requirements will immediately notify the Department of any such acceptance and will provide the Department with all necessary information to allow the Department to bill the vendor for payment under this Subsection.

D. Any vendor, state agency, state institution, local school district or person needing certification services from the Department and failing to notify the Department at least twenty-four (24) hours in advance of need shall be subject to a penalty of $50.00, regardless of the time required for the services or the fees assessed by the Department.

E. Fees charged and collected by the Department under any other grading or certification program operated by the Department shall not be affected by these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 24:629 (April 1998), amended LR 25:

All interested persons should submit written comments on the proposed amendments by the end of business on December 28, 1998 to Mr. James Pruitt, Louisiana Department of Agriculture and Forestry at 5825 Florida Blvd., Baton Rouge, LA 70806.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Fees and Costs

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 existing personnel will be utilized to administer these rules. It is anticipated that there could be savings to local school and state institutions in food cost because improvement of quality should result in less loss.

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

It is anticipated that 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)

Vendors will be charged $.025 per pound for grading and certification of red meat, poultry and seafood products, and $.025 per dozen for grading and certification of shell eggs. These grading and certification costs will be imposed when there are violations of the standards and requirements and the product must be used.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition and employment. These rules will apply to all producers of red meat, poultry and seafood products in the state.

Skip Rhorer	Robert Hosse
Assistant Commissioner	General Government Section Director
9811#031	Legislative Fiscal Office

NOTICE OF INTENT

Department of Culture, Recreation and Tourism
Office of State Museum

Small Museum Matching Grant Program
(LAC 25:III.Chapter 5)

The Department of Culture, Recreation and Tourism, Office of State Museum proposes to adopt the following rule relative to the Office of State Museum, providing matching funds for grants to small museums with rules promulgated to establish eligibility standards, per authority of R.S. 25:342. The purpose for the rule is to establish eligibility standards for the small museums within the State of Louisiana to apply for a program grant and to outline program and accountability requirements.

Title 25
CULTURAL RESOURCES
Part III. Office of State Museums
Chapter 5. Small Museum Matching Grant Program in the State Museum
§501. Policy for Administration of the Program

A. A small museum matching grant program was established within the Louisiana State Museum by Section 15 of Act 19, the General Appropriations Act of 1998, Regular Session.

B. This program is limited annually to only those funds appropriated by the Legislature within the State Museum budget which are specifically included for this grant program and are so designated for that purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:342.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museum, LR 25:

§503. Eligibility Requirements

A. Small museums throughout the State of Louisiana may apply for a grant based on a one-to-one match in accordance with the guidelines below.

1. Eligibility is restricted to museums with documented total annual operating budgets of less than $100,000 from all sources of income.

2. Eligible museums must be open to the public a minimum of twenty (20) hours per week, have a permanent staff operating the museum, and have collections and/or offer exhibitions that pertain to Louisiana culture, heritage and history.

3. Grants will be limited to not more than $40,000 per museum per year.

4. Each recipient must match the grant from the state on a one-to-one basis, although documented and measurable in-kind services may be substituted for cash.

5. Such grants *may not* be used for operating support but are limited to care of collections, educational programs, or exhibits.

6. No museum may be eligible for an additional grant until all reporting/accounting and other requirements for a previous state grant have been successfully completed and submitted.

7. Only one grant per parish may be awarded annually through this program.

8. State-operated museums *are not eligible* for this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:342.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museum, LR 25:

§505. General Guidelines

A. The program year will be the State's fiscal year for the purposes of appropriations by the Legislature for the program.

B. Small museums receiving grants will have one year from the date of the award to complete their program and submit a final report.

C. Grant recipients must comply with all State laws, rules and requirements for expenditure of State provided funds.

D. The initial application will fully describe the program, its objectives, performance indicators to measure the success of the program, and a complete breakdown of the funds required, how they are to be used, and the one-to-one match in cash or in-kind services. The application must show how the program relates to care of collections, educational programs, and/or exhibitions, and explain the benefits to the people of Louisiana.

E. Each grant recipient will submit quarterly reports which outline their compliance with the program as submitted and to applicable state laws, rules and requirements regarding accountability of state funds.

F. Each program must be completed within one year of the date of the grant award. A final report will be submitted to the Department of Culture, Recreation and Tourism, Office of Management and Finance, citing program success as measured against the initial performance indicator projections. A copy of all reports must be provided to the State Museum.

G. Museums failing to comply with these grant guidelines will be ineligible for additional grants.

H. The State Museum Statewide Curator will visit with and assist each grant recipient during their grant cycle.

I. The Department of Culture, Recreation and Tourism, Office of Management and Finance shall have oversight responsibility to ensure fiscal reliability and that all guidelines and State requirements are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:342.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museum, LR 25:

Written comments may be addressed to James F. Sefcik, Assistant Secretary, Department of Culture, Recreation and Tourism, Post Office Box 2448, New Orleans, Louisiana, 70176-2448.

James F. Sefcik
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Small Museum Matching Grant Program

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

There will be no estimated implementation costs or savings to state or local governmental units. The proposed rule establishes eligibility standards and guidelines for small museums (less than $100,000 in operating expenses) to receive grant funds appropriated by the Legislature.

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

The proposed rule will have no effect on revenue collections of state or local governmental units. This is pass-through money to be awarded to small museums throughout the state based on applications and eligibility standards.

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

Each grant recipient is required to match the dollar amount of the grant from the state on a one-to-one basis. In-kind services may be substituted for cash. Grant recipients will benefit from additional state funding to support museum collections, educational programs and exhibits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules may increase competition between small museums in each parish to receive a state grant. Only one grant may be awarded annually in each parish. Grant recipients may become more competitive with improved collections and additional exhibits. The effect on employment will depend upon the individual needs of the museums which are awarded these grants.

James F. Sefcik	Robert E. Hosse
Assistant Secretary	General Government Section Director
9811#052	Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development
Used Motor Vehicle and Parts Commission

Licensing Requirements and Hearing Procedures
(LAC 46:V.Chapters 29-33 and Chapter 47)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapters 4A and 4B, the Department of Economic Development, Used Motor Vehicle and Parts Commission, notice is hereby given that the Used Motor Vehicle and Parts Commission intends to amend sections of existing rules and regulations regarding licensing requirements, propose rules regarding hearing procedures and repeal §2909 which pertains to sign requirements.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part V. Automotive Industry
Subpart 2. Used Motor Vehicle and Parts Commission
Chapter 29. Used Motor Vehicle Dealer
§2905. Qualifications and Eligibility for Licensure

A. ...

1. The ability of the applicant to establish an adequate place of business properly zoned in the municipality, provide a suitable office, have a permanently affixed sign, clearly visible from the street or roadway at a minimum of 16 square feet and subject to local zoning laws, in front of the establishment which denotes that vehicles are offered for sale at the location to which the sign is affixed. Existing signs prior to adoption of this rule will not have to meet the new requirements. If two or more dealers share a location, each dealer must display his own sign. Applicant must have an installed telephone listed in the business name at the place of business, the number of which should be listed on the application for license. Each dealer must have their own listed business telephone. No cellular telephones will be allowed in lieu of an installed business telephone. The commission must be notified of any change in the telephone number.

2. All dealers are required to furnish and keep in force the minimum required liability insurance coverage on all vehicles offered for sale or used in any other capacity in demonstrating or utilizing the streets and roadways in accordance with the financial responsibility laws of this state. For those dealers who, in addition to selling vehicles, conduct the business of daily vehicle rentals, a separate renter's policy must be in effect.

3. ...

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Part Commission, LR 15:258 (April 1989), amended LR 15:375 (May 1989), LR 24:

§2909. Sign Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 2:119 (April 1976), repealed by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

Chapter 31. License for Salesman
§3101. Qualifications and Eligibility for Licensure

A. - A.1. ...

2. A license for a salesman will not be issued, renewed or endorsed until the employing dealer is licensed and has certified that the applicant for said license is in his employ and applicant is listed on the insurance statement and covered under the dealer's liability insurance policy. It is not intended that the dealer pay for licenses for it salesmen. However, for convenience, the dealer may do so on a reimbursable basis or any other plan satisfactory to its organization. All salesman licenses will be sent to the dealer for distribution to the respective applicants, and the dealer will determine that all its personnel required to obtain licenses have done so.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 24:

Chapter 33. Automotive Dismantler and Recycler
§3303. Qualifications and Eligibility for Licensure

A. ...

1. The ability of the applicant to establish an adequate place of business, properly zoned in the municipality, provide a suitable office, have a permanently affixed sign, clearly visible from the street or roadway at a minimum of 16 square feet and subject to local zoning laws, in front of the establishment. Existing signs prior to adoption of this rule will not have to meet the new requirements. Applicant must have an installed telephone listed in the business name at the place of business, the number of which should be listed on the application for license. No cellular telephones will be allowed in lieu of an installed business telephone. The commission must be notified of any change in the telephone number.

2. ...

B. - D. ...

E. At least one salesman's license shall be issued for each business. License fees charged and received by the commission shall be the same as for all other salesmen licensed by the commission as is described in R.S. 32:754.

F. No person, firm, or corporation may advertise, sell or display for sale used parts without first obtaining a used parts dealer's license to do business in this state. All these types license numbers will be prefixed by UP, followed by a four digit number then the current year of license.

1. Used parts are broadly described as those parts necessary for operation of a vehicle and have been removed from a vehicle for resale. They include, but not limited to, the

following: motors, wheels, generators, alternators, water pumps, glass, radiators, spark plugs, fuel tanks, etc.

2. License fees charged and received by the commission for licenses issued on dealers above shall be the same as for all other dealers licensed by this agency as is described in R.S. 32:754.

3. At least one salesman's license shall be issued for each business. License fee charged and received by the commission shall be the same as for all other salesmen licensed by the commission as is described in R.S. 32:754.

4. A surety bond will not be required for dealers whose principal business is selling used parts.

G. An out of state parts dealer may open a parts business in this state. License for an out of state parts dealer to open a used parts business is $500 per location.

H. Dealers whose only business is selling rebuilt or remanufactured parts, used batteries, tires and/or wheel covers are not included herein. Service stations are also specifically excluded from the above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:752, 32:753, 32:754, 32:755 and 32:756, 32:772(E), and R.S. 32:773(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 20:535 (May 1994), repromulgated LR 20:645 (June 1994), amended LR 24:

Chapter 47. Hearing Procedures

§4701. Hearing Officer

A. A hearing may be conducted by a hearing officer designated by the Chairman.

B. The hearing officer shall have all the powers of the Commission in connection with the hearing and shall have authority to issue subpoenas, order the taking of depositions, administer oaths, hear testimony, admit evidence, make rulings on objections and motions, and prepare a proposed order consisting of findings of fact and conclusions of law and submit the proposed order to the commission for its consideration.

C. Any party who feels that he cannot receive a fair and impartial hearing from the hearing officer shall make a motion either orally at the time of the hearing or in writing requesting that such hearing officer withdraw from the case. That request must set forth the specific grounds in accordance with LSA C.C.P. art. 151. The hearing officer may withdraw without further proceedings and immediately refer the matter to the chairman for reassignment; otherwise, the request shall be heard before the commission sitting at a regular monthly meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4703. Time for Hearing

A. The time set for a hearing, specified in the notice, shall not be less than 15 days after the date the notice is completed.

B. Any request for a continuance of a hearing shall be made in writing in a reasonable time prior to the hearing and shall state the reasons for the request. The hearing officer is authorized to rule on the motion for continuance. The hearing may be continued from time to time as announced openly before the hearing is recessed without further notice or otherwise by giving reasonable notice less than 15 days before the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4705. Subpoenas

A. Subpoenas for the attendance of witnesses, and/or for the furnishing of information required by the commission, and/or for the production of evidence of records of any kind shall be issued by the hearing officer. Subpoenas shall be served and a return made in any manner prescribed by general civil law.

B. Any party to a hearing desiring the attendance of witnesses upon his behalf shall have the right to seek compulsory attendance of such witnesses and the production of relevant documents provided said party shall file a list of names and addresses of such witnesses with the hearing officer at least 10 days before the date set for the hearing.

C. Upon the failure of any person to obey a subpoena, upon the refusal of any witness to be sworn or make an affirmation, or to answer a lawful question put to him in the course of the hearing, the hearing officer may institute appropriate judicial proceedings under the laws of the state for an order to compel compliance with the subpoena or the giving of testimony, as the case may be. The hearing shall proceed, so far as it is possible, but the hearing officer or the commission, in its discretion, at any time may continue the proceeding for the purpose of taking the evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4707. Rights of the Parties

Any party whose rights may be affected at any hearing shall have the right to appear personally and by counsel, to cross-examine adverse witnesses, to produce evidence and witnesses in their own behalf and to provide arguments on all issues involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4709. Evidence

The commission shall not be bound by the technical rules of evidence and may admit material and relevant evidence. The principles underlying the *Louisiana Code of Evidence* shall serve as a guide to the admissibility of evidence in hearings before the commission. The specific exclusionary rules and other provisions shall be applied only to the extent that they tend to promote the purposes of proceedings before the commission, in the discretion of the chair or the presiding member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4711. Record of the Hearing

A. The record in every individual proceeding shall include the following:

1. all pleadings, motions, and intermediate rulings;
2. evidence received and considered;
3. a statement of matters officially noticed;
4. questions and offers of proof, objections and rulings thereon;
5. the proposed order;
6. any decision, opinion, or report by the person(s) presiding at the hearing;
7. all staff memorandum or data submitted to the hearing officer of the commission in connection with their consideration; and
8. the minutes from the commission meeting in which action was taken on the proposed order.

B. A recording and a transcript of the hearing will be performed by a certified court reporter. The record and the file containing the pleadings will be maintained in a place designated by the hearing officer. Any party requesting a transcript of the hearing will pay a fee according to a schedule established by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4713. Rulings

A. When a hearing officer is used and a majority of the commissioners have not heard the case or read the record, any decision adverse to any party other than the commission shall be postponed until a copy of the proposed order is served upon all parties and each is given an opportunity to reply, either orally or in writing. The proposed order shall be prepared by the person(s) who conducted the hearing. A statement of the reasons for the order and each issue of fact or law necessary to the order shall accompany the proposed order. This requirement may be waived by the written stipulation of all parties, or where there is no contest (as in the failure of a party to appear after due notice), the commission may eliminate compliance therewith.

B. Any party affected by the proposed order may prepare a written brief which must be filed with the commission within 10 days from receipt of the proposed order, or the affected party may present an oral response at the next monthly meeting of the commission.

C. During its regular monthly meetings (or upon a special meeting as called by the chairman and upon reasonable notice to all parties), the commission shall make the final decision based on the record and the proposed order.

D. A final decision or order adverse to a party in an adjudication proceeding shall be in writing. A final decision shall include findings of fact and conclusions of law. Parties shall be notified either personally or by mail of any decision or order along with their attorney of record, if any. The parties by written stipulation may waive, and the commission in the event there is no contest may eliminate, compliance with this paragraph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4715. Rehearings

No rehearing shall be permitted from any ruling of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

Interested persons may submit written comments no later than 30 days from the date of publication of the notice of intent to John M. Torrance, Executive Director, 3132 Valley Creek Drive, Baton Rouge, LA 70808, (225) 925-3870.

John M. Torrance
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Licensing Requirements and Hearing Procedures

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

There are no implementation costs anticipated from the proposed amendments and adoption of this rule.

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

There will be no effect on revenue collections as a result of the proposed rule.

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

Independent used motor vehicle dealers will be required to have a telephone installed in the business name. The used motor vehicle dealer will incur the cost of a business phone as opposed to the cost of a residential phone. There will be a minimal cost for signs on a shared dealer lot. Salesmen are covered under the dealer's insurance policy; they are being required to list the individual names on the certificate of insurance. This rule explicitly requires that a salesman for an Automotive Dismantler have a license. This is already required under state law.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

All licensees will be incurring the same costs and operating under the same laws and rules, thereby, eliminating any unfair competition.

John M. Torrance
Executive Director

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

9811#045

NOTICE OF INTENT

Board of Elementary and Secondary Education

Board Advisory Councils (LAC 28:I.105)

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 the following revision to the structure of the Textbook and Media Advisory Council and the School Library Advisory Council. The Board merged the School Library Advisory Council into the Textbook and Media Advisory Council, which will now consist of fourteen members and will be named the Textbook and Media Advisory Council.

The responsibilities of the Council will be to advise the Board on issues relating to policies, procedures, and/or programs regarding the adoption of textbooks, library and reference materials, and all other materials of instruction.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 1. Organization
§105. Board Advisory Councils

A. ...

1. - 7. ...

8. Special Education Advisory Council (R.S. 17:1954)

9. Teacher Certification Advisory Council (R.S. 17:31)

10. Proprietary School Commission (R.S. 17:3141.3)

11. Textbook and Media Advisory Council (R.S. 17:415.1)

* * *

AUTHORITY NOTE: Promulgated in accordance with Louisiana Constitution Article VII, §10.1; R.S. 17:6(9); R.S. 17:11; R.S. 17:24.4; R.S. 17:415.1; R.S. 17:1954; R.S. 17:3762; R.S. 17:3801; R.S. 42:4.1-12; 20 USC 1413 (§613) and 20 USC 3474 (§112).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 4:427 (November 1978), amended LR 5:137 (June 1979), LR 5:383 (December 1979); LR 14:10, 11, 146, 228, 229, 293, 702, 790, 862 (January, March, April, May, October, November, December 1988); LR 16:297 (April 1990); LR 19:1310 (October 1993); LR 21:550 (June 1995); LR 22:99-100 (February 1996), LR 24:1092 (June 1998), LR 25:

Interested persons may submit comments until 4:30 p.m., January 10, 1999, to Jeannie Stokes, 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: Board Advisory Councils

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

This rule change will decrease costs to the state as one council with fourteen members will be created as opposed to two groups with thirty-four members. This will lower reimbursable travel expenses of these members. BESE's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately $60. Funds are available.

