

Notices of Intent

NOTICE OF INTENT

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

Commercial Applicators Certification (LAC 7:XXIII.125)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides, proposes to amend an existing regulation clarifying which commercial applicators may engage in antimicrobial pest control using restricted use pesticides. Confusion has arisen as to whether pest control operators licensed by the Structural Pest Control Commission are commercial applicators who may engage in antimicrobial pest control. The department has determined that these proposed Rules are necessary to alleviate the confusion and to ensure that there are sufficient licensed commercial applicators to help reduce the health risk to the citizens of this state. The presence of adequate numbers of commercial applicators, including pest control operators, licensed by this state will help ensure that citizens requiring antimicrobial pest control will receive such services from reputable persons answerable to a state regulatory body. The presence of licensed commercial applicators will also help reduce the risk of Louisiana citizens being "ripped off" by sham operators, thereby reducing further economic loss to citizens who can least afford further economic loss.

This Rule complies with and are enabled by R.S. 3:3203.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticides

Chapter 1. Advisory Commission on Pesticides

Subchapter F. Certification

§125. Certification of Commercial Applicators

A. - B.2.h.iv. ...

v. Antimicrobial Pest Control (Subcategory 8e).

This subcategory is for commercial applicators, including those in Subcategory 7(a) found at LAC 7:XXIII.125.B.2.g.i, engaged in antimicrobial pest control using restricted use pesticides.

B. 2.i. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:324.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:179 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 18:953 (September 1992), LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:928 (September 1995), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, Advisory Commission on

Pesticides, LR 23:193 (February 1997), LR 24:280 (February 1998), LR 28:39 (January 2002), LR 32:

Family Impact Statement

The proposed amendments to Rules XXIII.125 regarding antimicrobial pest control should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

Interested persons should submit written comments on the proposed Rules to Bobby Simoneaux through the close of business on February 24, 2006, at 5825 Florida Blvd., Baton Rouge, LA 70806. No preamble regarding these Rules is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Commercial Applicators Certification

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No estimated implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is estimated to be no effect on revenue collections of the state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Structural pest control operators will be affected by the action; however, there will be no effects on costs, workload or paperwork. The presence of licensed commercial applicators will also help reduce the risk of Louisiana citizens being victimized by sham operators, thereby reducing further economic loss to citizens who can least afford further economic loss.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed amendments are not anticipated to have an effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0601#046

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Office of the Commissioner

Meat and Poultry Inspections (LAC 7:XXXIII.Chapter 1)

The Commissioner of Agriculture and Forestry proposes to amend regulations regarding the Meat and Poultry Inspection Program, in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq.

The proposed changes will remove from the regulations all references to the word *permit* and replaces it with the word *license*, removes references to *USDA Handbook 191* and replaces it with the statement "latest addition of the *Code of Federal Regulations*", and removes all references to blueprint submissions.

This Rule is enabled by R.S. 3:4232.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIII. Meat and Poultry Inspections

Chapter 1. Meat and Poultry Inspection Program

§107. License for Establishments Coming under Inspection

A. All slaughter, processing, custom and combination establishments must obtain a license from the Louisiana Cooperative Federal/State Meat and Poultry Inspection Program prior to conducting intrastate commerce.

B. All establishments applying for permits shall meet the basic minimum facility requirements outlined in Part 416 of the Code of Federal Regulations.

C. All new applications for licenses shall consist of a completed Form 401 (available on request from the state office (Baton Rouge) of the Federal/State Meat and Poultry Inspection Program).

D. Applications for license shall be submitted to the Federal/State Meat and Poultry Inspection Program, Office of Animal Health Services, State Department of Agriculture, Box 1951, Baton Rouge, Louisiana 70821.

E. A license number shall be assigned to each establishment upon approval and the license shall be issued to the establishment within 30 days of final approval, in one of the following categories:

1. slaughter;
2. processing;
3. custom;
4. combination of 1, 2 and/or 3 above.

F. All establishments receiving licenses shall display the license at a prominent location in the principal place of business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:710 (December 1980), amended by the Louisiana Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§109. Application for Approval of Addition and/or Renovation of Previously Approved Establishments

A. Additions and/or renovations of previously approved establishments must be in conformance with the

requirements of the latest addition of the *Code of Federal Regulations*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:710 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§111. Change of Ownership of Previously Approved Establishments

A. Whenever the ownership of a previously approved establishment changes, the new owner must submit an application for a license to the state Department of Agriculture at least 30 days prior to the scheduled sale date.

B. New owners are required to meet all of the requirements of the latest addition of the *Code of Federal Regulations*.

C. Applicants for a license after change of ownership must submit the following:

1. certified copy of act of sale;
2. evidence that sanitary conditions are or have been maintained throughout the interim during the change of ownership.

AUTHORITY NOTE: promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:710 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner at LR 31:

§115. Custom Slaughter Facility, Combination Custom Slaughter and Processing Facility and Custom Processing Facility

A. To assure the continuing certification of the Louisiana Cooperative Federal/State Meat and Poultry Inspection Program, all custom facilities defined in §103 hereof must meet the applicable requirements of the latest addition of the *Code of Federal Regulations* and the applicable requirements of the federal meat and poultry inspection regulations, provided that custom facilities are not required to provide an inspector's office.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§123. Stamping of Carcasses

A. All beef, calf and veal carcasses must be stamped with not less than two stamps per side. At least one stamp shall be affixed, on each side, in each of the numbered portions illustrated in Figure 7 in Appendices attached immediately following, §139.

B. All swine carcasses must be stamped with not less than two stamps per side. At least one stamp shall be affixed, on each side, in each of the numbered portions illustrated in Figure 8 in Appendices, §141.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§127. Appeals from Decisions of the Cooperative Federal/State Meat and Poultry Inspection Program

A. Any person, firm, association or corporation which is subject to any of the inspection procedures and/or requirements contained in the federal meat and poultry inspection regulations, the latest addition of the *Code of Federal Regulations*, or these rules and regulations may appeal any decision made there under in accordance with the procedures set forth in this rule.

B. - F. ...

G. No license shall be permanently removed from any establishment without a full hearing on the matter. Whenever, for any reason, the commissioner of agriculture contemplates the permanent withdrawal of a permit for inspection services, he shall call a public hearing on the matter.

H. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2276 and R.S. 40:2300.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§129. Hearings on Alleged Violations of Law and/or Regulations

A. Whenever any establishment which is subject to the requirements of the State Meat and Poultry Inspection Act (R.S. 40:2271-R.S. 40:2299), the Federal Meat and Poultry Inspection Regulations, the latest addition of the *Code of Federal Regulations* and/or these rules and regulations appear to be in violation of any provision(s) thereof, the commissioner of agriculture shall convene a public hearing on the matter, which hearing shall be conducted in accordance with §127 hereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

Family Impact Statement

The proposed amendments to LAC 7:XXXIII.Chapter 1, regarding the Meat and Poultry Inspection Program should not have any known or foreseeable impact on any family as defined by R. S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

All interested persons may submit written comments on the proposed Rule through February 24, 2006, to Mike Windham, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data,

views or arguments in writing at the address above. No preamble concerning the proposed Rule is available.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Meat and Poultry Inspections**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No estimated implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is estimated to 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 is estimated to be no costs and/or economic benefits to affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is estimated to be no effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0601#043

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of the Commissioner
Soil and Water Commission**

Master Farmer Certification Program
(LAC 7:XLI.Chapter 3)

The Commissioner of Agriculture and Forestry proposes to amend regulations regarding the Master Farmer Certification Program, in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq.

The Louisiana Master Farmer Program focuses on helping agricultural producers voluntarily address the environmental concerns related to the production of agriculture, as well as enhancing their production and resource management skills that will be critical for the continued environmental and economic viability of Louisiana agriculture. This program involves producers becoming more knowledgeable about environmental stewardship, resource-based production, and resource management through a producer certification process. Individuals that complete the program are certified by the Louisiana Department of Agriculture and Forestry as a Master Farmer.

This Rule is enabled by R.S. 3:304.

**Title 7
AGRICULTURE AND ANIMALS
Part XLI. Soil and Water Conservation
Chapter 3. Master Farmer Certification
§301. Definitions**

Commissioner—the Louisiana Commissioner of Agriculture and Forestry.

Department—the Louisiana Department of Agriculture and Forestry.

Farm—all acreage within a watershed owned, operated or managed by an individual or legal entity if the acreage is used for the commercial production and harvesting of any agronomic, agricultural, aquacultural, floricultural, horticultural, silvicultural, or vitacultural product, including but not limited to, beans, cotton, fruits, grains, livestock, nursery stock, sugarcane, timber, crawfish, catfish, and vegetables.

LSU AgCenter—the Louisiana State University Agricultural Center.

Master Farmer—an individual who has obtained his or her master farmer certification from the commissioner.

NRCS—the Natural Resources Conservation Service of the United States Department of Agriculture.

Resource Management System Plan—an individual comprehensive whole-farm soil and water conservation plan for a farm that incorporates best management practices, meets the standards and specifications of NRCS, the department, and the affected soil and water conservation district, and is approved by the department.

Watershed—an area of land in Louisiana that drains toward a given point and which has been mapped and identified by a name and 11 digit number in accordance with United States Department of Agriculture and United States Geological Survey protocols.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:304.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§303. Application for Master Farmer Certification

A. The following individuals are eligible to apply to become a master farmer:

1. an individual who owns and operates one or more farms in his own name or through a legal entity in which the individual owns a controlling interest;

2. an individual who operates one or more farms on land leased by him or her;

3. an individual who manages or operates one or more farms for a legal entity in which the individual does not own a controlling interest.

B. An eligible individual may apply to the commissioner for certification as a master farmer if the individual has successfully completed the master farmer curriculum established by the LSU AgCenter, attended a model farm field day sponsored by the LSU AgCenter, and has implemented a resource management system plan for at least one farm.

C. An applicant who manages or operates one or more farms for a legal entity in which the individual does not own a controlling interest will be considered to have implemented a resource management system plan if the owner of the farm implements such a plan.

D. Each application shall be made in writing on a form approved by the commissioner and shall be accompanied by:

1. a document from the LSU AgCenter showing successful completion of the master farmer certification curriculum established by the LSU AgCenter;

2. a document from the LSU AgCenter showing attendance at a model farm field day sponsored by the LSU AgCenter; and

3. a document from NRCS or the department showing that a resource management system plan has been implemented for a farm;

4. a statement by the applicant that he or she agrees to attend at least six hours a year of continuing education approved by the LSU AgCenter or (and) the department during the time he or she holds a master farmer certification;

5. a statement by the applicant that he or she agrees to develop, implement and maintain, in accordance with these regulations, a resource management system plan for all farms the applicant owns, operates, or manages.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:304.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§305. Issuance of Master Farmer Certification

A. The commissioner or his designee shall review each application for a master farmer certification to determine if the applicant successfully meets the requirements established by R.S. 3:304 and these regulations for obtaining a master farmer certification. If the commissioner approves an application the department shall issue a master farmer certification to the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:304.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§307. Cancellation of Master Farmer Certification

A. A master farmer shall remain certified as a master farmer so long as he or she actively maintains the resource management system plan in accordance with best management practices for each farm owned, operated, or managed by that individual.

B. A master farmer shall be actively maintaining a resource management system plan in accordance with best management practices so long as all of the following requirements are met.

1. The resource management system plan or best management practices incorporated into the plan are utilized and maintained on a consistent basis.

2. The records required by the resource management system plan are maintained as long as the resource management system plan is in effect.

3. Department personnel are allowed to inspect the farm or to review the records as long as the resource management system plan is in effect.

4. A comprehensive review of the resource management system plan with NRCS or the department is completed at least once every five years for the purpose of updating the plan and incorporating new best management practices as may be necessary.

5. Attendance at a minimum of six hours a year of continuing education approved by the LSU AgCenter or (and) the department.

6. The active development, maintenance, and review, in conjunction with NRCS or the department, of a resource management plan for all farms owned, operated, or managed by the individual.

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Department of Agriculture and Forestry Horticulture Commission

Licenses (LAC 7:XXIX.117)

C. The commissioner may cancel an individual's master farmer certification for failing to abide by the requirements established by R. S. 3:304 and these regulations only after an administrative adjudicatory hearing held in accordance with the Louisiana Administrative Procedure Act, or upon the written request or approval of the individual holding the certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:304.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

Family Impact Statement

The proposed amendments to Title 7 Part XLI. Chapter 3 regarding the Master Farmer Certification Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

All interested persons may submit written comments on the proposed Rule through February 24, 2006, to Bradley Spicer, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above. No preamble concerning the proposed Rule is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Master Farmer Certification Program

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There is estimated to be no implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is estimated to 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 is estimated to be no costs and/or economic benefits to affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is estimated to be no effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0601#045

Robert E. Hosse
Staff Director
Legislative Fiscal Office

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Horticulture Commission, hereby proposes to amend regulations regarding the required standards of practice for the landscape architect license.

The Department of Agriculture and Forestry, Horticulture Commission intends to adopt these rules and regulations for the purpose of amending the landscape architect license requirements.

This Rule is enabled by R.S. 3:3801.

Title 7

AGRICULTURE AND ANIMALS

Part XXIX. Horticulture Commission

Chapter 1. Horticulture

§117. Required Standards of Practice

A. - B.4. ...

5. Continuing Education Requirements

a. Compliance with these continuing education requirements is necessary for a landscape architect, ("licensee"), to maintain a landscape architect license in this state.

b. The commission shall administer the continuing education requirements through a standing continuing education committee consisting of not more than two staff members and at least three licensed Louisiana landscape architects elected by mail ballot. The landscape architects on the committee will each serve a term of two years. The call for nominations and balloting for committee service will be conducted concurrent with annual balloting for members of the Louisiana Landscape Architects Selection Board.

c. A licensee shall attend, or complete an approved substitute for attendance, a minimum of 8 credit hours of continuing education within each calendar year. If more than 8 credit hours are obtained during a calendar year, a licensee may carry over a maximum of 4 credit hours from one calendar year to the next. Any credit hours carried over into a following calendar year shall apply to that year only and may not be carried forward into subsequent years. A credit hour must contain at least 60 minutes of actual instruction or education.

d. Activities that may be approved for continuing education credits must contain instructional or educational components. Such activities include annual professional meetings, lectures, seminars, workshops, conferences, university or college courses, in-house training, and self directed activities. The commission's staff shall make the initial determination as to whether an activity qualifies for continuing education credit. If the commission's staff determines that an activity may not qualify, that activity request will be automatically forwarded to the continuing education committee for review and the committee's determination. Any licensee or other applicant for approval of an activity may appeal any committee rejection of an activity for continuing education credit to the commission. However, the commission retains the right to review and

approve or disapprove any activity as a qualifying continuing education activity and the number of credit hours arising from such activity, even if there is no appeal. Any appeal from any decision of the commission shall be taken in accordance with the Administrative Procedure Act, (R.S. 49:950 et seq.).

e. A licensee shall keep all records showing attendance, or completions of an approved substitute for attendance, at continuing education activities for three years following the year in which attendance or completion was done.

f. Each licensee shall annually submit a written certification signed by the licensee that the licensee has, during that calendar year, attended, or completed an approved substitute for attendance, the number of credit hours stated in the certification. If credit hours carried over from the previous year are being used as a substitute for attendance then the certification shall state the number of carried over credit hours that are being used. The certifications shall be attached to the licensee's annual license renewal application. Any renewal application received without this certification shall not be processed for license renewal and the license fees submitted with the application shall be refunded to the licensee.

g. The commission shall cause an annual audit of licensees to be conducted. Licensees shall be selected for audit either by cross-section of licensees or by random audit. The provisions of this subsection notwithstanding, an investigation of a licensee for possible violation of these continuing education requirements may be conducted if there is reason to believe that a violation may have occurred. Licensees selected for audit will be required to provide documented proof of their having obtained the continuing education credits for the year being audited. A licensee's failure to provide documented proof of having attended, or completed an approved substitute for attendance, for each credit hour certified for the year being audited shall be a violation of this Part. In the event that a licensee provides documented proof of having attended, or undertaken an approved substitute for attendance, any credit hour certified for the year being audited and such credit hour is disallowed then the licensee shall have six months from date of notification of the disallowance to attend, or complete an approved substitute for attendance, a sufficient number of approved credit hours to make up for the disallowed credits. The credit hours attended to make up for any disallowed credit hours shall not count toward the minimum credit hours needed for any other year. Failure to timely make up for the disallowed credit hours shall be deemed a violation of this Part. An appeal from a disallowance of any credit hour may be taken as provided in Subparagraph d.

h. A licensee may submit a written request for an approved substitute for attendance or for a hardship exemption or extension of time in which to obtain the minimum credit hours for the year in which the request is made. The licensee must detail the reason for the request, such as the benefit of any substitution, any physical disability, illness, or extenuating circumstance, and a specification of the requested substitute for attendance, including number of credit hours, course of study, etc. The licensee must also provide any additional information asked for in consideration of the request.

C. - I.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3808 and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended LR 9:410 (June 1983), LR 11:317 (April 1985), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 20:640 (June 1994), LR 27:1832 (November 2001), LR 32:

All interested persons may submit written comments on the proposed Rule through February 28, 2006 to Craig Roussel, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. A public hearing will be held on this Rule on February 28, 2006 at 9:30 a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble concerning the proposed rules is available.

Family Impact Statement

The proposed amendments to LAC 7:XXIX.117 regarding the required standards of practice for the landscape architect license and the re-issuance of suspended, revoked or un-renewed license or permit should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

Bob Odom
Commissioner

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

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

There will be no anticipated increase in costs to state or local agencies to implement the proposed rules. The Horticulture Commission is proposing to amend its rules to require Landscape Architects to complete continuing education hours in order to be eligible to renew their license. If this rule is adopted, landscape architects will be required to complete eight hours of continuing education each year. Current staff will accomplish the additional work of reviewing the certification document at license renewal time. The certification document will be a one-page form completed by the licensee that will accompany the renewal form. The audit documents, to be provided by licensees selected for audit, will be reviewed by the Continuing Education Committee at no additional costs to state agencies.

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

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

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

Minimal cost is anticipated in the vast majority of cases, though costly options do exist. Average annual cost is estimated to be about \$300, with a range from \$0 to \$500. Paperwork requirements will consist of maintaining records of CE session hours attended and an annual one-page reporting and certification form. Minimal paperwork and workload effects are anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact of the proposed rule on competition and employment.

Skip Rhorer
Assistant Commissioner
6601#042

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Structural Pest Control Commission**

**Termite Control Licensing
(LAC 7:XXV.101, 107, 113, 115 and 121)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission, proposes to amend regulations combining the license phases of Termite Control and Wood Destroying Insect Report Inspector, creating a phase for certified technicians, definition of terms and adding to the requirements of obtaining a termite control license.

The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary to insure that those persons with a Termite Control License and certified technicians can properly treat and inspect for termites. This Rule allow the department to better regulate the pest control industry by insuring that they are better trained to conduct wood destroying insect inspections.

This Rule complies with and is enabled by R.S. 3:3203.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§101. Definitions

* * *

License—a document issued by the commission which authorizes the practice and/or supervision of one or more phases of structural pest control work as follows.

1. *General Pest Control*—the application of remedial or preventive measures to control, prevent or eradicate household pests by use of pesticides used as sprays, dusts, aerosols, thermal fogs, barriers, traps and baits. Residential rodent control will be limited to the use of anticoagulant rodenticide and traps.

2. *Commercial Vertebrate Control*—the application of remedial or preventive measures to control, prevent or eradicate vertebrates, including baits, chemicals, barriers, gases and traps, in nonresidential establishments, but not including tarpaulin fumigation.

3. *Termite Control*—the application of remedial or preventive measures for the control, prevention or

eradication of termites and other wood-destroying insects and the inspection of structures for wood-destroying insects.

4. *Fumigation*—the use of lethal gases and/or rodenticides in a gaseous form for the control, prevention or eradication of insect pests, rodents, or other pests in a sealed enclosure with or without a tarpaulin.

* * *

Wood Destroying Insect—subterranean termites, drywood termites, powder post beetles, old house borers, carpenter ants, and carpenter bees.

Wood-Destroying Organisms—all species of insects, fungi or other organisms which attack and damage wood in buildings for obtaining food for themselves and perpetuating the species, such as the old house borer, powder post beetles, termites and wood decay.

Wood-Infestation Report—any written document issued by a pest control operator which pertains to subterranean termites, but not including a bid, a proposal or a contract for any structural pest control services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3362 and R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:323 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission LR 15:954 (November 1989), 17:251 (March 1991), LR 23:855 (July 1997), LR 30:1143 (June 2004), LR 31:26 (January 2005), LR 32:

§107. License to Engage in Structural Pest Control Work Required; Qualifications of Applicant; Requirements for Licensure; Phases of Structural Pest Control License; Conditions of the License

A. No person may perform structural pest control work of any kind, or advertise to provide structural pest control services, until licensed to do so by the commission.

B. Each applicant for license must possess one of the following qualifications in order to take the examination(s).

1. General Pest Control, Commercial Vertebrate Control and Fumigation:

a. a degree from an accredited four-year college or university with a major in entomology; or

b. a degree from an accredited four-year college or university with at least 12 semester hours or the equivalent in quarter hours of course work in entomology and at least one year of experience as a registered technician under the supervision of a licensee in the licensee phase for which the applicant desires to take the examination; or

c. four years of experience as a registered technician under the supervision of a licensee in the licensee phase for which the applicant desires to take the examination; or

d. four years of experience as a technician under the supervision of a structural pest control operator in another state in the licensee phase for which the individual desires to take the examinations. Experience with an out-of-state structural pest control operator shall be substantiated by evidence acceptable to the commission.

