

Emergency Rules

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Student Tuition and Revenue Trust (START Saving)
Program (LAC 28:VI.107, 307 and 311)

The Louisiana Tuition Trust Authority (LATTA) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091-3099.2) to implement the provisions of Act 45 of the 2000 Regular Session of the Legislature.

The Emergency Rules are necessary to make the program more attractive, simplify refund and to allow the Louisiana Office of Student Financial Assistance and educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective September 7, 2000, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

Part VI. Student Financial Assistance Higher Education Savings

Chapter 1. General Provisions

Subchapter A. Student Tuition Trust Authority

§107. Applicable Definitions

* * *

Eligible Educational Institution either a state college, university, or technical college or institute or an independent college or university located in this state that is accredited by the regional accrediting association, or its successor, approved by the U.S. secretary of education or a public or independent college or university located outside this state that is accredited by one of the regional accrediting associations, or its successor, approved by the U.S. secretary of education or a state licensed proprietary school licensed pursuant to R.S. Chapter 24-A of Title 17, and any subsequent amendments thereto.

* * *

Enrollment Period that period designated by the LATTA during which applications for enrollment in the START program will be accepted by the LATTA.

* * *

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:

Chapter 3. Education Savings Account

§307. Allocation of Tuition Assistance Grants

A. - C.2. ...

D. Tuition Assistance Grant Rates

1. The Tuition Assistance Grant rates applicable to an Education Assistance Account are determined by the federal adjusted gross income of the Account Owner, according to the following schedule:

Reported Federal Adjusted Gross Income	Tuition Assistance Grant Rate*
0 to \$14,999	14 percent
\$15,000 to \$29,999	12 percent
\$30,000 to \$44,999	10 percent
\$45,000 to \$59,999	8 percent
\$60,000 to \$74,999	6 percent
\$75,000 to \$99,999	4 percent
\$100,000 and above	0 percent

*Rates may be reduced pro rata, to limit grants to amounts appropriated by the Legislature.

2. Effective January 1, 2001, the Tuition Assistance Grant rates applicable to an Education Assistance Account are determined by the federally adjusted gross income of the Account Owner, according to the following schedule:

Reported Federal Adjusted Gross Income	Tuition Assistance Grant Rate*
0 to \$29,999	14 percent
\$30,000 to \$44,999	12 percent
\$45,000 to \$59,999	9 percent
\$60,000 to \$74,999	6 percent
\$75,000 to \$99,999	4 percent
\$100,000 and above	2 percent

*Rates may be reduced pro rata, to limit grants to amounts appropriated by the Legislature.

E. Restrictions on Allocation of Tuition Assistance Grants to Education Assistance Accounts. The allocation of Tuition Assistance Grants is limited to Education Assistance Accounts which:

1. have principal deposits totaling at least \$100 annually; and
2. have an Account Owner's reported federal adjusted gross income of less than \$100,000 (effective January 1, 2001, this restriction shall terminate); and

E.3. - H.4. ...

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1271 (July 1998), LR 25:1794 (October 1999), LR 26:

§311. Termination and Refund of an Education Savings Account

A. - H. ...

I. Refund Payments

1. Payment of refunds for voluntary termination of accounts without penalty pursuant to §311.F shall be made

by or about the tenth day following the date on which the account was terminated. The refund shall consist of the principal remaining in the account and interest remaining in the account accrued on the principal through the end of the last calendar year. Interest earned during the calendar year of termination will be refunded on or about the forty-fifth day after the start of the next calendar year.

2. Payment of refunds for voluntary termination of accounts with penalty pursuant to §311.G shall be made by or about the tenth day following the date on which the account was terminated. The refund shall consist of the principal remaining in the account and interest remaining in the account accrued on the principal through the end of the last calendar year less the interest penalty. Interest earned during the calendar year of termination, less the interest penalty, will be refunded on or about the forty-fifth day after the start of the next calendar year

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997), amended LR 24:1273 (July 1998), LR 26:

Mark S. Riley
Assistant Executive Director

0010#007

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students
(TOPS)CHigher Education Scholarship and Grant
Programs (LAC 28:IV.301, 509, 703, 803, 2103)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Tuition Opportunity Program for Students (TOPS) (R.S. 17:3042.1 and R.S. 17:3048.1).

The emergency rules are necessary to implement changes to the TOPS rules to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective September 7, 2000, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28 EDUCATION

Part IV. Student Financial AssistanceC Higher Education Scholarship and Grant Programs

Chapter 3. Definitions

§301. Definitions

* * *

*Legal Guardian*Can adult appointed by a court of competent jurisdiction to have custody and care of a minor, and who demonstrates the requirement to provide the primary support for such minor.

* * *

*Orphan*Ca person who does not live with either parent because the parent(s) is/are dead or has/have abandoned him or the parental rights of the parent(s) has/have been severed by competent authority.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated LR 24:631 (April 1998), amended LR 24:1897 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:

Chapter 5. Application; Application Deadlines and Proof of Compliance

§509. American College Test (ACT) Testing Deadline

A. ...

B. The student may substitute an equivalent score, as determined by the comparison tables used by LASFAC, on an equivalent Scholastic Aptitude Test (SAT) taken on or before the official April test date in the Academic Year (High School) in which the student graduates. In order to substitute a SAT score, the student must direct the College Board to send the score to LOSFA so that the score is electronically reported to LOSFA by the College Board within 45 days of the final test date allowed by Section 509. SAT scores received in any other manner shall not be considered.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 26:1995 (September 2000), amended LR 26:

Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§703. Establishing Eligibility

A. - A.5.a.i. ...

ii. for purposes of satisfying the requirements of §703.A.5.a.i., above, or §803.A.6.a., the following courses shall be considered equivalent to the identified core courses

and may be substituted to satisfy corresponding core courses:

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	General Science
Algebra I	Algebra I, Parts 1 and 2
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*
Chemistry	Chemistry Com
Fine Arts Survey	Speech Debate (2 units)
Western Civilization	European History

*Applied Mathematics III was formerly referred to as Applied Geometry

A.5.b - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64 (January 2000), LR 26:689 (April 2000), LR 26:1996 (September 2000), LR 26:

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. - A.6.c. ...

d. Any courses that may be substituted for TOPS core curriculum course requirements in §703.A.5.a.i. may be substituted for the comparable TOPS-TECH core curriculum course requirements.

e. For purposes of satisfying the core curriculum requirements for a TOPS-TECH award, a student may substitute for a core curriculum course those courses listed as equivalent courses in §703.A.5.a.ii.

7. - 11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:1898 (October 1998), amended LR 24:2237 (December 1998), LR 25:1794 (October 1999), LR 26:64 (January 2000), LR 26:1997 (September 2000), LR 26:

Chapter 21. Miscellaneous Provisions and Exceptions

§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - D.3. ...