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

This action will have no effect on revenue collections of state or local government units.

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action will have no effect on competition and employment.

Weegie Peabody
Executive Director
9811#064

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Minimum Time Requirements
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The proposed rule change requires that LEAs comply with R.S. 17:154.1. This Statute states that a school day shall include a full 360 minutes of instructional time and shall consist of a minimum of 175 days of instruction. The Statute allows school systems to change the number of minutes of instruction per day and the number of days per year, as long as the total minutes of instructional time per year equal at least 63,000 minutes (360 minutes per day x 175 days per year = 63,000 minutes per year). The Bulletin was revised to incorporate changes in state legislation as well as greater LEA flexibility in scheduling. School systems will implement the new policies beginning with the 1998-99 school session.

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. 17:1541.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 24:1085 (June 1998), LR 25:

Revise standard 1.009.16 to read:

Each school system shall adopt a calendar for a minimum session of 182 days, of which at least 175 days shall be scheduled to provide the required instructional time.

Revise a procedural block under standard 1.009.16 to read:

> Effective with the 1997-98 school year, the length of the school year shall consist of 182 days of which no fewer than 175 days , or the equivalent, shall be used to provide instruction to students; two (2) days shall be for staff development; the remaining days may be used for emergencies and/or other instructional activities.

Add a new procedural block under standard 1.009.16 to read:

> Each school system may authorize some or all of its schools to modify the total number of instructional minutes per day and instructional days per year provided that **63,000** minutes of instructional time per year are met.

Revise standard 1.010.02 to read:

Each school system shall have policies and procedures that address, but are not limited to, the following items:

- setting the number of school days, length of the school day, and other necessary guidelines for the operation of the schools;
- providing special education and related services to exceptional students in accordance with the Individualized Education Program (IEP) for no fewer than 175 days or the equivalent during the normal 182-day school cycle;
- operating special departments and special programs in each school;
- admission to and dismissal from special education programs;
- excluding students with communicable diseases and readmitting them following their recovery;
- the controlling of communicable problems such as lice and scabies;
- taking care of sick or injured students, including notification of parents, in cases of emergencies that occur while students are under the jurisdiction of the school;
- the administering of medication in schools (including the procedures to be followed);
- the operation of summer schools and extended school year programs for eligible exceptional students;
- the discipline of handicapped students; and
- a written personnel policy that requires the use of universal precaution when individuals have direct contact with blood or other body fluids and that provided sanctions, including discipline if warranted, for failure to use universal precautions.

Add two new procedural blocks to standard 2.037.11 to read:

Secondary Schools

> It is strongly recommended that the additional instructional time as required by R.S. 17:154.1 (2), shall be dedicated to those subjects for which content standards have been adopted with emphasis on mathematics, reading or language arts.

> Any high school class scheduled for a 90 minute block of instructional time, must meet for a minimum of one full semester or the equivalent in order to earn a Carnegie unit.

Revise a procedural block under standard 2.037.11 to read:

> The schedule of subjects offered in the program of studies may be arranged by school principals in order to reduce or increase the number of class periods per week provided that the yearly aggregate time requirements are met.

Revise standard 2.037.12 to read:

The minimum instructional day for a full-day kindergarten program shall be 360 minutes.

> Each school system may authorize some or all of its schools to modify the total number of instructional minutes per day and instructional days per year provided that **63,000** minutes of instructional time per year are met.

Revise standard 2.037.13 to read:

For grades K-12, the minimum school day shall include 360 minutes of instructional time exclusive of recess, lunch, and planning periods.

> Each school system may authorize some or all of its schools to modify the total number of instructional minutes per day and instructional days per year provided that **63,000** minutes of instructional time per year are met.

Add a new procedural block under standard 1.055.03 to read:

> Students attending high school classes operating in 90 minute blocks of instructional time, shall be in attendance 80 days, or its equivalent in order to be eligible to receive grades.

Add a new procedural block under standard 2.055.03 to read:

> Students attending high school classes operating in 90 minute blocks of instructional time, shall be in attendance 80 days, or its equivalent in order to be eligible to receive grades.

Revise standard 1.055.15 to read:

School systems shall provide educational and related services to exceptional students in accordance with the Individualized Education Program (IEP) for no fewer than 175 days or the equivalent during the normal 182-day school cycle.

Revise standard 2.055.15. to read:

Schools shall provide educational and related services to exceptional students in accordance with the Individualized Education Program (IEP) for no fewer than 175 days or the equivalent during the normal 182-day school cycle.

Revise standard 2.090.05 to read:

Minimum Time Requirements for Kindergarten:

Teacher directed activities (whole or small group)	40 percent

Student initiated activities (learning center)	35 percent
Snack and restroom time	10 percent
Lunch	
Rest period and/or quiet activities	15 percent

The above minimum time requirements shall be flexibly scheduled to meet the developmental needs of young students.

Revise standard 2.090.09 and add three new procedural blocks to read as follows:

Each grade level, Grades 1-8, shall teach the following content subject areas ensuring strict adherence to the Louisiana Content Standards and locally developed curriculum.

Grades 1, 2, and 3		
	Suggested Minimum Minutes Per Week	Refer to Bulletin:
Language Arts	825	1965
Mathematics	300	1955
Science and Social Studies	225	1962 1964
	Required Minimum Minutes per Week	
Health and Physical Education	150	1597 1596
Music, Arts and Crafts	150	1963

The additional 150 minutes per week of instructional as required by R.S. 17:154.1(2), shall be dedicated to those subjects for which content standards have been adopted with emphasis on mathematics, reading or language arts.

It is strongly recommended that teachers integrate reading (skills and comprehension) throughout all content areas.

For students in Grades 1-4 who have been identified as reading below grade level, the minimum time requirements in Health and Physical Education and Music, Arts and Crafts are suggested in lieu of required.

Grades 4, 5, and 6		
	Suggested Minimum Minutes Per Week	Refer to Bulletin:
Language Arts	600	1965
Mathematics	300	1955
Science	225	1962
Social Studies	225	1964
	Required Minimum Minutes Per Week	
Health and Physical Education	150	1597 1596
Music, Arts and Crafts	150	1963

It is strongly recommended that the additional 150 minutes per week of instructional as required by R.S. 17:154.1(2), shall be dedicated to those subjects for which content standards have been adopted with emphasis on mathematics, reading or language arts.

It is strongly recommended that teachers integrate reading (skills and comprehension) throughout all content areas.

For students in Grades 5-8 who have scored below the *Basic* level on *LEAP for the 21st Century* in English/Language Arts **or** Mathematics, the minimum time requirements in Health and Physical Education, Music, Arts and Crafts or electives are suggested in lieu of required.

Grades 7 and 8 (6 Period Day Option)		
	Suggested Minimum Minutes Per Week	Refer to Bulletin:
Language Arts	550	1965
Mathematics Grade 8—Introduction to Algebra	275	1955
Social Studies Grade 7—American Studies Grade 8—Louisiana Studies	275	1964
Science	275	1962
	Required Minimum Minutes Per Week	
Health and Physical Education, Elective, Exploratory Studies	275	1596 1597

It is strongly recommended that the additional 150 minutes per week of instructional as required by R.S. 17:154.1(2), shall be dedicated to those subjects for which content standards have been adopted with emphasis on mathematics, reading or language arts.

Grades 7 and 8 (7 Period Day Option)		
	Suggested Minimum Minutes Per Week	Refer to Bulletin:
Language Arts	500	1965
Mathematics Grade 8—Introduction to Algebra	250	1955
Social Studies Grade 7—American Studies Grade 8—Louisiana Studies	250	1964
Science	250	1962
	Required Minimum Minutes Per Week	
Health and Physical Education	250	1596
Electives	250	1597

It is strongly recommended that the additional minutes per week of instructional time as required by R.S. 17:154.1(2), shall be dedicated to those subjects for which content standards have been adopted with emphasis on mathematics, reading or language arts.

For students in Grades 5-8 who have scored below the *Basic* level on *LEAP for the 21st Century* in English/Language Arts **or** Mathematics, the minimum time requirements in Health and Physical Education, Music, Arts and Crafts or electives are suggested in lieu of required.

Revise standard 2.093.04 to read:

Instructional time allotments for exceptional students are as follows:

Types of Classes	Time Allotments
A. Regular	Special education instruction and related services are provided outside of the regular classroom for less than 21 percent of the school day.
B. Resource	Special education instruction and related services are provided outside of the regular classroom for at least 21 percent but no more than 60 percent of the school day.
C. Self-contained/Self-contained Departmentalized	Special education instruction and related Departmentalized services are provided outside the regular classroom for more than 60 percent of the school day.
D. Gifted Resource Center	Minimum of 150 minutes per week.
E. Adapted Physical Education	Comparable with regular physical education requirements.

Revise policy 1.119.00 to read:

School systems shall provide eligible exceptional students special education and related services in excess of 175 school days or the equivalent, during the normal 182 day school cycle when stated in the Individualized Education Program (IEP).

Revise standard 2.119.01 to read:

The determination concerning the need or lack of need for an educational program beyond 175 school days or the equivalent, during the normal 182 day school cycle made by the participants in an Individualized Education Program (IEP) meeting shall be reviewed annually to ascertain any changes in the student's needs.

Revise standard 2.119.02 to read:

The Individualized Education Program (IEP) shall include special education and related services in excess of 175 school days or the equivalent during the normal 182 day school cycle when the multi-source data indicate that the student's exceptionality is of such severity that, without instruction in excess of 182 days, a significant loss of educational skills shall occur.

Revise the procedural block under standard 2.119.03 to read:

A program ranging from 182 up to 240 school days shall be available when appropriate.

evise standard 3.037.11 to read:

All students in special schools shall receive a comparable instructional day (as noted in the LEA Pupil Progression Plan) as their non-disabled peers.

Revise standard 3.037.13 to read:

The Individualized Education Program (IEP) Committee shall determine when a student shall receive less than the minimum time required during a school systems instructional day.

Interested persons may submit written comments until 4:30 p.m., January 9, 1999, to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Minimum Time Requirements

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

BESE's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the Louisiana Register is approximately $60.00.

There will also be a state cost increase of approximately $70 million to increase salaries and benefits of teachers. This change mirrors a change in state law which increased the minimum instructional time. The state funded this increase in instructional time at a total cost of $70 million in fiscal year 1998-99.

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

There is 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 are no effects in costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance

H. Gordon Monk
Staff Director
Legislative Fiscal Office

9811#066

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Applicants with Foreign Credentials
(LAC 28:I.903)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of

Elementary and Secondary Education approved for advertisement, an amendment to Bulletin 746, Louisiana Standards for State Certification of School Personnel, referenced in LAC 28:I.903.A. The proposed amendment expands the current policy to allow applicants who hold foreign credentials to present an evaluation from the American Association of Collegiate Registrars and Admissions Officers, Office of International Education Services, for teacher certification purposes.

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),(15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 435, 541 (April, July, September, October, December 1975), amended LR 24:283 (February 1997), LR 24:1091 (June 1998), LR 25:

Bulletin 746—Teacher
Certification Standards and Regulations

* * *

Applicants with Foreign Credentials

The Department of Education does not translate foreign credentials or evaluate transcripts from colleges and universities outside the United States unless the institution is accredited by one of the U.S. regional accrediting agencies. Teachers who hold a bachelor's degree from a regionally accredited institution may follow the guidelines for out-of-state applicants prescribed on pages 4-5 of this bulletin.

Other applicants with foreign credentials may follow one of the following options:

Colleges/universities in Louisiana are not obligated to evaluate foreign credentials/transcripts. If a college/university within Louisiana chooses to evaluate a foreign transcript or credential for a candidate, the following procedure will apply.

The applicant shall submit the credentials to a regionally accredited institution for evaluation. If the institution is located in Louisiana, the dean of education must recommend the applicant for certification based on the requirements set forth in this bulletin. If the institution is located in another state/country, the guidelines for out-of-state applicants prescribed on pages 4-5 of this bulletin must be followed.

OR

The applicant shall submit the credentials to the American Association of Collegiate Registrars and Admissions Officers (AACRAO), Office of International Education Services, at the following address:

One Dupont Circle, NW
Suite Number 520
Washington, D.C. 20036-1135
(202) 293-9161
FAX (202) 872-8857

The original evaluation from AACRAO on "Script Safe" paper must be submitted to the Department of Education, ertification and Higher Education, and must include a statement verifying the comparability of the baccalaureate degree in the field of education with a course-by-course evaluation.

Interested persons may submit comments until 4:30 p.m., January 10, 1999 to: Jeannie Stokes, 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—Applicants
with Foreign Credentials

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

The adoption of this policy will cost the Department of Education approximately $700 (printing and postage) to disseminate the policy.

BESE's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately $60. Funds are available.

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

This policy will have no effect on revenue collections.

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

This policy provides the option for persons with foreign credentials to present an evaluation from the American Association of Collegiate Registrars and Admissions Officers, Office of International Education Services, for teacher certification purposes. There is an evaluation fee of $190 ($75 if not recommended for university-level recognition). There is no fee for evaluations by Louisiana teacher education institutions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This expanded evaluation policy may allow additional foreign applicants to obtain teacher certification and employment.

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

9811#062

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—PRAXIS/National Teacher
Examination Scores (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, a revision to LAC 28:I.903.B.

The proposed revision adopts the scores required for teacher certification on the new PRAXIS tests which will replace certain parts of the NTE in September, 1999. It also allows persons who have achieved the required NTE scores prior to September, 1999, to use those scores for certification. Effective September, 1999, all newly adopted PRAXIS scores must be sent directly from ETS to the State Department of Education. A review of the new test scores shall be conducted by September, 2002 for reevaluation purposes, and revalidation studies on each test adopted shall be conducted every five years. The proposed rule will be effective September 1, 1999.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
§903. Teacher Certification Standards and Regulations

A. Bulletin 746

1. - 2. ...

B. PRAXIS/National Teacher Examinations

PRAXIS/National Teacher Examinations scores required for initial certification in Louisiana are:

PRAXIS/NTE SCORES

Area Examinations	Area Score	*PPST:R	*PPST:W	*PPST:M	PLT K-6	PLT 7-12
Administration and Supervision (0410)	620	---	---	---	---	---
Agriculture **	---	172	171	170		161
Art Education **	---	172	171	170	161 or	161
Biology and General Science (0030)	580	172	171	170		161
Business Education (0100)	540	172	171	170		161
Chemistry/Physics/General Science (0070)	530	172	171	170		161
Early Childhood Education (0020)	510	172	171	170	161	
Elementary Education:						
Curriculum, Instruction, and Assessment (0011)	156	172	171	170	161	
Content Area Exercises (0012)	137	172	171	170	161	
Education of Mentally Retarded	540	172	171	170	161 or	161
English Language, Literature, and Composition:						
Content Knowledge (0041)	160	172	171	170		161
Pedagogy (0043)	130	172	171	170		161
French (0170)	520	172	171	170		161
German (0180)	500	172	171	170		161
Home Economics Education (0120)	510	172	171	170		161
Industrial Arts Education **	---	172	171	170		161
Mathematics (0060)	550	172	171	170		161
Media Specialist/Library/A-V (0310)	560	172	171	170	161 or	161
Music Education (0110)	530	172	171	170	161 or	161
Physical Education (0090)	550	172	171	170	161 or	161
Social Studies:						
Content Knowledge (0081)	149	172	171	170		161
Interpretation of Materials (0083)	152	172	171	170		161
Spanish (0190)	540	172	171	170		161
Speech Communications **	---	172	171	170		161

PST:R—Pre-Professional Skills Test: Reading (0710)
PPST:W—Pre-Professional Skills Test: Writing (0720)
PPST:M—Pre-Professional Skills Test: Mathematics (0730)
PLT K-6—Principles of Learning and Teaching K-6 (0522)
PLT 7-12—Principles of Learning and Teaching 7-12 (0524)

*Computer-Based PPSTs are also available. Scores are: Reading (0711) - 319; Writing (0721) - 316; Mathematics (0731) - 315
**Area examination is not required.

C. - K. ...

* * *

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. 17:10; 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, 399, 435, 541(April, July, September, October, December 1975), amended LR 24:283 (February 1997), LR 24:1091 (June 1998), amended LR 25:

Interested persons may submit written comments on the proposed revision until 4:30 p.m. January 10, 1999 to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Marlyn Langley
Deputy Superintendent

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 746—PRAXIS/National Teacher Examination Scores

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

The adoption of this policy will cost the Department of Education approximately $700 (printing and postage) to disseminate the policy.

BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately $60.00. Funds are available.

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

This policy will have no effect on revenue collections.

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

This policy requires that applicants for teacher certification present the designated PRAXIS test scores effective September 1, 1999. There will be no impact on costs or economic benefits to directly affected persons or non-governmental groups as a result of this policy.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance

H. Gordon Monk
Staff Director
Legislative Fiscal Office

9811#060

N

TICE OF INTENT

Student Financial Assistance Commission
Office of Student Financial Assistance

Tuition Opportunity Program for Students
(TOPS) (LAC 28:IV.Chapters 1-21)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS).

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed manual until 4:30 p.m., December 20, 1998, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Tuition Opportunity Program for Students

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

Estimated costs to implement these rule changes include the routine charges from the Louisiana Register of $500 to publish the Declaration of Emergency, the Notice of Intent and the Final Rule; and costs for additional awards of $149,096 in FY 1998-99, $391,877 in FY 1999-2000, and $388,178 in FY 2000-2001.

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

No impact on revenue collections is anticipated to result from this rule.

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

The economic benefit would directly affect: 1997-98 Tuition Assistance Plan (TAP) recipients, Louisiana Honors Scholarship recipients, and TOPS award recipients who choose to defer acceptance because of a previous commitment to an ineligible school.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this rule.