2. Termite Control:

a. a degree from an accredited four-year college or university with a major in entomology and complete a commission approved comprehensive termite program; or

b. a degree from an accredited four-year college or university with at least 12 semester hours or the equivalent

in quarter hours of course work in entomology and at least one year of experience as a registered technician under the supervision of a licensee in the licensee phase for which the applicant desires to take the examination and complete a Commission approved comprehensive termite program; or

c. four years of experience as a registered technician under the supervision of a licensee in the licensee phase for which the applicant desires to take the examination and complete a commission approved comprehensive termite program; or

d. four years of experience as a technician under the supervision of a structural pest control operator in another state in the licensee phase for which the individual desires to take the examinations and complete a commission approved comprehensive termite program. Experience with an out-of-state structural pest control operator shall be substantiated by evidence acceptable to the commission.

C. - H. ...

I. All applicants who are approved by the commission will, upon successfully completing the examination for licensure as set forth in §109 hereof, receive a single license to engage in structural pest control work, which license shall specify on the face thereof the specific phase or phases of structural pest control work for which the license is issued, as follows:

1. general pest control;
2. commercial vertebrate control;
3. termite control;
4. structural fumigation;
5. ship fumigation;
6. commodity fumigation.

J. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3308 and R.S. 3:3306 (redesignated R.S. 3:3366 and 3:3368).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:326 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:955 (November 1989), LR 19:1009 (August 1993), LR 23:855 (July 1997), LR 23:1493 (November 1997), LR 32:

§113. Registration of Employees; Duties of Licensee and Registered Employee with Respect to Registration

A. Each licensee must register every employee under his supervision with the commission within 30 days after the commencement of the employee's employment and shall test as required by R.S. 3:3369.H.

B. - Q.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 32:

§115. Certified WDIR Technician

A. Requirements of a Certified WDIR technician, prior to conducting WDIR inspections, are as follows:

1. shall be registered as a termite technician, and
2. complete department approved WDIR training, and
3. pass WDIR technician test with a score of 70 or greater.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:855 (July 1997), amended LR 32:

§121. Wood Destroying Insect Report

A. A wood infestation report approved by the Structural Pest Control Commission shall be issued when any inspection is made to determine the presence of wood destroying insects, specifically for acts of sale of structures, but not limited for this purpose.

B. Any wood infestation report or written instrument issued for the transfer of real property shall be issued by a person who is licensed by the Structural Pest Control Commission in Termite Control or certified WDIR technician, and is working under the supervision of a person who is licensed by the Structural Pest Control Commission in Termite Control. This instrument shall carry a guarantee that the property will be treated without charge should live wood destroying insects with the exception, the presence of frass will be acceptable as evidence of a live infestation of Power Post Beetles; however, frass must be exuding or streaming from the holes on the outside of the wood, covered by this report, and be found within 90 days from date of inspection.

B.1. - D.2. ...

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 24:631 (April 1998), LR 25:235 (February 1999), LR 25:829 (May 1999), LR 31:26 (January 2005), LR 32:

Family Impact Statement

The proposed amendments to the Structural Pest Control Commission, Chapter 1, combining the license phases of Termite Control and Wood Destroying Insect Report Inspector, creating a phase for certified technicians, definition of terms and adding to the requirements of obtaining a termite control license should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

Interested persons should submit written comments on the proposed Rule to Bobby Simoneaux through the close of business on February 24, 2006 at 5825 Florida Blvd., Baton Rouge, LA 70806. A public hearing will be held on this Rule on February 24, 2006 at 9 a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding this Rule is available.

Bob Odom
Commissioner

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

RULE TITLE: Termite Control Licensing

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No estimated implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is estimated to be no effect on revenue collections of the state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There is estimated to be no costs and or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed amendments are not anticipated to have an effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0601#044

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 121—Students Teaching and Reaching (STAR)
Content Standards Curriculum Framework
(LAC 28:CXXV.101, 301-317)

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 *Bulletin 121—Students Teaching and Reaching (STAR) Content Standards Curriculum Framework*. Bulletin 121 will be printed in codified format as Part CXXV of the Louisiana Administrative Code. The proposed addition of STAR replaces a product purchased outside of Louisiana with one developed in Louisiana. This new course is designed to strengthen the link between secondary and postsecondary education while providing students an opportunity to explore teaching as a career, in their home state of Louisiana.

**Title 28
EDUCATION**

Part CXXV. Bulletin 121—Students Teaching and Reaching (STAR) Content Standards Curriculum Framework

Chapter 1. General Provisions

§101. Introduction

A. In an effort to confront the national teacher shortage, Louisiana has been offering secondary courses in teacher preparation for over 10 years. Through a consolidated effort between the Louisiana Department of Education (LDOE), Northwestern State University (NSU), and the Consortium for Education, Research, and Technology of North Louisiana (CERT), a committee of various educators was formed. This committee has compiled a complete curriculum titled, STAR-Students Teaching and Reaching, to serve as the one teacher preparation course to be used by all secondary teachers in Louisiana.

B. The STAR curriculum is designed to provide a career focus by offering an overview of the teaching profession. STAR students are provided with means and guidance for self-assessment, learning about others, and diversity within Louisiana classrooms. Students will gain a foundational knowledge of the history of education, both national and statewide. In addition, students will be provided meaningful field experiences, with an emphasis in critical shortage areas, designed to paint a realistic picture of the teaching profession. They will be given tools that help them manage what is one of the most important and ever-changing careers.

C. Mandates

1. The curriculum has "stars" on each lesson plan as well as related information. The "star" in the upper right hand corner of each lesson plan designates the lesson plan number within the curriculum. Those lesson plans that have "Required LP" above the lesson plan number are lesson plans that must be taught as a part of the curriculum. Those that do not have "Required LP" at the top are optional lesson plans to be taught if time permits.

2. Students are required to document their field experience hours on the student weekly and cumulative time sheets (in the Forms Section of the curriculum).

3. STAR students are required to have 20 hours of field experiences. They must observe in preschool/elementary, middle school, high school, and special education classrooms (for a total of no more than five hours total for all observations). The additional 15 hours of field work will be spent in one classroom doing tutorial, one-on-one, small group, and/or large group work. STAR students must teach one lesson under the close supervision of the cooperating teacher to a small group or whole class of students. STAR teachers will be responsible for securing, monitoring, and evaluating field placements for STAR students.

4. STAR students are required to complete a portfolio of their work. Specific documents to be included can be found in the STAR curriculum approved by BESE.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Chapter 3. Strands, Standards, Benchmarks, and Objectives

§301. Strand—Self-Assessment

A. Focus. Self-Assessment focuses on the STAR student learning about himself/herself as a person and a learner. The STAR student will become excited about gaining knowledge regarding the concept of learning through this strand.

1. Standard 1. STAR students will identify and analyze elements of self and how these relate to others.

a. Benchmark 1A. The student will explain the importance of self-esteem.

1A-1	Define self-esteem
1A-2	Examine factors that raise self-esteem

b. Benchmark 1B. The student will demonstrate techniques to build self-esteem.

1B-1	Create affirming statements for others.
1B-2	Role-play situations that model self-esteem building.

c. Benchmark 1C. The student will recognize how values and needs shape personal choices.

1C-1	Examine personal values as a tolerant community of learners.
1C-2	Explain and analyze Maslow's hierarchy of needs.
1C-3	Compare Maslow's self-actualized individual to students' view of a self-actualized person.

d. Benchmark 1D. The student will assess his/her learning style and personality type as related to student/teacher instructions.

1D-1	Complete a learning style inventory (or more than one) and relate results to personal and/or learning experiences
1D-2	Examine various facets of personality and complete a self-reporting personality inventory.
1D-3	Correlate student/teacher personality combinations to classroom expectation and student work.

e. Benchmark 1E-1. The student will develop interpersonal skills to interact effectively with students, parents, and colleagues.

1E-1	Identify and evaluate effective interpersonal skills vital to working with a variety of groups.
1E-2	Demonstrate effective communication skills in a variety of situations.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§303. Strand—Human Development

A. Focus. This strand naturally follows that of "Self-Assessment." Once the STAR student has learned about himself/herself as a person and a learner, he/she is ready to become skilled at recognizing the unique characteristics of others.

1. Standard 2. STAR students will characterize stages of human development.

a. Benchmark 2A. The student will explain the influence of prenatal care on human development.

2A-1	Describe prenatal factors that adversely effect children.
2A-2	Recommend ways to minimize or eliminate adverse prenatal factors.

b. Benchmark 2B. The student will trace the stages of physical, moral, social, and cognitive growth.

2B-1	Describe the stages of development in these four domains.
2B-2	Examine how knowledge of development can assist educators in planning and teaching.

c. Benchmark 2C. The student will compare typical and atypical language development and its effect on learning.

2C-1	Examine the stages of atypical language development for children.
2C-2	Recognize atypical language and how it affects learning.

d. Benchmark 2D. The student will discriminate between appropriate and inappropriate materials and activities.

2D-1	List characteristics of appropriate and inappropriate activities and materials used with diverse learners.
2D-2	Evaluate appropriateness of activities and materials according to age and/or development.

e. Benchmark 2E. Students will create materials and learning activities for diverse learners.

2E-1	Create age/developmentally appropriate learning materials.
2E-2	Create age appropriate reading book.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§305. Strand—Diverse Learners

A. Focus. This strand focuses on the distinctive characteristics of learners and how those characteristics affect teaching and learning.

1. Standard 3. STAR students will recognize the impact of diversity on learning.

a. Benchmark 3A. The student will apply information about brain-based learning to classroom instruction.

3A-1	Contrast the traits of left and right brain learners.
3A-2	Discuss how teachers use brain-based learning to meet needs of learners.

b. Benchmark 3B. The student will develop an understanding of diverse cultures.

3B-1	Explain how a student population can be diverse.
3B-2	Examine methods to infuse diverse cultures into lessons.

c. Benchmark 3C. The student will differentiate between various learning styles and multiple intelligences.

3C-1	Define at least four learning styles.
3C-2	Complete a multiple intelligence inventory and "exercise" a variety of intelligences.
3C-3	Demonstrate how learning styles or intelligences can be accommodated.
3C-4	Create tasks, materials, or activities appropriate for specific learner types.

d. Benchmark 3D. The student will examine the role of special education and the inclusion of learners with exceptionalities into the mainstream environment.

3D-1	Describe areas of special education and categories of students with exceptionalities.
3D-2	Define basic terminology used in special education (i.e., inclusion, least restrictive environment, self-determination).
3D-3	Propose ways to modify lessons to meet the needs of students with exceptionalities (disabilities and gifted) in general education classrooms.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§307. Strand—Foundations of American Education

A. Focus. Our history of education, including laws, court cases, and important events, provides a framework for understanding the system of education in America. Societal influences are integral to a full understanding of education.

1. Standard 4. STAR students will recognize the evolution of educational systems.

a. Benchmark 4A. The student will review the history of education.

4A-1	Describe individuals who have influenced American education.
4A-2	Discuss events that have influenced American education.

b. Benchmark 4B. The student will recognize effects of past and current laws and court cases.

4B-1	Summarize laws that have formed the foundation of educational practice.
4B-2	Examine benchmark court cases and identify how they have modified our educational system.

c. Benchmark 4C. The student will analyze and interpret current trends and issues effecting future education.

4C-1	Locate and synthesize information on alternatives to traditional public education.
4C-2	Identify future directions for school systems based on current available information.

d. Benchmark 4D. The student will identify functions and duties of federal, state, parish, local, and school educational authorities.

4D-1	Illustrate how educational practice is governed by federal and state entities.
4D-2	Describe the hierarchy and duties of officials on the state, parish, and local level.

e. Benchmark 4E. The student will compare and contrast major schools of educational philosophy.

4E-1	Identify schools of educational philosophy.
4E-2	Correlate schools of philosophy to educational practice.

2. Standard 5. STAR students will describe schools as a microcosm of society at large.

a. Benchmark 5A. The student will recognize the socializing features of educational systems.

5A-1	Identify the ways in which teachers and school settings teach children acceptable and unacceptable social behavior.
5A-2	Show how schools promote social and group relationships.
5A-3	Explain how schools function as centers of social activity.

b. Benchmark 5B. The student will explain the relationship between schools and society.

5B-1	Discuss the role of social conditions on schools and children.
5B-2	Evaluate ways that schools can counter problems in society exhibited in schools themselves (i.e., violence, racism, drug abuse).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§309. Strand—Instructional Design

A. Focus. Once STAR students understand themselves, others, and historical influences, they are ready to embark on learning about the practice of teaching.

1. Standard 6. STAR students will identify and model effective instruction and assessment practices.

a. Benchmark 6A. The student will relate motivation to learner performance.

6A-1	Describe external and intrinsic motivation.
6A-2	Connect teacher action to student motivation.

b. Benchmark 6B. The student will identify the basic elements of a lesson plan.

6B-1	Explain basic parts of lesson plans (i.e., anticipatory set, modeling, guided practice, independent practice, evaluation, closure).
6B-2	Explain how sequencing of activities can enhance learning.
6B-3	Describe how parts of a plan work together to form an effective lesson.

c. Benchmark 6C. The student will describe a variety of teaching practices, methods, and techniques.

6C-1	Examine scientifically-based teaching practices in a variety of content areas.
6C-2	Match teaching practices with diverse student needs.

d. Benchmark 6D. The student will construct lesson plans to meet the diverse needs of all learners.

6D-1	Write a lesson plan that includes all basic elements.
6D-2	Delineate on the lesson plan how diverse needs are met.
6D-3	Reflect on the planning process.

e. Benchmark 6E. The student will apply a variety of teaching practices, methods, and techniques.

6E-1	Utilize appropriate practices in specific settings.
6E-2	Incorporate more than one practice, method, and/or technique in a lesson.

f. Benchmark 6F. The student will construct appropriate assessments.

6F-1	Identify different assessment methods.
6F-2	Create a sample assessment device.
6F-3	Justify how and with whom the device should be used.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§311. Strand—Management

A. Focus. This strand focuses on the crucial role of management in effective teaching and learning. This management focus includes time management, classroom/school management, and stress as it affects teaching and learning.

1. Standard 7. STAR students will explain the role management plays in the classroom and school.

a. Benchmark 7A. The student will assess the impact of school climate and organization on learning.

7A-1	Define classroom management.
7A-2	Define time management and discuss its relationship to learning.
7A-3	Provide examples of an "inviting" an "uninviting" classroom and/or school.
7A-4	Examine how the physical arrangement of a classroom impacts learning.

b. Benchmark 7B. The student will recognize various behavior management strategies.

7B-1	Identify behavior management strategies that are proactive (i.e., assertive discipline, student generated rules, token economy).
7B-2	Examine various methods for decreasing conflict (i.e., peer mediation, conflict resolution, etc.).

c. Benchmark 7C. The student will examine stress and its effects on learning and teaching.

7C-1	Identify stress factors for both teachers and students.
7C-2	Explain methods of stress management.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§313. Strand—Technology

NOTE: While technology is treated as a separate strand, it should also be embedded into all of the other strands and should be interwoven through the curriculum.

A. Focus. In order to produce citizens that are able to deal with the rigors of a highly technological world, STAR students must be well versed in a variety of technologies and be able to impart this knowledge to learners.

1. Standard 8. STAR students will utilize technology to enhance planning and learning.

a. Benchmark 8A. The student will use appropriate technology to locate, evaluate, and collect information from a variety of sources (K-12 Tech Standards).

8A-1	Examine how and where to find technology to meet a variety of needs.
8A-2	Utilize a variety of technological sources to meet diverse needs in and out of the classroom.

b. Benchmark 8B. The student will use available technology to produce a variety of works.

8B-1	Create lesson plans using technology.
8B-2	Create teaching materials using technology.

c. Benchmark 8C: The student will collaborate with peers, experts, and others to compile, synthesize, and disseminate information, models, and other creative works (K-12 Tech Performance Indicators).

8C-1	Assemble information with peers through technological means.
8C-2	Publish materials utilizing technology.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§315. Strand—Field Experiences

A. Focus. The focus of this strand is to immerse STAR students in a variety of field experiences. Through observations in a myriad of settings and situations, STAR students will be able to make informed choices regarding their goals for the future.

1. Standard 9. STAR students will participate in a variety of field experiences.

a. Benchmark 9A. The student will observe in a variety of educational settings.

9A-1	Job shadow school personnel.
9A-2	Observe at all levels: pre-school, elementary, middle, high school, and special education programs.
9A-3	Observe a school board meeting.
9A-4	Visit an education facility/site apart from a traditional school.

b. Benchmark 9B. The student will participate in educational activities at their assigned school(s).

9B-1	Provide community service as a volunteer.
9B-2	Teach/tutor students in the classroom setting.
9B-3	Discuss classroom issues with the participating teacher.
9B-4	Reflect on field experiences in oral and written form.
9B-5	Create a portfolio documenting classroom and field experiences.

c. Benchmark 9C. The student will plan and teach a lesson.

9C-1	Develop a lesson plan containing essential elements of lesson design.
9C-2	Teach a lesson targeted for an age/developmentally appropriate audience.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§317. Strand 10—Professionalism

A. Focus. STAR students must have knowledge about how to become effective teachers, how to remain teachers, and the professional attributes necessary for success in the profession.

1. Standard 10. STAR students will examine qualifications and attributes of effective educators.

a. Benchmark 10A. The student will identify elements necessary for licensure.

10A-1	Describe college requirements for obtaining an education degree.
10A-2	Trace steps necessary for obtaining a teaching license.
10A-3	List and describe the basic concepts underlying LaTAAP.

b. Benchmark 10B. The student will describe job opportunities in education.

10B-1	Identify occupations that relate to or support classroom teaching.
10B-2	Determine critical need area in Louisiana and local school district.

c. Benchmark 10C. The student will compare and contrast professional organizations.

10C-1	Examine the purpose behind various professional organizations.
10C-2	Describe standards developed by content specific organization.

d. Benchmark 10D. The student will examine professional ethics for teachers.

10D-1	Define ethics.
10D-2	Describe ethical behavior for teachers.
10D-3	Identify legal responsibilities of teachers.

e. Benchmark 10E. The student will describe professional responsibilities of teachers.

10E-1	Explain those attributes individuals must possess to be professionals (timeliness, dress, attitude, compassion, cooperation, etc).
10E-2	Discuss the importance of professional development.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Family Impact Statement

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

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

Interested persons may submit written comments until 4:30 p.m., March 11, 2006, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 121—Students Teaching
and Reaching (STAR) Content Standards
Curriculum Framework**

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

The proposed revision will change a Career and Technical course offering. It is estimated that there will be no additional costs to state governmental units. It is unknown at this time if there are any costs to local governmental units. The LEA may choose to offer new courses to students that may require purchasing items such as new textbooks, instructional materials or equipment. Each LEA will make its determination.

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

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

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

The proposed change is being requested to replace a course purchased outside the state with one developed within Louisiana. The new course is designed to strengthen the link between secondary and postsecondary institutions. It will assist Career and Technical students in attaining skills for their continued education.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Employers could have a larger, trained qualified pool from which to select employees.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0601#084

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Board of Elementary and Secondary Education
Bulletin 1196—Louisiana Food and Nutrition
Programs—Policies of Operation
(LAC 28:XLIX.Chapter 7)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation* (LAC 28:XLIX). *Bulletin 1196* is the policy manual designed to provide useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding and operation of the Child Nutrition Programs in Louisiana. This bulletin was developed as a result of the necessity to incorporate all state policy changes, which have already been implemented by the sponsors. These revisions update state policies.

**Title 28
EDUCATION**

**Part XLIX. Bulletin 1196—Louisiana Food and
Nutrition Programs, Policies of Operation
Chapter 7. Meal Planning and Service
§701. General**

A. The USDA School Meals Initiative for Healthy Children underscores our national health responsibility to

provide healthy school meals that are consistent with the recommended Dietary Allowances (RDA), age appropriate caloric goals and the Dietary Guidelines for Americans. Every School Food Authority (SFA) should strive to serve meals that are nutritionally adequate, attractive, and moderately priced.

B. SFAs shall ensure that schools provide to children meals that meet the USDA School Meals Initiative for Healthy Children's nutrition goals. The nutritional goal of school lunches, when averaged over one week, is to provide one-third of the RDA for protein, calcium, iron, vitamin A, and vitamin C in the applicable age or grade groups as well as the energy allowances based on the appropriate age or grade groups and meal patterns listed in Appendices A, B and C of this Chapter. Breakfast should provide one-fourth of students' RDA for protein, calcium, iron, vitamin A, and vitamin C in the applicable age or grade groups as well as the energy allowances based on the appropriate age or grade groups and meal patterns listed in Appendices A, B, and C of this chapter. Lastly, school lunches shall follow the recommendations of the most recent Dietary Guidelines for Americans with emphasis on limiting total fat to 30 percent based on the actual number of calories offered, limiting saturated fat to 10 percent based on the actual number of calories offered, reducing the levels of sodium and cholesterol and increasing the level of dietary fiber.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2135 (December 2001), amended LR 29:2026 (October 2003), LR 32:

§711. Meal Planning Options

A. - D.1.b.i. ...

c. Breakfast menus must be planned to meet daily meal pattern requirements. Students must be offered four food items at breakfast. The food items must be offered in one of the three combinations listed below.

i. Breakfast Combinations Containing Required Components

Combination 1	Or Combination 2	Or Combination 3
1 Serving Milk	1 Serving Milk	1 Serving Milk
1 Juice/Fruit/Vegetable	1 Juice/Fruit/Vegetable	1 Juice/Fruit/Vegetable
2 Grains/Bread	2 Meat/Meat Alternates	1 Grains/Breads 1 Meat/Meat Alternate
Sample Breakfast		
Combination 1	Combination 2	Combination 3
Chocolate Milk	Lowfat Unflavored Milk	Whole Milk
Hash Brown Potatoes	Orange Juice	Fresh Strawberries
Large Biscuit (2 oz.)	Scrambled Egg	Cheese Toast
Orange Juice	Sausage Link	

d. Fluid milk and a food item selected from the Juice/Fruit/Vegetable component must always be offered. The fluid milk may be served as a beverage or on cereal or both. Schools must offer fluid milk in a variety of fat contents and may offer flavored, or unflavored milk and lactose-free milk. Shelf-stable milk may be used only to provide a milk option when milk requiring refrigeration may not be the best choice for service. Acceptable uses for shelf-stable milk include summer food service, satellite meal

service, field trips, breakfast in the classroom and other grab and go type food service, before/after extended vacation times or other school calendar breaks or unexpected closures (hurricanes or snow days), expanding flavor choices to include flavors not available from the local dairy or regular milk provider, and special promotional or theme days. The state agency may conduct unannounced visits when reports of noncompliance are received. Failure to provide corrective action may result in withholding of funds.

e. - e.i.(a).(viii).[2].[e].[iii]. ...