E. Qualifying Exceptions to the Initial and Continuous Enrollment Requirement. A student who has been declared ineligible for TOPS because of failure to meet the initial or continuous enrollment requirements may request reinstatement in TOPS based on one or more of the following exceptions:

1. - 10.c. ...

11. Exceptional Circumstances

a. Definition. The student/recipient has exceptional circumstances, other than those listed in §2103.E.1-10,

which are beyond his immediate control and which necessitate full or partial withdrawal from, or non-enrollment in an eligible postsecondary institution. The following situations are not exceptional circumstances:

(a) - (h) ...

(i) For students graduating from high school in 2001 and thereafter, making financial commitments or accepting an academic or athletic scholarship or grant to attend a postsecondary institution outside of Louisiana.

E.11.a.ii. - E.11.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:647 (April 1998), amended LR 24:1919 (October 1998), LR 26:

Mark S. Riley
Assistant Executive Director

0010#006

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Privately Owned Sewage Treatments
(LAC 33:IX.2331, 2381, 2383, 2385,
2769 and 2801-2809)(WP035E4)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under authority of R.S. 30:2011, the Secretary of the Department of Environmental Quality declares that an emergency action is necessary as a result of Act 399 of the 1999 Legislative Session, which required all privately-owned sewage treatment facilities, regulated by the Public Service Commission, to obtain financial security prior to receiving discharge authorization. This Act applies to any issuance, renewal, modification, or transfer of such permits after July 1, 1999, and mandates that the department establish by rule the acceptable forms of financial security and the amount of financial security required for the various types and sizes of facilities. Therefore, after July 1, 1999, and until the necessary Rule is in effect, the department would be required to withhold all new discharge permits, renewal of existing, modification of existing, and transfers of existing discharge permits to all privately-owned, for-profit community sewage treatment facilities.

This is a renewal of Emergency Rule WP035E3, which was effective June 26, 2000, and published in the *Louisiana Register* on July 20, 2000. The text remains the same. Rulemaking procedures have begun to promulgate this regulation. Proposed rule WP035 was published in the *Louisiana Register* on September 20, 2000. The earliest date it can become a final rule is December 20, 2000.

The delays inherent in the normal rulemaking process would imperil public health, safety, and welfare by precluding the legal operation of some sewage treatment facilities subject to Act 399. The legal operation of those sewage treatment facilities is essential for the proper treatment of sewage, necessary to reduce disease-causing microorganisms and pollutants that are harmful to fish and

other aquatic life. The cessation of operation of such a treatment facility, as would be required by law, would necessitate either bypassing the treatment facility (resulting in the discharge of untreated sewage) or blocking all flow of sewage through the collection system (rendering uninhabitable every building served by that system). The department cannot ensure protection of public health, welfare, and the environment without the issuance of discharge permits with proper effluent limitations and monitoring requirements.

The immediate impact of this Rule is to give effect to the terms and conditions of Act 399, thus allowing the department to continue regulating treated sanitary discharges from private treatment facilities which serve large segments of Louisiana's population.

This Emergency Rule is effective October 25, 2000, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever comes first. For more information concerning WP035E4, you may contact the Regulation Development Section at (225) 765-0399. Adopted this ninth day of October, 2000.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality Regulations

Chapter 23. The Louisiana Pollutant Discharge

Elimination System (LPDES) Program

Subchapter B. Permit Application and Special LPDES Program Requirements

§2331. Application for a Permit

[See Prior Text in A - O. Editorial Note]

P. Additional Requirements for Privately-Owned Sewage Treatment Facilities Regulated by the Public Service Commission. Privately-owned sewage treatment facilities regulated by the Public Service Commission must also comply with the financial security requirements in LAC 33:IX.Chapter 23.Subchapter W. Following receipt of the permit application the administrative authority shall calculate and subsequently notify the applicant of the "waste discharge capacity per day" for the facility. The applicant will use this figure to determine the amount of the financial security required by LAC 33:IX.Chapter 23.Subchapter W. The applicant shall subsequently obtain and supply the department with the financial security document in accordance with LAC 33:IX.Chapter 23.Subchapter W. No permit shall be issued after July 1, 1999, without the required financial security, unless a waiver or exemption has been granted under R.S. 30:2075.2(A)(6).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and(4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter D. Transfer, Modification, Revocation and Reissuance, and Termination

§2381. Transfer of Permits

[See Prior Text in A - B.1]

2. the notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them;

3. the state administrative authority does not notify the existing permittee and the proposed new permittee of his or her intent to modify or revoke and reissue the permit. A modification under this Subsection may also be a minor modification under LAC 33:IX.2385. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in LAC 33:IX.2381.B.2; and

4. additional requirements are met for privately-owned sewage treatment facilities regulated by the Public Service Commission when transferred after July 1, 1999. The new permittee shall comply with the financial security requirements in LAC 33:IX.Chapter 23.Subchapter W, unless a waiver or exemption has been granted under R.S. 30:2075.2(A)(6).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq., and in particular Sections 2074(B)(3) and(4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2383. Modification or Revocation and Reissuance of Permits

[See Prior Text in A - B.2]

C. Upon modification or revocation and reissuance of a permit for a privately-owned sewage treatment facility regulated by the Public Service Commission, the permittee shall comply with the financial security requirements in LAC 33:IX.Chapter 23.Subchapter W, unless a waiver or exemption has been granted under R.S. 30:2075.2(A)(6).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq., and in particular Sections 2074(B)(3) and(4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1524 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2385. Minor Modifications of Permits

A. Upon the consent of the permittee, the state administrative authority may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this Section, without following the procedures of LAC 33:IX.Chapter 23.Subchapters E- G. Any permit modification not processed as a minor modification under this Section must be made for cause and with LAC 33:IX.Chapter 23.Subchapters E- G draft permit and public notice as required in LAC 33:IX.2383. Minor modifications may only:

1. correct typographical errors;
2. require more frequent monitoring or reporting by the permittee;
3. change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; or

4. allow for a change in ownership or operational control of a facility where the state administrative authority determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the state administrative authority. The new permittee of a privately-owned sewage treatment facility regulated by the Public Service Commission must additionally comply with the financial security requirements in LAC 33:IX.Chapter 23.Subchapter W, unless a waiver or exemption has been granted under R.S. 30:2075.2(A)(6).

* * *

[See Prior Text in A. 5 - 7]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and(4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter V. Additional Requirements Applicable to the LPDES Program

§2769. Additional Requirements for Permit Renewal and Termination

A. The following are causes, in addition to those found in LAC 33:IX.2387, for terminating a permit during its term or for denying a permit renewal:

* * *

[See Prior Text in A.1]

2. due consideration of the facility's history of violations and compliance;

3. change of ownership or operational control (see LAC 33:IX.2381); and/or

4. failure to provide or maintain financial security in accordance with LAC 33:IX.Chapter 23.Subchapter W.