Mark S. Riley
General Counsel

H. Gordon Monk
Staff Director
Legislative Fiscal Office

9811#061

NOTICE OF INTENT

Office of the Governor
Crime Victims Reparation Board

Award Limits (LAC 22:XIII.503)

In accordance with the provisions of R.S.46:1801 et seq., the Crime Victims Reparations Act, and R.S. 49:950 et seq., the Administrative Procedure Act, the Crime Victims Reparations Board hereby gives notice of its intent to promulgate rules and regulations relative to the awarding of compensation to applicants.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part XIII. Crime Victims Reparations Board
Chapter 1. Authority and Definitions
§503. Limits on Awards

A.1. ...

2. All applications filed as the result of the death of a victim will be assigned one claim number with the deceased listed as the *primary* victim. Each additional claimant and/or *secondary victim* must submit a separate application with the appropriate claim form(s) and supporting documents. The aggregate claims arising out of the same crime will be subject to the maximum amount authorized by law.

B. ...

C. Funeral Expenses

1. The board will reimburse up to a maximum of $3,500 to cover reasonable expenses actually incurred for the funeral, burial or cremation.

2. Death and/or burial insurance taken out specifically for the purpose of burial must pay first. The amount of life insurance proceeds paid may be considered as a collateral source.

3. Repealed.

D. ...

E. Loss of Support

1. - 2. ...

3. The board will reimburse loss of support with a maximum of $10,000.

a. The board may award loss of support up to the maximum amount per week authorized for lost wages in §503.D.4. That amount is based on net, after-tax, or take home pay.

b. When only gross income is provided by a claimant, then the board will award the loss of support at 80 percent of the amount authorized in §503.D.4 for lost wages.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May l994), amended LR 22:710 (August 1996), amended LR 24:328 (February 1998), LR 25:

Interested persons may submit written comments on this proposed rule no later than December 8, 1998, at 5 p.m. to Bob Wertz, CVR Program Manager, Commission on Law Enforcement and Administration of Criminal Justice, 1885 Wooddale Boulevard, Room 708, Baton Rouge, LA 70806.

A public hearing will be held December 8, 1998 at 4 p.m. at 1885 Wooddale Boulevard, Seventh Floor Conference Room, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed rule.

Lamarr Davis
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Award Limits

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

It is estimated that implementation of the proposed rules will increase expenditures by approximately $71,000 annually in statutorily dedicated funds from the Crime Victims Reparation Fund which is derived from costs levied in state criminal courts. This rule will increase current limits in certain categories of payments which can be made to eligible victims of violent crimes. Printing costs of $340.00 for publication of these rules have been included in the total expenditures. Sufficient funds are available in the Crime Victims Reparation Fund to cover these additional expenditures.

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

It is estimated that implementation of the proposed rules will increase revenue collections beginning in FY00, however, the exact amount is unknown. The dollar amount of federal grant funding allotted annually to the Louisiana Commission on Law Enforcement (LCLE) is contingent upon the dollar amount of state funds which the agency expends for crime victims in the preceding year; therefore, increased state expenditures will generate additional federal funding for the agency in the next fiscal year. Implementation of this rule should increase state expenditures beginning in FY99, thereby increasing federal revenue collections beginning in FY00.

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

The proposed amendments will result in award increases up to $3,500 to homicide victims of violent crimes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of these proposed amendments.

Michael A. Ranatza	Robert E. Hosse
Executive Director	General Government Section Director
9811#047	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Dentistry

Adjudication Proceeding Costs
(LAC 46:XXXIII.421)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.421, Subpoenas. No preamble has been prepared.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Professions
Chapter 4. Fees and Costs
Subchapter E. Adjudication Proceeding Costs
§421. Subpoenas

For issuance of a subpoena or subpoena duces tecum with respect to an administrative hearing, a fee of $15.00 shall be payable by the respondent to the board, but not by the board, in addition to the witness fees prescribed by law. [see R.S. 49:956(5)].

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry, LR 14:791 (November 1988), amended by the Department of Health and Hospitals, Board of Dentistry, LR 25:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 70112. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Adjudication Proceeding Costs

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

The costs of implementing this rule are negligible. Notification of this rule addition will be provided to our licensees via publication of the Louisiana Dental Practice Act booklet which is budgeted for publication in 1999.

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

There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.

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

There will be no costs and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden — Executive Director
Robert E. Hosse — General Government Section Director
Legislative Fiscal Office

9811#026

NOTICE OF INTENT

Department of Health and Hospitals
Board of Dentistry

Advertising and Soliciting by Dentists
(LAC 46:XXXIII.301)

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

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Professions
Chapter 3. Dentists
§301 Advertising and Soliciting by Dentists

A. - I. ...

J. Advertisement of Fees and Discounted Services

1. An appropriate disclosure regarding advertised fees is necessary to protect the public so all procedures or devices which are advertised with fees must adequately describe the procedure or device in such a way that a layperson is not mislead. Proof of customary fee must be available if discounted fees are advertised, and the true fee from which the discount is taken must be in the advertisement also.

2. - 3. ...

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 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), amended LR 25:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 70112. Written comments must be submitted to and received by the Board within sixty

ays of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Advertising and Soliciting by Dentists

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

The costs of implementing this rule are negligible. Notification of this rule amendment will be provided to our licensees via publication of the Louisiana Dental Practice Act booklet which is budgeted for publication in 1999.

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

There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.

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

There will be no costs and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden	Robert E. Hosse
Executive Director	General Government Section Director
9811#007	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Dentistry

Continuing Education—Dentists and Hygienists
(LAC 46:XXXIII.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) and (13), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.1611, Continuing Education Requirements for Relicensure of Dentists, and LAC 46:XXXIII.1613, Continuing Education Requirements for Relicensure of Dental Hygienists. No preamble has been prepared.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Professions
Chapter 16. Continuing Education Requirements
§1611. Continuing Education Requirements for Relicensure of Dentists

A. - J. ...

K. Dentists who successfully complete certification courses in advanced cardiac life support continuing education will be awarded up to 16 hours of clinical continuing dental education. However, dentists completing the shorter recertification course in advanced cardiac life support will be awarded 3 hours of non-clinical continuing dental education.

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 25:

§1613. Continuing Education Requirements for Relicensure of Dental Hygienists

A. - J. ...

K. Dental hygienists who successfully complete a continuing education course as set forth in §710, Administration of Local Anesthesia for Dental Purposes, will be awarded 72 hours of clinical continuing dental hygiene education. However, these hours may not be carried over to a subsequent renewal period and will count only toward the renewal of their license during the period in which they attended the course.

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 25:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 70112. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Relicensure of Dentists and Dental Hygienists—Continuing Education Requirements

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

The costs of implementing this rule are negligible. Notification of this rule addition will be provided to our licensees via publication of the Louisiana Dental Practice Act booklet which is budgeted for publication in 1999.

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

There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.

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

There will be no costs and/or economic benefit to directly affected person or non-governmental groups. However, dentists who avail themselves of this rule change may enjoy an economic benefit because this allows them more continuing education

redit thereby reducing costs of complying with continuing education requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden
Executive Director

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

9811#030

NOTICE OF INTENT

Department of Health and Hospitals
Board of Dentistry

Expanded Duty Dental Assistant Course Providers
(LAC 46:XXXIII.504)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.504, Authorized Providers of Instruction for Expanded Duty Dental Assistant Courses. No preamble has been prepared.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Professions
Chapter 5. Dental Assistants
§504. Authorized Providers of Instruction for Expanded Duty Dental Assistant Courses

A. Louisiana State University School of Dentistry and Northeast Louisiana School of Dental Hygiene; or

B. Louisiana state schools of allied health science including vocational technical schools in affiliation with Louisiana State University School of Dentistry and Northeast Louisiana School of Dental Hygiene; or

C. . . .

D. The board reserves the right to randomly monitor any and all courses given under Chapter 5.

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 19:205 (February 1993), amended LR 25:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 70112. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Providers of Instruction for Expanded Duty Dental Assistant Courses

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

The costs of implementing this rule are negligible. Notification of this rule amendment will be provided to our licensees via publication of the Louisiana Dental Practice Act booklet which is budgeted for publication in 1999.

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

There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.

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

There will be no costs and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden
Executive Director

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

9811#027

NOTICE OF INTENT

Department of Health and Hospitals
Board of Dentistry

Formal Adjudication
(LAC 46:XXXIII.901)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:75 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.901, Scope of Chapter. No preamble has been prepared.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Professions
Chapter 9. Formal Adjudication
§901. Scope of Chapter

The rules of Chapter 9 govern the board's initiation and adjudication of administrative complaints providing cause under law for the suspension or revocation, of a license issued by the board, imposition of probation on or other disciplinary action against persons holding licenses, permits, certifications, or registrations issued by the board, applicants therefor, or any non-licensed person illegally practicing dentistry or dental hygiene. The rules of Chapter 9 are promulgated in order to supplement the provisions of the Administrative Procedure

Act, R.S. 49:950 et seq., and the Dental Practice Act, R.S. 37:751 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (4), (5), and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry, LR 13:178 (March 1987), amended by the Department of Health and Hospitals, Board of Dentistry, LR 19:1317 (October 1993), amended LR 25:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 70112. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Formal Adjudication

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

The costs of implementing this rule are negligible. Notification of this rule amendment will be provided to our licensees via publication of the Louisiana Dental Practice Act booklet which is budgeted for publication in 1999.

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

There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.

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

There will be no costs and/or economic benefit to directly affected persons or non-governmental groups. Rather, this rule is being amended to notify persons who are subjected to administrative disciplinary proceedings for practicing dentistry or dental hygiene without a license that the board will utilize the same procedures for formal adjudication which it utilizes in prosecuting persons who possess such licenses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden	Robert E. Hosse
Executive Director	General Government Section Director
9811#029	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Dentistry

Guidelines for Returning to Active Practice
(LAC 46:XXXIII.124)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to add LAC 46:XXXIII.124, Guidelines for Returning to Active Practice. No preamble has been prepared.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Professions
Chapter 1. General Provisions
§124. Guidelines for Returning to Active Practice

A. Section 124 is intended to provide guidelines to enable the Board to provide evaluation and remediation to dentists and dental hygienists who have not actively practiced their professions for a sufficient length of time which would justify various levels of remediation to assure the board that the dentist or dental hygienist is sufficiently qualified to again practice on the public.

B. In all cases where a dentist or dental hygienist has not practiced their profession due to a problem concerning unprofessional conduct, substance abuse, criminal activity, or other issues concerning moral turpitude, said dentist or dental hygienist shall be assessed by a psychiatrist or psychologist of the board's choosing to determine remediability. The cost of the assessment shall be borne by the dentist or dental hygienist.

C. Evaluations of the diagnostic, clinical, and laboratory skills of the dentist or dental hygienist shall be evaluated by an entity of the board's choosing. The costs of the evaluation shall be borne by the dentist or dental hygienist. Evaluations may include, but not be limited to, comprehensive table examinations, written examinations, and clinical examinations. These examinations shall cover those areas of dentistry the board feels are necessary to have evaluated.

D. When a license has been inactive for a period of three months to one year, it is the prerogative of the board to have the licensee evaluated in any specific or all fields of dentistry or dental hygiene as deemed necessary by the board.

E. In all cases where a license has been suspended for a period of three months or more, the dentist or dental hygienist shall successfully complete a course in ethics as determined by the board.

F. When a license has been inactive for one year or greater, an evaluation by a dentist and/or specialist appointed by the board shall be conducted. Varying degrees of remediation shall be determined by the board on a case-by-case basis. Areas of specific concern for general dentists are:

1. oral diagnosis/treatment planning;
2. dental materials;
3. operative dentistry;
4. fixed prosthodontics;
5. removable prosthodontics;
6. periodontics;
7. endodontics;
8. pain control/pharmacology;
9. nitrous oxide sedation;
10. cardiopulmonary resuscitation;
11. infection control;
12. OSHA regulations;
13. jurisprudence;

14. implantology;
15. ethics.

G. Specialists may be evaluated by other specialists in that field appointed by the board, or oral examinations, or written examinations.

H. Dental hygienists shall be evaluated on all areas of dental hygiene for which they are authorized to perform. These evaluations may be performed by written and/or clinical examinations.

I. In all cases, the board has the discretion to prescribe any course of remediation it deems fit and proper, including, but not limited to, requiring further schooling at a dental or dental hygiene school, participation in mini-residencies, or practicing only under the direct supervision of other licensed dentists.

J. Any dentist or dental hygienist who is authorized to return to active practice with restrictions or requirements on their license who do not completely satisfy said requirements or restrictions shall be subject to sanctions, including, but not limited to, revocation of their license whether or not a complaint has been received by the board.

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 25:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 70112. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Guidelines for Returning to Active Practice

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

The costs of implementing this rule are negligible. Notification of this rule addition will be provided to our licensees via publication of the Louisiana Dental Practice Act booklet which is budgeted for publication in 1999.

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

There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.

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

There will be no costs and/or economic benefit to directly affected persons or non-governmental groups. This rule addition merely codifies remediation policies when one seeks to return to active status by setting forth those procedures which the board has been following for years.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden
Executive Director
9811#006

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Dentistry

Health Care Provider—Financial Interest Disclosure
(LAC 46:XXXIII.316)

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., particularly R.S. 37:760(8), and under the mandate of R.S. 37:1744, notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.316, Disclosure of Financial Interest by Referring Dental Health Care Provider. No preamble has been prepared.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Professions
Chapter 3. Dentists
§316. Disclosure of Financial Interest by Referring Dental Health Care Provider

A. This rule is authorized and mandated by R.S. 37:1744 and a violation of §316 will constitute a violation of either R.S. 37:776(A)(24) or R.S. 37:777(18).

B. No dental health care provider shall make referrals outside the same group practice as that of the referring dental health care provider to any licensed health care facility, or provider of health care goods and services, including, but not limited to, providers of clinical laboratory services, diagnostic services, medicinal suppliers, and therapeutic services when the referring dental health care provider has a financial interest served by such referrals, unless in advance of any such referral, the referring dental health care provider discloses to the patient, in writing, the existence of such financial interest. Nothing herein shall be construed to allow any Louisiana dentist or dental hygienist to violate LSA-R.S. 37:776(A)(19) or 37:777(A)(15), which prohibits patient referrals in return for the payment of something of value, except as provided therein, whether or not the arrangement is first disclosed, in writing, to the patient.

C. ...

D. It shall be a violation of §316 for any licensee to enter into any arrangement or scheme, including cross-referral arrangements, if the licensee knows, or should know, that he or she has a principal purpose of insuring referrals by the licensee to a particular entity, which referral, if made directly by the licensee, would be a violation of §316.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and mandated R.S. 37:1744.

HISTORICAL NOTE: Adopted by the Department of Health and Hospitals, Board of Dentistry, LR 23:1527 (November 1997), amended LR 25:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 70112. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Disclosure of Financial Interest by Referring Dental Health Care Provider

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

The costs of implementing this rule are negligible. Notification of this rule addition will be provided to our licensees via publication of the Louisiana Dental Practice Act booklet which is budgeted for publication in 1999.

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

There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.

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

There will be no costs and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden	Robert E. Hosse
Executive Director	General Government Section Director
9811#010	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Dentistry

Inventories of Controlled Substances
(LAC 46:XXXIII.320)

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., particularly R.S. 37:760(8), and under the mandate of R.S. 37:1744, notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to add LAC 46:XXXIII.320, Required Inventories. No preamble has been prepared.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Professions
Chapter 3. Dentists
§320. Required Inventories

A. The purpose of §320 is to supplement R.S. 37:794, Dispensing of Controlled Substances; Records.

B. All licensees handling controlled substances in Schedules I, II, III, IV, or V shall prepare a complete and accurate inventory of each such substance in his or her possession or under his or her control. All licensees will have records open for inspection by the Department of Health and Hospitals, the Drug Enforcement Administration, and the Louisiana State Board of Dentistry.

C. This inventory shall list a common or established name of each such controlled substance.

D. If the controlled substances are in dosage unit form, it will fully identify the form (e.g., amphetamine sulfate, 10 mg. tablets), and record the number of dosage units. If the controlled substance is in an ingredient in a powder, crystalline, liquid, bead, or other form, this inventory will fully identify the form (e.g., dextroamphetamine sulfate, elixir, 5 mg. per 5 ml.) and record the amount of each form.

E. This inventory shall be placed on the record separate from other business, professional, or required records. This record shall be prepared, dated, and signed by the dentist under whose control the controlled substances are placed.

F. The record shall be kept for a period of at least two (2) years from the date of preparation. Inventory records shall be prepared in accordance with the provisions of §320.F every two (2) years on the anniversary date of the initial inventory. These inventories may coincide with the dentist's regular fiscal inventory, provided that he maintains his records of receipt, distribution, and dispensing in such a manner as to facilitate complete accounting for his or her handling of controlled substance (perpetual inventory control).

G. Any dentist failing to comply with the above conditions shall be deemed to have violated R.S. 37:776(A)(24) and R.S. 37:794.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and mandated R.S. 37:1744.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 25:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 70112. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Inventories of Controlled Substances

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

The costs of implementing this rule are negligible. Notification of this rule addition will be provided to our licensees via publication of the Louisiana Dental Practice Act booklet which is budgeted for publication in 1999.

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

There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.

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

There will be no costs and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden	Robert E. Hosse
Executive Director	General Government Section Director
9811#011	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Dentistry

Licensure by Credentials—Dental Hygienists
(LAC 46:XXXIII.706)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.706, Requirements of Applicants for Licensure by Credentials. No preamble has been prepared.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Professions
Chapter 7. Dental Hygienists
§706. Requirements of Applicants for Licensure by Credentials

A. ...

l. - 5. ...