(b). Vegetable/Fruit

(i). Two or more servings of different vegetables and/or fruits must be offered to meet the vegetable/fruit requirement at lunch. Menu items such as fruit cocktail or mixed vegetables are considered as only one serving. However, large combination vegetable/fruit salads served as an entree that contains at least the minimum daily requirement of vegetables/fruits in combination with a meat/meat alternate, such as a chef's salad or a fruit plate with cottage cheese, are considered as two (or more) servings of vegetable/fruit and will meet the full requirement.

(ii). Full-strength vegetable or fruit juice may not be used to meet more than one-half of the total vegetable/fruit requirement at lunch. Any product, liquid or frozen, labeled as "juice," "full-strength juice," "single-strength juice," or "reconstituted juice" is considered full strength. Liquid or frozen "juice drinks" may contain only a small amount of full-strength juice. If used to meet a part of the vegetable/fruit requirement for lunch, the product must contain a minimum of 50 percent full-strength juice. Only the full-strength juice portion may be counted toward meeting the vegetable/fruit component requirement. At breakfast, only full-strength juice may be served to meet the vegetable/fruit requirement.

(iii). Cooked dry beans or peas may be used as a meat alternate or as a vegetable, but not as both food components in the same meal. Potato chips, corn chips, and other similar chips may not be counted as a vegetable/fruit. Small amounts (less than 1/8 cup) of vegetables/fruits used for flavoring or as a garnish, may not be counted toward the vegetable/fruit requirement.

(iv). Generally, most vegetables and fruits that are to be used are listed in the USDA Food Buying Guide. In some situations, the main dish may have a CN label that documents the fruit/vegetable contribution. In situations when neither is the case, a certified product formulation statement on the product from the manufacturer containing yield information on the product must be maintained on file in the SFA to indicate the contribution toward the meal requirements.

(c). ...

(d). Milk

(i). Schools are required to offer fluid milk at breakfast and lunch. All milk served shall be pasteurized fluid types of milk that meet state and local standards. Fluid milk in a variety of fat contents should be offered. Milk can be flavored or unflavored and lactose-free. For use of shelf-stable milk refer to §711.D.1.d.

(ii). Each student must be allowed to select his/her choice from the milk varieties available. If a

milkshake is offered as part of the reimbursable lunch, it must contain, at a minimum, 8 ounces of fluid milk.

(iii). No other beverage may ever be offered as a choice against milk. A school may offer another beverage in addition to milk as long as students can take both at no extra charge. A student who accepts milk shall not be charged an additional amount for juice or bottled water if these items are given away at no charge to those students who refuse milk. The student's decision to accept or decline milk cannot be used to determine whether the school will charge that student for another beverage.

(e). Other Foods

(i). Other foods refers to food items that do not meet the requirements for any component in the meal patterns. They are frequently used as condiments and seasonings, to improve meal acceptability, and to satisfy the students' appetites. Other foods supply calories that help to meet the energy needs of growing children and contribute varying amounts of protein, vitamins, and minerals essential to good nutrition. Since many of these foods are high in salt, sugar, or fat, the amount and frequency of use should be limited. Other foods must be included as part of the nutrient analysis conducted.

f. - f.ii.(b).(i). ...

(ii). Three food items from at least two different food components are required for a reimbursable breakfast. To count as a component, the student must take a full serving of that component. The full serving may be one food item or may be split among two or more food items of the same component (i.e., grains/breads or meat/meat alternate), as long as the combined total quantity served is equal to a full serving of that component: for example, one full serving equals 1/2 slice toast and 1/2 oz. whole grain or enriched cereal or 1/2 oz. lean meat and 1/2 oz. cheese.

1.f.ii.(b).(iii). - 2.b.i....

c. Breakfast menus must be planned to meet daily meal pattern requirements. Students must be offered four food items at breakfast. The food items must be offered in one of the three combinations listed below.

i. Breakfast Combinations Containing Required Components

Combination 1	Or Combination 2	Or Combination 3
1 Serving Milk	1 Serving Milk	1 Serving Milk
1 Juice/Fruit/Vegetable	1 Juice/Fruit/Vegetable	1 Juice/Fruit/Vegetable
2 Grains/Breads	2 Meat/Meat Alternates	1 Grains/Breads
		1 Meat/Meat Alternate
Sample Breakfast		
Combination 1	Combination 2	Combination 3
Chocolate Milk	Lowfat Unflavored Milk	Whole Milk
Hash Brown Potatoes	Orange Juice	Fresh Strawberries
Large Biscuit (2 oz.)	Scrambled Egg	Cheese Toast
Orange juice	Sausage Link	

d. Fluid milk and a food item selected from the Juice/Fruit/Vegetable component must always be offered. The fluid milk may be served as a beverage or on cereal or both. Schools must offer fluid milk in a variety of fat contents and may offer flavored, unflavored, and lactose-free milk. For use of shelf-stable milk refer to §711.D.1.d.

e. Menu Components

i. To meet the requirements of the National School Lunch/School Breakfast Programs, school meals

must contain a specified quantity of each of the food components as described below. The quantities or serving sizes for these components vary according to the age/grade group of the students being served. (Refer to the Enhanced School Lunch/Breakfast Pattern charts found in §755.K and L. Note that the charts specify required minimum quantities for different age/grade groups.) Schools are encouraged, but not required, to vary portion sizes by grade groups; however, if a school chooses not to vary portion sizes, each group must receive at least the minimum quantities required for that group. In other words, for a given group of students, the school may serve more than the minimum quantity, but not less. In addition to the required food components, larger servings and other foods may need to be served to increase the nutritional quality and acceptability of the meal.

(a). Meat/Meat Alternate

(i). Any food item used to meet the meat/meat alternate requirement must be listed in the USDA Food Buying Guide or must have a Child Nutrition (CN) label or a certified product formulation statement. Foods that may be counted as a meat/meat alternate include lean meat, poultry or fish; cheese; egg; cooked dry beans or peas; peanut butter or other nut or seed butters; yogurt; peanuts, soy nuts, tree nuts, or seeds. Alternate protein products, as outlined in this Section, may also be used as meat alternates. If schools do not offer choices of meat/meat alternates each day, it is recommended that no one meat alternate or form of meat (e.g., ground, diced, pieces) be served more than three times in a single week.

2.e.i.(a).(ii). - 2.e.i.(b).(iv). ...

(v). Generally, most vegetables and fruits that are to be used are listed in the USDA Food Buying Guide. In some situations, the main dish may have a CN label that documents the Fruit/Vegetable contribution. In situations where neither is the case, a certified product formation statement on the product from the manufacturer providing yield information on the product must be maintained on file by the SFA to indicate the contribution toward the meal requirements.

(c). - (c).(i).[3]. ...

(d). Milk

(i). Schools are required to offer milk as a beverage. All milk served shall be pasteurized fluid types of milk that meet state and local standards. Fluid milk in a variety of fat contents must be offered. Flavored, unflavored, and lactose-free milk may be offered. For use of shelf-stable milk refer to §711. D.1.d.

(ii). Each student must be allowed to select his/her choice from the milk varieties available. If a milkshake is offered as part of the reimbursable lunch, it must contain, at a minimum, 8 ounces of fluid milk.

(iii). Milk can never be offered as a choice against another beverage. A school may offer another beverage in addition to milk as long as students can take both at no extra charge. A student who accepts milk shall not be charged an additional amount for juice or bottled water if these items are given away at no charge to those students who refuse milk. The student's decision to accept or decline milk cannot be used to determine whether the school will charge that student for another beverage.

(iv). The school meal patterns specify fluid milk as a component; the only substitutions allowed are for

documented medical reasons on a case by case basis. (Refer to §727.Meal Substitutions for Medical or Dietary Reasons). Ethnic or religious reasons may also permit substitutions. (Contact the state agency for specific information.)

e.i.(e). - f.ii.(a).(vi). ...

(b). Breakfast

(i). Students must be offered all four-food items as listed in the Enhanced School Breakfast Pattern chart in §755.N. SFAs are allowed, but not required to implement Offer versus Serve at breakfast. Under this provision, students may decline one food item. The decision as to which food item to decline rests solely with the student. In schools not implementing Offer versus Serve, a student must take full portions of all food items offered.

f.ii.(b).(ii). - h.i ...

3. Nutrient Standard Menu Planning (NSMP)

a. Nutrient Standard Menu Planning (NSMP) requires that meals are planned to meet the appropriate Nutrient Standards and requires computerized nutrient analysis of school meals using a USDA approved software program. NSMP allows menu planners to break away from the food-based method of planning menus and use a variety of foods to meet the Nutrient Standards without requiring specific food components, with the exception of fluid milk, ~~or~~ and no required amounts, except that Food of Minimal Nutritional Value (FMNV) do not count when served alone.

b. - e. ...

f. Menu Items

i. In NSMP, the menu planner uses menu items instead of food components and food items. A menu item may be a single food or a combination of foods. Whether a food can be counted as one or two menu items is determined by the way the food is served. If two or more foods are grouped together, the food items may be counted as one menu item. If the food items are served separately, they are counted as two menu items: for example, a hamburger patty served on a bun is counted as one menu item, but a hamburger patty served with a bun on the side is counted as two menu items.

(a). Entree

(i). An entree is a menu item that is a combination of foods or a single food that is served as the main dish. The entree may be any food (i.e., meat, grain, bread, fruit, vegetable, etc.) except fluid milk, condiments, or a food of minimal nutritional value. There is no entree requirement at breakfast. (Refer to 1196 Supplement Guidance and Forms for a listing of foods of minimal nutritional value.)

(b). Side Dish(es)

(i). Any menu item offered other than the entree and milk is considered a side dish. The side dish may be any food except condiments or those foods of minimal nutritional value or have foods of minimal nutritional value as the main ingredient.

(c). Milk

(i). Schools are required to offer fluid milk as a beverage at lunch or as a beverage or on cereal at breakfast. All milk served shall be pasteurized fluid types of milk that meet state and local standards. Fluid milk in a variety of fat contents must be offered. Milk may be flavored or unflavored and lactose-free. For use of shelf-stable milk refer to §711.D.1.d.

(ii). Each student must be allowed to select his/her choice from the milk varieties available.

(iii). No other beverage may ever be offered as a choice against milk. A school may offer another beverage in addition to milk as long as students can take both at no extra charge. A student who accepts milk shall not be charged an additional amount for juice or bottled water if these items are given away at no charge to those students who refuse milk. The student's decision to accept or decline milk cannot be used to determine whether the school will charge that student for another beverage.

(d). Other Menu Items

(i). The category, other menu items, refers to any food other than the entree, fluid milk and foods of minimal nutritional value. (Refer to 1196 Supplement Guidance and Forms for a listing of foods of minimal nutritional value.) The menu planner may consider the "other menu items" category to be side dishes. Condiments such as relishes, catsup, mustard, mayonnaise, jelly, syrup, gravy, etc. may not be counted as other menu items.

g. - l.i. ...

4. Assisted Nutrient Standard Menu Planning

a. Assisted Nutrient Standard Menu Planning (ANSMP) is designed for SFAs that lack the technical resources to implement Nutrient Standard Menu Planning but would like to take advantage of its features. This option allows SFAs to use the expertise of outside entities, such as other SFAs, the state agency, or a consultant, to develop a cycle menu, recipes, procurement specifications and production schedules that will allow school meals to meet the nutrient standards. These menus, recipes, etc. must be followed precisely. The SFA must have state agency approval of initial menu cycle along with nutrient analysis, recipes, product specifications, and any other documentation requested by the state agency. (For specific requirements, refer to §711, Nutrient Standard Menu Planning., and Summary of Required Documents §709.A.5)

5. Any Reasonable Approach

a. On May 29, 1996, President Clinton signed Public Law 104-149, the Healthy Meals for Children Act, which provides that schools may use any reasonable approach to menu planning that will achieve compliance with the nutrition standards as long as the approach conforms to guidelines issued by the Department of Agriculture. SFAs must obtain state agency approval prior to implementation. (Contact your state agency for guidelines.)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2137 (December 2001), amended LR 29:2028 (October 2003), LR 32:

§713. Infant Meal Patterns

A. - B.2.a. ...

3. Reimbursement for Infant Meals

a. A SFA may claim reimbursement for meals that are served to infants younger than four months of age and that contain only breast milk and no other items for four to eight months when breast milk or breast milk and one other item is provided. This regulation applies only to meals for which milk is the only required item and for which breast milk is served. If iron-fortified infant formula is served and is provided by the parent or an agency other than the SFA, reimbursement may not be claimed.

b. Meals served to infants eight months of age or older that require breast milk and at least one additional item cannot be claimed for reimbursement unless the SFA provides at least one item. Also, if the parent supplies the formula, the meal cannot be claimed. A reimbursable breakfast or lunch has three components.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2148 (December 2001), amended LR 29:2028 (October 2003), LR 32:

§727. Meal Substitutions for Medical or Dietary Reasons

A. ...

B. Any changes to the regular school meal for medical or special dietary reasons must be appropriately documented. Changes to existing diet orders must also be documented. This documentation is required to justify that the modified meal is reimbursable and to ensure that any meal modifications meet nutrition standards that are medically appropriate for the specific child. When special meals or modifications are requested, a form that includes required information should be given to the parent or guardian so that the student's physician may correctly assess the condition and identify meal changes. (Refer to the sample in 1196 Supplement Guidance and Forms) Although the form itself is not required, either a physician's statement or a diet prescription that includes the same information is required and must be kept on file in the school.

C. - C.1.f. ...

2. Students without Disabilities but with Special Dietary Needs

a. Schools may, at their discretion, make substitutions for individual children who do not have a disability as defined under 7 CFR 15b.3, but who are medically certified as having a special medical or dietary need. Such determinations must be supported by a diet prescription that specifies the need for substitution and that is signed by a recognized medical authority. The state agency currently accepts the following professionals as recognized medical authorities: physicians, physician assistants, nurse practitioners, and licensed or registered dietitians. A diet prescription submitted by a registered nurse is acceptable only when co-signed by a physician. The diet prescription must include the information provided below:

i. an identification of the medical or other special dietary need that restricts the child's diet; and

ii. the food or foods to be omitted from the child's diet and the food or choice of foods to be substituted.

b. Schools are not required to make substitutions for students whose conditions do not meet the definition of "children with disabilities." The special dietary needs of students that do not have a disability may frequently be managed within the regular meal service when a well-planned variety of nutritious foods is available and when Offer versus Serve is implemented.

c. For students who cannot consume fluid milk because of a medical or other special dietary need other than a disability, the SFA may choose to implement an acceptable milk substitute. The standards for the milk substitute include a nondairy beverage that is nutritionally equivalent to fluid milk, meeting all nutrition standards (established by the secretary) to levels found in cow's milk.

i. The substitutions may be made if the school/SFA notifies the state agency that the school is implementing this variation. A written statement requesting a substitute is required from a medical authority, or by a student's parent or legal guardian. Using this substitute variation, the school shall not be required to provide beverages other than beverages the school has identified as acceptable substitutes. Expenses incurred in providing these substitutions that are in excess of expenses covered by reimbursements under this Act shall be paid by the SFA.

d. If the authorized substitute foods are not normally kept in inventory or are not generally available in local markets, the parent or guardian should provide the substitute food item prescribed by the recognized medical authority.

3. Ethnic and Religious Variations

a. The Food and Nutrition Services of the USDA may approve variations in the food/menu items required for lunch and breakfast in any school where there is evidence that such variations are nutritionally sound and are necessary to meet ethnic or religious needs. (Contact the state agency for additional information.)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2149 (December 2001), amended LR 29:2028 (October 2003), LR 32:

§729. Nonstudent Meals

A. - A.2.a. ...

3. Contract Meals

a. SFAs may contract meal service to nonschool programs such as Head Start, day care programs, and elderly feeding programs. There must be an annual contract between the two agencies stipulating the necessary terms. Contracts should protect both parties and be reviewed by an attorney. (Refer to sample in 1196 Supplement Guidance and Forms.) Copies of new and renewed contracts must be submitted to the state agency. Contracts will become part of the SFAs permanent agreement with the state agency. (Refer to §337.A.1.f, Costing of Contract Meals, for additional information.)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2150 (December 2001), amended LR 29:2029 (October 2003), LR 32:

§737. Extra Sales

A. Extra items may be sold only to those who have received a complete meal. The purchase of extras must occur at the time the meal is received unless the SFA has a procedure in place to determine that a student has received a complete meal. À-la-carte meal service is prohibited. Extra sale items must meet component requirements as defined by Enhanced Food-Based Menu regulations for the Child Nutrition Programs or must be an item offered on the menu that day. The only exceptions are that milkshakes, yogurt, frozen yogurt, ice cream, and ice milk (as defined by the Louisiana Sanitary Code) may be sold as extras. Full-strength juice, and milk, and bottled water (unflavored with no additives) may be sold at any time during the day to students and adults whether or not they have purchased a meal.

B. Schools must maintain proper accountability for extra sale items and must recover the full cost of producing the extra items plus a profit. At a minimum, these costs shall include food, labor (wages plus benefits), paper and nonfood supplies, transportation and utilities. (Refer to §337.A.1.i: Pricing for Extra Sales Items, for specific information concerning pricing procedures.) All monies earned or received must accrue to the school food service account.

C. Adults must be charged for all second servings. If extra sales are available at the school, each item would be sold to the adult at the appropriate price. If extra sales are not available, the adult must pay the at cost price of the meal regardless of the number of menu items served.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2151 (December 2001), amended LR 29:2029 (October 2003), LR 31:1973 (August 2005), LR 32:

§741. Competitive Foods

A. Act 331 of the 2005 regular Louisiana legislative session establishes healthy standards for foods and beverages sold on school grounds within the times of 30 minutes prior to the normal school day through 30 minutes after the end of the normal school day. When food and beverage items are sold through vending, concessions or other such sales on school grounds, outside the National School Lunch Program (NSLP) and School Breakfast Program (SBP), during the times mentioned, elementary and middle school children can be offered only those products that meet or exceed the content and nutritional standards established in Act 331. When food and beverages are offered to high school students on school grounds during the times mentioned, at least 50 percent of the items offered must meet the content and nutritional standards established in Act 331. Schools must use the approved list of snacks that meet the nutritional standards established in Act 331. The snack list has been approved by Pennington Biomedical Research Center. Pennington Biomedical Research Center may recommend additional nutritional restrictions for certain nutrients based on nutritional research. Fresh pastries as defined by Pennington Biomedical Research Center will not be allowed for sale, without exception, within the times of 30 minutes prior to the normal school day through 30 minutes after the end of the normal school day.

B. A high school shall mean any school whose grade structure falls within the 6 through 12 range and includes grades in the 10 to 12 range or any school that contains only grade 9 as defined in Act 331.

C. Beverages that may be sold at any time beginning 1/2 hour before the start of the school day and ending 1/2 hour after the end of the school day for elementary and secondary schools include the following:

1. 100 percent fruit juices or vegetable juice that do not contain added natural or artificial sweeteners (no more than 16 ounces);
2. unsweetened flavored drinking water or unflavored drinking water (any size);

3. low-fat milk, skim milk, flavored milk and non-dairy milk (any size).

D. Food items which may not be sold to elementary and secondary students at any time beginning 1/2 hour before the start of the school day and ending 1/2 hour after the end of the school day are listed below:

1. foods of minimal nutritional value as defined in Section 220.2 of Title 7 of the Code of Federal Regulations;

2. snacks or desserts that exceed 150 calories per serving, have more than 35 percent of their calories from fat, or have more than 30 grams of sugar per serving, except for unsweetened or uncoated seeds or nuts.

E. Elementary Schools

1. After the end of the last lunch period, the only items that may be sold include the following:

a. Snacks or desserts that have:

i. 150 calories or less per serving;

ii. 35 percent or less of their calories from fat; and

iii. 30 grams or less of sugar per serving, (except unsweetened or uncoated seeds or nuts).

2. Reimbursement for lunch, special milk, and/or breakfast may be withheld from schools if concessions, canteens, snack bars, or vending machines are operated on a profit basis outside of the nutritional standards as established by Act 331 before the end of the last lunch period. The official school schedule shall indicate the time for each lunch period and should allow sufficient time for each student to receive and consume a meal. Such services are operated for profit if the income is not deposited to the nonprofit school food service program account and expended only for Child Nutrition Program purposes.

F. Secondary Schools (High Schools)

1.a. Beginning the last 10 minutes of each lunch period, high schools may choose to offer food and beverages of their choosing to students, so long as at least 50 percent of such items are healthy snacks. Healthy snacks are defined as having the following:

i. 150 calories or less per serving;

ii. 35% percent or less of their calories from fat; and

iii. 30 grams or less of sugar per serving, (except unsweetened or uncoated seeds or nuts).

b. The approved list of snack items can be found on the Louisiana Department of Education (LDOE) website at <http://www.louisianaschools.net>. If an item is approved for inclusion on the list of allowable food items for sale on school grounds per Act 331 and SBESE Bulletin 1196, the list is only valid for the item as submitted with nutritional information to the Louisiana Department of Education. It is the responsibility of any school district/school, that chooses to sell such food/items, to ensure that products sold on school grounds meet the minimum standards required by Act 331 and SBESE Bulletin 1196.