* * *

[See Prior Text in B - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq., and in particular Sections 2074(B)(3) and(4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:726 (June 1997), amended by the Office of the Secretary, LR 25:662 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter W. Financial Security

§2801. Applicability

A. This Subsection shall be applicable to the following actions, for privately-owned sewage treatment facilities regulated by the Public Service Commission, when taken after July 1, 1999:

- 1. issuance of a new discharge permit;
- 2. renewal of an existing discharge permit;
- 3. modification of an existing discharge permit; and
- 4. transfer of an existing discharge permit to a different permittee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq., and in particular Sections 2074(B)(3) and(4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2803. Acceptable Form of Financial Security

A. Financial security required by R.S. 30:2075.2 may be established by any one or a combination of the following mechanisms.

1. Surety Bond. The requirements of this Section may be satisfied by obtaining a surety bond that conforms to the following requirements:

a. the bond must be submitted to the department at the following address: Louisiana Department of Environmental Quality, Office of Management and Finance, Financial Services, Box 82231, Baton Rouge, LA 70884-2231;

b. the bond must be executed by the permittee and a corporate surety licensed to do business in Louisiana. The surety must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury and be approved by the administrative authority;

c. under the terms of the bond, the surety will become liable on the bond obligation when the permit holder fails to perform as guaranteed by the bond;

d. under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the permit holder and to the administrative authority at the address indicated in Subsection A.1.a of this Section. Cancellation may not occur, however, before 120 days have elapsed, beginning on the date that both the permit holder and the administrative authority receive the notice of cancellation, as evidenced by the return receipts; and

e. the wording of the surety bond must be identical to the following, except that material in brackets is to be replaced with the relevant information and the brackets deleted:

PERFORMANCE BOND

Date bond was executed: _____
Effective date: _____
Principal: [legal name and business address of permit holder or applicant]
Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]
State of incorporation: _____
Surety: [name(s) and business address(es)]
[Site identification number, site name, facility name, facility permit number, facility address, amount for each facility guaranteed by this bond]
Total penal sum of bond: \$ _____
Surety's bond number: _____

Know All Persons By These Presents That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, provided that, where Sureties are corporations acting as cosureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us and, for all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq., to have a permit in order to discharge wastewater from the facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for the conditions specified in LAC 33:IX.Chapter 23.Subchapter W, as a condition of the permit; and

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform, in a timely manner, the requirements of LAC 33:IX applicable to the facility for which this bond guarantees the requirements of LAC 33:IX, in accordance with the other requirements of the permit as such permit may be amended and pursuant to all applicable

laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

OR, if the Principal shall provide other financial assurance as specified in LAC 33:IX.Chapter 23.Subchapter W and obtain written approval of the administrative authority of such assurance within 90 days after the date of notice of cancellation of this bond is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise, it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinabove.

Upon notification by the administrative authority that the Principal has been found in violation of the requirements of LAC 33:IX or of its permit, for the facility for which this bond guarantees performances of the requirements of LAC 33:IX.Chapter 23.Subchapter W, the Surety shall either perform the requirements of LAC 33:IX.Chapter 23.Subchapter W, or place the closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to permit, applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have lapsed, beginning on the date that both the Principal and the administrative authority received the notice of cancellation as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this PERFORMANCE BOND on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana, and that the wording of this surety bond is identical to the wording specified in LAC 33:IX.2803.A.1, effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]
[Name(s)]
[Title(s)]

CORPORATE SURETY

[Name and address]
State of incorporation: _____
Liability limit: \$ _____
[Signature(s)]
[Name(s) and title(s)]
[For every cosurety, provide signature(s) and other information in the same manner as for Surety above.]
Bond premium: \$ _____

2. Letter of Credit. The requirements of this Section may be satisfied by obtaining a letter of credit that conforms to the following requirements:

a. the letter of credit must be submitted to the department at the following address: Louisiana Department of Environmental Quality, Office of Management and Finance, Financial Services, Box 82231, Baton Rouge, LA 70884-2231;

b. the issuing institution must be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency;

c. the letter of credit must be irrevocable and issued for a period of at least one year, unless at least 120 days

before the current expiration date, the issuing institution notifies both the permit holder and the administrative authority at the address indicated in Subsection A.2.a of this Section by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the permit holder and the administrative authority receive the notice, as evidenced by the return receipts; and

d. the wording of the letter of credit shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

IRREVOCABLE LETTER OF CREDIT

Secretary
Louisiana Department of Environmental Quality
Financial Services
Post Office Box 82231
Baton Rouge, Louisiana 70884-2231

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit No. _____ in favor of the Department of Environmental Quality of the state of Louisiana at the request and for the account of [permit holder's or applicant's name and address] for the conditions specified in LAC 33:IX.Chapter 23.Subchapter W for its [list site identification number, site name, facility name, facility permit number] at [location], Louisiana, for any sum or sums up to the aggregate amount of U.S. dollars \$ _____ upon presentation of:

(1). A sight draft, bearing reference to the Letter of Credit No. _____ drawn by the administrative authority, together with;

(2). A statement, signed by the administrative authority, declaring that the amount of the draft is payable pursuant to the Louisiana Environmental Quality Act, R.S. 30:2001, et seq.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date [date] and on each successive expiration date thereafter, unless, at least 120 days before the then-current expiration date, we notify both the administrative authority and [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then-current expiration date. In the event that we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder or applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft in accordance with the administrative authority's instructions.

Except to the extent otherwise expressly agreed to, the Uniform Customs and Practice for Documentary Letters of Credit (1983), International Chamber of Commerce Publication No. 400, shall apply to this Letter of Credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in LAC 33:IX.2803.A.2, effective on the date shown immediately below.

[Signature(s) and title(s) of
official(s) of issuing
institution(s)]
[date]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq., and in particular Sections 2074(B)(3) and(4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2805. Amount of Required Financial Security

A. The amount of the financial security must be equal to or greater than \$1 per gallon of wastewater discharge per day from the facility, as determined by the administrative authority, up to a maximum of \$25,000.