6. has never been convicted of a felony or a misdemeanor involving moral turpitude including, but not limited to, driving while under the influence of alcohol or drugs;

7. - 20. ...

B. ...

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 18:737 (July 1992), amended LR 21:570 (June 1995), LR 22:23 (January 1996), LR 25:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 70112. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice. No preamble has been prepared.

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Licensure by Credentials—Dental Hygienists

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

The costs of implementing this rule are negligible. Notification of this rule amendment will be provided to our licensees via publication of the Louisiana Dental Practice Act booklet which is budgeted for publication in 1999.

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

There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.

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

There will be no costs and/or economic benefit to directly affected person or non-governmental groups, except that persons who have been convicted of misdemeanors involving moral turpitude or who have been convicted of crimes such as driving while under the influence of alcohol or drugs may or may not receive a license by credentials depending upon the circumstances.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment other than as noted in Section III above.

C. Barry Ogden	Robert E. Hosse
Executive Director	General Government Section Director
9811#008	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Dentistry

Licensure by Credentials—Dentists
(LAC 46:XXXIII.306)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S.

37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.306, Requirement of Applicants for Licensure by Credentials. No preamble has been prepared.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Professions
Chapter 3. Dentists
§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:

l. - 5. ...

6. has never been convicted of a felony or a misdemeanor involving moral turpitude including, but not limited to, driving while under the influence of alcohol or drugs;

7. - 20. ...

B. ...

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 25:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 70112. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Licensure by Credentials—Dentists

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

The costs of implementing this rule are negligible. Notification of this rule addition will be provided to our licensees via publication of the Louisiana Dental Practice Act booklet which is budgeted for publication in 1999.

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

There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.

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

There will be no costs and/or economic benefit to directly affected person or non-governmental groups, except that persons who have been convicted of misdemeanors involving moral urpitude or who have been convicted of crimes such as driving while under the influence of alcohol or drugs may or may not receive a license by credentials depending upon the circumstances.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment other than as noted in Section III above.

C. Barry Ogden
Executive Director

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

9811#028

NOTICE OF INTENT

Department of Health and Hospitals
Board of Dentistry

Provision of Dental Services at Locations Other Than Dental Office
(LAC 46:XXXIII.314)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.314, Provision of Dental Services at Locations Other Than Dental Office. No preamble has been prepared.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Professions
Chapter 3. Dentists
§314. Provision of Dental Services at Locations Other Than Dental Office

A. When dental services are provided by dental health care providers to patients in locations other than the dental health care provider's dental office, or an accredited hospital, the dental health care provider shall:

* * *

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 23:1525 (November 1997), amended LR 25:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 70112. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Provision of Dental Services
at Locations Other Than Dental Office

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

The costs of implementing this rule are negligible. Notification of this rule addition will be provided to our licensees via publication of the Louisiana Dental Practice Act booklet which is budgeted for publication in 1999.

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

There will be no effect on revenue collections by the Louisiana Board of Dentistry or any other state or local governmental unit.

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

There will be no costs and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden	Robert E. Hosse
Executive Director	General Government Section Director
9811#009	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Dentistry

Reinstatement of Licenses Revoked for Non-Payment
(LAC 46:XXXIII.114)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to add LAC 46:XXXIII.114, Reinstatement of Licenses Revoked for Non-Payment. No preamble has been prepared.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Professions
Chapter 1. General Provisions
§114 Reinstatement of Licenses Revoked for Non-Payment

A. Any licensee seeking the reinstatement of his or her license to practice dentistry or dental hygiene in the State of Louisiana shall request in writing the reinstatement of his or her license, and personally appear before the board for an interview to determine the merits of the request for reinstatement.

B. When a dentist or dental hygienist has allowed their Louisiana license to lapse for any reason whatsoever, but continued to practice dentistry or dental hygiene in another state, that person must seek relicensure by credentials and is prohibited from receiving relicensure by reinstating their Louisiana license.

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 24:1113 (June 1998), amended LR 25:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 70112. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Reinstatement of Licenses
Revoked for Non-Payment

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

The costs of implementing this rule are negligible. Notification of this rule change will be provided to our licensees via publication of the Louisiana Dental Practice Act booklet which is budgeted for publication in 1999.

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

There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.

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

There will be no costs and\or economic benefit to directly affected persons or non-governmental groups. However, higher costs will apply if one waits longer than one year to reinstate his license.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden	Robert E. Hosse
Executive Director	General Government Section Director
9811#005	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Veterinary Medicine

Ketamine—Usage and Storage
(LAC 46:LXXXV.704)

The Board of Veterinary Medicine proposes to amend LAC 46.LXXXV.704.B in accordance with the provisions of the

dministrative Procedure Act, R.S. 49:950, and the Veterinary Practice Act, LA R.S. 37:1518 et seq.

By act of the legislature, effective June 16, 1998, ketamine hydrochloride is a schedule III controlled dangerous substance in Louisiana. Prior to this act, ketamine was a drug available to and used by animal control personnel to immobilize aggressive and dangerous animals. As a scheduled drug, only licensed practitioners who hold a valid controlled dangerous substances license may administer or dispense ketamine. Under current law and regulations, an animal control agency must have a licensed veterinarian readily available and on-site to administer ketamine to dangerous animals. Many parishes of the state are unable to obtain the services of a veterinarian to accompany animal control personnel into the field at any time of the day. Therefore, feral, diseased, and vicious animals which pose a risk to public health and safety may escape capture. In the case of some animals, ketamine (sometimes in combination with non-controlled drugs) is the preferred drug for restraint or capture. In addition, animal control agency personnel may be placed at greater risk from dangerous animals because of their lack of access to ketamine.

To protect the public health and safety, the board has amended LAC 46:LXXXV.704.B to include ketamine hydrochloride as a controlled substance which an animal control agency may use for the sole purpose of animal capture and restraint, so long as a licensed veterinarian who possesses a state controlled dangerous substance license at the shelter location where the drugs will be stored and administered agrees to be responsible for the ketamine used. Section 704.B prescribes the conditions under which ketamine is used and stored. This amendment will mean that a licensed veterinarian will not be required to be on-site with animal control personnel when ketamine is used for animal restraint and capture.

The full text of this rule can be viewed in the emergency rule section of this issue of the *Louisiana Register*.

Interested parties may submit written comments to Charles B. Mann, executive director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Comments will be accepted through the close of business on December 28, 1998. Pursuant to the Administrative Procedure Act, if oral presentation or argument is requested by the requisite number of persons or proper entities, then a public hearing on these matters will be held on December 29, 1998, at 9:00 a.m. at the office of the Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Please contact the board office at 225-342-2176 to confirm whether or not the public hearing will be held.

Charles B. Mann
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Consulting and Providing Legend and Certain Controlled Substances (Ketamine)

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

There will be no costs or savings to state or local governmental units, except for those associated with publishing the amendments (estimated $200). The veterinary profession will be informed of this rule change via the board's regular newsletter or other direct mailings, which are already a budgeted cost of the board.

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

There will be no effect on revenue collections of state or local governmental units. There will be no revenue impact as no increase in fees will result from these amendments.

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on employment and competition.

Charles B. Mann
Executive Director

Robert E. Hosse
General Government Section Division
Legislative Fiscal Office

9811#057

NOTICE OF INTENT

Department of Health and Hospitals
Licensed Professional Counselors Board of Examiners

Disciplinary Proceedings (LAC 46:LX.Chapter 13)

The Licensed Professional Counselors Board of Examiners, under authority of the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101-1115, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby intends to repeal and adopt the following with regard to licensing.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LX. Licensed Professional Counselors Board of Examiners
Chapter 13. Disciplinary Proceedings
§1301. Causes for Administrative Action

A. The board, after due notice and hearing as set forth herein and the Louisiana Administrative Procedure Act, LSA

R.S. 49:950 et seq., may withhold, deny, revoke or suspend any license issued or applied for or otherwise discipline a licensed professional counselor on a finding that the person has violated the Louisiana Mental Health Counselor Licensing Act, any of the rules and regulations promulgated by the board, the Code of Ethics of the American Counseling Association, or prior final decisions and/or consent orders involving the licensed professional counselor or applicant for licensure. Sometimes hereinafter in this Chapter, where the context allows, a licensed professional counselor or applicant for licensure may be referred to as *person*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:84 (February, 1988), amended by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 15:837 (October, 1989), LR 17:778 (August, 1991), repealed and repromulgated by the Licensed Professional Counselors Board of Examiners LR 25:

§1303. Disciplinary Process and Procedures

A. The purpose of the following rules and regulations is to supplement and effectuate the applicable provisions of the Louisiana Administrative Procedure Act, LSA R.S. 49:950 et seq., regarding the disciplinary process and procedures incident thereto. These rules and regulations are not intended to amend or repeal the provisions of the Louisiana Administrative Procedure Act, and to the extent any of these rules and regulations are in conflict therewith, the provisions of the Louisiana Administrative Procedure Act shall govern.

B. A disciplinary proceeding, including the formal hearing, is less formal than a judicial proceeding. It is not subject to strict rules and technicalities, but must be conducted in accordance with considerations of fair play and constitutional requirements of due process.

C. The purpose of a disciplinary proceeding is to determine contested issues of law and fact; whether the person did certain acts or omissions and, if he did, whether those acts or omissions violated the Louisiana Mental Health Counselor Licensing Act, the rules and regulations of the board, the Code of Ethics of the American Counseling Association, or prior Final Decisions and/or Consent Orders involving the licensed professional counselor or applicant for licensure and to determine the appropriate disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

§1305. Initiation of Complaints

A. Complaints may be initiated by any person or by the board on its own initiative.

B. All complaints shall be addressed confidential to the Ad Hoc Committee for Disciplinary Affairs of the board and shall be sent to the board office. The Ad Hoc Committee for Disciplinary Affairs of the board shall, during an executive session of the board, convey the complaint to the board members. The board members by a vote of four of the seven members shall agree to investigate the charges or deny the charges. If a denial, the chairperson of the board shall request the Ad Hoc Committee for Disciplinary Affairs to prepare the etters of denial for his signature. If the board agrees to investigate, the board shall request the Ad Hoc Committee for Disciplinary Affairs to notify the person that allegations have been made that he may have committed a breach of statute, rule and regulation, ethical code, and/or prior final decisions or consent orders and that he must respond in writing to the board within a specified time period. A response is to be made to the Ad Hoc Committee for Disciplinary Affairs of the board at the board office address. The complaint letter of alleged violations shall not be given initially to the person. However, sufficiently specific allegations shall be conveyed to the person for his response. Once the person has answered the complaint, a determination will be made if a disciplinary proceeding is required.

C. Pursuant to its authority to regulate this industry, the board through its Ad Hoc Committee on Disciplinary Affairs, may issue subpoenas to secure evidence of alleged violations of the Louisiana Mental Health Counselor Licensing Act, any of the rules and regulations promulgated by the board, the Code of Ethics of the American Counseling Association, or prior final decisions and/or consent orders involving the licensed professional counselor or applicant for licensure. The confidential or privileged records of a patient or client which are subpoenaed are to be sanitized by the custodian of such records so as to maintain the anonymity of the patient or client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

§1307. Informal Disposition of Complaints

A. Some complaints may be settled informally by the board and the person accused of a violation without a formal hearing. The following types of informal dispositions may be utilized.

1. Disposition by Correspondence. For complaints less serious, the Ad Hoc Committee for Disciplinary Affairs of the board may write to the person explaining the nature of the complaint received. The person's subsequent response may satisfactorily explain the situation, and the matter may be dropped. If the situation is not satisfactorily explained, it shall be pursued through an informal conference or formal hearing.

2. Informal Conference

a. The Ad Hoc Committee for Disciplinary Affairs of the board may hold a conference with the person in lieu of, or in addition to, correspondence in cases of less serious complaints. If the situation is satisfactorily explained in conference, a formal hearing is not scheduled.

b. The person shall be given adequate notice of the conference, of the issues to be discussed, and of the fact that information brought out of the conference may later be used in a formal hearing. Board members may not be involved in informal conferences.

3. Settlement. An agreement worked out between the person making the complaint and the person accused of a violation does not preclude disciplinary action by the board. The nature of the offense alleged and the evidence before the board must be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

§1309. Formal Hearing

A. The board has the authority, granted by LSA R.S. 37:1101 et seq., to bring administrative proceedings against persons to whom it has issued a license to practice as a licensed professional counselor or any applicant requesting a license. The person has the right to:

1. appear and be heard, either appearing alone or with counsel;
2. the right of notice;
3. a statement of what accusations have been made;
4. the right to present evidence and to cross-examine; and
5. the right to have witnesses subpoenaed.

B. If the person does not appear, either in person or through counsel, after proper notice has been given, the person may be considered to have waived these rights and the board may proceed with the hearing without the presence of the person.

C. The process of administrative action shall include certain steps and may include other steps as follows.

1. The board received a complaint alleging that a person has acted in violation of the Louisiana Mental Health Counselor Licensing Act, the rules and regulations of the board, or the Code of Ethics of the American Counseling Association. Communications from the complaining party shall not be revealed to any person until and unless a formal complaint is filed except those documents being subpoenaed by a court.

2.a. The complaint is investigated by the board's agent or attorney to determine if there is sufficient evidence to warrant disciplinary proceedings. No board member may communicate with any party to a proceeding or his representative concerning any issue of fact or law involved in that proceeding.

b. A decision to initiate a formal complaint or charge is made if one or more of the following conditions exists:

i. the complaint is sufficiently serious;

ii. the person fails to respond to the board's correspondence concerning the complaint;

iii. the person's response to the board's letter or investigation demand is not convincing that no action is necessary;

iv. an informal approach is used, but fails to resolve all of the issues.

3. A Notice of Hearing is issued pursuant to La. R.S. 49:955, charging the violation of one or more of the provisions of the Louisiana Mental Health Counselor Licensing Act, the rules and regulations promulgated thereto, the Code of Ethics of the American Counseling Association, or prior final decisions and/or consent orders involving the person.

4. A time and place for a hearing is fixed by the chairman or an agent of the board.

5.a. At least twenty days prior to the date set for the hearing, a copy of the charges and a notice of the time and place of the hearing are sent by certified mail to the last known address of the person accused. If the mailing is not returned to the board, it is assumed to have been received. It is the person's obligation to keep the board informed of his whereabouts. The board will conduct the hearing, with the accused person in absentia, in the event that certified mail at the last known address is unsuccessful.

b. The content of the charges limits the scope of the hearing and the evidence which may be introduced. The charges may be amended at any time up to ten days prior to the date set for the hearing.

c. If the board is unable to describe the matters involved in detail at the time the sworn complaint is filed, this complaint may be limited to a general statement of the issues involved. Thereafter, upon the person's request, the board shall supply a more definite and detailed statement to the person.

6. Except for extreme emergencies, motions requesting a continuance of a hearing shall be filed at least five days prior to the time set for the hearing. The motion shall contain the reason for the request, which reason must have relevance to due process. The decision to grant or deny a motion to continue shall be left to the discretion of the board chair and may only be granted for compelling reasons.

7.a. The chairman, or an authorized agent of the board, issues subpoenas for the board for disciplinary proceedings, and when requested to do so, may issue subpoenas for the other party. Subpoenas include:

i. a subpoena requiring a person to appear and give testimony; and

ii. a subpoena dues tecum, which requires that a person produce books, records, correspondence, or other materials over which he has custody.

b. A motion to limit or quash a subpoena may be filed with the board, but not less than seventy-two hours prior to the hearing.

8.a. The hearing is held, at which time the board's primary role is to hear evidence and argument, and to reach a decision. Any board member who, because of bias or interest, is unable to assure a fair hearing, shall be recused from the particular proceeding. The reasons for the recusal are made part of the record. Should the majority of the board members be recused for a particular proceeding, the governor shall be requested to appoint a sufficient number of pro tem members to obtain a quorum for the proceeding.

b. The board is represented by its agent who conducted the investigation and presents evidence that disciplinary action should be taken against the person and/or by the board's attorney. The person may present evidence personally or through an attorney, and witnesses may testify on behalf of the person.

c. Evidence includes the following:

i. oral testimony given by witnesses at the hearing, except that, for good cause, testimony may be taken by deposition (cost of the deposition is borne by the requesting party);

ii. documentary evidence, i.e., written or printed materials including public, business, institutional records, books and reports;

iii. visual, physical and illustrative evidence;

iv. admissions, which are written or oral statements of a party made either before or during the hearing;

v. facts officially noted into the record, usually readily determined facts making proof of such unnecessary.

d. All testimony is given under oath. If the witness objects to swearing, the word *affirm* may be substituted.

9. The chairman of the board presides and the customary order of proceedings at a hearing is as follows.

a. The board's representative makes an opening statement of what he intends to prove, and what action, he wants the board to take.

b. The person, or his attorney, makes an opening statement, explaining why he believes that the charges against him are not legally founded.

c. The board's representative presents the case against the person.

d. The person, or his attorney, cross-examines.

e. The person presents evidence.

f. The board's representative cross-examines.

g. The board's representative rebuts the person's evidence.

h. Both parties make closing statements. The board's representative makes the initial closing statement and the final statement.

10. Motions may be made before, during, or after a hearing. All motions shall be made at an appropriate time according to the nature of the request. Motions made before or after the hearing shall be in writing. Those made during the course of the hearing may be made orally since they become part of the record of the proceeding.

11. a. The record of the hearing shall include:

i. all papers filed and served in the proceeding;

ii. all documents and/or other materials accepted as evidence at the hearing;

iii. statements of matters officially noticed;

iv. notices required by the statutes or rules; including notice of hearing;

v. affidavits of service or receipts for mailing or process or other evidence of service;

vi. stipulations, settlement agreements or consent orders, if any;

vii. records of matters agreed upon at a prehearing conference;

viii. reports filed by the hearing officer, if one is used;

ix. orders of the board and its final decision;

x. actions taken subsequent to the decision, including requests for reconsideration and rehearing;

xi. a transcript of the proceedings, if one has been made, or a tape recording or stenographic record.

b. The record of the proceeding shall be retained until the time for any appeal has expired, or until the appeal has been concluded. The record is not transcribed unless a party to the proceeding so requests, and the requesting party pays for the cost of the transcript.