2. Reimbursement for Child Nutrition Program meals may be withheld from schools if concessions, canteens, snack bars, vending machines or other food sales are operated on a profit basis before the last 10 minutes of each lunch period. The official school schedule shall indicate the

Appendix M. Infant Breakfast and Lunch Meal Pattern

time for each lunch period and should allow sufficient time for each student to receive and consume a meal. Such services are operated for profit if the income is not deposited to the nonprofit school food service program account, and expended only for the purpose of the Child Nutrition Program(s).

3. The SFA shall be required to reimburse the school food service account for any funds withheld for violation(s) of the Competitive Foods Policy. Under no circumstances can foods in competition be sold to children in food service areas during the lunch period(s).

4. School systems must establish local rules or regulations as are necessary to control the sale of foods in competition with meals served under the National School Lunch and Breakfast Programs. The state's competitive foods policy will be managed and monitored by both local and state personnel as follows.

a. Local school food service supervisors will provide principals and superintendents with information concerning the Competitive Foods Policy and regulations in regard to enforcement by the Louisiana DOE. The SFA will maintain documents that indicate each school's official schedule that includes designated times for lunch and concessions, if offered.

5. The SBESE recommends that all schools provide a minimum of 30 minutes per lunch period.

6. All complaints received by state DNA personnel regarding competitive foods violations, regardless of the source, will be forwarded to the local school food service supervisor for initial investigation.

7. Monitoring of competitive foods/concessions shall be conducted in the following manner.

a. Local school food service supervisors will have the responsibility to report to their superintendent/immediate supervisor and the principal in writing any competitive foods violations noted in the school. A written corrective action plan will be required from the principal to the superintendent with a copy to the school food service supervisor to ensure compliance.

b. The state or local SFA will make unannounced visits when notifications of violations are received. The school, organization, or individual(s) violating the competitive foods policy shall reimburse the school food service account for any funds withheld from the school food service program.

8. State DNA personnel will monitor competitive foods operations at local school systems on all state reviews or visits and shall have the responsibility and authority to assess fiscal sanctions.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2151 (December 2001), amended LR 29:2029 (October 2003), LR 32:

§755. Appendices

A. - L. ...

M. Infant Breakfast and Lunch Meal Pattern

Appendix A. - Appendix L. ...

Infant Breakfast Pattern			
	0-3 Months	4-7 Months	8-11 Months
Iron Fortified Formula ¹ or Breast Milk ^{2,3}	4-6 Fluid Ounces	4-8 Fluid Ounces	6-8 Fluid Ounces and
Iron Fortified Dry Infant Cereal ^{1,4}		0-3 Tablespoons (Optional)	2-4 Tablespoons and
Fruit and/or Vegetable ⁴			1-4 Tablespoons

Infant Lunch Pattern			
	0-3 Months	4-7 Months	8-11 Months
Iron Fortified Formula ¹ or Breast Milk ^{2,3}	4-6 Fluid Ounces	4-8 Fluid Ounces	6-8 Fluid Ounces and
Iron Fortified Dry Infant Cereal ^{1,4}		0-3 Tablespoons (Optional)	2-4 Tablespoons and/or 1-4 Tablespoons Meat/Alternate* and
Fruit and/Or Vegetable ⁴		0-3 Tablespoons (Optional)	1-4 Tablespoons

¹Infant formula and dry infant cereal shall be iron-fortified.

²It is recommended that breast milk be served in place of formula for infants from birth through 11 months.

³For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered, with additional breast milk offered if the infant is still hungry.

⁴A serving of this component is required only when the infant is developmentally ready to accept it.

*One to four tablespoons meat, fish, poultry, egg yolk, cooked dry beans, or peas or 1/2-2 ounces cheese or 1-4 tablespoons cottage cheese, cheese food, or cheese spread.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2153 (December 2001), amended LR 29:2030 (October 2003), LR 32:

Family Impact Statement

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

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

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

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

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

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

Interested persons may submit comments until 4:30 p.m., March 11, 2006, to: Nina Ford, State Board of Elementary

and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

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

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

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

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

The State Board of Elementary and Secondary Education estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the Louisiana Register is approximately \$272.00. Funds are currently budgeted for this purpose.

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

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

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

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

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

There will be no effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
0601#083

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Board of Cosmetology**

**Examination of Applicants; Transfer Students
(LAC 46:XXXI 309 and 313)**

The Louisiana State Board of Cosmetology, under authority of the Louisiana Cosmetology Act, R.S. 37:561-607, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby intends to amend certain Rules regarding examinations of applicants and transfer of students who attended schools which are unable to provide certification of payment of contractually owed fees due to temporary or permanent closure or due to loss of records.

The revision is necessary to change the requirements for applying for an examination, for a certificate of registration or for a license when the school attended by the applicant is unable to provide certification of payment of contractually owed fees due to temporary or permanent closure or due to loss of records.

There should be no adverse fiscal impact on the state as a result of these revisions. The Louisiana State Board of Cosmetology operates solely on self-generated funds. Further, the proposed Rule has no known impact on family formation, stability or autonomy as described in R.S. 49:972.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXI. Cosmetologists

Chapter 3. Schools and Students

§309. Examination of Applicants

A. - B. ...

C. Fees

1. All fees contractually owed by an applicant to a cosmetology school from which they graduated must be paid before applying for an examination, for a certificate of registration or for a license. If the school attended by the applicant is unable to issue a certification due to temporary or permanent closure or loss of records, the applicant shall not be required to provide the certification required by this section in order to apply for an examination, for a certificate of registration or for a license.

2. Any applicant who does not provide the certification required by this Section prior to applying for an examination must provide the certification prior to issuance of a certificate of registration or a license, if the cosmetology school from which they graduated is able to issue the certification prior to issuance of the certificate of registration or license.

3. Any applicant who does not provide the certification required by this section prior to issuance of a certificate of registration or a license, shall provide the certification required by this subsection prior to renewing the certificate of registration or license, if the cosmetology school from which they graduated is able to issue the certification prior to renewal of the certificate of registration or license.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(4) and 37:586.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:327 (March 2003), amended LR 32:

§313. Transfer Students

A. ...

B. In-State. When enrolling a transfer student from another school within Louisiana, the school owner must provide the board with the following:

1. ...

2. certification of payment of contractual fees owed to the former school, unless the former school is unable to certify payment of contractual fees owed due to temporary or permanent closure or loss of records; however, any student who transfers without certifying payment of contractual fees owed, shall provide certification of payment of contractual fees owed to the former school prior to applying for an examination, certificate of registration, license or renewal of the certificate of registration or license in accordance with §309.

B.3. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:598(A)(4).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:327 (March 2003), amended LR 32:

Interested persons may submit comments on this proposed rule to Jackie Burdette, 11622 Sunbelt Court, Baton Rouge, LA 70809, by close of business February 20, 2006.

Jackie Burdette
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Examination of Applicants;
Transfer Students**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed changes clarify or revise requirements for examination, registration, or licensure by the board. There is no additional cost to state or local government associated with these changes.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed changes more clearly define the procedure for a student to continue toward testing or licensure when a school can't provide records for reasons such as flood or fire. There is no effect on revenue collections to state or local government.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The private citizen (or student) will benefit from these changes as there will be a procedure for the person to apply for a test or a license should a school be destroyed or damaged.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be a positive effect on employment as students will have a procedure available to apply for a license and therefore, would be qualified for employment at that time.

Jackie Burdette
Executive Director
0601#009

Robert E. Hosse
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT
Office of the Governor
Division of Administration
Board of Cosmetology**

Student Hours; Uniforms; Equipment, Permits, and Licenses
(LAC 46:XXXI.311, 321, 502, 701,
705, 707, 709, 713, 1109, 1111, 1113)

The Louisiana State Board of Cosmetology, under authority of the Louisiana Cosmetology Act, R.S. 37:561-607, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby intends to amend certain Rules regarding responsibilities of schools, students, employment of managers, permits for shampoo assistants, safety and sanitation requirements and special and temporary permits.

These revisions are necessary to clarify the responsibilities of schools, students, the requirements for employing a manager, the requirements for obtaining a special permit as a shampoo assistant, to define the scope of practice for

shampoo assistants, to revise rules regarding safety and sanitation and to revise rules regarding the issuance of special permits and temporary permits.

There should be no adverse fiscal impact on the state as a result of these revisions. The Louisiana State Board of Cosmetology operates solely on self-generated funds. Further, the proposed Rule has no known impact on family formation, stability or autonomy as described in R.S. 49:972.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXI. Cosmetologists

Chapter 3. School and Students

§311. Reporting Student Hours

- A. ...
- B. Hours. Schools must register each student's hours with the board no later than on the tenth of the month for hours earned by each student in the prior month.

C. - E. ...
AUTHORITY NOTE: Promulgated in accordance with R.S. 37:598.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:327 (March 2003), amended LR 29:2781 (December 2003), LR 32:

§321. Responsibilities of Students

- A. - B.
- C. School Uniforms. Students attending schools shall maintain a professional image and shall wear clean uniforms.

1. Female students may wear pants or skirts; however, skirt hemlines must not be shorter than just above the knee.

2. Students may wear white lab coats with white shirt and black trousers.

3. Students must wear clean, enclosed shoes with sock and/or hose.

4. Students shall wear a nametag with their name and the word student.

5. The following items may not be worn:

- a. leggings;
- b. capri pants;
- c. tube tops;
- d. jeans;
- e. shorts;
- f. jogging suits;
- g. undershirts;
- h. sandals;
- i. flip flops;
- j. low waist pants;
- k. tank tops;
- l. shirts which expose the midriff;
- m. tops with spaghetti straps;
- n. clothing which is made of see through fabric.

D. Testing. Students taking examinations shall wear school uniforms as required by this Section except no nametag shall be worn while testing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:329 (March 2003), amended LR 29:2781 (December 2003), LR 32:

Chapter 5. Licensees

§502. Managers

A. For purposes of R.S. 37:589 a shop owner shall not be required to employ a manager, if absent from his shop more than two days per week during periods of vacation or sickness, provided such periods of absence do not exceed eight weeks annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 32:

Chapter 7. Safety and Sanitation Requirements

§701. Sanitation Requirements for Cosmetology

Salons and Cosmetology Schools

A. ...

B. Supplies. All beauty shops and salons and cosmetology schools shall have available sterilizers or sanitizers which shall be used in accordance with the manufacturer's instructions. All instruments, including disposable equipment shall be kept clean and sanitized.

C. - Q. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:329 (March 2003), amended LR 29:2781 (December 2003), LR 32:

§705. Equipment Required in Salons Offering Hair Dressing Services

A. - A.7. ...

8. sterilizer or sanitizers for each occupied station.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:330 (March 2003), amended LR 29:2781 (December 2003), LR 32:

§707. Equipment Required in Salons Offering Esthetics Services

A. - A.3. ...

4. sanitizers or sterilizer for implements;

A.5. - B.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:330 (March 2003), amended LR 32:

§709. Equipment Required in Salons Offering Manicuring Services

A. ...

1. sanitizer or sterilizer for implements;

2. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:330 (March 2003), amended LR 32:

§713. Procedures for Manicuring Services

A. - A.2. ...

3. wash all implements with antimicrobial wash prior to sanitization or sterilization;

4. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:331 (March 2003), amended LR 32:

Chapter 11. Special and Temporary Permits

§1109. Special Permit for Shampoo Assistants

A. - C. ...

D. Scope. Shampoo assistants possessing a current special permit may perform the following services at the request of a licensed cosmetologist:

1. cleanse synthetic or natural hair;
2. apply and remove conditioner;
3. apply and rinse perm solution and perm neutralizer;
4. remove hair color, tint or other chemicals applied to natural hair by a cosmetologist; and
5. remove foil or perm rods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:332 (March 2003), amended LR 29:2781 (December 2003), LR 32:

§1111. Special Permit for Make-Up Application

A. - B. ...

C. The 40-hour curriculum for make-up artists shall include a minimum of:

1. two hours of study of composition of facial cosmetics;
2. two hours of study and two hours of practical work in recognition of facial shapes;
3. two hours of study of make-up cosmetics and purpose;
4. three hours of study and 12 hours of practical work in make-up application;
5. three hours of study and 10 hours of practical work in procedure for corrective make-up;
6. one hour of study and two hours of practical work in procedure for evening make-up;
7. one hour of study in safety and sanitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:332 (March 2003), amended LR 32:

§1113. Temporary Permits

A. Permits. The board shall issue permits to persons who are licensed to practice cosmetology, esthetics or manicuring in another state.

B. Applications

1. Applications for temporary permits to participate in hair shows, beauty pageants or demonstrations shall be submitted to the board for review not less than 30 days prior to the requested period of the permit.

2. Applications for temporary permits pending application and testing shall be issued to individuals who:

- a. have filed a complete application for licensure,
- b. have provided verification of current licensure in the state of last employment, and
- c. reside in Louisiana and plan to work in Louisiana.

C. An individual who receives a temporary permit issued under Paragraph B.2 shall practice under the supervision of an individual licensed in Louisiana in the discipline for which the temporary permit was issued.

D. Any individual issued a temporary permit under the this Part who violates any of the provisions of the Cosmetology Act or of any rule or regulation promulgated by the board may be denied licensure or testing by the board.

E. Transfer. Hours of study used to obtain any temporary permit authorized by this Chapter shall not be counted toward the number of hours necessary to receive any other license issued by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:332 (March 2003), amended LR 32:

Interested persons may submit comments on this proposed Rule to Jackie Burdette, 11622 Sunbelt Court, Baton Rouge, LA 70809, by close of business February 20, 2006.

Jackie Burdette
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Student Hours; Uniforms; Equipment, Permits, and Licenses

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

The proposed Rule change has no impact on expenditures.

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

The proposed Rule change will increase revenue collections by approximately \$2,000 annually for the Louisiana State Board of Cosmetology.

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

Employment opportunities will increase as students will be able to receive training and licenses as make-up artists. A fee of \$25 will be charged for a professional license annually.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed changes should allow for additional employment opportunities. This will allow for a new category of specialized labor for qualified individuals.

Jackie Burdette
Executive Director
0601#010

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Chiropractic Examiners

Peer Review Committee (LAC 46:XXVII.Chapter 7)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Chiropractic Examiners hereby gives notice that rulemaking procedures have been initiated to amend and make additions to Title 46, Part XXVII.Chapter 7 of the Rules governing the Board of Chiropractic Examiners.

The proposed additions create an Impaired Chiropractic Substance Abuse Recovery Program that applies to all chiropractors licensed in the state of Louisiana and allows the Peer Review Committee, which functions under the

authority of the Board of Chiropractic Examiners, to manage the newly created program. The proposed amendments to the language of Chapter 7 were made to be consistent with the new additions to Chapter 7.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXVII. Chiropractors

Chapter 7. Peer Review Committee

§701. Purpose and Composition of Committee

A. Area Covered—state of Louisiana.

B. Structure. The Peer Review Committee shall function under the Board of Chiropractic Examiners, a state agency created and empowered by the legislature to license and regulate the practice of chiropractic in Louisiana in accordance with R.S. 37:2801 et seq., R.S. 37:1734 and R.S. 49:950 et seq.

C. Purpose. The purpose of the committee is to review, upon request of any party involved including the chiropractic physician himself, any matter relative to the appropriateness of care rendered by any doctor of chiropractic licensed to practice and practicing in the state of Louisiana, as well as, substance abuse impairments.

D.1. Composition of Committee. The committee shall be comprised of five doctors of chiropractic currently licensed by the state of Louisiana and practicing within the state of Louisiana, and appointed by the Louisiana Board of Examiners.

2. All chiropractors chosen to serve on the committee shall attend a peer review school. In that the Board of Examiners will be administering and functioning as an appeals option, its members shall also attend the peer review school. The Board of Examiners shall bear the cost of this special training.

E. Per Diem/Expenses. Committee will be afforded a per diem payment and reimbursement for reasonable expenses incurred as a result of attending review meetings. Per diem shall not exceed \$50 per day plus mileage at the current state rate, all as required by and set forth in R.S. 37:2802.F. Members will be reimbursed only from review fees collected.

F. Who May Submit Claims. Chiropractic physicians, an impaired chiropractic physician requesting his own admittance for review through the substance abuse policy, an interested third party reporting an impaired chiropractic physician, third party reimbursement organizations, patients, professional standards review organizations, health maintenance organizations may request a review if they are directly involved in the claim by the fact of being the patient treated, the doctor administering or receiving payment for treatment or the third-party contracting to pay the claim. This shall also include an impaired chiropractic physician requesting his own admittance for review through the substance abuse policy.

G.1. All costs of administrating this program will be borne by the Peer Review Committee out of the fees charged.

2. Any party making a peer review request will be charged a fee to cover the administrative costs of performing the review. The fee will be commensurate with the administrative costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.G

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 15:964 (November 1989), amended LR 22:192 (March 1996), LR 32:

§702. Guidelines

A. For the purpose of claims review, this board authorizes the use of the Chiropractic Manual, 2nd Edition, as a reference for assessing the appropriateness of chiropractic health care. Recognizing that it is impossible to set forth specific parameters of care appropriate for each individual case, the board intends this manual to serve only as a general guide for standards of care within the chiropractic profession. Specifically, these guidelines are not meant to provide absolute "cut-off" points for treatment. In assessing appropriateness of care, it is imperative that the reviewer remain sensitive to the normal variants in a chiropractic practice and the necessity for treatment tailored to the specific needs of each individual patient. The level and frequency of treatment implemented should be in accordance with the physical and analytical findings substantiated by the appropriate reports and diagnostic information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.G

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 17:968 (October 1991), repromulgated LR 32:

§703. Procedure for Review (Except Those Concerning the Impaired Chiropractic Substance Abuse Recovery Program)

A. All reviews will be blind reviews. The identity of the patient and treating physician will be unknown to the committee.

B. The review will be conducted upon request by any party as defined in §701.F. Participation will be made available to non-requesting party or parties. Participation by the non-requesting party or parties is not mandatory.

C. No requests for review shall be assessed or actual reviews conducted by the committee unless a quorum is present and participating. Three of the five members shall constitute a quorum.

D. A member of the Board of Examiners appointed for a one-year term by the board shall serve as chairman of the Peer Review Committee and have voting power only in the case of a tie. The board member shall review all final decisions of the Peer Review Committee to insure proper procedure has been followed in the review process.

1. If the board member determines that proper procedure has been followed then the recommendation of the Peer Review Committee stands and any party to the review shall have the appeal options set out in Subsection E. The board member who serves as chairman of the Peer Review Committee shall be recused in the case of appeal to the board.

2. If the board member determines that proper procedure has not been followed, he shall state the violation of procedure in writing and submit same to the Peer Review Committee at which point the case will be reconsidered by the committee.

E. Appeals Process. An appeal of any decision rendered by the Peer Review Committee shall, at the option of the person appealing, either be:

1. submitted to the members of Board of Examiners for review:

a. any person aggrieved by a decision of the Peer Review Committee shall submit to the board within 10 days of receipt of notice of the ruling of the Peer Review Committee a notice of intent to appeal. All notices shall be forwarded via certified mail;

b. upon receipt of the notice of appeal, the board shall notify the opposing party of appeal and schedule a hearing date;

c. the Peer Review Committee will then transfer the record to the board;

d. the appealing party may submit additional evidence or material within 20 days of the hearing and the opposing party may reply within 10 days of the scheduled hearing;

e. the parties may present oral argument to the board at the appeal hearing. Each party will be allowed 20 minutes;

f. the decision of the Board of Chiropractic Examiners shall be final;

2. placed in binding arbitration:

a. arbitration shall be conducted by a committee of three chiropractors; one chosen by the treating chiropractor, one by the insurer, patient, or whoever constitutes the opposite party in dispute, and the third chiropractor chosen by the originally selected two. If no agreement can be reached by the original two chiropractors as to the third, within 10 days of their appointment, the board of examiners shall appoint the third chiropractor within 30 days of receiving notice of such lack of agreement. All parties involved shall agree in advance to abide by the decision of the Arbitration Committee;

b. the aggrieved party shall notify the board of his intent to appeal by binding arbitration within 10 days of receipt of notice of the ruling of the Peer Review Committee. All notices shall be forwarded via certified mail;

c. the board will schedule the appointment of arbitrators giving the appealing and opposing parties 25 days to select an arbitrator, then giving the two arbitrators an additional 10 days to select the third arbitrator;

d. the Arbitration Panel will schedule a hearing within 60 days of the formation of the panel;

e. the Peer Review Committee will forward the record to the Arbitration Committee;

f. the appealing party may submit additional evidence or material within 20 days of the hearing and the opposing party may reply within 10 days of the scheduled hearing;

g. the parties may present oral argument to the Arbitration Committee at the appeal hearing. Each party will be allowed 20 minutes;

h. the decisions of the Arbitration Panel shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.G

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 15:964 (November 1989), amended LR 17:968 (October 1991), LR 22:193 (March 1996), LR 32:

§ 704. Procedure for Review of Substance Abuse Policy

A. The purpose of this policy is to limit alcohol abuse and illegal use of other drugs that are associated with the

numerous health, safety, and social problems. The performance of chiropractors may be adversely affected by engaging in substance abuse. This policy, including the prohibitions and provisions therein, will be used to promote and safeguard the public from the consequences of alcohol and drug abuse of the chiropractic profession.