DECLARATION OF EMERGENCY

Office of the Governor Division of Administration Office of the Commissioner

Digital Signatures (LAC 4:I.Chapter 7)

B. The secretary may, in his discretion, allow a single financial security instrument to satisfy the requirements of this Subchapter for up to four permits held by the same permittee, if the amount of financial security provided by that instrument is large enough to satisfy the requirements of Subsection A of this Section for the facility with the greatest amount of wastewater discharge per day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq., and in particular Sections 2074(B)(3) and(4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2807. Conditions for Forfeiture

A. The secretary or his designee may enter an order requiring forfeiture of all or part of the financial security, if he determines that:

1. the continued operation or lack of operation and maintenance of the facility covered by this Subsection represents a threat to public health, welfare, or the environment because the permittee is unable or unwilling to adequately operate and maintain the facility or the facility has been actually or effectively abandoned by the permittee. Evidence justifying such determination includes, but is not limited to:

a. the discharge of pollutants exceeding limitations imposed by applicable permits;

b. failure to utilize or maintain adequate disinfection facilities;

c. failure to correct overflows or backups from the collection system;

d. a declaration of a public health emergency by the state health officer; and

e. a determination by the Public Service Commission that the permittee is financially unable to properly operate or maintain the system;

2. reasonable and practical efforts under the circumstances have been made to obtain corrective actions from the permittee; and

3. it does not appear that corrective actions can or will be taken within an appropriate time as determined by the secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and(4) and 2075.2 and 3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2809. Use of Proceeds

A. The proceeds of any forfeiture shall be used by the secretary, or by any receiver appointed by a court under R.S. 30:2075.3, to address or correct the deficiencies at the facility or to maintain and operate the system, as deemed necessary by the secretary under LAC 33:IX.2807.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq., and in particular Sections 2074(B)(3) and(4) and 2075.2 and 3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

J. Dale Givens
Secretary

0010#097

In accordance with R.S. 49:953(B), the Division of Administration finds it necessary to adopt this Rule on an emergency basis to comply with the requirements of the Electronic Signatures in Global and National Commerce Act, PL 106-229, which becomes effective on October 1, 2000. This federal legislation preempts state law in certain instances regarding the acceptance of electronic records and electronic signatures. In order to insure compliance among the various state agencies, and to provide guidance on how to implement this Act, the Division of Administration has deemed it necessary that these rules be adopted on an emergency basis.

These rules shall take effect on September 29, 2000, and shall be in effect for 120 days.

Title 4

ADMINISTRATION

Part I. General Provisions

Chapter 7. Implementation of Electronic Signatures in Global and National Commerce Act- P.L. 106-229

§701. Short Title

A. These emergency procedures are in response to the Federal "Electronic Signatures in Global and National Commerce Act" (e-sign) effective October 1, 2000. E-sign applies only to the use of electronic records and signatures in interstate or foreign commerce. These rules may be referred to as the "E-Sign Rules."

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 26:

§703. Exemptions

A. State agency transactions that are not governed by the Electronic Signatures in Global and National Commerce Act, PL 106-229, hereinafter referred to as the "e-sign," are not subject to these emergency procedures.

B. State agency transactions that have electronic record and signature technology procedures that have been established by statutory and/or regulatory authority approval and do not conflict with e-sign, shall remain in effect.

C. State agency transactions that have electronic record and signature technology procedures that have been established by statutory and/or regulatory authority approval with sections that are in conflict with e-sign, shall have all sections of these procedures remain in effect that are not in conflict with e-sign.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 26:

§705. General

A. This section applies to all written electronic communications which are sent to a state agency over the Internet or other electronic network or by another means that is acceptable to the state agency, for which the identity of the

sender or the contents of the message must be authenticated, and for which no prior agreement between the sender and the receiving state agency regarding message authentication existed as of the effective date of this section. This section does not apply to or supersede the use and expansion of existing systems which are not in conflict with the Federal "Electronic Signatures in Global and National Commerce Act:"

1. for the receipt of electronically filed documents pursuant to applicable Louisiana statutory law and promulgated rules and regulations, where the purpose of the written electronic communication is to comply with statutory filing requirements and the receiving state agency or local government is not a party to the underlying transaction which is the subject of the communication; or

2. for the electronic approval of payment vouchers under rules adopted by the State Treasurer pursuant to applicable law.

B. Prior to accepting a digital signature, a state agency shall ensure that the level of security used to identify the signer of a message and to transmit the signature is sufficient for the transaction being conducted. A state agency that accepts digital signatures may not effectively discourage the use of digital signatures by imposing unreasonable or burdensome requirements on persons wishing to use digital signatures to authenticate written electronic communications sent to the state agency.

C. A state agency that accepts digital signatures shall not be required to accept a digital signature that has been created by means of a particular acceptable technology described in Subsection D of this section if the state agency:

1. determines that the expense that would necessarily be incurred by the state agency in accepting such a digital signature is excessive and unreasonable;

2. provides reasonable notice to all interested persons of the fact that such digital signatures will not be accepted, and of the basis for the determination that the cost of acceptance is excessive and unreasonable; and

3. files an electronic copy (in html format) of the notice with the Division of Administration. The Division of Administration shall make a copy of such notice available to the general public via the World Wide Web.

D. A state agency shall ensure that all written electronic communications received by the state agency and authenticated by means of a digital signature in accordance with this section, as well as any information resources necessary to permit access to the written electronic communications, are retained by the state agency as necessary to comply with applicable law pertaining to audit and records retention requirements.

E. Guidelines Agencies Should Use in Adopting an Electronic Signature Technology

1. An agency's determination of which technology is appropriate for a given transaction must include a risk assessment, and an evaluation of targeted customer or user needs. The initial use of the risk assessment is to identify and mitigate risks in the context of available technologies and their relative total costs and effects on the program being analyzed. The assessment also should be used to develop baselines and verifiable performance measures that track the agency's mission, strategic plans, and performance objectives. Agencies must strike a balance, recognizing that

achieving absolute security is likely to be in most cases highly improbable and prohibitively expensive.

2. The identity of participants to a transaction may not need to be authenticated. If authentication is required, several options are available: ID and Passwords for a web-based transaction may be sufficient, however the user login session should be encrypted using either Secured Sockets Layer (SSL) or Virtual Private Networks (VPN) or an equivalent encryption technology.

3. Digital Signatures/Certificates may offer increased security (positive ID), however this will vary depending on:

a. who issues the certificates;

b. what is the identity-proofing process (e.g., are you using Social Security Number, photo IDs, biometrics); and

c. is the certificate issued remotely via software or mail, or is "in person" identification required?

4. In determining whether an electronic signature is required or is sufficiently reliable for a particular purpose, agencies should consider the relationships between the parties, the value of the transaction, and the likely need for accessible, persuasive information regarding the transaction at some later date (e.g., audit or legal evidence). The types of transactions may require different security control measures, based on security risks and legal obligations:

a. transactions involving the transfer of funds;

b. transactions where the parties commit to actions or contracts that may give rise to financial or legal liability;

c. transactions involving information protected under state or federal law or other agency-specific statutes obliging that access to the information be restricted;

d. transactions where the party is fulfilling a legal responsibility which, if not performed, creates a legal liability (criminal or civil);

e. transactions where no funds are transferred, no financial or legal liability is involved and no privacy or confidentiality issues are involved.

5. Agency transactions fall into five general categories, each of which may be vulnerable to different security risks:

a. intra-agency transactions;

b. inter-agency transactions (i.e., those between state agencies);

c. transactions between a state agency and federal or local government agencies;

d. transactions between a state agency and a private organization-contractor, non-profit organization, or other entity;

e. transactions between an agency and a member of the general public.