12.a. The decision of the board shall be reached according to the following process.

i. Determine the facts at issue on the basis of the evidence submitted at the hearing.

ii. Determine whether the facts in the case support the charges brought against the person.

iii. Determine whether charges brought are a violation of the Louisiana Mental Health Counselor Licensing Act or rules and regulations of the board.

b. Deliberation

i. The board will deliberate in closed session.

ii. The board will vote on each charge as to whether the charge has been supported by the evidence. (The standard will be *preponderance of the evidence*).

iii. After considering and voting on each charge, the board will vote on a resolution to dismiss the charges, withhold, deny, revoke or suspend any license issued or applied for or otherwise discipline a licensed professional counselor or applicant for licensure.

iv. The board by affirmative vote of at least four of its seven members, shall be needed to withhold, deny, revoke, or suspend any license issued or applied for in accordance with the provisions of Chapter 13 or otherwise discipline a licensed professional counselor or applicant.

c. Sanctions against the person who is party to the proceeding are based upon findings of fact and conclusion of law determined as a result of the hearing. The party is notified by mail of the final decision of the board.

13. Every order of the board shall take effect immediately on its being rendered unless the board in such order fixes a probationary period for an applicant or licensee. Such order shall continue in effect until expiration of any specified time period or termination by a court of competent jurisdiction. The board shall notify all licensees of any action taken against a licensee and may make public its orders and judgement in such manner and form as it deems proper if such orders and judgments are not consent orders or compromise judgments.

14.a. The board may reconsider a matter which it has decided. This may involve rehearing the case, or it may involve reconsidering the case on the basis of the record. Such reconsideration may occur when a party who is dissatisfied with a decision of the board files a motion requesting that the decision be reconsidered by the board.

b. The board shall reconsider a matter when ordered to do so by a higher administrative authority or when the case is remanded for reconsideration or rehearing by a court to which the board's decision has been appealed.

c. A motion by a party for reconsideration or rehearing must be in proper form and filed within ten days after notification of the board's decision. The motion shall set forth the grounds for the rehearing, which include one or more of the following.

i. The board's decision is clearly contrary to the law and evidence.

ii. There is newly discovered evidence by the party since the hearing which is important to the issues and which the party could not have discovered with due diligence before or during the hearing.

iii. There is a showing that issues not previously considered ought to be examined in order to dispose of the case properly.

iv. It would be in the public interest to further consider the issues and the evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

§1311. Consent Order

A. An order involving some type of disciplinary action may be made by the Board with the consent of the person. A consent order requires formal consent of four of seven members of the board. It is not the result of the board's deliberation; it is the board's acceptance of an agreement reached between the board and the person. The consent order is issued by the board to carry out the parties' agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

§1313. Withdrawal of a Complaint

A. If the complainant wishes to withdraw the complaint, the inquiry is terminated, except in cases where the board judges the issues to be of such importance as to warrant completing the investigation in its own right and in the interest of public welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

§1315. Refusal to Respond or Cooperate with the Board

A. If the person does not respond to the original inquiry within a reasonable period of time as requested by the board, a follow-up letter shall be sent to the person by certified mail, return receipt requested.

B. If the person refuses to reply to the board's inquiry or otherwise cooperate with the board, the board shall continue its investigation. The board shall record the circumstances of the person's failure to cooperate and shall inform the person that the lack of cooperation may result in action which could eventually lead to the withholding, denial, revocation or suspension of his license, or application for licensure, or otherwise issue appropriate disciplinary sanction.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

§1317. Judicial Review of Adjudication

A. Any person whose license, or application for licensure, has been withheld, denied, revoked or suspended or otherwise disciplined by the board shall have the right to have the proceedings of the board reviewed by the state district court for the parish of East Baton Rouge, provided that such petition for judicial review is made within thirty days after the notice of the decision of the board. If judicial review is granted, the board's decision is enforceable in the interim unless the court orders a stay.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

§1319. Appeal

A. A person aggrieved by any final judgment rendered by the state district court may obtain a review of said final judgment by appeal to the appropriate circuit court of appeal. Pursuant to the applicable section of the Louisiana Administrative Procedure Act, LSA R.S. 49:950 et seq., this appeal shall be taken as in any other civil case.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

§1321. Reinstatement of Suspended or Revoked License

A. The board is authorized to suspend the license of a licensed professional counselor for a period not exceeding two years. At the end of this period, the board shall re-evaluate the suspension and may recommend to the chairman the reinstatement or revocation of the license. A person whose license has been revoked may apply for reinstatement after a period of not less than two years from the date such denial or revocation is legally effective. The board may, upon favorable action by a majority of the board members present and voting, recommend such reinstatement.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

§1323. Declaratory Statements

A. The board may issue a declaratory statement in response to a request for clarification of the effect of the provisions contained in the Louisiana Mental Health Counselor Licensing Act, LSA R.S. 37:1101 et seq., the rules and regulations promulgated by the board and/or the Code of Ethics of the American Counseling Association.

1. A request for declaratory statement is made in the form of a petition to the board. The petition should include at least:

a. the name and address of the petitioner;

b. specific reference to the statute, rule and regulation, or provision of the Code of Ethics to which the petitioner relates; and

c. a concise statement of the manner in which the petitioner is aggrieved by the statue, rules and regulations, or provision of the Code of Ethics by its potential application to him in which he is uncertain of its effect.

2. The petition shall be considered by the board within a reasonable period of time taking into consideration the nature of the matter and the circumstances involved.

3. The declaratory statement of the board in response to the petition shall be in writing and mailed to the petitioner at the last address furnished to the board.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

§1325. Injunction

A. The board may, through the attorney general of the state of Louisiana, apply for an injunction in any court of competent jurisdiction to enjoin any person from committing any act declared to be a misdemeanor by Chapter 13.

B. If it is established that the defendant has been or is committing an act declared to be a misdemeanor by Chapter 13, the court, or any judge thereof, shall enter a decree enjoining said defendant from further committing such act.

C. In case of violation of any injunction issued under the provision of §1325, this court, or any judges thereof, may summarily try and punish the offender for contempt of court.

D. Such injunctive proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in Chapter 13.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

Interested person may submit comments to Gary G. Grand, Board Chair, 8631 Summa Avenue, Suite A, Baton Rouge, LA 70809. Comments will be accepted through December 15, 1998. A public hearing will be held on December 29, 1998, p.m., at Central State Hospital, West Shamrock, Building 14, Room 127, Pineville, LA.

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

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

There will be a one-time implementation cost of $490.00, which includes the cost of promulgating the rule and printing forms ($400) and staff time ($90). The cost will be absorbed within the budget of the LPC Board. There will be no impact on the general treasury.

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

There is no anticipated effect on revenue collections of state or local governmental units as a result of these rules.

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

These rules are to clearly and succinctly define "disciplinary procedures" in accordance with the Administrative Procedure Act.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Since this is a clarification of the rules. There is no foreseeable effect on competition and employment.

Gary S. Grand	Robert E. Hosse
Board Chair	General Government Section Director
9811#048	Legislative Fiscal Office

NOTICE OF INTENT

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

Adult Denture Program

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

The Department of Health and Hospitals, Bureau of Health Services Financing (BHSF) previously allowed reimbursement for cast partial dentures and new dentures provided to recipient over the age of twenty-one once every five years prior to July 13, 1995. The Bureau subsequently revised the service coverage for adult dentures to require a minimum period of seven years before new dentures provided to adult Medicaid recipient may be reimbursed and to eliminate coverage of cast partial denture, *Louisiana Register* 22:104 (February 1996). The Bureau proposes to amend the rule to clarify the seven-year requirement to include complete and partial dentures.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend the February 20, 1996 rule to clarify the seven-year requirement to include both complete and partial dentures in the Adult Denture Program.

1. 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.

2. For relines, at least one year shall have elapsed since the complete or partial denture was delivered or last relined.

3. Cast partial dentures continue to be a non-covered service in the Adult Denture Program.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P. O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule is scheduled for Tuesday, December 29, 1998 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Adult Denture Program

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

Implementation of this proposed rule will not result in state costs other than $40, which will be incurred in SFY 1998-1999 for the state portion of the administrative expense to promulgate this rule as well as the final rule.

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

The state will collect $40 SFY 1998-1999 for the federal share of the cost of promulgating this proposed rule as well as the final rule.

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

There are no known cost and/or economic benefits to directly affected persons and non-governmental groups as this amendment is to clarify an existing rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins	Robert E. Hosse
Director	General Government Section Director
9811#071	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of State Police

Criminal History Background Checks on Licensed Ambulance Personnel and Nonlicensed Persons
(LAC 55:I.201-209)

The Department of Public Safety and Corrections, Office of State Police, Louisiana Bureau of Criminal Identification and Information, in compliance with and under authority of the Administrative Procedure Act, R.S. 49:950 et seq., R.S. 15:575 et seq., and R.S. 40:1300.51 et seq., hereby gives notice of its intent to promulgate these rules and regulations pertaining to criminal history background checks on licensed ambulance personnel and nonlicensed persons pursuant to R.S. 40:1300.51 et seq. as outlined below.

Title 55
PUBLIC SAFETY
Part I. State Police
Chapter 2. Criminal History Background Checks on Licensed Ambulance Personnel and Nonlicensed Persons

§201. Statement of Department Policy

The rules contained herein are promulgated by the Louisiana Bureau of Criminal Identification and Information of the Department of Public Safety and Corrections, Office of State Police, in order to set forth the policies and procedures applicable to requesting and receiving criminal history background checks on licensed ambulance personnel and nonlicensed persons, pursuant to R.S. 40:1300.51 et seq., by employers and authorized agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:575 et seq. and R.S. 40:1300.51 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

§203. Definitions

For the purposes of these rules, the following words and phrases shall mean:

Applicant—a person who has submitted a request to the Louisiana Department of Public Safety and Corrections, Office of State Police, Louisiana Bureau of Criminal Identification and Information in accordance with these rules to be approved as an authorized agency.

Authorized Agency—an individual who meets the qualification requirements and has been approved by the Bureau to receive criminal history information to conduct employment screening pursuant to R.S. 40:1300.51 et seq.

Bureau—the Louisiana Bureau of Criminal Identification and Information within the Department of Public Safety and Corrections, Office of State Police as provided for in R.S. 15:576.

Criminal History Record—shall have the same meaning as provided for in R.S. 15:576.

Employer—shall have the same meaning as provided for in R.S. 40:1300.51(6).

Licensed Ambulance Personnel—shall have the same meaning as provided for in R.S. 40:1300.51(5).

Nonlicensed Person—shall have the same meaning as provided for in R.S. 40:1300.51(3).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:575 et seq. and R.S. 40:1300.51 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

§205. Application to be Approved as an Authorized Agency

A. An individual wishing to be approved as an authorized agency must submit an application to the Bureau along with the following documents to prove the individual's qualifications.

1. The applicant must be currently licensed in the state of Louisiana as a private investigator or detective by the Louisiana State Board of Private Investigator Examiners as evidenced by current and valid licensure issued by the Board.

2. The applicant must not currently be charged by bill of information or under indictment for, or have been convicted of, any felony offense in this state or any other jurisdiction, and submit to a background investigation to determine such.

3. Proof of qualification to do business within the state of Louisiana as evidenced by a valid certificate of authority issued by the Secretary of State, and designation of an agent for service of process as required by law. If the applicant is operating as a sole proprietorship, a current valid occupational license will be accepted.

4. The applicant must execute a written agreement whereby she/he agrees to maintain the confidentiality of any and all information provided to it by the Bureau pursuant to R.S. 40:1300.51 et seq., abide by all applicable laws, rules and regulations pertaining to receipt and use of criminal history

nformation, cooperate in any auditing procedure conducted by the Bureau, and inform the Bureau in writing of any known violations regarding the use of criminal history information she/he receives.

B. Upon receipt of a completed application for approval as an authorized agency, the Bureau shall review the application and conduct whatever investigation it deems necessary to verify the information. Upon completion of this review, the Bureau shall inform the applicant in writing of its approval or denial of the application.

C. Each authorized agency must maintain the eligibility requirements to be approved as an authorized agency. Each authorized agency shall notify the Bureau in writing of a change in its qualification requirements within fifteen days of the change. Failure to continue to maintain the eligibility requirements shall result in cancellation of approval as an authorized agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:575 et seq. and R.S. 40:1300.51 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

§207. Request for Criminal History Information

A. A request for the Bureau to conduct a criminal history check authorized by R.S. 40:1300.52 shall be made on a form provided by the Bureau and submitted to it by an employer or authorized agency.

B. Each request for a criminal history check authorized by R.S. 40:1300.52 submitted to the Bureau shall be accompanied by the fee of $10.00 as established by R.S. 40:1300.52(B)(2) and LAC 55:I:101.A.

C. Each request for a criminal history check submitted to the Bureau by an authorized agency shall be accompanied by a letter of engagement or contract with the employer as proof that the authorized agency may request and receive criminal history information on behalf of the employer. The results of each criminal history check submitted by an authorized agency on behalf of an employer will be reported to the authorized agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:575 et seq. and R.S. 40:1300.51 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

§209. Receipt and Use of Criminal History Information

A. Any authorized agency or employer which receives criminal history information pursuant to R.S. 40:1300.52 shall maintain the confidentiality of the records obtained.

B. The criminal history information received by an employer or authorized agency shall be used for the sole purpose of determining the applicant's eligibility for employment with the stated employer.

C. Any authorized agency who fails to maintain the confidentiality of criminal history information obtained pursuant to R.S. 40:1300.52, or who uses such information for any purpose other than determining the applicant's eligibility for employment with the stated employer, shall have its approval as an authorized agency canceled and be ineligible to receive criminal history information pursuant to R.S. 40:1300.52.

D. Any authorized agency or employer who fails to maintain the confidentiality of criminal history information obtained pursuant to R.S. 40:1300.51 et seq., or uses such information for any purpose other than determining the applicant's eligibility for employment with the stated employer shall be subject to all other penalties provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:575 et seq. and R.S. 40:1300.51 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

A public hearing will be held on the proposed rules and regulations on December 28, 1998, to commence at 9:00 a.m., at the Louisiana State Police Training Academy Auditorium, 7901 Independence Boulevard, Baton Rouge, LA.

Interested persons may submit written comments to the following address: Office of State Police, P.O. Box 66614, Mailslip 18, Baton Rouge, LA, 70896. Captain Randy Johnson is the person responsible for responding to the inquiries regarding the proposed rules and regulations. Written comments will be accepted through the close of business, 4:30 p.m., on December 28, 1998.

Colonel W.R. "Rut" Whittington
Superintendent

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Criminal History Background Checks on Licensed Ambulance Personnel and Nonlicensed Persons

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

There will be no implementation cost associated with these proposed rules. These rules will not result in costs or savings to the Louisiana Department of Public Safety and Corrections, Office of State Police, Bureau of Criminal Identification and Information.

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

The maximum estimated revenue loss to the state will be $339,540. This is based on the assumption that the Authorized Agencies will conduct all background checks for Licensed Ambulance Personnel and Nonlicensed Persons.

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

The estimated revenue to non-governmental groups will be $339,540. This is based on the assumption that the Authorized Agencies will conduct all background checks for Licensed Ambulance Personnel and Nonlicensed Persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Colonel W.R. "Rut" Whittington
Superintendent

H. Gordon Monk
Staff Director
Legislative Fiscal Office

9811#054

NOTICE OF INTENT

Department of Revenue
Office of Alcohol and Tobacco Control

High Alcoholic Content Beverages—Stocking, Pricing, and Rotating (LAC 55:VII.319)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the authority of R.S. 26:287 and R.S. 26:150(A), notice is hereby given that the Department of Revenue, Office of Alcohol and Tobacco Control intends to amend LAC 55:VII.319, which governs stocking, pricing, and rotating of alcoholic beverages. The Title of §319 has also been changed to limit the Section's application to alcoholic beverages of more than 6 percent alcohol by volume and to remove the reference to Regulation X.

The purpose of the amendment is to clarify how and under what circumstances a supplier or wholesaler may move, reset, or stock high alcoholic content beverages. This proposed rule governs the type of activities that may be conducted between licensed manufacturers, wholesale dealers, and retail dealers, or any other legal entity engaged in the handling of alcoholic beverages in order to maintain the industry's integrity to conform with federal, state, and local laws and to provide for the freedom of choice for the consumer to purchase alcoholic beverages in a free, open competitive market.

Title 55
PUBLIC SAFETY
Part VII. Alcohol and Tobacco Control
Subpart I. Beer and Liquor Regulations
Chapter 3. Liquor Credit Regulations
§319. High Alcoholic Content Beverages—Stocking, Pricing, and Rotating

A. Persons holding valid Louisiana wholesale alcoholic beverage permits, their agents, servants or employees, manufacturers' agents, importers and brokers may price, stock and rotate merchandise at retail premises only to the following extent.

1. Dealers in beverages of more than six percent alcohol by volume and in wine coolers containing more than six percent alcohol by volume and pre-mixed beverages of any alcoholic content may build and stock displays of their product on the premises of retail dealers. Displays can in no way be part of the dealer's regular shelving. They may restock displays for a maximum period of one month after the initial display has been installed. They may not price the displays. They are prohibited from pricing and stocking shelves on the premises of retail dealers and from affixing security tags. Industry members are granted authority to maintain the quality of their product on retail shelves, provided, that products purchased from other industry members are not altered or disturbed. The act of picking up alcoholic beverages in excess of six percent alcohol by volume for credit or exchange from a retail dealer by a wholesale dealer is considered a consignment sale and is therefore specifically prohibited.