B. The Peer Review Committee may permit an applicant or licensee to actively participate in the Impaired Chiropractic Substance Abuse Recovery Program if:

1. the Peer Review Committee has evidence that the applicant or licensee is impaired, which includes substance abuse;

2. the applicant or licensee has not been convicted of a felony relating to substance abuse, which includes alcohol or drug abuse, in a court of law of the United States or a court of law of any state or territory, or another country;

3. the applicant or licensee enters into a written consent order with the Peer Review Committee for a license with appropriate restrictions and he timely complies with all the terms of the consent order, including making satisfactory progress in the program and adhering to any limitations on the licensee's practice imposed by the Peer Review Committee to protect the public; and

4. as part of the consent order, the applicant or licensee shall sign a waiver allowing the substance abuse program to release information to the Peer Review Committee if the applicant or licensee does not comply with the requirements of the consent order or the program or is unable to practice or work with reasonable skill or safety.

C. Failure to enter into a consent order pursuant to this Rule shall precipitate the board's right to pursue formal disciplinary action against the applicant or licensee which may result in denial, suspension, or revocation of a license to practice chiropractic after due notice and hearing.

D. Failure to comply with the requirements of the consent order or the substance abuse program or the inability to practice or work with reasonable skill or safety shall result in denial, suspension, or revocation of a license to practice chiropractic after due notice and hearing.

E. The applicant or licensee shall be responsible for any costs associated with the consent order and/or the substance abuse program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.G

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 32:

§705. Impaired Chiropractic Substance Abuse Recovery Program

A. Medical Evaluation. Participant will, at participant's expense, within seven days of agreeing to enroll in the Impaired Chiropractic Substance Abuse Recovery Program (the Program), or as otherwise specified in the Program Specifications in Subsections J and K, enter into an inpatient treatment facility (the "Primary Treatment Facility") approved by the Peer Review Committee, as designated in the Program Specifications, for inpatient assessment and diagnostic evaluation. The program shall be managed under the authority of the Peer Review Committee.

B. Initial Primary Treatment. (Defined as the initial treatment following the evaluation, whether it is inpatient, partial, outpatient or residential). If, upon such medical evaluation participant is diagnosed to be suffering from

chemical dependency, substance abuse, or other condition which may impair the participant's capacity to practice chiropractic with reasonable skill and safety to patients, participant will immediately submit to such inpatient evaluation and treatment and/or continuing outpatient treatment and aftercare thereafter as may be prescribed or recommended by addictionologist and treatment team at the Primary Treatment Facility for not less than the treatment period specified in the Treatment Plan. The Peer Review Committee reserves the right to obtain further evaluations from other medical professionals to ensure public safety. Within 48 hours of participant's discharge from primary treatment, participant shall give telephonic notice of such discharge to the program.

C. Continuing Treatment and Aftercare. Participant shall confirm discharge in writing to the Peer Review Committee within five days of discharge from treatment. Such written notice shall be accompanied by a copy of the discharge treatment plan or contract prescribed or recommended by the treatment program for participant's continuing outpatient care and aftercare and a designation of the name, address and telephone number of participant's primary treating physician for outpatient care and aftercare, which physician shall be knowledgeable in the treatment of chemical dependency. The terms and conditions of any such treatment plan or contract shall be incorporated into, and deemed incorporated in, the program specifications, and any such continuing outpatient care and aftercare program shall continue in effect for not less than one year from the date of participant's discharge from primary treatment or for such other period as may be specified in the treatment plan. The participant will attend weekly continuing care (aftercare) at the program-approved treatment center specified in the treatment plan. If continuing therapy is recommended, therapist must be approved in advance by the Peer Review Committee.

D. Attendance at AA/NA Meetings. Following discharge from primary inpatient treatment, or concurrent with outpatient treatment, participant will attend Alcoholics Anonymous ("AA") and/or Narcotics Anonymous ("NA") meetings at such location and at such frequency as specified in the program specifications. Within two weeks of discharge from primary inpatient evaluation treatment, or as specified by treatment team, participant will give notice to the Peer Review Committee upon obtaining AA and/or NA sponsor(s), which will thereupon be incorporated in the program specifications. The participant will maintain contact with participant's AA and/or NA sponsor(s) a minimum of once per week. The Peer Review Committee may request reports from the sponsor. Participant shall submit monthly verification of participant's attendance at AA/NA meetings, aftercare and facilitated meetings of the participant.

E. Random Drug Screens. Participant must agree that, during the term of this agreement, participant shall be subject and shall voluntarily submit to supervised random drug screens, inclusive of bodily fluids, breath analysis, hair analysis, or any other procedure as may be directed by the program. Random drug screens will be at least monthly during the first 18 months following discharge from inpatient treatment. At that time, participant and compliance will be evaluated for possible bi-monthly testing. The results of any such testing will be reported directly to the Peer

Review Committee. Any and all such testing shall be performed at participant's expense.

F. Employment; Employer's Agreement. The participant will not return to professional employment, on a full-time or part-time basis, until and unless participant's addictionologist at the Primary Treatment Facility advises participant and the Peer Review Committee in writing that, in their professional opinion, the participant's prognosis for continued recovery is good and that participant is capable of practicing chiropractic with reasonable skill and safety to patients. The treating addictionologist must complete and return the Fitness for Duty Form. Participant must have approval from the Peer Review Committee and all employment process must be completed prior to returning to work. Before accepting or engaging in chiropractic practice of any kind, whether as an employee or independent contractor and whether on a full-time or part-time basis, the participant will enter into an agreement with each and any such employer or contractor, in the form and substance prescribed by the Peer Review Committee.

G. Information and Reports. During the term of agreement, the participant will authorize, consent to and cause the following information, reports and notices to be given to the Peer Review Committee, as indicated.

1. Consent to Release of Medical Information. The participant will execute a written authorization and consent for the disclosure to the Peer Review Committee and its representatives of the records, information and opinions of the primary treatment facility, participant's attending physician and counselors at such facility relative to the participant's diagnosis, course of treatment, prognosis, and fitness and ability to practice chiropractic with reasonable skill and safety to patients.

2. Primary Treatment Facility Records. Participant shall authorize physicians and counselors at primary treatment facility to furnish the Peer Review Committee with a written report on participant's diagnosis, course of treatment at the facility, prescribed or recommended care and aftercare, fitness for duty form, and prognosis. Such records should be furnished to the Peer Review Committee within 20 days of discharge.

3. Primary Treatment Physician Records. Participant will authorize and cause participant's primary treating physician to furnish the Peer Review Committee, not less frequently than quarterly during the term of this agreement, with written report on participant's diagnosis, course of treatment and prognosis for continuing recovery.

4. Contact With, Reports to Program. The participant shall keep the Peer Review Committee advised of the participant's current address and employment addresses and telephone numbers, the nature of participant's employment, and participant's course of continuing recovery. The participant shall notify the Peer Review Committee within 24 hours of any change in participant's residence address or employment status or location, and shall furnish written notice of any such change to the Peer Review Committee within five days of any such change.

5. Verification of attendance at AA/NA, aftercare and facilitated meeting shall be submitted on a calendar monthly. Meeting attendance should be verified by initials and calendar received by the Peer Review Committee no later than the tenth of the month.

6. Counselor Progress Reports. Participant will authorize and cause Participant's counselor(s) at the aftercare treatment center designated in the treatment plan to furnish the Peer Review Committee with written reports on participant's progress. Such reports shall be submitted monthly for 12 months following participant's discharge from treatment or for the length of aftercare treatment if more than 12 months.

7. Other forms and records deemed necessary by the Peer Review Committee to fulfill the program will be forwarded to Peer Review Committee.

H. Misconduct. The participant shall not have any misconduct, criminal convictions, or violations of any health care regulations reported to the Peer Review Committee related to this or any other incidents. Any such misconduct, criminal convictions or violations will result in immediate suspension of license.

I. Maintenance of Abstinence. The participant shall maintain complete and total abstinence from the use of controlled substances, alcohol or any other mood-altering, addictive or dependency inducing substance except as may be prescribed for a bona fide medical condition by a treating physician who is knowledgeable in, and aware of participant's treatment for, chemical dependency. A physician's statement describing the medical condition including medications administered and/or a copy of the prescription for medications obtained for self-administration shall be forwarded immediately and not later than five days after medication is prescribed.

J. Program Specifications

1. The participant shall enter a treatment facility for chemical dependency upon the approval of the Peer Review Committee.

2. The participant shall follow all treatment, continuing care or aftercare recommendations as prescribed in Subsections A-G.

3. Additional Program Specifications will be outlined and delineated following discharge from treatment and prior to re-entry to practice.

K. Post Program Specifications

1. The participant shall attend AA/NA meetings/week as outlined under Subsections A and D. The participant attendance verification shall be forwarded to the Peer Review Committee monthly.

2. The participant shall insure aftercare reports and all reports outlined under Subsection H are forwarded to the Peer Review Committee monthly. The participant shall have the Peer Review Committee's approval for therapist prior to engaging in recommended therapy.

3. The participant shall submit to random supervised drug screens as described under Subsection F and also when there is cause to question abstinence.

L. Confidential. Except as authorized by the participant's response to inquiry by the Chiropractic Licensing Authority of another state or by an employer by which the participant is employed or to which the participant has applied for employment, or pursuant to the rules of order of the court of competent jurisdiction, the records, files and information of the program relative to the participant shall be maintained in confidence and not disclosed to any other person, firm, or entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.G

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 32:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The stability of the family will be positively affected by the Peer Review Committee working with impaired chiropractors allowing them to maintain family relations and protect the safety of the public.

2. What effect will this Rule have on the authority and rights of persons regarding the education and supervision of their children? This new Rule will aid the parents by protecting their children from the possibility of impaired chiropractors.

3. What effect will this Rule have on the functioning of the family? The functioning of the family will be positively affected by this Rule, as the peer Review Committee will attempt to oversee the continued work of clean living for impaired chiropractors.

4. What effect will this Rule have on the family earnings and family budget? This will provide impaired chiropractors the opportunity to maintain their practices while continuing to receive treatment for their impairment. The new Rule will not substantially affect the family's budget.

5. What effect will this Rule have on the behavior and personal responsibility of children? This should not affect the behavior or personal responsibility of children. The lives of impaired chiropractor's children will be improved as the impaired chiropractors receive treatment for impairments.

6. Is the family or local government able to perform the function as contained in this proposed Rule? This new Rule will allow for families to feel safe in receiving chiropractic treatment, and will promote competent health care through chiropractic services.

Any interested person may submit data, views or positions, orally or in writing, to the Louisiana State Board of Chiropractic Examiners, 8621 Summa Ave., Baton Rouge, LA 70809, or by telephone at 225-765-2322.

Patricia A. Oliver
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Peer Review Committee**

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

The only cost associated with the implementation of the proposed rule changes will be the cost to publish the rule in the Louisiana Register at \$272 in fiscal year 2006.

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

The proposed rule will have no financial effect upon state or local governmental units.

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

The proposed rule will have no significant effect on costs and/or economic benefits to directly affected persons or nongovernmental groups. The proposed rule creates the "Impaired Chiropractic Substance Abuse Recovery Program"

and establishes policies and procedures relative to administration of the program. The proposed rule provides that any licensed Chiropractic physician that participates in the program will be responsible for the payment for any inpatient or outpatient services and/or any laboratory testing required by such program (estimated to be an average of \$2,500 per participant).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Patricia A. Oliver
Executive Director
0601#032

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Practical Nurse Examiners**

Temporary Permits (LAC 46:XLVII.501, 1705)

The Board of Practical Nurse Examiners, proposes to amend LAC 46:XLVII.101 et seq., in accordance with the provisions of the Administrative Procedure Act, R.S. 950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

The purpose of the proposed Rule change to Section 501 is to redefine the term *temporary permit* in order to ensure that the definition is consistent with the substance of the proposed Rule change to Section 1705. The purpose of the proposed Rule change to Section 1705 is to allow the board to issue an eight week work permit to applicants for licensure by endorsement, provided that the applicants are otherwise qualified for licensure in Louisiana and are in possession of a current and unencumbered license to practice practical nursing in another state or U.S. territory.

The proposed Rule change is required to ensure that there is a sufficient supply of qualified licensed practical nurses in the state and, specifically, to allow those nurses applying for licensure by endorsement to enter practice immediately. Under the current Rule, licensure by endorsement takes from 24 hours to eight weeks. Under the proposed Rule, the qualified applicant may be issued a temporary permit to practice within minutes.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 1. Practical Nurses

Chapter 5. Definitions

§501. Terms in the Manual

A. ...

* * *

Temporary Permit—short term authorization to practice practical nursing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:961 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:193 (April 1977), amended LR 10:337 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1126 (October 1992), repromulgated LR

18:1259 (November 1992), amended LR 26:2617 (November 2000), amended LR 32:

Chapter 17. Licensure

§1705. Temporary Permit

A. - C. ...

D. An eight week temporary permit may be issued to applicants for licensure by endorsement upon receipt of all of the following: verification of current licensure, in good standing, from another state or U.S. territory; a notarized sworn statement, by the applicant, that the applicant meets the requirements for licensure in this state and has a negative history for criminal activity, a negative history for chemical dependency, and a negative history for complaints against and/or related to any and all licenses held for any profession in any state or U.S. territory; the required fee. The temporary permit shall be immediately revoked upon receipt of information indicating that the applicant may not qualify for licensure. A temporary permit may not be reissued to any person, under any circumstances, including reapplication for licensure by endorsement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:341 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 28:2355 (November 2002), amended LR 32:

Family Impact Statement

The proposed amendments, to Rule XLVII.Subpart 1, should not have any impact on family as defined by R.S. 49:972. There should not be any effect on: the stability of the family, the authority and rights of parents regarding the education and supervision of their children, the functioning of the family, family earnings and family budget, the behavior and personal responsibility of children, and/or the ability of the family or local government to perform the function as contained in the proposed rule.

Interested persons may submit written comments until 3:30 p.m., February 10, 2006, to Claire Doody Glaviano, Board of Practical Nurse Examiners, 3421 N. Causeway, Ste. 505, Metairie, LA 70002.

Claire Doody Glaviano, RN, MN
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Temporary Permits**

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

The only cost associated with the implementation of the proposed rule changes will be the cost to publish the rule in the Louisiana Register at \$100 in fiscal year 2006.

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

The proposed rule will have no financial effect upon state or local governmental units.

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

The proposed rule will have no significant effect on costs and/or economic benefits to directly affected persons or

nongovernmental groups. The proposed rule change is required to ensure that there is a sufficient supply of qualified licensed practical nurses in the state and, specifically, to allow those applying for licensure by endorsement to enter practice immediately. Under the current rule, licensure by endorsement takes from 24 hours to 8 weeks. Under the proposed rule, the qualified applicant (approximately 200 per year) may be issued a temporary permit to practice within minutes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Claire Doody Glaviano, RN, MN
Executive Director
0601#014

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Division of Youth Services
Office of Youth Development**

Correspondence and Packages
(LAC 22:1.765)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 36:405, the Department of Public Safety, Division of Youth Services, Office of Youth Development hereby gives notice of its intent to adopt §765, Correspondence and Packages. The purpose of the promulgation of this Rule is to establish the deputy secretary's policy and procedures for receiving and sending mail and packages at all secure care facilities.

Title 22

CORRECTIONS

Part I. Corrections

**Chapter 7. Youth Services
Subchapter C. Field Operations**

§765 Correspondence and Packages

A. Purpose. To establish the deputy secretary's policy and procedures for sending and receiving mail and packages at all secure care facilities.

B. Applicability—assistant secretary, deputy assistant secretaries and all facility directors. Each director is responsible for implementing this policy and for conveying its contents to youth, affected employees and affected members of the public.

C. Policy. It is the deputy secretary's policy that reasonable restrictions (consistent with acceptable custody practices and the interests of crime victims) may be placed on youth's ability to receive letters, publications and packages through the mail. Reading or censorship of letters and publications should generally be limited to those items containing material that interferes with legitimate Youth Services (YS) objectives (including, but not limited to, deterrence of delinquency, youth rehabilitation, facility security, freedom from sexual harassment) or if the reading or censorship is necessary to prevent the commission of a crime or to protect the interests of crime victims. All outgoing mail shall be stamped to indicate that it originated from a secure care facility. The receipt of packages through the mail must conform to the list of approved package items.

Packages must be inspected and handled in accordance with this policy. All incoming and outgoing mail and packages must include the youth's JIRMS number.

D. Definitions

Indigent Youth—a youth under the supervision of YS who has little or no money.

E. Procedures for Letters

1. Receiving and Sending Letters through the Mail

a. Restrictions on the number of letters written or received and the length or the language of the letter must be justified in accordance with this policy and documented. Restrictions on whom youth may send letters to and receive letters from must be justified in accordance with this policy. Youth may not send or receive letters to or from inmates in adult prisons unless the person is officially listed in their record as an identifiable parent, legal spouse, sibling or grandparent, or unless the director has approved the exception.

b. Upon written request of the person receiving correspondence from a youth, or if requested by the minor's parent or legal guardian, the facility may refuse to mail correspondence addressed to that person.

c. All incoming and outgoing mail shall be handled without unjustified delay. Letters should be held no longer than 24 hours and packages should be held no longer than 48 hours, exclusive of weekends, holidays and emergency situations. This does not prohibit the holding of mail for youth who are temporarily absent from the facility.

d. No record shall be kept of whom a youth corresponds with, except when the director determines that it is necessary for legitimate YS objectives or to prevent the commission of a crime or to protect the interests of crime victims. The keeping of such record must be authorized in writing. Facility staff may maintain copies/logs for verification purposes.

e. Youth may not initiate contact with the victim(s) of their crime(s) or the victims' family members except in accordance with specific procedures established by the director in conjunction with Crime Victims Services Bureau.

2. Inspection of Letters

a.i. Outgoing Letters. All outgoing letters must be posted unsealed and inspected for contraband. The youth's name, JIRMS number, living area and the address of the facility shall be written or typed in the upper left hand corner of the envelope. Drawings, writing and marking on envelopes, other than the return and sending address, is not permitted. All outgoing mail shall be stamped to indicate that it originated from a secure care facility. Exception: Outgoing privileged mail to the following may be posted sealed and will not be opened or inspected except as indicated in Paragraph E.4:

- (a). identifiable court;
- (b). identifiable prosecuting attorneys;
- (c). identifiable probation and parole officers;
- (d). state and local chief executive officers;
- (e). identifiable attorneys;
- (f). deputy secretary, undersecretary or designee,

deputy assistant secretary and other officials and administrators of grievance systems of YS; and

(g). local, state or federal law enforcement agencies and officials.

ii. It is the responsibility and duty of the facility staff to verify the legitimacy of the official listed on the envelope. For purposes of this exception, *identifiable* means that the official or legal capacity of the addressee is listed on the envelope and is verifiable. If not, the letter is to be treated as regular mail and an appropriate inquiry made into the youth's intent in addressing the envelope as privileged mail.

b.i. Incoming Letters. Incoming letters may be opened and inspected for contraband. Incoming privileged mail (see following list) may be opened and inspected for contraband only in the presence of the youth addressee except as indicated in Paragraph E.4:

- (a). identifiable courts;
- (b). identifiable prosecuting attorneys;
- (c). identifiable probation and parole officers;
- (d). state and local chief executive officers;
- (e). identifiable attorneys;
- (f). deputy secretary, undersecretary or designee,

deputy assistant secretaries, and other officials and administrators of YS grievance systems; and

(g). local, state, or federal law enforcement agencies and officials.

ii. See Clause E.2.a.ii for the definition of *identifiable*. Upon the determination that this mail is not identifiable privileged mail, it shall be treated as all other incoming mail and shall be opened and inspected for contraband and an appropriate inquiry made as to the sender's intent in addressing the envelope as privileged mail.

3. Reading of Letters. Youth's letters may be read only when the director or his designee has information that the correspondence may contain material that interferes with legitimate YS objectives or to prevent the commission of a crime or to protect the interests of crime victims. In such cases, a written record shall be kept and shall include:

- a. youth's name and number;
- b. the specific reason it is necessary to read the mail;
- c. approximate length of time the mail is to be read;
- d. a photo copy and a list of each piece of correspondence including the date received and the name of the sender; and
- e. signature of the director or his designee.

4. Mail Precautions. The directors are authorized to open and inspect incoming and outgoing privileged mail outside of the youth's presence under the following circumstances (see also YS Policy No. A.2.30 "Mail Precautions" for additional information):

- a. packages and letters that are unusual in appearance or appear different from mail normally received or sent by the individual;
- b. packages and letters of a size or shape not customarily received or sent by the individual;
- c. packages and letters which have a city and/or state postmark that is different from the return address;
- d. packages and letters that are leaking, stained, or emitting a strange or unusual odor or have a powdery residue; or
- e. when reasonable suspicion of illicit activity has resulted from a formal investigation and the deputy secretary or designee has authorized inspection.

5. Stationary, Envelopes, and Stamps

a. These items shall be available for purchase in the canteen.

b. Indigent youth shall have access to the postage necessary to send out approved legal mail on a reasonable basis and the basic supplies necessary to prepare legal documents.

F. Procedures for Packages

1. Approved Items for Packages. Legitimate catalog vendors shall be used to the maximum extent feasible to minimize the possibility of contraband being introduced into the facilities. Generally, items available in the canteen should not be approved for receipt in packages.

2. Inspection of Packages. All packages shall be inspected for contraband. Such inspection shall be done in a manner that is not intended to damage the contents of the package. A list shall be kept of the items that a youth has received through the mail. Employees will note brand names of each item received whenever possible. Upon discovery of unapproved items in an incoming package, the youth will be sent a notice of the contents of the package, the date of its receipt, and the reason that the package is unacceptable. If the unapproved items (other than perishables) are of a nature to be returned, the youth will be notified that he has 21 days to provide return postage for the package. At the end of the twenty-first day the disposal process may begin as outlined in Paragraph F.3. Postage will be provided for indigent youth. When a package is returned to sender, a note will be sent with it specifying the reason for its return. Exception: All sealed packages, may be opened and inspected in the presence of the youth, in which case an inventory of the packaged contents is not required. Upon receipt of a package handled in this manner, the youth shall sign a statement that the youth agrees that all items due him are in the package. If the youth agrees that all contents are in the package, staff shall document this in accordance with facility procedures, including giving the youth the option of either returning the package or accepting the package and dealing directly with the vendor regarding any dispute.