6. Agencies should follow several privacy tenets:

a. electronic authentication should only be required where needed. Many transactions do not need, and should not require, detailed information about the individual;

b. when electronic authentication is required for a transaction, do not collect more information from the user than is required for the application;

c. the entity initiating a transaction with a state agency should be able to decide the scope of their electronic means of authentication.

7. When agencies evaluate the retention requirements for specific records, they should consider the following if the record was signed with an electronic signature.

- a. *Low Risk* simple electronic signature (e.g., typed name on an e-mail message)
- b. *High Risk* *Digitally-Signed Communication* message that has been processed by a computer in such a manner that ties the message to the individual that signed the message. The digital signature must be linked to the message of the document in such a way that it would be computationally infeasible to change the data in the message or the digital signature without invalidating the digital signature.

8. If the record contains a digital signature, the following additional documents may be required:

- a. a copy of the *Public Key*;
- b. a copy of the Certificate Revocation List (CRL) showing the validity period of the certificate or a copy of the On-line Certificate Status Protocol (OCSP) results;
- c. Certification Practice Statement (CPS).

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 26:

§707 Definitions

A. The following words and terms, when used in this section, shall have the following meanings unless the context expressly indicates otherwise:

Asymmetric Cryptosystem Ca computer-based system that employs two different but mathematically related keys with the following characteristics:

- a. one key encrypts a given message;
- b. one key decrypts a given message; and
- c. the keys have the property that, knowing one key, it is computationally infeasible to discover the other key.

Certificate Ca message which:

- a. identifies the certification authority issuing it;
- b. names or identifies its subscriber;
- c. contains the subscriber's public key;
- d. identifies its operational period;
- e. is digitally signed by the certification authority issuing it; and
- f. conforms to ISO X.509 Version 3 standards.

Certificate Manufacturer Ca person that provides operational services for a Certification Authority or PKI Service Provider. The nature and scope of the obligations and functions of a Certificate Manufacturer depend on contractual arrangements between the Certification Authority or other PKI Service Provider and the Certificate Manufacturer.

Certificate Policy Ca document prepared by a Policy Authority that describes the parties, scope of business, functional operations, and obligations between and among PKI Service Providers and End Entities who engage in electronic transactions in a Public Key Infrastructure.

Certification Authority Ca person who issues a certificate.

Certification Practice Statement Cdocumentation of the practices, procedures, and controls employed by a Certification Authority.

Digital Signature Can electronic identifier intended by the person using it to have the same force and effect as the

use of a manual signature, and that complies with the requirements of this section.

Digitally-Signed Communication Ca message that has been processed by a computer in such a manner that ties the message to the individual that signed the message.

End Entities Csubscribers or Signers and Relying Parties.

Escrow Agent Ca person who holds a copy of a private key at the request of the owner of the private key in a trustworthy manner.

Handwriting Measurements Cthe metrics of the shapes, speeds and/or other distinguishing features of a signature as the person writes it by hand with a pen or stylus on a flat surface.

Key Pair Ca private key and its corresponding public key in an asymmetric cryptosystem. The keys have the property that the public key can verify a digital signature that the private key creates.

Local Government Ca parish, municipality, special district, or other political subdivision of this state, or a combination of two or more of those entities.

Message Ca digital representation of information.

Person Can individual, state agency, local government, corporation, partnership, association, organization, or any other legal entity.

PKI CPublic Key Infrastructure.

PKI Service Provider Ca *Certification Authority*, *Certificate Manufacturer*, *Registrar*, or any other person that performs services pertaining to the issuance or verification of certificates.

Policy Authority Ca person with final authority and responsibility for specifying a Certificate Policy.

Private Key Cthe key of a key pair used to create a digital signature.

Proof of Identification Cthe document or documents or other evidence presented to a Certification Authority to establish the identity of a subscriber.

Public Key Cthe key of a key pair used to verify a digital signature.

Public Key Cryptography Ca type of cryptographic technology that employs an asymmetric cryptosystem.

Registrar Ca person that gathers evidence necessary to confirm the accuracy of information to be included in a Subscriber's certificate.

Relying Party Ca state agency that has received an electronic message that has been signed with a digital signature and is in a position to rely on the message and signature.

Role-Based Key Ca key pair issued to a person to use when acting in a particular business or organizational capacity.

Signature Digest Cthe resulting bit-string produced when a signature is tied to a document using Signature Dynamics.

Signer Cthe person who signs a digitally signed communication with the use of an acceptable technology to uniquely link the message with the person sending it.

State Agency Ca department, commission, board, office, council, or other agency in the executive branch of state government that is created by the constitution, Executive Order, or a statute of this state. Higher education, the legislature and the judiciary are to be considered State

agencies to the extent that the communication is pursuant to a state law applicable to such entities.

SubscriberCa person who:

- a. is the subject listed in a certificate;
- b. accepts the certificate; and
- c. holds a private key which corresponds to a public key listed in that certificate.

TechnologyCthe computer hardware and/or software-based method or process used to create digital signatures.

Written Electronic CommunicationCa message that is sent by one person to another person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 26:

§709. Digital Signatures Must be Created by an Acceptable Technology

A. For a digital signature to be valid for use by a state agency, it must be created by a technology that is accepted for use by the Division of Administration pursuant to guidelines listed in §711 of this document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 26:

§711. Acceptable Technology

A. The technology known as Public Key Cryptography is an acceptable technology for use by state agencies, provided that the digital signature is created consistent with the following.

1. A public key-based digital signature must be unique to the person using it. Such a signature may be considered unique to the person using it if:

- a. the private key used to create the signature on the message is known only to the signer or, in the case of a role-based key, known only to the signer and an escrow agent acceptable to the signer and the state agency; and
- b. the digital signature is created when a person runs a message through a one-way function, creating a message digest, then encrypting the resulting message digest using an asymmetric cryptosystem and the signer's private key; and
- c. although not all digitally signed communications will require the signer to obtain a certificate, the signer is capable of being issued a certificate to certify that he or she controls the key pair used to create the signature; and
- d. it is computationally infeasible to derive the private key from knowledge of the public key.

2. A public-key based digital signature must be capable of independent verification. Such a signature may be considered capable of independent verification if:

- a. the relying party can verify the message was digitally signed by using the signer's public key to decrypt the message; and
- b. if a certificate is a required component of a transaction with a state agency, the issuing PKI Service Provider, either through a certification practice statement, certificate policy, or through the content of the certificate itself, has identified what, if any, proof of identification it required of the signer prior to issuing the certificate.