2. No wholesale dealer of beverage that are more than six percent alcohol by volume shall handle or move any alcoholic beverages delivered to the premises of a retail dealer by a competing wholesale dealer, nor shall a wholesale dealer reset all or any part of the alcoholic beverages situated on the premises of a retail dealer, nor shall a wholesale dealer engage in the initial setting of products into a new store, unless the retail dealer sends notice, by certified mail to the Commissioner of Alcohol and Tobacco Control, stating the date, time, and location permit number of the contemplated movement, reset, or initial setting of alcoholic beverages. The addition of new products into the alcoholic beverage section shall not constitute a reset under the provisions of §319. Not less than one week prior to the approved date of such activity, the retail dealer shall mail copies both of the notice and Commissioner's written approval, to all wholesale dealers whose products are situated on their premises. The retail dealer shall maintain a list of the names and addresses of the wholesale dealers receiving such notice, and a copy of that list shall be filed with the Commissioner of Alcohol and Tobacco Control.

3. A wholesale dealer whose products are situated on the premises of a retail dealer must be given the opportunity to participate in any movement or reset of those products, and no retail dealer shall, under any circumstances, exclude a wholesale dealer from such participation. The reset of all or any part of the beverage alcohol situated on the premises of a retail dealer may not occur more than twice during any calendar year. The stocking of cold boxes by a wholesale dealer in a retail dealer's premises is permitted.

4. The spotting of shelves by a wholesale dealer in a retail dealer's premises is prohibited. The act of manually entering delivery or invoice information into the retail dealer's computer system at the time of delivery is prohibited.

5. Except as authorized under §319, employees of a wholesale dealer shall not, in connection with the sale or delivery of alcoholic beverages to a retail dealer, provide any services whatsoever to a retail dealer.

B. The Commissioner of the Office of Alcohol and Tobacco Control may seek a suspension or revocation of the permit or permits of a violator and may impose such other penalties or administrative remedies as are prescribed by law for violators of the Alcoholic Beverage Control Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:287 and R.S. 26:150(A).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Alcoholic Beverage Control, LR 6:734 (December 1980), amended LR 17:609 (June 1991), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR

Interested persons may submit data, views, or arguments, in writing to Murphy J. Painter, Commissioner, Office of Alcohol and Tobacco Control, 1885 Wooddale Boulevard, Baton Rouge, LA 70806 or by fax to (225) 925-3975. All comments must be submitted by 4:30 p.m., Monday, December 28, 1998. A public hearing will be held on Tuesday, December 29, 1998, at 1:00 p.m. in the sixth floor conference room, 1885 Wooddale Boulevard, Baton Rouge, LA 70806.

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: High Alcoholic Content Beverages—Stocking, Pricing and Rotating

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

There should be no additional costs to state or local government to implement these proposed amendments.

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

There should be no effect on revenue collections of state or local governmental units as a result of these proposed amendments.

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

There should be no costs and/or economic benefits to alcoholic beverage dealers as a result of these proposed amendments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments should have no effect on competition or employment.

Murphy J. Painter	H. Gordon Monk
Commissioner	Staff Director
9811#049	Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Tax Commission

Ad Valorem Tax
(LAC 61:V.303, 703, 907, 1103, 1305, 1307, 1503, 2301, 2303, 2503, 2703-2707, 3101-3105, 3501, and 3503)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950, et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, notice is hereby given that the Tax Commission intends to adopt, amend and/or repeal sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations for use in the 1999 (2000 Orleans Parish) tax year.

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed rules until 4 p.m., December 7, 1998, at the following address: E. W. "Ed" Leffel, Property Tax Specialist, Louisiana Tax Commission, Box 66788, Baton Rouge, LA 70896.

Malcolm B. Price, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Ad Valorem Tax

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

Implementation costs to the agency are the costs of preparation, reproduction and distribution of updated regulations and complete manuals. These costs are estimated at $8,250.00 for the 1998-99 fiscal year and are being reimbursed through an existing user service fee of $15.00 per update set and by increasing the fee for a complete manual from $40 to $75.

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

LOCAL GOVERNMENTAL UNITS

These revisions will generally increase 1999 certain real and personal property assessments for property of similar age and condition in comparison with equivalent assessments in 1998. Composite multiplier tables for assessment of most personal property will decrease by 1.224%. Specific valuation tables for assessment of Oil & Gas properties will generally increase by an estimated 27% on wells and 23.5% on Drilling Rigs. The net effect of these revisions is estimated to increase assessments by 2.01% and tax collections by $7,292,000 on the basis of existing statewide average millage.

STATE GOVERNMENTAL UNITS

Under authority granted by R.S. 47:1838, the Tax Commission will receive state revenue collections generated by assessment service fees estimated to be $312,450 from Public Service companies, and $92,000 from Financial Institutions and Insurance companies all of which are assessed by the Tax Commission.

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

The affects of these new rules on assessments of individual items of equivalent real and personal property will generally be higher in 1999 than in 1998. Specific assessments will depend on the age and condition of the property subject to assessment.

The estimated costs that will be paid by affected persons as a result of the assessment and user service fees as itemized above total $404,450 to be paid by public service property owners, financial institutions and insurance companies for 1998/99.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact on competition and employment cannot be quantified. Inasmuch as the proposed changes in assessments and charges are relatively small, the impact is thought to be minimal.

James D. Peters	Robert E. Hosse
Administrator	General Government Section Director
9811#070	Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services
Office of Family Support

Support Enforcement—Child Support Distribution
(LAC 67:III.2514)

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III.2514 for Support Enforcement Services (SES), the child support enforcement program.

Pursuant to Public Law 104-193 (the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), Public Law 105-33 (the Balanced Budget Act of 1997) and the Office of Child Support Enforcement Action Transmittal 98-24, SES proposes to change the order in which certain collections of past-due support are distributed. P.L. 105-33 provided states with an option to implement the distribution requirements of P.L. 104-193 beginning October 1, 1998 rather than in the two stages required by P.L. 104-193. Louisiana chose that option and an emergency rule was signed into effect on October 2, 1998.

Former recipients of Aid to Families with Dependent Children and/or Family Independence Temporary Assistance Program (AFDC/FITAP) benefits will now receive arrearages owed to the family before reimbursements to the state are made. These reimbursements are for the cash assistance received by the recipients.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 4. Support Enforcement Services
Chapter 25. Support Enforcement
Subchapter D. Collection and Distribution of Support Payments
§2514. Distribution of Child Support Collections

A. Effective October 2, 1998 the agency will distribute child support collections in the following manner.

1. ...

2. In cases in which the AR previously received AFDC or FITAP, and there are amounts owed to the state, collections received through any means other than IRS intercepts will be distributed as follows:

a. the AR shall receive an amount equal to the court-ordered monthly obligation and any arrears owed to the AR that accrued in a non-assistance period;

b. amounts owed to the state;

c. any arrears that accrued during assistance that exceed the unreimbursed grant will be paid to the AR.

3. - 4. ...

5. In cases in which the AR previously received AFDC or FITAP, and there are amounts owed to the state, collections received through IRS intercepts will be distributed as follows:

a. amounts owed to the state; and

b. amounts owed to the AR.

B. Any collections received through income assignments are subject to refund to the noncustodial parent based on federal and state laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 105-33, and OCSE-AT-98-24.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:304 (March 1997), amended LR 24:703 (April 1998), LR 25:

All interested persons may submit written comments through December 29, 1998 to Vera W. Blakes, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana, 70804-9065.

A public hearing on the proposed rule will be held on December 29, 1998 at the Department of Social Services, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana beginning at 9:00 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).

Madlyn B. Bagneris
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Support Enforcement Services—Distribution

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

The proposed rule changes the order of distribution of arrearages with regard to prior recipients of AFDC or FITAP. The only cost of implementation associated with the rule is the minimal cost of publishing the rulemaking. Data processing adjustments were done at no additional costs to the state. There are no anticipated costs or savings to local governmental units.

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

As a result of the rule, the state share of certain child support collections will decrease. This self-generated revenue is expected to decrease by approximately one million dollars in FY 98/99, and $1.29 million in subsequent years. The current and projected budgets of the agency would not be affected by losses in these amounts. There is no effect on local governmental units.

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

There is no cost to any persons or non-governmental groups. Certain former recipients for whom child support is collected will benefit economically because arrearages will be paid to them before reimbursements to the state are made. Estimated increased payments total $1.29 million per year, or the same amount lost in self-generated collections.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9811#058

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development
Office of General Counsel

Substance Abuse and Drug-Free Workplace Policy
(LAC 70:XXI.101-121)

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 Department of Transportation and Development Substance Abuse and Drug-Free Workplace Policy, in accordance with R.S. 49:1015 and Executive Order MJF 98-38.

Title 70
TRANSPORTATION
Part XXI. Office of Personnel
Chapter 1. Substance Abuse and Drug-Free Workplace Policy

§101. Philosophy

A. The use of illegal and unauthorized drugs and the misuse of alcohol are serious social problems that are even more unacceptable in the workplace. The Department of Transportation and Development has a compelling interest in the welfare and safety of its employees and the traveling public, the maintenance of a high level of productivity, and quality service to the general public. The establishment of a drug-free work environment in compliance with Executive Order Number MJF 98-38 and R.S. 49:1001, et seq., preserves property and equipment, promotes public safety, and reduces absenteeism and job-related accidents and injuries, while enhancing overall job performance, productivity levels, and the image and reputation of the Department.

B. To enhance national highway transportation safety, Congress passed the Omnibus Transportation Employee Testing Act of 1991. This act requires alcohol and drug testing of certain safety-sensitive employees in the aviation, motor carrier, railroad and mass transit industries. The Departmental positions subject to these federal drug and alcohol testing requirements primarily include pilots, drivers who are required by State or Federal law to have a Commercial Driver's License (CDL) and who operate Commercial Motor Vehicles (CMVS), and crew members operating a commercial marine vessel that receives funds from the Federal Transit Administration.

C. This policy applies to all Department of Transportation and Development employees, but those employees who are in safety-sensitive positions or who are being tested under federal authority will receive a separate employee information package which explains the program in greater detail. Following a job offer, all potential employees are subject to a pre-employment drug test. Additionally, all employees are subject to post-accident/incident, reasonable suspicion, return-to-duty, and follow-up drug and alcohol tests. Employees in safety-sensitive positions are further subject to random drug and alcohol tests. A list of the safety-sensitive positions being tested under federal authority is attached as Appendix A. dditional positions designated by DOTD as safety-sensitive are listed in Appendix B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:

§103. Employment Requirements

A. To maintain a safe work environment, all Department employees are required to do the following:

1. report for duty in a physical and emotional condition that maximizes his/her ability to perform assigned tasks in a competent and safe manner;

2. submit to the drug/alcohol tests and screens described in this policy when required by supervisor or appointing authority;

3. notify supervisor prior to reporting for duty that he/she believes, or has been advised by a physician or pharmacist, that prescription or over-the-counter drugs/medication may impair the employee's ability to perform usual job duties;

4. maintain prescription drugs in prescribed quantity and be able to produce original prescription containers, when required;

5. notify supervisor at the beginning of the next scheduled work day of any arrest or conviction of a criminal, drug or drug-related offense, which occurs on- or off-duty, including DWI (Driving While Under the Influence) arrests.

B. The Department prohibits the use, abuse and presence of alcohol, illegal or unauthorized drugs, and other prohibited controlled substances in the bodies of its employees while on duty, on call, or engaged in Departmental business, on- or off Department/State premises. The presence of alcohol, illegal or unauthorized drugs, and other prohibited controlled substances, in a state vehicle while on- or off-duty, is also prohibited.

C. The presence of alcohol is indicated by a confirmed blood alcohol concentration of 0.02 or greater. Prohibited drugs include any drug which is not legally obtainable; any drug which is legally obtainable, but has been illegally obtained; prescription drugs not being used in accordance with the prescription; or, any substance which affects an employee's ability to safely and competently perform assigned job duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:

§105. Drug/Alcohol Testing

A. Applicants and employees may be required to submit to drug and alcohol tests as a condition of employment, as a condition of continued employment, or as a condition of promotion or reassignment to a safety-sensitive position. Whether announced or unannounced, tests will be administered under the following circumstances.

1. Pre-Employment Testing. Drug tests are required of all applicants, to include students, restricted and unclassified appointments, as a condition of employment or re-employment with DOTD. Current employees are required to undergo drug testing prior to being reassigned, temporarily detailed, reallocated, promoted, or demoted to a safety-sensitive

position. An offer of employment or promotion, reassignment, detail, reallocation, or demotion will be withdrawn if a positive drug test result is reported, and employees are further subject to disciplinary action as specified in §113, Enforcement.

2. Post-Accident/Incident Testing

a. Any employee who is directly involved in a potentially serious accident or incident in which the employee's action or inaction may have been a causative factor is subject to drug/alcohol tests. Only an appointing authority may require an employee to submit to such tests. Trained supervisors and safety officers may, however, recommend to the appointing authority that drug/alcohol tests be conducted, based on their knowledge of the circumstances resulting in the accident/incident. The appointing authority, using the information available at the time, makes the decision as to whether tests will be required.

b. When certain conditions are present, however, certain federal agencies require that drug/alcohol tests be conducted. (Any post-accident/incident tests conducted that do not meet the below-listed criteria are being conducted under the Department's authority, and the appropriate chain-of-custody and breath alcohol testing forms must be used.) Appointing authorities are therefore required to arrange for post-accident/incident tests as follows.

i. The Federal Highway Administration (governing drivers with Commercial Driver's Licenses) requires that the operator of a commercial motor vehicle which requires a commercial driver's license be drug/alcohol tested when as follows:

(a). a fatality occurs, whether or not the driver caused the accident; or

(b). when the driver is cited for a moving traffic violation arising out of the accident. (Accident is further defined as an incident involving a commercial motor vehicle in which there is either a fatality, injury treated away from the scene, or a vehicle is required to be towed from the scene.)

ii. The United States Coast Guard (governing marine vessels) requires that drug/alcohol tests be conducted when there is as follows:

(a). one or more deaths;

(b). an injury to any person (including passengers) which requires medical treatment beyond first aid, and in the case of an employee, which renders the employee unable to perform routine job duties;

(c). damage to property in excess of $100,000, or actual or constructive total loss of either an inspected vessel or any vessel of 100 gross tons or more;

(d). a discharge of any reportable quantity of a hazardous substance into navigable waters, whether or not resulting from a marine casualty.

iii. The Federal Transit Administration (governing public transportation provided by the Crescent City Connection, a division of the Department) requires that drug/alcohol tests be conducted when, as a result of an occurrence associated with the operation of a transit vehicle (vessel), there is as follows:

(a). a fatality. Employees to be tested include the following:

(i). each surviving employee on duty on the vessel at the time of accident;

(ii). any other covered employee (i.e., mechanic) whose performance could have contributed to the accident;

(b). bodily injury or property damage. Employees to be tested include:

(i). each covered employee on duty on the vessel unless it is determined by the Department that their performance may be completely discounted as a contributing factor;

(ii). any other covered employee (i.e., mechanic) whose performance could have contributed to the accident.

3. Random Testing. Random alcohol and drug testing is required of employees who hold safety-sensitive positions, as listed in §119 and §121. Random tests are unannounced and spread throughout the calendar year.

4. Testing Based Upon Reasonable Suspicion. Drug and alcohol testing will be conducted when a trained supervisor or a trained safety officer observes behavior or appearance that is characteristic of drug use or alcohol misuse. The decision to test must be based on specific observations concerning the employee's appearance, behavior, speech, or body odor. (The possession of alcohol, although a violation of this policy, does not constitute a need for reasonable suspicion testing.) A written record must be made of the observations leading to either a drug or alcohol test, and signed by the observing supervisor and, when practicable, by two supervisors. Prior to subjecting any employee to reasonable suspicion testing, however, the supervisor(s) must obtain verbal approval from the appropriate appointing authority. Affected supervisors and safety personnel are trained to recognize signs and symptoms of drug use and alcohol misuse, and a written record of the training is made and retained for documentation.

5. Return-to-Duty. Following a violation of this policy's provisions, and in the event the employee retains his/her job, the employee is required (at his/her own expense) to undergo and complete any treatment prescribed by a Substance Abuse Professional (as defined by federal law), and is additionally subject to drug and/or alcohol testing prior to returning to duty. The employee will also be required to certify in writing his/her understanding and acceptance of a rehabilitative (or return-to-work) agreement.

6. Follow-up. Employees who voluntarily, or as a condition of continued employment, participate in an alcohol/substance abuse rehabilitation program are subject to unannounced drug and/or alcohol tests for a minimum of one (1) year but not more than five (5) years, as determined by the treating Substance Abuse Professional. As a condition of continued employment, employees are required to certify in writing their understanding and acceptance of these testing and rehabilitation requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:

§107. Drug Testing Procedures

A. The Department contracts with neutral, professional medical personnel and certified laboratories for the collection, custody, storage, and analysis of urine specimens. A split

sample collection method is used, with both the primary and split specimens shipped to the laboratory. The primary urine sample is analyzed for the presence of marijuana, opiates, amphetamines/methamphetamines, cocaine, and phencyclidine (PCP), by SAMSHA (Substance Abuse Mental Health Services Administration) certified laboratory, and in strict compliance with SAMSHA guidelines. A dual testing procedure is also used, where each primary sample that tests positive during an initial test is subjected to an additional, more precise confirmatory test. Any urine sample that is confirmed positive (i.e., exceeds federally adopted cutoff levels) is reported to the Department's Medical Review Officer (MRO), a licensed, contracted physician.