3. Disposal of Items Received in Packages and Letters. No items, other than perishables, should be disposed of prior to the exhaustion of an administrative appeal. Failure to timely file an appeal constitutes exhaustion.

a. Unapproved items for which no postage has been provided and for which appeals have been exhausted shall be disposed of in the following manner with the method of disposal documented:

- i. perishable items shall be destroyed,
 - ii. non-perishable items may be placed in use in the facility if legitimately needed, clothing may be used for youth discharging;
 - iii. items may be donated to a charitable organization;
 - iv. items of little or no value may be destroyed;
- and

v. cash shall be deposited as self-generated revenue in the facility's operating appropriation in accordance with R.S. 14:402(F).

b. The following list of contraband items received in a letter or package, and any other pertinent information,

shall be turned over to law enforcement authorities in the parish where the facility is located, with notification to the local FBI agent (if appropriate) or the U.S. Postal Service:

- i. any controlled dangerous substance;
- ii. any weapon or explosive;
- iii. any escape plans; and
- iv. any plans for criminal activity or acts that

constitute criminal behavior.

c. Appropriate documentation shall be maintained on all items returned to sender or otherwise disposed of.

d. No unapproved items shall be given to or purchased by an employee of YS.

e. Upon approval of the director, unapproved items, other than those listed in Subparagraph F.3.b, may be disposed of by turning the item(s) over to an approved visitor of the youth who received the unapproved item(s). The approved visitor must sign a receipt for the item(s).

G. Procedures for Publications

1. Books, magazines, newspapers, pamphlets, leaflets, brochures, and other printed material are considered publications. Such printed material may be read and inspected for contraband and unacceptable depictions and literature. Unless otherwise provided by facility rules, all printed material must be received directly from the publisher.

2. Refusal of Publications. Printed material shall only be refused if it interferes with legitimate YS objectives or to prevent the commission of a crime or to protect the interests of crime victims. This includes, but is not limited to, the following categories:

- a. the printed material concerns escape methods or plans;
 - b. the printed material concerns plans to violate or disrupt facility rules or routines;
 - c. the printed material concerns the introduction, purchase or instructions for the manufacture of controlled dangerous substances, alcohol, or other substances or apparatus not consistent with the security or stability of the facility;
 - d. the printed material concerns the introduction of or instructions in the use, manufacture, storage, or replication of weapons or instructs in the use of martial arts;
 - e. the printed material contains material which, reasonably construed, is written for the purpose of communicating information which could promote the breakdown of order by youth disruption, such as strikes or riots or instigation of youth unrest for racial or other reasons;
- or

f. the material features depictions of nudity on a routine or regular basis or promotes itself based upon such depictions, or is sexually explicit and may contribute to a sexually offensive environment and the sexual harassment of staff or youth. This includes material presented in a manner to provoke or arouse lust, passion, or perversion, or exploit sex.

3. Newspapers and magazine clippings are considered publications for the purpose of censorship and review pursuant to this policy. However, they are not required to originate from the publisher. The quantity received may be limited by what can be reasonably viewed for security reasons in a timely manner.

4. If the printed material contains a presentation of sexual behavior that meets the definition of "material harmful to minors" as established in R.S. 14:91.11, it shall be refused. Such material generally exploits, is devoted to or principally consists of descriptions of illicit sex or sexual immorality for commercial gain and is presented in a manner to provoke or arouse lust, passion, or perversion or exploit sex.

5. Procedures When Publication Is Refused. When a publication is refused, the youth may appeal by filing a "Request for Administrative Remedy" pursuant to YS Policy No. B.5.3. The facility should retain possession of the disputed item(s) until the exhaustion of an administrative appeal and judicial review. Failure to timely file constitutes exhaustion.

6. Youth are not allowed multiple copies of publications.

H. Collection and Distribution of Mail

1. Youth may not collect or distribute mail. An employee will give mail directly to youth.

2. When mail is received for a youth who has been transferred to another facility or released, the facility should attempt to forward the mail to the youth.

3. Youth will be notified when incoming or outgoing letters are withheld in part or in full.

I. Procedures for Photographs or Digital or Other Images

1. Youth will not be allowed to receive or possess photographs or digital or other images that interfere with legitimate YS objectives or to prevent the commission of a crime or to protect the interests of crime victims. This includes photographs or digital or other images that expose the genitals, genital area (including pubic hair), anal area, buttocks, or female breasts (or breasts that are designed to imitate female breasts). These areas must be covered with non-transparent garments. Lingerie will not be acceptable whether transparent or not. Swimwear will only be acceptable if the overall context of the picture is reasonably related to activities during which swimwear is normally worn. Suggestive poses may be sufficient cause for rejection regardless of the type of clothing worn.

2. Each facility shall develop a procedure to reasonably restrict a youth's possession of multiple copies of the same photograph or digital or other image.

3. Hard backed photographs or digital or other images that are subject to alteration or modification may be rejected.

4. The term "photograph" includes other images such as those created by a digital imaging device or electronic mail.

5. When a photograph or digital or other image is refused, the youth may appeal by filing a "Request for Administrative Remedy" pursuant to YS Policy No. B.5.3. The facility shall retain possession of the disputed item(s) until the exhaustion of the administrative appeal process. Failure to timely fail constitutes exhaustion.

AUTHORITY: Promulgated in accordance with R.S. 14:91.11, R.S. 14:402 and R.S. 15:833(A).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Division of Youth Services, Office of Youth Development, LR 32:

Family Impact Statement

1. The proposed Rule will not affect the stability of the family.

2. The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of children.

3. The proposed Rule will not affect the functioning of the family.

4. The proposed Rule will not affect family earnings or family budget.

5. The proposed Rule will not affect the behavior or personal responsibility of children.

6. The proposed action is a state enforcement function.

Interested persons may submit written comments until 4:30 p.m., February 10, 2006, to Kathie R. Zolman, Department of Public Safety and Corrections, Office of Youth Development, Legal Department, 7919 Independence Blvd., State Police Building, Baton Rouge, LA 70806.

Simon G. Gonsoulin
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Correspondence and Packages

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

There are no implementation costs (savings) for state or local government.

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Simon G. Gonsoulin
Deputy Secretary
0601#075

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Division of Youth Services Office of Youth Development

Tobacco-Free and No Smoking Policy (LAC 22:I.705)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 36:405, the Department of Public Safety and Corrections, Division of Youth Services, Office of Youth Development hereby gives notice of its intent to adopt §705, Tobacco-Free and No Smoking Policy. The purpose of the promulgation of this

Rule is to establish the deputy secretary's policy and procedures to promote a healthy, tobacco-free and smoke-free work environment for all employees, youth and visitors.

Title 22
CORRECTIONS
Part I. Corrections

Chapter 7. Youth Services

Subchapter A. Administration

§705. Tobacco-Free and No Smoking Policy

A. Purpose. To establish the deputy secretary's policy to: protect the health and safety of Youth Services (YS) staff, youth and visitors who may be exposed to environmental smoke, reduce the risk of second-hand smoke, reduce the entrance of contraband, promote and encourage a positive and healthy environment for youth, promote a healthy and wholesome role model for our youth, establish a no smoking and tobacco-free policy for youth housed in secure care facilities, and to establish a policy regarding smoking and use of tobacco products by YS staff.

B. Applicability—All Employees, Youth and Visitors of YS.

C. Policy. The deputy secretary recognizes the health and safety issues caused by exposure to environmental smoke; therefore, the implementation of this policy shall be enforced for YS Central Office, regional offices and facilities. This policy is to promote a healthy, tobacco-free and smoke-free work environment for all employees, youth and visitors. Youth housed in secure care facilities will not be allowed to smoke or use tobacco products at any time. Accordingly, smoking and other tobacco product use is prohibited in all facility buildings, facility grounds, buildings located in the regional offices and at YS Central Office. Smoking is also prohibited in all state vehicles.

D. Definitions

Facility—all buildings and grounds related to any Office of Youth Development (OYD) secure care residential housing for youth.

Tobacco Product—any cigar, cigarette, smokeless tobacco, smoking tobacco or any other related product that contains tobacco.

Y.S. Central Office—Offices of the Deputy Secretary, Undersecretary of the Office of Management and Finance, and their support staff.

E. Procedures for Facilities Only

1. No smoking or tobacco products are allowed within the facilities at any time.

2. Smoking is permitted outside the facility gates in designated areas.

3. Tobacco products may be checked in at the front gate for use during breaks or lunchtime outside of the facility gates in the designated areas.

4. This policy applies to all clients, visitors, guests, vendors, contract workers, etc.

5. Signs shall be placed outside the facility gates declaring that the facilities are tobacco-free and smoke-free.

6. All YS facility job applicants shall be informed that the facilities are tobacco-free and smoke-free.

F. Procedures for Implementation (for all YS)

1. Copies of this policy shall be posted in all office workplaces.

2. "No Smoking" signs shall be clearly posted in all areas where smoking is prohibited.

3. The deputy secretary will designate a smoking area for YS Central Office.

4. Regional managers will designate a smoking area for each regional office.

5. Facility directors will designate a smoking area for each facility outside of the secure area of the facility.

6. Facility directors will notify the youth that they will not be allowed to smoke or use tobacco products at any time.

7. It is the responsibility of all employees to adhere to the provisions of this policy and to report any non-compliant activities to the appropriate supervisor.

8. Employees will not be granted additional breaks or additional time on regularly scheduled breaks to access designated smoking areas for the purpose of using tobacco products.

G. Disciplinary Actions

1. Any staff found guilty of non-compliance with this policy will be subject to disciplinary action.

2. Any youth found guilty of non-compliance with this policy will be subject to disciplinary action as tobacco products are considered contraband.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.21-1300.26 and R.S. 14:91.8.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Division of Youth Services, Office of Youth Development, LR 32:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The proposed Rule will not affect the stability of the family.

2. What effect will this Rule have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this Rule have on the functioning of the family? The Rule will not affect the functioning of the family.

4. What effect will this Rule have on family earnings and family budget? This Rule will not affect the family earnings or family budget.

5. What effect will this Rule have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.

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

Interested persons may submit written comments until 4:30p.m., February 10, 2006, to Kathe Zolman, Department of Public Safety and Corrections, Office of Youth Development, Legal Department, 7919 Independence Blvd., State Police Bldg., Baton Rouge, LA 70806.

Simon G. Gonsoulin
Deputy Secretary

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

RULE TITLE: Tobacco-Free and No Smoking Policy

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

There are no implementation costs (savings) for state or local government.

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Simon G. Gonsoulin
Deputy Secretary
0601#076

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

Towing, Recovery, and Storage (LAC 55:I.Chapter 19)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49.950 et seq.) and R.S. 32:1714, relative to the authority of the Office of State Police to promulgate and enforce rules, the Office of State Police hereby proposes to adopt the following Chapter regarding the regulation of persons and businesses engaged in towing and/or storing of vehicles in Louisiana. This Chapter repeals the current rules in Chapter 19 and adopts new regulations in its place.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 19 Towing, Recovery, and Storage

Subchapter A. Authority, Exemptions, Definitions, Scope

§1901. Authority

A. The 1989 Legislature passed the Louisiana Towing and Storage Act in order to regulate persons and businesses engaged in towing and/or storing of vehicles in Louisiana. The act provides that the Department of Public Safety and Corrections, Public Safety Services, Office of State Police shall be the regulating agency. The office of state police (hereinafter referred to as the department) has authority in the effective regulation of Louisiana towing and storage businesses.

B. These rules shall apply to any person or entity engaged in the business of towing, recovery or storage of vehicles in Louisiana, either for direct or indirect compensation as defined by law.

C. The deputy secretary, or his designee, may grant, by written order, alternate means of compliance to these rules.

D. These rules are promulgated in accordance with R.S. 32:1711 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1903. Exemptions

A. These rules shall not apply to:

1. car haulers licensed with interstate operating authority capable of carrying five or more vehicles;

2. tow trucks owned by a governmental entity and not used for commercial purposes;

3. tow trucks registered and domiciled in other states with applicable interstate operating authority, operating solely in interstate commerce;

4. tow trucks transporting vehicles that are currently owned by the same tow company and ownership is supported by possession of a title, bill of sale, registration or other legal document while transported and the tow vehicle is permanently and prominently marked on both side in lettering at least 2 1/2 inches in height and 1/4 inch in width with the company's legal name, city and "NOT FOR HIRE;" or

5. tow trucks owned and operated by garages, automotive mechanic shop owners, or other places where vehicles are repaired that solely tow vehicles for the purposes of maintenance or repair at their facility. Such businesses must:

a. maintain insurance coverage as required by this Chapter;

b. license their tow trucks in accordance with this Chapter;

c. not respond to any crash or disabled vehicle scenes, participate in police rotation systems, conduct private property tows nor conduct non consensual tows;

d. not offer towing or tow-related services for direct or indirect compensation or store any vehicles, as defined by law; and

e. insure tow trucks are permanently and prominently marked on both side in lettering at least 2 1/2 inches in height and 1/4 inch in width with the company's legal name, city and "NOT FOR HIRE."

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1905. Definitions

A. The definitions found in the Louisiana Highway Regulatory Act, specifically R.S. 32:1 and the Towing and Storage Act, specifically, R.S. 32:1711 et seq., are applicable to these rules and shall have the same meaning indicated unless the context clearly indicates otherwise.

Authorized Agent—a suitable company authorized by the department in accordance with this Chapter to process and exchange the Official Report of Stored Vehicle information.

Automobile Liability Coverage—insurance which covers damage to property and/or personal injury to third parties.

Deputy Secretary—the deputy secretary of the Department of Public Safety and Corrections, Public Safety Services.

Garage Keepers Legal Liability Insurance—insurance which provides coverage to owners of storage facilities,

garages, parking lots, body and repair shops, etc., for liability as bailees with respect to damage or loss to vehicles and contents left in their custody for safe keeping or repair.

Garage Liability Insurance—liability insurance covering storage facilities, automobile dealers, garages, repair shops, and service stations against claims of bodily injury and property damage that may arise through operation of such businesses.

Gross Combination Weight Rating (GCWR)—the value specified by the manufacturer as the loaded weight of a combination (articulated) motor vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon.

Gross Vehicle Weight Rating (GVWR)—the value specified by the manufacturer as the loaded weight of a single motor vehicle.

License Holder—shall include, but not be limited to, a tow truck operator, towing service, storage facility or other entity requiring licensure pursuant to this chapter.

Offending Vehicle—the tow truck for which a violation of law, rule or regulation has been cited by the department and an administrative penalty has been assessed.

Offense—shall be synonymous with violation and mean any infraction of law, rule or regulation promulgated in accordance with this Chapter.

On-Hook Coverage—insurance specifically covering tow truck operators when engaged in the recovery, towing or transporting of a vehicle.

Owner—the last registered owner of a vehicle as shown on the records of the Office of Motor Vehicles and/or the holder of any lien on a vehicle as shown on the records of the Office of Motor Vehicles and/or any other person a documented ownership interest in a vehicle.

Place of Business—a permanent structure located within Louisiana used for business, staffed during regular business hours, equipped with phone and utility services, and houses records and other appropriate or required documents.

Responsible Party—the principal person or business that is civilly liable or criminally culpable for the occurrence or commission of a violation of law, rule or regulation.

Storage Area—an approved building, structure, yard, or enclosure used for the purposes of storing vehicles in Louisiana.

Storage Facility—any business or company that receives direct or indirect compensation for storing vehicles in Louisiana.

Tow Truck—a motor vehicle equipped with a boom or booms, winches, slings, tilt beds, wheel lifts, under-reach equipment, and/or similar equipment including, but not limited to, trucks attached to trailers and car carriers designed for the transportation and/or recovery of vehicles and other objects which cannot operate under their own power or for some reason must be transported by means of towing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1907. Administrative Penalty Assessment; Arbitration; Recovery of Penalties

A. Administrative Penalty Assessment

1. A tow truck owner or operator, an employee or the agent of a tow truck owner or operator, a storage facility owner or operator, an employee or the agent of a storage facility owner or operator, determined by the department to have committed a violation of R.S. 32:1711 et seq., or adopted and promulgated regulations as provided in this Chapter, is subject to legal sanctions being imposed against them. Legal sanctions shall include, but are not limited to, administrative civil penalties, warnings, and suspension of the operator's license, storage inspection license, tow truck license plate or revocation of the tow truck license plate.

2. The department shall issue a citation or inspection report for violations of law, rule or regulation which shall specify the offense committed. The citation or inspection report shall provide for the payment of an administrative penalty to the department in an amount prescribed by the department. The penalty shall be paid within 45 days of issuance and mailing, by first class mail, of the initial notice of violation, unless within that period the person to whom the citation is issued files a written request for an administrative hearing within the 45 days.

3. All assessed and adjudicated administrative penalties and fees shall be paid to the department and deposited in the Towing and Storage Fund.

B. Administrative Hearings

1. A tow truck owner or tow truck operator or a storage facility owner or operator may submit a written request for an administrative hearing within 45 calendar days of the issuance of the initial notice of violation.

2. Hearing requests shall be adjudged in accordance with the Administrative Procedures Act.

3. Failure to submit a written request to the department for an administrative hearing within 45 days from the date of the initial notice of violation; or requesting a hearing, being notified by mail and failing to appear at the scheduled hearing date and location shall constitute a default and the violations shall become finally affirmed.

4. In such cases, on or after the forty-sixth day the department shall inform the responsible party by first class mail of the conviction and that he has 30 days from the date of this notice to pay the penalty or the Office of Motor Vehicles shall suspend his driver's license and/or vehicle registration.

5. For the purpose of this part, removal from the Louisiana State Police tow truck rotation list shall not constitute a department action subject to review under Subsection B of this Section. Placement on the Louisiana State Police rotation list is a privilege, not a right.

C. Forfeiture of Claims

1. Any person who fails to comply with any provision required by these rules and regulations shall be subject to the forfeiture of all claims for monetary charges relating to towing, recovery and storage of the respective vehicle(s), including, but not limited to, the imposition of administrative penalties.

D. Recovery of Administrative Penalties

1. The department in an attempt to recover administrative penalties, may, at its discretion:

a. order the removal of the offending vehicle's license plate or request the Office of Motor Vehicles (OMV) deny the renewal of the offending vehicle's registration, or both:

i. a tow truck license plate removed pursuant to this Part may only be reinstated upon receipt of payment of fines and fees owed the department;

b. recommend the suspension or deny the renewal of a responsible party's driver license, or both:

i. a driver license suspended pursuant to this Part may only be reinstated upon receipt of payment of fines and fees owed the department;

c. order the vehicles of responsible parties not registered in Louisiana be seized until outstanding fines and fees are paid.

2. These actions are not punitive and used only as a mechanism to garner payment of monies lawfully owed the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1909. Relationship to Other Laws and Regulations

A. Every tow truck operator, towing or storage facility, employees or agents of a towing or storage facility, subject to or licensed in accordance with this Chapter shall comply with the laws of Louisiana, Federal Motor Carrier Safety Regulations, Federal Hazardous Materials Regulations, specifically, 49 CFR Parts 100 through 399, if applicable, and rules promulgated herein. None of the rules contained herein shall exempt a tow truck operator, towing or storage facility, its employees or agents from complying with law, rule or regulation.

B. Each day's failure to comply with these rules shall constitute a separate offense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1911. Code of Conduct

A. Adherence to Law, Rule or Regulation

1. A violation of the provisions of the Towing and Storage Act shall also constitute a violation of these rules.

2. Tow truck operators, towing services, storage facilities, their employees or agents shall comply with applicable federal and state laws, rules and regulations.

B. Dutiful Conduct

1. No tow truck operator, towing service, storage facility, their employees or agents, shall engage in unsuitable conduct or practices as described in this section or shall have a business association with any person which engages in unsuitable practices.

2. For the purposes of this Section, unsuitable conduct or practices shall include the following:

a. overcharging or charging for services not rendered;

b. misrepresentation of any material fact to the department or its officers;

c. obstructing or impeding the lawful activities of the department or its officers acting in their official capacity;

d. false or fictitious statements in any report, application, form or other document presented to the department, including, but not limited to, notarized documents required by this Chapter;

e. conviction of a felony relating to auto theft, vehicle insurance fraud, burglary of a vehicle, and/or possession of stolen vehicles or vehicle parts; and

f. any impairment of an alcoholic beverage, narcotic or controlled dangerous substance when operating a tow truck:

i. impairment shall mean the tow truck operator's blood alcohol concentration is 0.02 percent or more by weight base on grams of alcohol per 100 cubic centimeters of blood or the operator uses or is under the influence of a controlled dangerous substance;

ii. tow truck operators shall submit to chemical testing when required by an officer of the department; and

iii. every owner or operator shall insure there is no presence of an alcoholic beverage, narcotic, or controlled dangerous substance within the tow truck.

C. Prohibited Business Practices

1. Stopping at the Scene of a Crash

a. The operator of a tow truck, towing service, employee or agent, shall not stop at the scene of a motor vehicle crash, disabled, or unattended vehicle for the purpose of soliciting business, either directly or indirectly; unless the owner or operator of said vehicle has specifically summoned the tow company or its employees or agents to such scene for towing or recovery purposes, or has been called to the scene by a law enforcement officer or agency pursuant to that agency's official duty and authority. This prohibition shall also include first responders utilizing tow vehicle as transportation to and from the scene of emergencies.

2. Moving a Vehicle Involved in a Crash

a. Tow truck operators and towing services shall not, without the express authorization of the investigating law enforcement agency, move any vehicle from a public highway or street or from any public property when such vehicle is abandoned, stolen, damaged in a crash, or left unattended.

b. Tow truck operators or towing services may, in emergency cases, move a vehicle damaged as the result of a crash, without the express authorization of the investigating law enforcement agency, when the movement of the vehicle is to extract a person from the wreckage or to remove an immediate hazard to life or property. In either event, the movement of the vehicle shall be no more than necessary to accomplish the purpose of the move and the movement shall be reported immediately to the investigating agency.