3. The private key of public-key based digital signature must remain under the sole control of the person

using it, or in the case of a role-based key, that person and an escrow agent acceptable to that person and the state agency. Whether a signature is accompanied by a certificate or not, the person who holds the key pair, or the subscriber identified in the certificate, must exercise reasonable care to retain control of the private key and prevent its disclosure to any person not authorized to create the subscriber's digital signature.

4. The digital signature must be linked to the message of the document in such a way that it would be computationally infeasible to change the data in the message or the digital signature without invalidating the digital signature.

5. Acceptable PKI Service Providers

a. The Division of Administration shall maintain an "Approved List of PKI Service Providers" authorized to issue certificates for digitally signed communications sent to state agencies or otherwise provide services in connection with the issuance of certificates. The list may include, but shall not necessarily be limited to, Certification Authorities, Certificate Manufacturers, Registrars, and/or other PKI Service Providers accepted and approved for use in connection with electronic messages transmitted to other state or federal governmental entities. A copy of such list may be obtained directly from the Division of Administration, or may be obtained electronically via the World Wide Web.

b. State agencies shall only accept certificates from PKI Service Providers that appear on the "Approved List of PKI Service Providers."

c. The Division of Administration shall place a PKI Service Provider on the "Approved List of PKI Service Providers" after the PKI Service Provider provides the Division of Administration with a copy of its current certification practice statement, if any, and a copy of an unqualified performance audit performed in accordance with standards set in the American Institute of Certified Public Accountants (AICPA) Statement on Auditing Standards No. 70 (S.A.S. 70) to ensure that the PKI Service Provider's practices and policies are consistent with the requirements of the PKI Service Provider's certification practice statement, if any, and the requirements of this section.

d. In order to be placed on the "Approved List of PKI Service Providers" a PKI Service Provider that has been in operation for one year or less shall undergo a SAS 70 Type One audit - A Report of Policies and Procedures Placed in Operation, receiving an unqualified opinion.

e. In order to be placed on the "Approved List of PKI Service Providers" a PKI Service Provider that has been in operation for longer than one year shall undergo a SAS 70 Type Two auditCA Report of Policies and Procedures Placed in Operation and Test of Operating Effectiveness, receiving an unqualified opinion.

f. In lieu of the audit requirements of Subparagraphs d and e above, a PKI Service provider may be placed on the "Approved List of PKI Service Providers" upon providing the Division of Administration with documentation issued by a person independent of the PKI Service Provider that is indicative of the security policies and procedures actually employed by the PKI Service Provider and that is acceptable to the Division of Administration in its sole discretion. The Division of

Administration may request additional documentation relating to policies and practices employed by the PKI Service Provider indicating the trustworthiness of the technology employed and compliance with applicable guidelines published by the Division of Administration.

g. To remain on the "Approved List of PKI Service Providers" a Certification Authority must provide proof of compliance with the audit requirements or other acceptable documentation to the Division of Administration every two years after initially being placed on the list. In addition, a Certification Authority must provide a copy of any changes to its certification practice statement to the Division of Administration promptly following the adoption by the Certification Authority of such changes.

h. If the Division of Administration is informed that a PKI Service Provider has received a qualified or otherwise unacceptable opinion following a required audit or if the Division of Administration obtains credible information that the technology employed by the PKI Service Provider can no longer reasonably be relied upon, or if the PKI Service Provider's certification practice statement is substantially amended in a manner that causes the PKI Service Provider to become no longer in compliance with the audit requirements of this section, the PKI Service Provider may be removed from the "Approved List of PKI Service Providers" by the Division of Administration. The effect of the removal of a PKI Service Provider from the "Approved List of PKI Service Providers" shall be to prohibit state agencies from thereafter accepting digital signatures for which the PKI Service Provider issued a certificate or provided services in connection with such issuance for so long as the PKI Service Provider is removed from the list. The removal of a PKI Service Provider from the "Approved List of PKI Service Providers" shall not, in and of itself, invalidate a digital signature for which a PKI Service Provider issued the certificate prior to its removal from the list.

B. The state may elect to enact or adopt the Federal Uniform Electronic Transactions Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 26:

§713. Provisions for Adding New Technologies to the List of Acceptable Technologies

A. Any person may, by providing a written request that includes a full explanation of a proposed technology which meets the requirements of §709 in this Emergency Rule, petition the Division of Administration to review the technology. If the Division of Administration determines that the technology is acceptable for use by state agencies, the Division of Administration shall draft proposed administrative rules which would add the proposed technology to the list of acceptable technologies in §711 of this Emergency Rule.

B. The Division of Administration has 90 days from the date of the request to review the petition and either accept or deny it. If the Division of Administration does not approve the request within 90 days, the petitioner's request shall be considered denied. If the Division of Administration denies the petition, it shall notify the petitioner in writing of the reasons for denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 26:

Mark C. Drennen
Commissioner

0010#019

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
State Land Office**

Wax Lake Waterfowl Hunting Season

Use of lands and water bottoms during the 2000-2001 waterfowl hunting season within the Wax Lake area of St. Mary Parish, Louisiana

The Division of Administration, State Land Office, has adopted the following Emergency Rule in accordance with The Administrative Procedure Act, R.S. 49:950 et seq., which Emergency Rule will be effective October 15, 2000 and remain in effect for 120 days or until finalized as a Rule, whichever comes first.

Emergency adoption is necessary because of a dispute between the state of Louisiana and Miami Corporation over the ownership of water bottoms and accretion areas generally between the North end of Wax Lake and the mouth of Little Wax Bayou. Miami Corporation has previously granted hunting leases to various parties in this area; and the state previously posted signs in this area evidencing the state's claims, leading some members of the public to assume that the area was open to unlimited hunting and other access, including the right to construct permanent hunting blinds in the area. Problems exist with enforcement of trespass laws in that portion of the Wax Land area claimed by Miami Corporation and the state during duck hunting season. Therefore, both Miami Corporation and the state, as adverse claimants, are united in their efforts to avoid any confrontation among armed hunters in this area, and deem it advisable to create a uniform set of rules for use of the area during the opening hunting season.

Emergency Rule

Effective October 15, 2000 and thereafter, the State Land Office adopts the following rules to govern use of the area of Wax Lake claimed by the state for hunting during the duration of the 2000-2001 waterfowl hunting season.

1. For purposes of these regulations, "Wax Lake Area" shall include lands and water bottoms within Sections 34, 35, 44, and 45, Township 16 South, Range 10 East, St. Mary Parish, said area generally lying between the north limit of Wax Lake and the mouth of Little Wax Bayou. The lands and water bottoms within the Wax Lake Area are subject to competing claims of the state and private landowners.

2. The use of marsh buggies within the Wax Lake Area is prohibited during the duration of the 2000-2001 waterfowl hunting season. Violations of these provisions shall result in a civil penalty of \$100.00 per violation, enforceable by duly authorized law enforcement agents, wildlife agents, and peace officers, including the Louisiana State Police, Louisiana Wildlife and Fisheries Agents,

Sheriffs and their deputies, Constables, and other such authorized agents and officers.