B. Upon receipt of a positive report, the MRO reviews the collection procedure, chain of custody, and testing methodology to exclude all possible medical explanations for the positive result. The MRO also contacts the employee/applicant to rule out the possibility that medications, medical history, or any other conditions may have caused the positive result, prior to reporting a positive test result to the Department.

C. If the confirmed test result is reported as positive by the MRO, the employee may, within 72 hours, request in writing to the MRO that the split specimen (initially collected but separated and stored during the collection process) be tested in a different SAMSHA-certified laboratory for the drug for which a positive result was reported. This split sample testing is done at the employee's expense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:

§109. Alcohol Testing Procedures

A. Evidential Breath Testing Devices (EBTs), approved by the National Highway Traffic Safety Administration (NHTSA), will be used by certified Breath Alcohol Technicians (BATS) on contract with the Department. Testing sites will provide visual and aural privacy, unless prevented by unusual circumstances. The employee must provide a photo identification or be identified by an Employer Representative.

B. A breath screening test will be conducted, and the employee will be told the results. If the results are less than 0.02 alcohol concentration, no further testing is necessary, and the test results are reported as negative. If the screening test indicates an alcohol concentration of 0.02 or greater, a confirmation test will be performed within 20 minutes, but not less than 15 minutes, of completion of the screening test. If the confirmatory test again indicates an alcohol concentration of 0.02 or greater, the results will be reported as positive to the appointing authority or designated representative. Employees occupying safety-sensitive positions will not be allowed to perform safety-sensitive functions and will be subject to disciplinary action specified under §113 of this rule.

C. Positive test results will also be reported to the appointing authority or designee whenever an employee refuses to complete or sign the breath alcohol confirmation testing form, provide breath, provide an adequate amount of breath (excludes medical inability), or fails to cooperate with the testing procedures in any way that prevents the completion of the test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:

§111. Confidentiality

A. All drug and alcohol testing results and records are maintained under strict confidentiality by the Department, the drug testing laboratory, and the MRO. They cannot be released to others without written consent of the employee. Exceptions to these confidentiality provisions are limited to Federal Department of Transportation agencies, when license or certification actions are required, or to a decision-maker in arbitration, litigation, or administrative proceedings arising from a positive drug test.

B. Employees have the right to access all written information and documentation within seven (7) days, as required by Louisiana Revised Statutes 49:1001.

C. Statistical records and reports are also maintained by the Department, contracted physicians, and drug testing laboratories. This information is aggregated data and is used to monitor compliance with the rules and to assess the effectiveness of the drug testing program.

D. The Department has no interest in informing law enforcement authorities of a positive drug test. However, nothing contained in this rule will be construed to preclude the delivery of any illegal drug, controlled dangerous substance, or other substance prohibited by this policy, discovered on Departmental/State property, or on the person of a Departmental employee to appropriate law enforcement agencies. Likewise, any employee engaged in the sale, attempted sale, distribution, or transfer of illegal drugs or controlled substances while on duty or on Department/State property will be referred to appropriate law enforcement authorities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:

§113. Enforcement

A. The use of illegal drugs and misuse of alcohol and other controlled or unauthorized substances will not be tolerated at the Department. Substance abuse, which endangers the health and well-being of Departmental employees and the traveling public, prevents quality service to the public and is inconsistent with this Department's mission. While the Department's position is firm, it will also resolve any reasonable doubt issues in the employee's favor.

B. Disciplinary actions will be taken after a complete and thorough review of all applicable data, and in accordance with Chapter 12 of the Civil Service Rules and Secretary's Policy and Procedure Memorandum Number 26 (Disciplinary System).

1. Violations for which employee is subject to termination are as follows:

a. refusal to submit to a drug or alcohol test, or failure to cooperate in any way that prevents the completion of a test.;

b. submission of an adulterated or substitute urine sample for drug testing;

c. buying, selling, dispensing, distributing, or possessing alcohol or any illegal or unauthorized controlled substance while on duty or on Department/State premises;

d. unjustifiable possession of drug-related paraphernalia while on duty or on Department/State premises;

e. unjustifiable possession of prescription drugs or any dangerous, controlled substances;

f. driving a state vehicle or operating state equipment (or driving personal vehicle while on duty) while under the influence of drugs or alcohol, where tests administered by authorized officials confirm a policy violation;

g. the presence of alcohol, illegal or unauthorized drugs, and other prohibited controlled substances, in a state vehicle, while on or off-duty;

h. positive drug test result or confirmed 0.02 blood alcohol concentration;

i. under all of the above circumstances, the employee will be referred to a Substance Abuse Professional.

2. A violation for which employee is subject to a minimum one (1) week suspension, possible return-to-duty agreement, or more severe disciplinary action, including termination, occurs when the employee fails to notify his/her supervisor of any prescribed drugs/medications when the employee believes, or has been advised by a physician or pharmacist, that the prescribed drugs/medication may impair the employee's ability to perform his/her usual duties and responsibilities.

3. Violations for which employee is subject to a minimum 1-day suspension:

a. failure to notify supervisor of off-duty arrest or conviction of a driving-while-intoxicated, drug, or drug-related offense at the beginning of the next scheduled work day, when the employee occupies a safety-sensitive position. (See positions listed in §119 and §121.);

b. failure to maintain prescribed drugs/medication in prescribed quantity and unable to produce original prescription container.

4. Violation for which employee is subject to written reprimand is the failure to notify supervisor of off-duty arrest or conviction of a driving-while-intoxicated, drug, or drug-related offense at the beginning of the next scheduled workday, when the employee occupies a non-safety-sensitive position.

5. For employees whose positions require a Commercial Driver's License (CDL) or for employees who are required to operate departmental vehicles on a regular and recurring basis, the loss of that license may result in employee being placed on leave or in a bonafide vacant position (not requiring a driver's license) for which they qualify. This may be accomplished by the following:

a. reassignment;

b. voluntary demotion;

c. detail or placement on leave (annual, compensatory, or leave without pay), if situation is deemed temporary;

d. if none of these options are available or reasonable, the employee will be removed in accordance with Civil Service Rule 12.6(b), and Secretary's Policy and Procedure Memorandum Number 26.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:

§115. Employee Assistance Program (EAP)

A. Early recognition and treatment of drug dependency are essential to successful rehabilitation. Those employees recognizing a substance abuse problem should seek assistance from the Department's EAP Coordinator in the Human Resources Section. Referrals are held in strict confidence, but supervisors and appointing authorities who need to know will be kept abreast of the employee's treatment, leave needs, and prognosis on a case-by-case basis.

B. Employees who are referred to the EAP Coordinator by their supervisor, or who, as a condition of continued employment, participate in an alcohol/substance abuse rehabilitation program are subject to the return-to-duty and follow-up tests, as specified in §105.F and G.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:

§117. General Provisions

A. Prior to employing an applicant for a position which requires a Commercial Driver's License (CDL), the Department must obtain the prospective employee's written consent to obtain from the prospective employee's previous employers the results of any drug/alcohol testing administered during the past two (2) years. This regulation also applies to current employees who are being reassigned, promoted, detailed, reallocated or demoted to a position that requires a CDL.

1. Should an applicant fail to provide the release, the offer of employment will be withdrawn. Should an existing employee fail to provide the release, the offer of promotion, reassignment, reallocation, or demotion will also be withdrawn.

2. Upon receipt of information from a previous employer that the prospective applicant or employee (moving to a job that requires a CDL) tested positive on either a drug or alcohol test or refused to submit to testing within the past two (2) years, the offer of employment or promotion will be withdrawn, unless the applicant has completed a drug/alcohol rehabilitation program and provides a written, positive evaluation by a Substance Abuse Professional.

B. The Department reserves the right to have a licensed physician of its own choice determine if use of a prescription drug/medication produces effects which may impair the employee's performance or increase the risk of injury to the employee or others. If such is the case, the Department will suspend the work activity of the employee during the period in which the employee's ability to safely perform his/her job may be adversely affected. The employee may be allowed to use accrued leave; may be placed on leave without pay; or where possible, modification of the employee's job duties may be made.

C. Although substance abuse testing outlined in this rule is restricted to the five previously specified drugs and alcohol

(See §107.A), the Department reserves the right to require employees to submit to additional tests if circumstances warrant. Such tests will only be administered when post-accident and reasonable suspicion drug/alcohol testing produce negative results, and the employee's action/inaction clearly reveals impairment of ability to safely perform job duties. Separate samples will be collected for these additional tests, and the testing process will comply with all SAMSHA regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:

§119. Appendix A

A. Positions subject to drug and alcohol tests, including random, as mandated by the United States Department of Transportation. For post-accident/incident test, refer to §105 (C) to determine if federal agency or LA DOTD is requiring test.

B. Jobs Requiring Commercial Driver's License

1. Bridge Maintenance Assistant Supervisor/Statewide
2. Bridge Maintenance Supervisor/Statewide
3. Bridge Repairer
4. Electrician (all signal except Section 45/Gang 761) (Section 59/Gang 007 w/air brake endorsement)
5. Electrician Foreman (all signal except Section 45/Gang 761)
6. Electrician Specialist (all signal except Section 45/Gang 761) (Section 59/Gang 007 w/air brake endorsement)
7. Electrician Specialist Foreman (all signal except Section 45/Gang 761) (Section 59/Gang 007 w/air brake endorsement)
8. Electrician Specialist Leader (all signal except Section 45/Gang 761) (Section 59/Gang 007 w/air brake endorsement)
9. Engineering Technician 1 (Section 22/Gang 041)
10. Engineering Technician 2 (Section 22/Gang 041)
11. Engineering Technician 3 (Section 22/Gang 041)
12. Engineering Technician 4 (Section 22/Gang 041)
13. Engineering Technician Supervisor 1 (Section 22/Gang 041)
14. Equipment Inspector (except Section 09)
15. Equipment Superintendent
16. Geotechnical Exploration Supervisor 2 (Section 22/Gang 041)
17. Highway Foreman 1
18. Highway Foreman 2 (except former District Sign/Traffic Supervisor and Tunnel Maintenance/Operator Supervisor)
19. Marine Welder (Section 51/Bridge)
20. Marine Welder Foreman (Section 51/Bridge)
21. Marine Welder Master (Section 51/Bridge)
22. Mobile Equipment Maintenance Mechanic
23. Mobile Equipment Master Mechanic
24. Mobile Equipment Master Mechanic Leader
25. Mobile Equipment Operator 1/Heavy
26. Mobile Equipment Operator 2/Heavy
27. Mobile Equipment Operator 1 (Section 51)
28. Mobile Equipment Operator 2 (except Section 70)
29. Mobile Equipment Overhaul Mechanic
30. Mobile Equipment Shop Foreman
31. Mobile Equipment Shop Superintendent
32. Painter (bridge)
33. Painter Foreman (bridge)
34. Painter Master (bridge)
35. Roadside Development Herbicide Applicator
36. Trades Apprentice (Section 51/Bridge) (All signal except Section 45/Gang 761) (Section 59 w/air brake endorsement)

C. Aviation Personnel

1. Aircraft Fleet Chief Pilot

D. Crescent City Connection Division (CCCD)—Safety Sensitive Marine Personnel

1. Maintenance Repairer 1 (Gang 005)
2. Maintenance Repairer 2 (Gang 005) (also requires CDL)
3. Maintenance Foreman (Gang 005)
4. Marine Chief Engineer 1
5. Marine Chief Engineer 2
6. Marine Deckhand
7. Marine Deckhand/Toll Collector
8. Marine Engineer 1
9. Marine Engineer 2
10. Marine Engineer 3
11. Marine Engineering Supervisor
12. Marine Maintenance Superintendent 1 (Gang 005)
13. Marine Master 1
14. Marine Master 2
15. Marine Master 3
16. Marine Oiler
17. Marine Operations Superintendent 1 and 2
18. Marine Trades Helper (Gang 005)
19. Welder

E. CCCD Law Enforcement Personnel

1. Police Captain—Bridge
2. Police Chief—Bridge
3. Police Lieutenant—Bridge
4. Police Officer 1—Bridge
5. Police Sergeant—Bridge

F. Rural Ferries/Fleet Landing

NOTE: U.S. Coast Guard does not mandate random alcohol tests, so random alcohol tests are being conducted under LA DOTD's authority. For post-accident/incident tests, refer to §105.C to determine whether accident/incident meets criteria of U.S. Coast Guard. If not, and test is conducted, it is under LA DOTD authority.

1. Marine Chief Engineer 1
2. Marine Chief Engineer 2
3. Marine Deckhand
4. Marine Deckhand/Toll Collector
5. Marine Engineer 1
6. Marine Engineer 2
7. Marine Engineer 3
8. Marine Maintenance Superintendent 1
9. Marine Maintenance Superintendent 2
10. Marine Mechanic 1
11. Marine Mechanic 2
12. Marine Master 1
13. Marine Master 2
14. Marine Master 3
15. Marine Oiler
16. Marine Operator
17. Marine Operations Superintendent 1
18. Marine Operations Superintendent 2
19. Marine Trades Helper
20. Marine Welder 1
21. Marine Welder 2
22. Marine Welder Foreman

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:

§121. Appendix B

A. Additional positions subject to drug and alcohol tests, including random, as determined by LA DOTD.

1. Bridge Inspection Program Manager
2. Bridge Inspection Team Leader
3. Bridge Maintenance and Inspection Supervisor
4. Bridge Operator 1
5. Bridge Operator 2
6. Bridge Operator Foreman
7. DOTD Engineer Program Manager (Section 51)
8. DOTD Staff Engineer Admin. 1 (Section 51)
9. DOTD Staff Engineer Supervisor (Section 51)
10. EIT 1/2/Engr./DOTD Staff Engr. Advanced (Section 51)
11. Engineering Technicians 1 - 4 (Districts, Gang 051 and Section 51 employees performing bridge inspection duties)
12. Maintenance Repairer 1 (Navigational Locks only)
13. Maintenance Repairer 2 (Navigational Locks only)
14. Mobile Equipment Operator 1
15. Navigational Lock Master
16. Navigational Lock Operator 1
17. Navigational Lock Operator 2
18. Staff Engineer Specialist Advanced—Bridge Maintenance (Section 51)

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:

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 Deidre O. Adams, Director, Human Resources Section, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245, Phone (225) 379-1259.

John Basilica, Jr.
Acting Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Substance Abuse and Drug-Free Workplace Policy

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

No additional implementation costs are anticipated as a result of this rule. The Department has had in effect a drug testing program for its employees since December, 1989.

The estimated cost to the State for this program for fiscal year 1998-1999 will be $143,250. The cost for the program is estimated to be $157,700 in fiscal year 1999-2000 and is estimated to be $164,000 in fiscal year 2000-2001. It is anticipated that additional funds will be needed each year because the cost of testing increases each year and the number of employees which must be tested each year also increases.

These expenditures are funded with Transportation Trust Fund revenues. These costs include employee testing and screening, contracts with professional medical personnel, including a Medical Review Officer, Breath Alcohol Technicians and certified laboratories for collection, custody, storage, and analyses of specimens.

The establishment of a drug-free work environment preserves property and equipment, promotes public safety, and reduces absenteeism and job-related accidents and injuries while enhancing overall job performance, productivity levels, and the image and reputation of the Department. These elements should constitute a savings to the State which cannot be estimated at this time.

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

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

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

The Department annually tests approximately 1,800 persons (random pool) in "safety sensitive" positions. Approximately 900 persons, not in "safety sensitive" positions, are randomly tested per year; and all new employees are tested.

Drug and alcohol testing will help to provide a safer workplace in this Department, thereby rendering savings to the traveling public, reflected in reduced accidents, reduced worker's compensation claims and fewer tort liability cases. The amount of such savings cannot be estimated at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

John Basilica, Jr.	Robert E. Hosse
Acting Secretary	General Government Section Director
9811#055	Legislative Fiscal Office

NOTICE OF INTENT

Department of the Treasury
Housing Finance Agency

Substandard Housing Assistance for Rural Economies (SHARE) Program (LAC 16:II.501)

In accordance with R.S. 49:950 et seq., the Louisiana Housing Finance Agency is proposing to adopt the following rule establishing the regulations governing the criteria used to award HOME Funds to the Substandard Housing Assistance for Rural Economies Grant Program in connection with the Cranston-Gonzalez National Affordable Housing Act of 1990.

The purpose of this grant is to provide safe, decent, and sanitary housing for owner-occupied homeowners throughout the State of Louisiana.

Title 16
COMMUNITY AFFAIRS
Part II. Housing Finance Agency
Chapter 5. Substandard Housing Assistance for Rural Economies (SHARE) Program

§501. Background

A. The Louisiana Housing Finance Agency (the "Agency"), as administrator of the HOME Investment Partnership Program for non-entitlement areas throughout the state, has established a Substandard Housing Assistance for Rural Economies Grant Program. The Agency is making available $3,000,000.00 for the SHARE Grant Program. Each local governmental unit selected to participate will receive up to $150,000.00 to make grants up to $15, 000.00 to qualified homeowners to rehabilitate their homes. Qualified residences must be substandard single unit residences owned and occupied by very, very low income homeowners.

1. Local Government Unit Eligibility. Local Governmental Units must not be a part of a consortium or entitlement area currently receiving HOME Funds and must complete an application in accordance with the Selection Criteria to qualify for the Substandard Housing Assistance for Rural Economies Grant Program. Local Governmental Units accepted into the program must execute an appropriate agreement with the Agency to comply with federal laws and regulations.

2. Eligible Homeowners. Eligible homeowners must

a. have income that is at or below 60 percent of the median income for the area within which the municipality is located; and

b. own the single unit residence as his principal residence.