3. Reception of Police Radio Communications

a. Tow truck operators or towing services shall not use, or permit the use of, any communications devices capable of receiving police radio traffic, except two-way radios equipped with only the agency frequencies currently used and authorized by the head of a law enforcement agency within their jurisdiction.

4. Tow Trucks Shall Not Be Emergency Vehicles

a. Tow trucks, tow truck operators or towing services shall not install, equip, possess or permit the use of sirens, non-amber colored emergency warning lights, emergency flashing headlights or any other warning system

customarily equipped on emergency vehicles for the purpose of moving traffic out of the way of an approaching emergency vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

Subchapter B. Tow Truck License Plate; Required

Insurance

§1913. Tow Truck License Plate

A. Application

1. Applications shall be made to the Department of Public Safety and Corrections, in writing, upon forms prescribed and furnished by the department. Applications shall be complete, accurate and contain all required information. A non-refundable or transferable fee of \$150, in addition to other required fees, must be submitted with each Louisiana tow truck license plate application. Fees shall be tendered to the Office of Motor Vehicles, P.O. Box 64886, Baton Rouge, LA 70896.

2. An application for a Louisiana tow truck license plate shall be made in the form of an affidavit containing the vehicle description and at least the following:

a. the name or names of owners or persons holding interest;

b. the trade or business name of the tow truck operator;

c. legal business entities such as corporations, limited liability corporations, partnerships, limited liability partnerships or other such legally recognized entities, whether registered with the office of the Secretary of State or not, should use their legally registered trade name as their business name. Such legally acknowledged entities shall include in the application:

i. the names of corporate officers;

ii. the name and address of the corporation's registered agent for service of process; and

iii. the names of shareholders;

d. a statement made, sworn and subscribed under oath. An example: "Under penalty of perjury, I hereby swear and affirm the information submitted in this application is true and correct to the best of my knowledge and I, as the individual with authority to execute on behalf of the company for which this application is made, hereby agree to abide by the laws and regulations governing towing and storage operations and the tow truck license plate for which this application is made;"

e. application date;

f. notarized signature of the applicant or appropriate corporate officer; and

g. proof of all required insurances overages, amounts, VINs and effective dates.

3. Trade Name; Tow Truck Markings

a. A tow truck owner or operator, prior to application for a tow truck license plate, shall use a trade name approved by the department, except in cases where a tow company is registered with the Secretary of the State.

b. Tow truck owners and tow truck operators shall list, by trade name as defined in this Section of this Chapter, the telephone number and address to their respective business. This listing will be in the official publication of the telephone company that services the area. Any towing

service whose business is listed in Directory Services shall fulfill the intent of this Section.

c. Tow truck operators or owners shall permanently affix and prominently display on both sides of tow trucks the legal trade name of their business, telephone number and city of the vehicle's domicile in lettering at least 2 1/2 inches in height and not less than 1/4 inch in width.

d. The same legal trade name of the business used to mark the tow trucks shall be listed on the tow truck affidavit, registration, insurance certificates, towing and storage invoice and storage inspection license.

B. Issuance, Responsibilities of License Holder

1. Issuance

a. A tow truck license plate will be issued upon affirmation by an applicant that:

i. the application is made and filed in good faith;

ii. the information submitted is complete and accurate;

iii. the applicant's towing equipment meets the requirements set forth in the Towing and Storage Act and these rules.

b. A tow truck owner or operator shall not conduct towing or storage related business until issuance of all required licenses.

c. The holder of a tow truck license plate shall adhere to the requirements of the Towing and Storage Act, rules contained in this Chapter and the laws of this state.

2. Responsibilities

a. Tow truck owners or tow truck operators shall ensure tow trucks owned or controlled by them:

i. display a valid Louisiana Motor Vehicle Inspection Certificate;

ii. display a valid Louisiana towing and recovery license plate or a Louisiana apportioned license plate with proof of the towing and recovery endorsement;

iii. possess either a copy or the original valid registration receipt in the tow truck; and

iv. possess proof of all required insurance coverages and amounts at all times in the tow truck.

b. The holder of a tow truck license plate must notify the department in writing and within 10 days of any change in the original tow truck license plate application.

c. Tow truck license plate(s) are nontransferable, and can be issued to an individual, sole-proprietorship, corporation, or other legally recognized entities.

d. The holder of a tow truck license plate shall immediately surrender the tow plate to the department when there is a change of ownership.

e. A tow truck license plate shall remain affixed and prominently displayed on the tow truck for which it is assigned.

3. Denial of Applications

a. An application for a tow truck license plate shall be denied if:

i. a tow truck owner or operator is disqualified under the act;

ii. a tow truck has a GVWR of 10,000 pounds or less and it shall not be used for towing vehicles for compensation; or

iii. an application contains false or inaccurate information.

4. Renewal of Tow Truck License Plates

a. Tow truck license plate(s) shall be renewed annually in accordance with the schedule set forth by the Office of Motor Vehicles.

b. Tow truck license plates expire each year on the thirtieth day of June:

i. an administrative penalty shall be assessed for an expired tow truck license plate.

C. Suspension of the Tow Truck License Plate

1. A tow truck license plate may be suspended for failure to:

a. comply with lawful orders of the department, its officers or any court of this state;

b. pay fees or fines owed the Department of Public Safety; or

c. a violation of law, rule or regulation as provided in this Chapter.

D. Revocation of a Tow Truck License

1. A tow truck license plate may be revoked for:

a. violation of "Prohibited Business Practices" as found in §1911.C of this Chapter;

b. operation of a tow truck while under the influence of abused or controlled dangerous substance or alcohol;

c. operation of a tow truck during the commission of a crime;

d. obtaining a tow truck license plate under false pretenses;

e. removal of a vehicle from private property in violation of R.S. 32:1736;

f. monitoring police radio traffic for profiteering purposes;

g. habitual violation of law, rule, or regulation; or

h. disqualification under R.S. 32:1711 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1915. Insurance Requirements; Financial Responsibility

A. Required Insurance

1. A tow truck owner or operator shall maintain insurance coverage as prescribed by law. Insurance policies shall be in the name of the tow truck owner or operator, with proper limits of liability and shall remain in effect at all times. The types of required insurance coverage are outlined below:

a. worker's compensation and employer's liability insurance, if applicable;

b. automobile liability coverage in an amount of not less than \$300,000 combined single limits coverage;

c. garage keeper's legal liability insurance in an amount not less than \$50,000;

d. garage liability insurance in an amount of not less than \$50,000;

e. on-hook coverage in an amount of not less than \$25,000.

2. Proof of financial responsibility satisfactory to the Office of Motor Vehicles or certificates of insurance issued by an insurer licensed to do business in the state of Louisiana or a federally authorized insurance group licensed in their state of domicile and attesting to carriage with coverage in the amounts herein below listed shall be submitted with the application (R.S. 32:1717 B).

B. Insurance Certificates

1. Insurance certificates shall contain:

a. all information required by law;

b. all information required by the Commissioner of Insurance of the state of Louisiana;

c. effective and expiration dates, types and amounts of coverage;

d. the Vehicle Identification Numbers (VIN) of vehicles insured;

e. the mailing address and physical address of the tow truck owner or operator.

2. Insurance policies shall not be canceled or materially altered except after providing the department 20 days written notice of such cancellation or alteration.

C. Proof of Required Insurances

1. Insurance certificates containing all required information shall be kept at all times in each tow truck and at the place of business of the towing and storage entity available for inspection by officers of the department.

2. The tow truck, towing facility or storage facility owner or operator shall submit proof of insurance to the department immediately upon demand.

3. Certificates of required insurances as provided by this Chapter shall verify in writing limits of liability coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

Subchapter C. Safety

§1917. Driver's License; Required Skills and Knowledge

A. Tow truck operators or towing services shall not operate, or permit the operation of, a tow truck unless the following requirements are satisfied:

1. the operator of a tow truck shall possess a valid Louisiana driver's license;

2. the driver's license shall be a minimum of a Class D, "chauffeurs license," and shall be of an appropriate class as required by law;

3. the operator of a tow truck shall possess proficiency in recovery and transport of vehicles;

4. an operator of a tow truck shall be at least 18 years of age;

5. the operator of a tow truck shall wear a uniform shirt displaying the towing company's and driver's name.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1919. Tow Truck Lighting; Equipment

A. Tow truck operators and towing services shall ensure tow trucks are equipped with, and use, required lighting, pursuant to state law and if applicable, CFR Title 49. Auxiliary tow lighting shall be required and used if the rear tail lamps, stop lamps or turn signals on a combination of vehicles are obscured, inoperative, or not visible to the rear by approaching traffic. When auxiliary tow lights are required, they shall include a minimum of two properly functioning tail lamps, stop lamps and turn signals, which may be combined and shall be attached as far apart as practical on the rearmost portion of the towed vehicle and visible to the rear by approaching traffic.

B. Tow trucks shall comply with all equipment requirements found in, or adopted pursuant to Louisiana Revised Statutes Title 32, Chapter 1, Part V (Equipment of Vehicles), 32:1711 et seq. and, if applicable, CFR Title 49.

C. Tow truck shall be equipped with only amber colored flashing warning lights, strobes, light bars or beacons with sufficient strength and mounted in a location to be visible at 360 degrees at a distance of no less than 1,000 feet under normal atmospheric conditions. Each tow truck shall be equipped with at least one amber colored light bar or beacon mounted to the roof or a higher location on a tow truck.

D. Tow truck operators and towing services shall ensure warning lights are operable at all times and shall only be activated after arriving at a disabled vehicle or when towing or recovering a vehicle. Slide back tow trucks solely transporting vehicles on their beds may opt to activate their tow truck's warning lights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1921. Required Equipment

A. Tow trucks shall be equipped with the following properly functioning equipment at all times.

1. Oil-Absorbing Materials

a. Each tow truck shall be equipped with a minimum of 5 gallons of sand, dirt, or manufactured materials capable of absorbing sufficient quantities of fluids. Materials shall be carried in such a manner as to be free from exposure to the elements.

2. Broom

a. Each tow truck shall be equipped with a standard or push broom of a sufficient size to effectively clear debris.

3. Shovel

a. Each tow truck shall be equipped with a standard shovel of a sufficient size to effectively clear debris.

4. Flashlight or Electric Lantern

a. Each tow truck shall be equipped with an electric lantern or flashlight that provides sufficient lighting to facilitate recovery or towing work.

5. Fire Extinguishers

a. Tow trucks shall be equipped with a mounted fire extinguisher having no less than an Underwriters Laboratory rating of 10 B:C.

6. Emergency Warning Devices

a. Tow trucks shall be equipped with at least three, non-flammable emergency warning devices capable of warning motorists of a hazard in or near a roadway.

7. Steering Wheel Clamps

a. Steering wheel clamps, cable, ropes or their equivalents shall be of sufficient strength to adequately secure and lock the steering mechanism of a towed vehicle in a straight and forward position.

8. Tow Sling or Tow Plate

a. Tow trucks shall be equipped with a tow sling, plate, bar or equivalent that is structurally adequate to sustain the weight drawn. Slings or plates shall be properly and securely mounted to the tow truck without excessive "play" or slack.

b. The tow plates, slings and tow-bars shall be securely affixed to the towed vehicle by means of chains, hooks, straps or their equivalent. These devices shall be of a

towing capacity equal to the weight of the towed vehicle requiring use of at least two chains, hooks, straps, etc.

9. Tow truck components including, but not limited to, winches, booms, cables, cable clamps, thimbles, sheaves, guides, controls, blocks, slings, chains, hooks, bed locks, hydraulic components, etc., shall be in good working order and maintained to manufacturer/factory specifications.

B. Securement and Safety Devices; Detached or Shifting Loads

1. Securement and Safety Devices

a. Every vehicle towed by a tow truck shall be joined by at least two safety devices, chains or cables, spaced as far apart as practical to the forward portion of the towed vehicle, with a combined tensile strength equal to or greater than the gross weight of the towed vehicle times 1.3. Safety devices shall be attached in such a way as to prevent vehicle separation upon failure of the towing attachment and shall be anchored to both the tow truck and vehicle being towed with only enough slack to permit free turning of the vehicles.

b. In addition to Subparagraph a above, all towed vehicle placed in a wheel lift device shall be secured to the wheel lift on both sides by straps or chains of an adequate strength and design to safely couple the vehicle to the wheel lift.

c. Acceptable securement devices are chains, cables or synthetic webbing with a combined working load limit equal to or greater than one-half the gross weight of the transported vehicle and customarily used for securing a vehicle or load.

2. Slide-Back Tow Trucks; Trailers

a. A slide-back tow truck or trailer carrying a vehicle on its bed shall secure the vehicle with an acceptable securement device to the frame or other anchor points on the bed with at least one device (tie-down) securing the front and one device securing the rear of the transported vehicle in addition to the winch cable.

b. Transported vehicles over 10,000 pounds shall use a minimum of four acceptable securement devices (tie-downs); two at each end of the transported vehicle.

c. The securement devices shall not contain slack and shall prevent any movement of the transported vehicle and be of structural strength adequate to safely secure the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1923. Capacities and Specifications of Tow Equipment

A. Tow trucks shall not be licensed for a weight less than the manufacturer's GVWR.

B. Tow trucks shall be properly licensed to carry the weight of the tow truck and its load or laden weight.

C. A tow truck owner or tow truck operator found exceeding the weight for which the tow truck is licensed shall be assessed an administrative penalty.

D. A tow truck shall have its factory VIN and GVWR posted on the tow truck in an accessible location.

E. Tow trucks licensed pursuant to this Chapter shall be equipped with only those winches, booms and cranes that have been produced and constructed by a manufacturer who carries product liability and which regularly produces winches and cranes of guaranteed quality.

1. A winch, boom or crane will not be prohibited by this subsection if the tow truck owner submits to the department a certification from a reputable testing laboratory, regularly engaged in the testing of such equipment, indicating that the capacity of the winch, boom or crane as mounted in the tow truck is not less than the weight for which the application has been made and the certification is carried in the truck at all times.

2. All costs of such testing and certification shall be borne by the tow truck owner or operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1925. Tow Truck Load Limitations; Specifications

A. Load Limitations

1. No tow truck operator shall tow or transport another vehicle unless the tow truck is capable of safely towing the vehicle.

2. A tow truck and its load shall not exceed the capabilities of the towing vehicle or hinder its ability to safely accelerate, stop, or maneuver.

B. Specifications

1. At no time shall a slide back tow truck or car carrier, transporting a vehicle on its bed, exceed its manufacturer's GVWR or the manufacturer's rated capacity for the towing assembly.

2. At no time shall any tow truck exceed the manufacturer's rated capacity for the towing assembly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1927. Inspections by the Department

A. Investigations

1. The department is responsible for the effective regulation of vehicle towing, recovery and storage businesses in Louisiana. Applicants seeking or issued a tow truck license plate or a storage inspection license shall be subject to background investigations to determine eligibility.

2. The department may require a licensee to submit records, invoices, documents, etc., as necessary to complete an investigation.

3. Tow truck and storage facility owners or operators have a continuing obligation to inform the department in writing of any legal action taken against them that may affect eligibility to possess a tow truck license plate or a storage inspection license.

B. Inspection of Records, Invoices, Documents

1. Place of Business; Tow Trucks; Storage Facilities

a. Anytime during regular or normal business hours or when staffed; a business location, vehicle storage yard or facility and the premises of a tow truck owner or tow truck operator shall be subject to inspection by the department, with or without advance notice, to promote compliance with the provisions of this Chapter.

b. Tow truck operators, towing services, storage facilities, their employees or agents shall render full cooperation and courtesy to department officers.

c. Department officers are authorized to enter upon any property and perform inspections of towing facilities, storage facilities or tow trucks licensed or subject to licensing pursuant to this Chapter.

2. Records

a. Upon request, a licensee shall make available to the department all required information and records and provide copies, as deemed appropriate by the department.

3. Other Law Enforcement Agencies

a. Law enforcement officers, within their jurisdiction, may inspect towing or storage businesses' records as part of an investigation during normal business hours.

4. Tow Truck Repair and Maintenance

a. Every tow operator or towing service shall systematically inspect, repair and maintain or cause to systematically inspect, repair and maintain all tow trucks and tow equipment subject to their control.

b. A tow truck owner or operator shall not operate, or allow or permit the operation of a tow truck in such a condition as to likely cause a motor vehicle crash, vehicle breakdown or malfunction.

5. Tow Trucks Declared Unsafe for Operation

a. Out-of-Service Criteria

i. Department officers shall declare and mark "out-of-service" any tow truck which, by reason of its mechanical condition or loading, would likely cause a motor vehicle crash or a breakdown.

ii. Department officers may place any tow truck out-of-service when such tow truck is found to be in need of repair to safely operate or an out-of-service violation exists as enumerated in the Commercial Vehicle Safety Alliance, Out-of-Service Criteria, revised January 1, 2004, or as amended hereafter.

iii. Department officers may place any tow truck driver out-of-service when such tow truck driver is found to be unqualified or unfit to drive or an out-of-service violation exists as enumerated in the Commercial Vehicle Safety Alliance, Out-of-Service Criteria, revised January 1, 2004, or as amended hereafter.

iv. A tow truck driver or tow truck that has been placed out-of-service shall remain as such until the required repairs are made and the condition is corrected and no longer exists.

6. Driving after Being Declared Out-of-Service

a. Drivers

i. No tow truck operator who has been declared out of service shall operate a tow truck or commercial vehicle until the driver may lawfully do so.

b. Tow Trucks

i. No tow truck owner or tow truck operator shall require or permit any person to operate nor shall any person operate any tow truck declared out-of-service until all repairs required by the out-of-service notice have been satisfactorily completed.

c. Penalty

i. Any tow truck owner or tow truck operator violating the provisions of Subparagraph B.6.a (Drivers) of this section shall be fined no less than \$1,000 and no more than \$2,750.

ii. Any tow truck owner violating the provisions of Subparagraph B.6.b (Tow trucks) of this Section shall be fined \$2,750.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1929. Towing Services to Use Due Care

A. The towing service shall determine the method and manner of removing vehicles, and shall exercise due care to limit collateral damage during the towing, recovery or removal operations.

B. Tow truck and/or storage facility owners and operators shall adhere to any lawful orders or direction of a department law enforcement officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

Subchapter D. Vehicle Storage

§1931. Storage Facility; Licensing, Fees, Inspection, Requirements

A. Storage Facilities

1. Storage facilities, subject to the provisions of R.S. 32:1711 et seq., shall be located within Louisiana and make application to the department for a Storage Inspection License for each storage location.

2. A valid Storage Inspection License must be issued by the department before conducting business as a storage facility or a new storage location being utilized.

3. A storage company with a change in name, address or ownership shall reapply and pay fees in accordance with this Section.

4. Storage Inspection Licenses shall expire annually on the thirtieth day of June and may be renewed 60 days prior to expiration. A company operating as a storage facility shall renew their storage inspection license prior to expiration.

B. Storage Facilities; General Requirements

1. Storage companies failing to comply with the requirements set forth in this Chapter shall be subject to administrative penalties.

2. Storage companies shall apply for and be issued a storage inspection license prior to charging or collecting storage or administrative fees. Any company found in violation of this subchapter shall be subject to administrative and/or criminal penalties and shall forfeit all storage and administrative fees.

3. All licensees and applicants shall be current in the payment of all penalties and fees owed to the Department of Public Safety. Companies failing to comply with this requirement are subject to having their Storage Inspection License suspended or revoked by the Office of State Police and the business shall not charge or collect storage or administrative fees.

4. Prior to obtaining a storage inspection license, all applicable parish and/or municipal occupational licenses required for a facility to operate within said parish or municipality shall be current and valid.

5. Towing companies and existing qualified businesses applying for a storage inspection license shall apply in the same legal name of their business.

6.a. Storage companies shall comply with the insurance requirements listed in this Chapter, namely:

i. garage keepers legal liability insurance in an amount not less than \$50,000;

ii. garage liability insurance in an amount of not less than \$50,000; and

iii. other applicable insurance requirements set forth in this Chapter.

b. A storage operator shall maintain the policies of insurance and adhere to the requirements set forth in §1915 of this Chapter, except automobile liability coverage and on-hook coverage shall not be required unless a company operates tow trucks.

7. Prior to a towing or storage company going out of business, the company, company owners or agents shall return all stored vehicles to the respective vehicle owners or legally dispose of all stored vehicles by obtaining permits to sell or using other vehicle disposal methods enumerated in the Towing and Storage Act.

C. Fees

1. An applicant for a Storage Inspection License shall:

a. remit the sum of \$100 per storage location, payable to the Louisiana State Police, Towing and Recovery Unit;

b. mail completed applications to the Louisiana State Police, Towing and Recovery Unit, P.O. Box, 66614, Mail Slip A-26, Baton Rouge, LA 70896.

2. A Storage Inspection License shall expire on the thirtieth day of June of each year, is non-prorated, non-transferable and non-refundable.

D. Inspection of a Storage Facility

1. Storage facilities shall make business records available for inspection by department officers during normal business hours, unless exigent circumstances exist which may require access to records after hours and shall provide copies upon request.

2. Storage Inspection Licenses shall be clearly visible and prominently displayed at each storage location's office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1933. Requirements for Official Report of Stored Vehicle (ORSV); Filing; Submittal; Option of the Department to Send and Receive ORSV Information

A. Storage Facility Requirements

1. When any vehicle subject to registration in this state has been stored, parked, or left at a garage where fees are charged for storage or parking, the owner of the storage or parking facility shall, unless exempted in R.S. 32:1721 or 32:1722, comply with R.S. 32:1719 and do the following.

a. File an Official Report of Stored Vehicle (ORSV) within three business days of receiving the vehicle in writing addressed to the Department of Public Safety and Corrections, Office of Motor Vehicles, Specialized Plate and Title Unit, P.O. Box 64886, Baton Rouge, LA 70896, or the department's authorized agent. If the vehicle is released to the vehicle owner within three business days of towing or receiving the vehicle, a storage/towing company shall not be required to submit the ORSV notification and if the ORSV notification is not made, there shall be no charge for related administrative fees.

b. Ensure that the ORSV contains make, model, VIN, license plate number, state of issuance and expiration date, vehicle storage date, adjusted storage date, stored vehicle's actual location, storage company's actual mailing address and State Police Storage Inspection License Number.