3. The use of airboats outside the channel of Wax Lake outlet is prohibited during the duration of the 2000-2001 waterfowl hunting season. Violations of these provisions shall result in a civil penalty of \$100.00 per violation, enforceable by duly authorized law enforcement agents, wildlife agents, and peace officers, including the Louisiana State Police, Louisiana Wildlife and Fisheries Agents, Sheriffs and their deputies, Constables, and other such authorized agents and officers.

4. Certain improvements have been placed on the area by parties claiming through private landowners. Pending resolution of the title disputes between the state and those landowners, those improvements may remain in place, and any new permanent improvements shall be spaced a minimum of 500 feet from any existing or newly constructed improvements. All blinds, stands, or other improvements placed on the lands or water bottoms for use in hunting shall be removed upon termination of the legal hunting seasons. Other than such temporary hunting blinds as may be constructed for personal use, no party shall construct any buildings, levees, dams, fences, or other structures or facilities on the lands or water bottoms within the Wax Lake Area, nor dredge or dig any additional canals, ditches, or ponds thereon or otherwise change or alter the premises in any manner.

5. No member of the public is allowed to "stake a claim" to any particular location within areas owned or claimed by the state of Louisiana for any purpose. Construction of permanent blinds shall not give such party any right to exclude others.

6. Challenges to the validity of this Declaration of Emergency shall be in conformity with the provisions of R.S. 49:953(B)(3).

Mark C. Drennen
Commissioner of Administration

0010#027

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment
Methodologies C Public Non-state Hospitals

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by the Administrative Procedure Act, R.S. 49:950 et seq. and pursuant to Title XIX of the Social Security Act. This Emergency Rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a Rule March 20, 1998, governing the disproportionate share payment methodologies for hospitals (*Louisiana Register*, Volume 24,

Number 3). This Rule was subsequently amended to include the definition of a teaching hospital as required by Act 19 of the 1998 Regular Session of the Louisiana Legislature (*Louisiana Register*, Volume 25, Number 5). The May 20, 1999 Rule was later amended to revise the qualifying criteria for small rural hospitals as required by Senate Concurrent Resolution Number 48 and Act 1068 of the 1999 Regular Session of the Louisiana Legislature (*Louisiana Register*, Volume 26, Number 3).

The Department adopted an Emergency Rule effective June 21, 1999 that established an additional disproportionate share hospital group for state fiscal year 1999 only, for large public non-state rural hospitals that had at least 25 percent Medicaid inpatient days utilization. These qualifying hospitals were allowed to certify uncompensated care expenditures as match and to receive the equivalent of Federal Financial Participation (FFP) in the same manner as small public non-state rural hospitals (*Louisiana Register*, Volume 25, Number 6).

Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature directs the Department of Health and Hospitals to provide uncompensated care payments for public hospitals which have notified DHH that they intend to downsize to 60 beds or less as of June 19, 2000. In compliance with Act 11, the Department has determined it is necessary to establish an additional disproportionate share hospital group for state fiscal year 2001 only, for public non-state hospitals with no more than 60 licensed beds as of July 1, 2000. These qualifying hospitals will be allowed to certify the state match and to receive the equivalent of Federal Financial Participation (FFP) in the same manner as small public non-state rural hospitals.

This action is necessary to enhance federal revenues. It is estimated that the expenditures necessary to implement this Rule will be \$1,750,000 in federal funds only for state fiscal year 2001. This Rule will not require the appropriation of any additional state general funds.

Emergency Rule

Effective October 21, 2000, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes an additional disproportionate share hospital group for state fiscal year 2001 only, for public non-state hospitals with no more than 60 licensed beds as of July 1, 2000. These qualifying hospitals are allowed to certify uncompensated care expenditures as match and to receive the equivalent of Federal Financial Participation (FFP) in the same manner as small public non-state rural hospitals. A public non-state hospital is a hospital that is owned by a local government; has no more than 60 licensed beds as of July 1, 2000; and is not included in section III.A, or B of the May 20, 1999 Rule. Qualifying hospitals must meet the qualifying criteria contained in section II.A, B, or C and E of the May 20, 1999 Rule. All other provisions contained in the May 20, 1999 Rule remain intact.

For state fiscal year 2001, disproportionate share payments to each qualifying public non state hospital are equal to that hospital's pro rata share of uncompensated costs for all hospitals meeting these criteria for the cost reporting period ended during the period April 1, 1999 through March 31, 2000 multiplied by the amount set for this pool. Payment will not exceed each qualifying hospital's actual uncompensated costs or the amount appropriated. If the cost

reporting period is not a full period (12 months), actual uncompensated cost data for the previous cost reporting period may be used on a pro rata basis to equate to a full year.

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

David W. Hood
Secretary

0010#069

DECLARATION OF EMERGENCY

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

Early Periodic Screening Diagnosis and
Treatment (EDPST)C Dental Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and it shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental services under the Medicaid Program. Reimbursement for these services is a flat fee established by the bureau minus the amount which any third-party coverage would pay. As a result of the budgetary shortfall, the bureau adopted a Rule to reduce the reimbursement fees for EPSDT dental services by 7 percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau has now determined it is necessary to restore the 7 percent reduction that was previously made to the reimbursement fees for EPSDT Dental services. In addition, the reimbursement fees for certain designated procedure codes will be increased.

This Emergency Rule is being adopted to continue the provisions contained in the July 1, 2000 Rule.

Emergency Rule

Effective for dates of service October 30, 2000, and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the 7 percent reduction that was previously made to the reimbursement fees for the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental services. In addition, the reimbursement fees for certain designated procedure codes will be increased to the following rates.

Procedure Code	Procedure Name	New Rate
02110	Amalgam-1 Surface Deciduous	\$ 35.00
02120	Amalgam-2 Surface Deciduous	\$ 45.00
02130	Amalgam-3 Surface Deciduous	\$ 55.00
02140	Amalgam-1 Surface Permanent	\$ 35.00
02150	Amalgam-2 Surface Permanent	\$ 45.00
02160	Amalgam-3 Surface Permanent	\$ 55.00
02930	Stainless Steel Crown-Primary	\$ 75.00
02931	Stainless Steel Crown-Permanent	\$ 75.00
02950	Crown Buildup	\$ 75.00
05211	Upper Acrylic Partial w/Clasp	\$355.00
05212	Lower Acrylic Partial w/Clasp	\$355.00
07110	Simple Extraction	\$ 35.00
07210	Surgical Extraction	\$ 50.00

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

David W. Hood
Secretary

0010#070

DECLARATION OF EMERGENCY

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

Home Health ProgramC Extended Skilled Nursing
Visits Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing adopts the following Emergency Rule in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. This Emergency Rule shall be in effect of the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for home health extended skilled nursing visits provided to medically fragile Medicaid recipients under the age of 21. Reimbursement is made at a prospective rate established by the bureau. As a result of a budgetary shortfall, the Bureau adopted a Rule to reduce the reimbursement rate for the first hour of the Home Health extended skilled nursing visit to \$20 (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau has now determined it is necessary to increase the reimbursement rate for the home health extended skilled nursing visit to \$24.50 per hour.