3. Qualified Residences

a. Each residence to be rehabilitated under the SHARE Grant Program must be:

i. a one unit residence, i.e., no multi-unit buildings and no mobile homes;

ii. deficient with respect to one or more conditions which are required to be addressed in order to satisfy the Section 8 Housing Quality Standards (following completion of the rehab, the residence must satisfy the Section 8 Housing Quality Standards) and;

iii. subject to an appraisal which demonstrates that the post-rehab value of the residence does not exceed HUD's 203(b)limits for the area.

b. The cost of rehabilitation of any residence may not exceed 75 percent of the replacement value of the residence.

4. Grant Awards to Eligible Homeowners. The amount of grants to homeowners under the Substandard Housing Assistance for Rural Economies Grant Program may be at least $1,000, but not in excess of $15,000.

5. Selection Criteria	Points
a. Jurisdiction proposes to implement a Community Involvement Program	25
b. Jurisdiction proposes to provide Homeowner Training to the residents it serves under the Substandard Housing Assistance for Rural Economies Grant Program.	25
c. Jurisdiction proposes to have material participation by CHDO or local non-profit organization. (e.g. homeowner training, identification of applicants, etc.)	10
d. Previous Participation under LHFA's Health and Safety Rehabilitation Grant Programs with no outstanding findings.	10

e. Project is located in an area targeted for rehabilitation by local jurisdiction. Briefly describe the neighborhood(s) targeted to receive the HOME program assistance.	15
f. Jurisdiction proposes to serve at least three homes with dual income families.	15
g. Jurisdiction proposes to serve at least five (5) families at 50 percent or below of area median income.	20
h. Jurisdiction proposes to rehabilitate at least five Housing Units Serving one or more of the following Special Needs Groups (Check one or more): i. Elderly/Handicapped ii. Disabled Physically Mentally iii. HIV/AIDS iv. Single Parent Households v. Large Families (5 or more)	20
i. Jurisdiction proposes to rehabilitate Housing Units in areas within which minorities (i.e., Black, Native American, or Women) constitute a majority of the households.	15
j. Leverage Ratio for each HOME Dollar (Monies from other sources other than the homeowner to be used in conjunction with HOME funds for rehabilitation)	
Minimum Other Dollars	
$.50	5
$1.00	10
$1.50	15
$2.00	20
Over $2.00	25
k. Projects to be located in parishes listed below qualify for selection criteria points as shown based on the per capita income (poverty level):	
i. West Feliciana-East Carroll-West Carroll-Allen;	30
ii. St. Martin-Grant-Franklin-St. Helena-Avoylles-Catahoula-Madison-Vernon-Tensas-Evangeline-Jefferson Davis-Bienville;	25
iii. Winn-Concordia-Richland-Claiborne-LaSalle-Caldwell-Natchitoches-Red River-Cameron-Assumption-Acadia-Sabine;	20
iv. Morehouse-Washington-Jackson-Tangipahoa-Pointe Coupee-Webster-Vermillion-Beauregard-East Feliciana-St. Landry-St. Mary-Terrebonne;	15
v. Lafourche-St. James-Lincoln-Iberia-Iberville-DeSoto-Union St. John the Baptist-Plaquemines-Livingston-St. Bernard-Ouachita;	10
vi. Bossier-Ascension-Orleans-West Baton Rouge-St. Charles-Jefferson-Calcasieu-Lafayette-St. Tammany-Rapides-Caddo-East Baton Rouge.	5
l. Jurisdiction proposes to rehabilitate housing units listed below in the following parishes in Affected/Disaster Areas due to Tropical Storm Frances/Hurricane Georges in accordance with FEMA 1246DR-LA:	
i. Acadia/Ascension/Assumption/Cameron/Evangeline/Iberville/Jefferson Davis/LaFourche/Livingston/Plaquemines/St. Bernard/St. Helena/St. James/St. John/St. Martin/St. Mary/St. Tammany/Vermillion/Washington.	15
	Total Points

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Housing Finance Agency, LR 25:

Any interested person may submit written comments regarding the contents of the proposed Rule to V. Jean Butler, President, Louisiana Housing Finance Agency, 200 Lafayette Street, Third Floor, Baton Rouge, LA 70801. All comments must be received no later than 4:30 p.m., Wednesday, December 30, 1998.

Mike Cross
Vice President

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Substandard Housing Assistance for Rural Economies (SHARE) Grant Program

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

This proposed rule will have no measurable impact on state agency fiscal operations. It is anticipated that approximately twenty (20) local governmental rural entities will be awarded a SHARE grant. Each local entity is expected to expend approximately $5,000 in administrative costs. The total administrative cost will be $100,000.

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

Each local governmental entity can receive up to $150,000 from the federally funded SHARE Program to be allocated for home rehabilitation projects and $5,000 to defray administrative costs. The total funds available to local governmental entities is $3,100,000. Additionally, it is anticipated that the SHARE Program will affect revenue collections by generating sales tax revenues through the purchase of construction materials.

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

Very low income homeowners occupying substandard housing will benefit from rehabilitation of their residence which will eliminate those conditions which pose a danger to the health or safety of the occupants.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Availability of SHARE grant funds will increase employment in the construction field by providing for the moderate rehabilitation of owner-occupied housing.

V. Jean Butler	G. Gordon Monk
President	Staff Director
9811#086	Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Sharks and Sawfishes—Daily Take and Possession Limits
(LAC 76:VII.357)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate rules and regulations for the taking of sharks from Louisiana waters.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 3. Saltwater Sport and Commercial Fishery
§357. Sharks and Sawfishes Daily Take and Possession Limits, Quotas and Special Permit Requirements

A. The Wildlife and Fisheries Commission does hereby adopt the following rules and regulations for the taking of sharks (including sawfishes) (Class *Elasmobranchiomorphi*: Orders *Hexanchiformes, Lamniformes, Squaliformes,* and *Rajiformes*) from Louisiana waters. The provisions of §357 shall not apply to shrimp or menhaden harvest, and nothing contained herein is intended or shall be construed to repeal, amend, or otherwise modify the provisions of law applicable to shrimp or menhaden fishing, *except for provisions*:

1. outlawing finning of shark;
2. requiring a Shark Permit for sale, barter or exchange;
3. limiting sale, barter, or exchange of sharks during closed seasons;
4. limiting shark retained by non-permit holders to be only as a mixed part of the total harvest, and only retained, held, or sold, purchased, bartered, traded, or exchanged as such; and
5. outlawing transfer of sharks between vessels at sea.

B. For management purposes, sharks are divided into the following categories.

1. Small Coastal Sharks—Atlantic Angel Shark, Bonnethead Shark, Atlantic Sharpnose Shark, Blacknose Shark, Carribean Sharpnose Shark, Finetooth Shark, Smalltail Shark.
2. Large Coastal Sharks—Great Hammerhead, Scalloped Hammerhead, Smooth Hammerhead, Nurse Shark, Bignose Shark, Blacktip Shark, Bull Shark, Carribean Reef Shark, Dusky Shark, Galapagos Shark, Lemon Shark, Narrowtooth Shark, Night Shark, Sandbar Shark, Silky Shark, Spinner Shark, Tiger Shark.
3. Pelagic Sharks—Bigeye Sixgill Shark, Sevengill Shark, Sixgill Shark, Longfin Mako, Porbeagle Shark, Shortfin Mako, Blue Shark, Oceanic Whitetip Shark, Bigeye Thresher Shark, Thresher Shark.
4. Prohibited Species—Basking Shark, White Shark, Bigeye Sand Tiger, Sand Tiger, Whale Shark, Smalltooth Sawfish, Largetooth Sawfish.

C. In addition to all other licenses and permits required by law, a valid original Shark Permit shall be annually required for persons commercially taking shark from Louisiana waters and for persons selling, exchanging, or bartering sharks to Louisiana Wholesale/Retail dealers; the valid original permit shall be in immediate possession of the permittee while engaged in fishing for or possessing shark. Each Shark Permit holder shall on or before the tenth of each month submit an information return to the Department on forms provided or approved for this purpose, including the number and weight of each species of shark taken commercially from Louisiana waters during each trip of the preceding month, and the commercial dealers to whom these were sold. Monthly reports shall be filed, even if catch or effort is zero.

D. No person shall purchase, sell, exchange, barter or attempt to purchase, sell, exchange, or barter any sharks in excess of any possession limit for which a commercial permit was issued.

E.1. All persons who do not possess a Shark Permit issued by the Department of Wildlife and Fisheries, and, if applicable, a Federal Shark Permit issued by the National Marine Fisheries Service, are limited to a possession limit. All persons who do not possess a Louisiana Shark Permit and, if applicable, a permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks, shall not sell, barter, trade, exchange or attempt to sell, barter, trade or exchange any sharks, or possess any sharks in excess of a possession limit. Sharks taken incidental to menhaden fishing, that are retained on the vessel as part of the harvest, shall be retained and sold only as a mixed part of the total harvest, and shall not be retained, held, or sold, purchased, bartered, traded, or exchanged separately. Sharks retained as a result of menhaden fishing shall not exceed legal by-catch allowances for menhaden fishing as provided for in R.S. 56:324.

2. Legally licensed Louisiana wholesale/retail seafood dealers, retail seafood dealers, restaurants, and retail grocers are not required to hold a "Shark Permit" in order to purchase, possess, exchange, barter and sell any quantities of sharks, so long as they maintain records as required by R.S. 56:306.4 and 56:306.5.

F. Sharks taken under a recreational bag limit shall not be sold, purchased, exchanged, bartered, or attempted to be sold, purchased, exchanged or bartered. A person subject to a bag limit shall not possess at any time, regardless of the number of trips or the duration of a trip, any shark in excess of the bag limits as follows.

1. The aggregate daily take and possession limit for Atlantic Sharpnose Sharks caught recreationally within or without Louisiana waters shall be two fish per person per day and in possession.

2. The aggregate daily take and possession limit for all other Small Coastal, Large Coastal and Pelagic sharks combined, caught recreationally within or without Louisiana waters, shall be two fish per vessel per trip and in possession.

G. Those persons possessing a Federal Shark Permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks are limited to daily take, trip and possession limits as specified in that Federal Permit. A person aboard a vessel for which a Federal Shark Permit has been issued shall not retain shark of any species group for which the commercial quota has been reached and the season closed in Federal waters.

H.1. A vessel that has been issued or possesses a federal shark permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks shall not possess on any trip, or land from any trip, or sell, Large Coastal Species in excess of 4,000 pounds, dressed weight.

2. Persons possessing a Louisiana Shark Permit shall not possess on any trip, or land from any trip, or sell, Large Coastal Species in excess of 4,000 pounds, dressed weight.

I. A person aboard a vessel for which a federal shark permit has been issued, or persons aboard a vessel fishing for or possessing shark in the EEZ shall comply with all applicable federal regulations.

J. Fins

1. The practice of *finning*, that is, removing only the fins and returning the remainder of the shark to the sea, is prohibited within and without Louisiana waters.

2. Shark fins that are possessed aboard or offloaded from a fishing vessel must not exceed five percent of the weight of the shark carcasses. All fins must be weighed in conjunction with the weighing of the carcasses at the vessel's first point of landing and such weights of the fins landed must be recorded on dealer records in compliance with R.S. 56:306.5. Fins from shark harvested by a vessel that are disproportionate to the weight of the carcasses landed shall not be sold, purchased, traded, or bartered or attempted to be sold, purchased, traded, or bartered.

3. Shark fins shall not be possessed aboard a fishing vessel after the vessel's first point of landing.

K. Prohibited Species

1. No person shall take, possess, purchase, sell, barter, exchange or attempt to possess, purchase, sell, barter, or exchange any of the following species or parts thereof.

a. Basking Shark—*Cetorhinus maximus*
b. White Shark—*Carcharodon carcharias*
c. Bigeye Sand Tiger—*Odontaspis noronhai*
d. Sand Tiger—*Odontaspis taurus*
e. Whale Shark—*Rhincodon typus*
f. Smalltooth Sawfish—*Pristis pectinata*
g. Largetooth Sawfish—*Pristis pristis*

2. Notwithstanding other provisions of Part VII, a person may fish for, but not retain, white sharks (*Carcharodon carcharias*) with rod and reel only under a catch and release program, provided the person releases and returns such fish to the sea immediately with a minimum of injury.

3. Notwithstanding other provisions of Part VII, smalltooth sawfish or largetooth sawfish may be possessed as authorized by a special Scientific and Educational Collecting Permit issued by the department under R.S. 56:318, including whatever conditions that the department may deem necessary to ensure the maintenance and protection of the species. Nothing herein shall prohibit the possession of smalltooth sawfish or largetooth sawfish, or parts thereof, that were possessed prior to the effective date of this rule.

L. No person aboard any vessel shall transfer or cause the transfer of sharks between vessels on state or federal waters. Standard menhaden harvesting activities do not constitute transfer of sharks between vessels at sea.

M. Seasonal Closures

1. All Louisiana State waters out to the seaward boundary of the Louisiana Territorial Sea shall be closed to the recreational and commercial harvest of all sharks between April 1 and June 30 of each year. A holder of a Federal Shark Permit may legally harvest sharks from Federal waters beyond the Louisiana Territorial Sea and bring those sharks into Louisiana waters for sale within the provisions of that Federal Shark Permit. Effective with this closure, no person shall

commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell sharks from the closed area. Effective with the closure, no person shall retain or possess any sharks in the closed area. Sharks taken incidental to shrimp or menhaden fishing in the closed area, that are retained on the vessel as part of the harvest, may be retained only as a mixed part of the total harvest, and shall not be retained, held, purchased, bartered, traded, exchanged, sold or attempted to be purchased, bartered, traded, exchanged or sold.

2. The Secretary of the Department of Wildlife and Fisheries is hereby authorized to close any recreational or commercial fishery for sharks, within and without Louisiana's territorial waters, when the Secretary is notified by the National Marine Fisheries Service that the seasonal quota for that species group and fishery has been met. The closure order shall close the fishery until the date projected for the re-opening of that fishery in the adjacent Federal waters. The Secretary is also hereby authorized to modify any such closure order to maintain consistency with re-opening dates in the adjacent Federal waters, should the Federal closure dates be modified.

N. The fishing year for shark shall begin on January 1, 1998 and every January 1 thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), R.S. 56:326(E)(2), R.S. 56:326.1, R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final Rule including, but not limited to, the filing of the Fiscal and Economic Impact statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may comment on the proposed rule in writing to Mr. Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 until 4:30 p.m., Wednesday, January 6, 1999.

Thomas M. Gattle, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Sharks and Sawfishes, Daily Take and Possession Limits

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

There will be no state or local governmental implementation costs. These rules will be administered and enforced with existing personnel in the course of their regular duties. Parts of the proposed rule reflect regulations established by the National Marine Fishery Service (NMFS) for Federal waters of the Gulf of Mexico. Some of the effects of this rule would be due to better enforcement of existing rules in Federal waters.

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

There should be no significant effect on revenues to any state or local governmental units from the proposed rule.

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

The proposed rule is estimated to reduce commercial revenue from shark landings from $200,000 to in excess of $1 million annually. The actual loss of revenue will depend upon: the value of shark fins that are included within the reported average dockside value of shark harvests for which information is available, the degree to which commercial fishermen can target alternative species during anticipated closure periods for shark harvesting in Louisiana waters, and the value of the particular species of sharks which will be prohibited to be harvested under this rule.

It is unclear from the data if the value of the shark fins is completely represented in the landings data. If the value of the fins is under-reported, then the negative impacts of this rule would be toward the upper range of the estimate, or closer to $1 million annually. If the preponderance of the fin value is included in the reported average dockside value of shark landings, the negative impact of this rule should be closer to the lower range of the estimate, or several hundred thousand dollars annually.

Negative and positive impacts occur when restrictions are imposed on a fishery or fishery user group(s). Eliminating harvest of prohibited species should have relatively little impact on commercial harvesters since these species are presently rarely landed in Louisiana. Potentially up to 0.5% of the annual value of shark landings could be lost due to prohibited harvest restrictions, amounting to $3,308 annually. If persons are unsure of identification and release sandbar sharks unnecessarily, losses could be higher.

Imposed trip limits in state waters for large coastal species may increase the number of fishing trips, reduce trip duration and increase the amount of travel time for commercial fishers resulting in reduced harvest efficiency and higher harvest costs.

Closed seasons will result in losses of opportunity to harvest sharks. During the five-year period of 1993-97, the average annual reported dockside value of sharks harvested during the months of April-June (which is to be a permanent three-month closure period in Louisiana waters) was $178,803. Federal waters, generally 3 miles offshore of the state, are also often closed for the months of August-December, after the semi-annual quota for large coastal sharks has been reached. Louisiana will mirror Federal closures to shark harvesting outside of the permanently established April-June closure of state waters. During the five-year period of 1993-97, the average reported dockside value of sharks harvested during the months of August-December was $187,094.

Recreational fishermen may see some reduction in harvest rates as a result of the bag limits imposed by this rule, as well as by the April-June closed season. There is no available measure of the reduction in benefits due to this measure.

Long-term benefits of an undetermined magnitude may accrue to fishermen in both recreational and commercial sectors as a result of increases in the size of stocks protected by the proposed regulations. Provisions of the rule that allow Secretarial action to close seasons that are closed in adjacent Federal waters may have a protective effect, as enforcement of those Federal closures would be enhanced.

Overall benefit changes are not estimable at this time. No better estimate is available of the change in receipts or income as a result of this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition and employment in the public sector, however, it is not possible to completely

estimate the effect on competition or employment in the private sector. Approximately 60 commercial shark harvesters consistently report activities taking sharks in Louisiana waters or landing in Louisiana ports. Each of these harvesters probably work with one to three deck hands for trips targeting shark and associated species. Closed seasons, trip limits, and other factors may impact the seasonality and/or number of persons involved in these activities. Some harvesters may redirect their fishing efforts to other species, geographic areas, or into non-fishing activities.

James L. Patton	Robert E. Hosse
Undersecretary	General Government Section Director
9811#056	Legislative Fiscal Office