2. The department may charge an administrative fee of \$9.50 to process the information exchange required in the

ORSV notification; which fees shall be deposited in accordance with R.S. 32:1731.

3. The department or the department's authorized agent, shall provide directly and in writing to the owner of the storage or parking facility, the most current owner information available on the stored vehicle and indicate if the vehicle is reported stolen. If the department reports that a stored vehicle is or has been registered in another state, that report shall indicate that the department has used due diligence in obtaining information from nationwide databases available to the department.

4. If a storage company has not complied with the storage inspection licensing requirements provided in this Chapter; the department, its authorized agent, or the office of motor vehicles shall:

a. provide the owner information requested on the ORSV to the storage/towing company; and

b. forward a copy of the ORSV to the Office of State Police, Towing and Recovery Unit, within three business days of receipt of the ORSV.

B. Procedures for Transmission and Receipt of ORSV Information

1. The department may, as it deems appropriate, establish procedures for the collection of stored vehicle information as listed in this Subsection, including, but not limited to:

a. requirements that ORSV information be forwarded through electronic means from licensed storage companies the department;

b. requirements that ORSV registrant information and vehicle owner information be forwarded to licensed storage facilities using electronic notifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1935. Owner Notification of a Stored Vehicle

A. Owners, employees and agents of storage facilities or business subject to licensing as storage facilities shall comply with the notification requirements found in R.S. 32:1720, 32:1720.1 and 32:1722.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1937. Administrative Fees

A. Administrative fees for storage of vehicles shall not be charged or otherwise collected without possession of a valid Storage Inspection License, and the timely filing of an ORSV or other notification requirements in the Towing and Storage Act.

B. Licensed storage companies may charge the vehicle owner/lien holder those administrative costs incurred by filing an ORSV along with any postal charges related to the mailing of the ORSV notices and certificate of mailing letters sent to the vehicle owner and any lien holder.

C. The maximum administrative fee that may be charged by a storage company for filing of the Official Report of Stored Vehicle notice shall be \$25 for in-state notifications and \$30 for out-of-state notifications. The maximum administrative fee that may be charged for mailing certificate of mailing letters to the vehicle owner and lien holder shall

be no more than the rate for US Postal Service plus \$4 per required letter.

D. All costs must be documented with receipts, which shall be made available to the department, vehicle owner and lien holder upon demand. Companies found in violation of this part shall be subject to criminal or administrative penalties prescribed in this chapter, including forfeiture of storage and administrative fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1939. Permits to Sell and Permits to Dismantle

A. Any business that stores vehicles pursuant to this Chapter, prior to filing for a permit to sell or for a permit to dismantle, shall have obtained a current Louisiana Storage Inspection License.

B. Any business that stores vehicles pursuant to this Chapter shall include with each permit to sell or permit to dismantle filing, a legible photocopy of their Storage Inspection License.

1. Applications for permits to dismantle or permits to sell without photocopies of the Storage Inspection License shall be rejected.

2. Any business that stores vehicles pursuant to this Chapter and provides the department a fictitious or fraudulent Storage Inspection License photocopy, or uses, or allows the use of, a Storage Inspection License of another business shall be subject to criminal and administrative penalties prescribed by law, including the revocation of the Storage Inspection License.

C. The department, or its authorized agents, shall not issue permits to sell or permits to dismantle, to a person or business failing to comply with the notification and storage inspection licensing requirements.

D. Storage facilities shall make notifications required in R.S. 32:1719 and 32:1720, unless R.S. 32:1722 is applicable, and shall comply with the requirements found in R.S. 32:1711 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1941. Storage and Towing Facilities; General Requirements; Procedures

A. A facility may only store and charge storage on vehicles that are in the facility's actual possession, located within the licensed storage facility and meets the requirements of this Chapter.

B. Vehicles shall be released immediately to the vehicle owner or lien holder, once payment is made, any applicable lien holder requirements (R.S. 32:1720.1) are met, and any applicable documented law enforcement or department hold orders are released.

C. Storage and towing facilities shall provide for the security and safety of vehicles stored in accordance with this Chapter. Storage areas shall have security barriers or safety apparatus suitable to insure the security of the property contained therein. Outside storage areas shall be enclosed by at least a six foot high chain link fence, or fence of similar strength or solid wall sufficient to protect against loss, trespass or vandalism. The loss, damage, theft or misappropriation of a stored vehicle or its contents shall be

evidence of a violation of this provision, if the loss, damage, theft or misappropriation was reported to local law enforcement and the loss was attested to by the vehicle owner.

D. Storage and towing facilities shall have a clearly visible sign maintained at all times at the business office and at the entrance to any outside storage area, stating the name of the business, telephone number and hours of operation. An after-hour telephone number shall be included on the sign advising the public how to make contact for the release of vehicles, contents or personal property prior to any company charging a gate fee.

E. Removable personal items shall not be withheld by the towing or storage facility. Any person with picture identification, who shows proof of ownership, or written authorization from the stored vehicle's registered or legal owner, may inspect, photograph, view the vehicle and remove non-affixed personal property, including the license plate, without charge during normal business hours. These items will be released to the owner or person authorized by the vehicle owner upon request if there is no police hold on them.

F. Storage areas shall be adequate in size and construction for storing vehicles.

G. Whenever any vehicle has been towed to a storage facility, other than by owner's request, where fees are charged for such storage or parking, the owner or operator of the storage facility shall comply with the law enforcement notification requirements found in R.S. 32:1718.

H. The shared use of a storage facility, towing facility, business office or tow trucks by two or more different towing or storage companies is expressly prohibited.

I. Towing and storage operators will maintain all records dealing with the towing and storage of vehicles for a minimum of three years.

J. Towing or storage companies shall not store vehicles or charge for a service performed by another business or individual, unless the vehicle's owner authorizes the service or the vehicle's transfer to another business in writing.

K. All third party tows or storage shall be prohibited, unless authorized by a law enforcement agency or in writing by the towed or stored vehicle's owner prior to the move.

L. Vehicles shall be handled and returned in substantially the same condition as they existed before being towed or stored.

M. Personal property left in a vehicle and not claimed prior to a company obtaining a permit to sell on said vehicle, shall be disposed of in accordance with existing applicable civil law.

N. The address that the towing or storage service lists on its applications shall be the business location where its business records are kept. The storage application shall also list all storage locations for vehicle redemption.

O. Vehicle repairs shall be authorized specifically by signature of vehicle owner or operator.

P. Towing and Storage Invoices, Bills, Repair Statements and Vehicle Repair Authorization Forms

1. All invoices, bills, statements and vehicle repair authorization forms shall be legible and include:

a. the legal name of the business and the physical and mailing address;

b. the vehicle description, VIN, license plate number, state of issue, vehicle year, vehicle make, and vehicle model and;

c. contain itemized charges for service as they occur.

2. All towing and storage invoices, bills, statements and vehicle repair authorization forms shall be:

a. provided to a vehicle owner at the time of recompense;

b. consecutively numbered and filed by number;

c. completed to indicate the date the vehicle was released, the person's name, driver's license number and signature of the person taking possession of the vehicle; and

d. readily available, containing all the required information, along with voided invoices, upon request by virtue of either being kept on the actual premises or electronically produced via fax or other similar technological medium with 10 minutes.

3. Towing invoices shall include the following legible information and shall be maintained with the towed vehicle at all times:

a. the requirements enumerated in Paragraph 1 above;

b. date, time and location of tow or service;

c. the tow-truck operator's name and time of dispatch; and

d. name and driver's license number of vehicle owner, operator, or other person with authority to authorize the tow, or the name of the law enforcement agency requesting and authorizing the tow.

Q. Storage facilities shall maintain storage records at the individual locations, which shall include at least the following information:

1. date and time call for service was received and location of vehicle if towed;

2. name of the person and company requesting and authorizing the tow or service;

3. description of the vehicle including VIN, license number and state, year, make, model and color;

4. the tow truck operator's name, if towed;

5. the date and location vehicle was placed in storage;

6. proof of filing ORSV or exceptions listed in the Towing and Storage Act;

7. letters of notification as required by these rules and law;

8. proof of all administrative costs; and

9. records of release of vehicles shall include the date and legal name, driver's license number of the person the stored/towed vehicle was released to.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1943. Storage Rates

A. Vehicle storage fees shall be based on a calendar day and documented by ORSV notification or the requirements in R.S. 32:1722.

B. Towing and/or storage facilities shall be staffed and open for business Monday thru Friday, 8 a.m. to 5 p.m., excluding state holidays.

C. The daily storage fee, as set by the Public Service Commission and department approved gate fees and

administrative fees shall be the only fees charged for storing a vehicle. There shall be no additional charges for locating or retrieving the vehicle in the storage facility, viewing of the vehicle, photographing the vehicle, removal of items from the vehicle, moving a vehicle, or for any other similar activity during business hours.

D. Each daily overcharge shall constitute a separate violation and additional administrative penalties may be assessed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1945. Gate Fees

A. Business Hours

1. For the purposes of this part, business hours will be Monday thru Friday, 8 a.m. to 5 p.m., excluding state holidays.

2. Gate fees shall not be charged during business hours.

B. Gate Fee Charge

1. A towing or storage company that charges a gate fee shall not charge a fee greater than \$45.

2. An owner of a vehicle charged fees in violation of this Chapter shall have cause of action to recover the amount of the excess fees, plus attorney fees and all court costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

Subchapter F. Rotation List

§1947. Law Enforcement Tow Truck Rotation List

A. Establishing a Rotation List

1. Louisiana law enforcement agencies may establish a rotation list of Louisiana towing companies using boom and/or slide back tow trucks and facilities licensed in accordance with the provisions of R.S. 32:1711 et seq., and rules and regulations promulgated herein.

2. Towing companies selected by a law enforcement agency to participate on their rotation list shall participate at the discretion of the law enforcement agency and may be removed for any violation of law, agency rule, or policy.

3. When a law enforcement officer determines that a motor vehicle must be towed, the law enforcement officer shall give the owner or operator of the motor vehicle the option to select a properly licensed towing company to tow his vehicle. If the owner or operator of the motor vehicle is unable to select a licensed towing company, chooses not to select a particular licensed towing company, or an emergency situation requires the immediate removal of the vehicle, the next available licensed towing company on the approved law enforcement rotation list shall be called by the law enforcement officer to tow the vehicle.

4. The towing company selected by the owner or operator of a vehicle or law enforcement agency shall be allowed to respond within to the call within 45 minutes. If the towing company fails to arrive within 45 minutes, the law enforcement officer may select the next available towing company from the approved rotation list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1949. Severability Clause

A. If for any reason a provision of these rules is declared invalid, the invalidity of that provision shall not affect the validity of the remaining rules or other provisions thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

Family Impact Statement

1. The Effect of This Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

2. The Effect of This Rule on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of This Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of This Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

5. The Effect of This Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of This Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rules.

Interested persons may submit written comments on this proposed Rule to Tony Walker at P.O. Box 66351, Baton Rouge, LA 70896. Comments will be accepted through close of business, February 10, 2005.

Steve Hymel
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Towing, Recovery, and Storage

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

There should be no additional costs incurred, nor savings realized, as a result of the adoption of these rules. These rule changes are required to better reflect industry regulations. The approach to amending the rules is to simplify areas of confusion and multiple interpretations.

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

There should be no effect on revenue as a result of these rules.

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

There should be no costs or economic benefits to any person or group, as a result of these rules. The proposed rule

changes simply indicate the version, by revision date, of the federal regulations precisely adopted by reference.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Approximately 12 months of meeting with industry and consumer groups led to development of the updated Administrative Rules. Activity levels should not increase and the number of new entrants should not be affected by these changes. Therefore, we do not anticipate a change in competitive practices or levels of competition as a result of these changes in the Rules.

Stephen J. Hymel
Undersecretary
0601#052

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Presidential Disaster Relief Credits
(LAC 61:I.601)

Under the authority of R.S. 47:1511, R.S. 47:287.85(C)(2), R.S. 47:293(3), R.S. 47:287.785 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.601 relative to certain federal disaster tax relief credits.

During the fall of 2005, Hurricanes Katrina and Rita made landfall on the southern gulf coast of the United States causing certain areas of Louisiana, Alabama, Texas and Mississippi to be presidentially declared disaster areas. Consequently, the 2005 First Extraordinary Session of the Louisiana Legislature was called to address, among other matters, Louisiana income tax relief. In particular, Act 23 of the 2005 Extraordinary Session was passed to amend and reenact R.S. 47:287.85(C)(2) and R.S. 47:293(3) to provide that the Louisiana income tax deduction for federal income taxes paid shall not be reduced by the amount of federal disaster relief tax credits. Normally, when federal income tax liability is decreased by credits Louisiana income tax liability increases since Louisiana provides a deduction for federal income tax paid. This provision prevents Louisiana taxpayers from paying additional tax because they received federal disaster relief credits.

Act 23 further amends R.S. 47:293(3) to authorize the secretary to determine which federal credits are disaster relief credits and to promulgate rules and regulations pertaining to the disaster credits with the approval of the Senate Revenue and Fiscal Affairs Committee and the House Committee on Ways and Means jointly. Recently, Congress has passed the Katrina Emergency Tax Relief Act of 2005, Pub. L. No. 109-73, 119 Stat. 2016 (H.R. 3768) and the Gulf Opportunity Zone Act of 2005 (H.R.4440), which provide for certain federal income tax credits. The purpose of the proposed Rule is to declare these credits as disaster relief credits and to provide guidance regarding their applicability.

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

Family Impact Statement

The proposed adoption of LAC 61:I.601, regarding presidential disaster area disaster relief credits, specifically, the implementation of this proposed Rule will have no known or foreseeable effect on:

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

Any interested person may submit written data, views, arguments or comments regarding this proposed Rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 5:30 p.m., Monday, February 27, 2006. A public hearing will be held on March 1, 2006 at 10 a.m. in the Magnolia Room, on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Cynthia Bridges
Secretary

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

RULE TITLE: Presidential Disaster Relief Credits

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

Implementation of this proposed regulation will have minimal impact on the agency's costs. There will be one-time costs of approximately \$30,000 to implement the legislation and these corresponding rules. The costs are associated with tax reform redesign and additional instructions, computer program modifications and systems development. This \$30,000 additional expense will be absorbed in the department's current operating budget.

There will be no impact on local government costs.

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. While this legislation precludes the state from receiving additional personal income tax collections of about \$20 million, the official revenue forecasts do not incorporate an expectation of receiving any such revenue as the result of the hurricane Katrina and Rita events. Thus, the anticipated state revenue baseline is considered to be unaffected by the legislation.

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

Taxpayers receiving the benefit of federal disaster tax relief will see no increase in their Louisiana tax liabilities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0601#031

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

Food Stamp Program and FITAP—Lump Sum Payment as a Resource Exclusion (LAC 67:III.1235 and 1949)

The Department of Social Services, Office of Family Support, proposes to amend Louisiana Administrative Code 67 Part III, Subpart 2, Family Independence Temporary Assistance Program (FITAP), and Subpart 3 Food Stamp Program.

Pursuant to P.L. 107-171, the Food Stamp Reauthorization Act of 2002 (also known as the Farm Bill), the agency proposes to amend §1949 in the Food Stamp Program and §1235 in the Family Independence Temporary Assistance Program (FITAP) to exclude from countable resources, lump sum payments received by the household from the conversion of an allowable resource, or as compensation for the loss of an allowable resource, or which is earmarked for a specific purpose. Section 4107 of the Farm Bill gives the state the option to exclude certain types of resources that the state agency does not include for TANF purposes.

The proposed resource exclusion currently applies in FITAP policy but is not codified in the Louisiana Administrative Code; therefore, §1235 is being amended to include this resource exclusion. Additionally, it is the agency's intention to provide program consistency by removing this barrier to food stamp eligibility and excluding these payments from countable resources in the Food Stamp Program.

An Emergency Rule effecting these changes was signed November 1, 2005, and published in the November issue of the *Louisiana Register*.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 2. Family Independence Temporary Assistance Program

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1235. Resources

A. Assets are possessions which a household can convert to cash to meet needs. The maximum resource allowable for an assistance unit is \$2,000. All resources are considered except:

1. - 22. ...

23. lump sum payments received by the household from the conversion of an allowable resource, or as compensation for the loss of an allowable resource, or which is earmarked for a specific purpose. This exclusion shall apply for six months following receipt of the payment.

B. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S.36:474, R.S. 46:231.1.B., R.S. 46:231.2, P.L. 106-387, Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2451 (December 1999), amended LR 27:736 (May 2001), LR 27:866 (June 2001), LR 28:1031 (May 2002), LR 29:45(January 2003), LR 32:

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter H. Resource Eligibility Standards

§1949. Exclusions from Resources

A. The following are excluded as a countable resource:

1. - 5. ...

6. lump sum payments received by the household from the conversion of an allowable resource, or as compensation for the loss of an allowable resource, or which is earmarked for a specific purpose. This exclusion shall apply for six months following receipt of the payment.

B. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.8 and 273.9C(v), P.L. 103-66, P.L. 106-387, 45 CFR 263.20, and P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security in LR 13:657 (November 1987), amended by the Department of Social Services, Office of Family Support, LR 18:143 (February 1992), LR 18:1267 (November 1992), LR 20:990 (September 1994), LR 20:1363 (December 1994), LR 21:187 (February 1995), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 28:1031 (May 2002), LR 29:606 (April 2003), LR 32:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The Rule will have a positive effect on the stability of the family because receipt of these payments will not make them ineligible for Food Stamps or FITAP.

2. What effect will this Rule have on the authority and rights of persons regarding the education and supervision of their children? The Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this Rule have on the functioning of the family? The Rule will have a positive effect because the household will have at least six months to use the money for the purpose for which it was intended without adversely impacting their eligibility to receive Food Stamps or FITAP.

4. What effect will this Rule have on family earnings and family budget? The Rule will have no effect on earnings. It will have a positive impact on the family budget because they may be eligible to receive Food Stamps or FITAP and thus have more funds available to meet household needs.

5. What effect will this Rule have on the behavior and personal responsibility of children? This Rule will not impact the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this is strictly an agency function.

Interested persons may submit written comments by February 28, 2006, to Adren O. Wilson, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, LA 70804-9065. He is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed rule will be held on March 1, 2006, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the

Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Ann Silverberg Williamson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Food Stamp Program and
FITAP—Lump Sum Payment as a Resource Exclusion**

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

The implementation cost to the state is \$300. The minimal cost of publishing the rule, printing policy changes and form revisions is estimated to be approximately 600 and is routinely included in the agency's annual budget. Federal funds will cover one-half or \$300 of these administrative costs.

There will be no costs to local governmental units.

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

There will be no impact on revenue collections for state or local governmental units.

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

There are no costs to any persons or non-governmental groups.

There is no available data on which to project the number of households affected or the amount of benefits that could be realized. However, the rule may have a positive impact on the family budget because they may be eligible to receive Food Stamps or FITAP and thus have more funds available to meet household needs.

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

The proposed rule will have no impact on competition and employment.

Adren O. Wilson
Assistant Secretary
0601#101

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Robert L. Borden
Executive Director

NOTICE OF INTENT

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

Emergency Refunds (LAC 58.I.1301)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System (LASERS) proposes to amend LAC 58.I.1301. This amendment is needed to allow LASERS to more efficiently administer refunds of accumulated employee contributions.

No preamble for this Rule is necessary.

Title 58

RETIREMENT

**Part I. Louisiana State Employees' Retirement System
Chapter 13. Emergency Refunds**

§1301. Conditions Giving Rise to an Emergency Refund

A. A refund of accumulated employee contributions may be made in less than 30 calendar days after the date of separation from state service in the following situations:

1. the refund results from the death of the member; or
2. the member has significant expenses for medical care for himself, spouse, or child; or
3. an emergency situation of the member, which shall consist of the foreclosure on a member's domicile, repossession of the member's vehicle, or eviction of the member from his or her apartment. A document filed in the official legal proceeding for foreclosure or repossession or a notice of eviction shall be required as proof to qualify under this provision.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:1710 (December 1997), LR 31:107 (January 2005), LR 32:

Family Impact Statement

The proposed amendment of LAC 58.I.1301 concerns emergency refunds of accumulated contributions. This regulation should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

Interested persons may submit written comments on the proposed changes until 4:30 p.m., January 26, 2006, to Steve Stark, Board of Trustees for the Louisiana State Employees' Retirement, P.O. Box 44213, Baton Rouge, LA 70804.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Emergency Refunds**

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

No implementation costs to state or local governmental units are anticipated to result from the implementation of this rule. The proposed change is designed to put applicants for emergency refunds on notice regarding the type of proof required to obtain an emergency refund. This should allow LASERS staff to reduce the time needed to process these requests by reducing the number of follow-up questions regarding proof.

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

No effect on revenue collections of state or local governmental units is anticipated to result from the implementation of this rule.

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

LASERS members who have terminated employment with the State of Louisiana and subsequently seek a refund of their

accumulated employee contributions prior to the end of the 30 day waiting period set out in R.S. 11:403 (22) will be directly affected by the proposed rule change. There will be no cost to these persons since the proposal establishes a formal rule that has long been a part of LASERS refund procedures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

No effect on competition and employment is anticipated to result from the implementation of these rules.

Robert L. Borden
Executive Director
0601#088

Robert E. Hosse
Staff Director
Legislative Fiscal Office