This Emergency Rule is being adopted to continue the provisions contained in the July 1, 2000 Rule.

Emergency Rule

Effective for dates of service October 30, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increase the reimbursement rate for home health extended skilled nursing visits to \$24.50 per hour.

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

David W. Hood
Secretary

0010#072

DECLARATION OF EMERGENCY

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

Medical Transportation Program
Emergency Ambulance Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and it shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for emergency ambulance transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third party coverage would pay. As a result of a budgetary shortfall, the Bureau adopted a Rule to reduce the reimbursement for emergency ambulance transportation services by 7 percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the Bureau has now determined it is necessary to restore the 7 percent reduction previously made to the reimbursement rates for emergency ambulance transportation services. In addition, the base rate for these services will be increased by 2 percent.

This Emergency Rule is being adopted to continue the provisions contained in the July 1, 2000 Rule.

Emergency Rule

Effective for dates of service October 30, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the 7 percent reduction previously made to the reimbursement rates for emergency ambulance transportation services. In addition, the base rate for these services is increased by 2 percent.

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

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

David W. Hood
Secretary

0010#071

DECLARATION OF EMERGENCY

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

Medical Transportation Program
Non-Emergency Ambulance Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for non-emergency ambulance transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third-party coverage would pay. As a result of a budgetary shortfall the bureau adopted a Rule to reduce the base rate for non-emergency ambulance transportation services to the rate that was in effect prior to July 1, 1999 (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the Bureau has now determined it is necessary to restore the base rate for non-emergency ambulance transportation services to the rate that was in effect July 1, 1999. In addition, the reimbursement fees for certain designated procedure codes will be increased.

This Emergency Rule is being adopted to continue the provisions contained in the July 1, 2000 Rule.

Emergency Rule

Effective for dates of service October 30, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the base rate for non-emergency ambulance transportation services to the rate that was in effect July 1, 1999. In addition, the reimbursement fees for certain designated procedure codes will be increased to the following rates:

A0360	Base rate, BLS, first trip	\$125.00
A0364	Base rate, no specialized ALS services, first trip	\$125.00
A0366	Base rate, Specialized ALS services, first trip	\$125.00
A0380	Loaded miles, BLS, first trip	\$ 4.32
A0390	Loaded miles, ALS, first trip	\$ 4.32
Z5100	Transfer, loaded miles, BLS, first trip	\$125.00
Z5101	Transfer, loaded miles, ALS, first trip	\$125.00
Z5102	Loaded miles, ALS or BLS, second trip	\$4.32

Z9497 Base rate, ALS or BLS, second trip \$125.00

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

David W. Hood
Secretary

0010#073

DECLARATION OF EMERGENCY

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

Professional Services Program Physician Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 49:950 et seq. and in accordance with the Administrative Procedure Act. This Emergency Rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing reimburses professional services in accordance with an established fee schedule for Physicians' Current Procedural Terminology (CPT) codes, locally assigned codes and Health Care Financing Administration Common Procedure Codes (HCPC) Reimbursement for these services is a flat fee established by the bureau minus the amount which any third-party coverage would pay. As a result of a budgetary shortfall, the bureau determined it was necessary to reduce the reimbursement paid to physicians for specific procedure codes by 7 percent (*Louisiana Register*, Volume 26, Number 2). Reimbursement was reduced for selected locally-assigned HCPCS and the following CPT procedure codes: surgery codes (10040-69979), medicine codes (90281-99199), evaluation and management codes (99201-99499), radiology codes (70010-79999) and pathology and laboratory codes (80048-89399).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau has now determined it is necessary to restore the seven percent reduction that was previously made to the reimbursement to physicians for specific procedure codes. In addition, the reimbursement fees for certain designated procedure codes will be increased.

This Emergency Rule is being adopted to continue the provisions contained in the July 1, 2000 Rule.

Emergency Rule

Effective for dates of service October 30, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restore the 7 percent reduction that was previously made to the reimbursement fees for selected locally-assigned HCPCS and the following CPT procedure codes: surgery codes (10040-69979), medicine codes (90281-99199), evaluation

and management codes (99201-99499), radiology codes (70010-79999) and pathology and laboratory codes (80048-89399). In addition, the reimbursement fees for certain designated procedure codes will be increased to the following rates:

Evaluation and Management

99212C \$30.13 99213C \$36.13 99214C \$41.13
99215C \$49.63 99283C \$35.23

Follow-up Prenatal Visit

Z9005C \$33.43 (03*) \$36.13 (09*)

* type of service

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

David W. Hood
Secretary

0010#074

DECLARATION OF EMERGENCY

**Department of Natural Resources
Office of Conservation**

Pollution Control Statewide
Order No. 29-B (LAC 43:XIX.129)

Pursuant to the power delegated under the laws of the state of Louisiana, and particularly Title 30 of the Revised Statutes of 1950, as amended, and in conformity with the provisions of the Louisiana Administrative Procedure Act, Title 49, Sections 953(B)(1) and (2), 954(B)(2), as amended, the following Emergency Rule and reasons therefor are now adopted and promulgated by the Commissioner of Conservation as being necessary to protect the public health, safety and welfare of the people of the State of Louisiana, as well as the environment generally, by continuing a procedure for testing E&P waste after receipt at a commercial facility and identifying acceptable storage, treatment and disposal methods for certain E&P wastes at commercial facilities.

Need and Purpose for Emergency Rule

Certain oil and gas exploration and production waste (E&P waste) is exempt from the hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA). This exemption is based on findings from a 1987-1988 Environmental Protection Agency (EPA) study and other studies that determined this type of waste does not pose a significant health or environmental threat when properly managed. The EPA, in its regulatory determination, found that these wastes are adequately regulated under existing federal and state programs.

Existing Louisiana state regulations governing the operations of commercial E&P waste disposal facilities (Statewide Order No. 29-B) require only very limited testing of the waste received for storage, treatment and disposal at each commercial facility. Such limited testing finds its basis in the above-mentioned national exemption for E&P waste

recognized by the EPA. However, public concern warranted the Commissioner of Conservation to issue a first Emergency Rule effective May 1, 1998 (May 1, 1998 Emergency Rule), the purpose of which was to gather technical data regarding the chemical and physical makeup of E&P waste disposed of at permitted commercial E&P waste disposal facilities within the state of Louisiana. The May 1, 1998 Emergency Rule had an effective term of 120 days. However, technical experts under contract with the Office of Conservation determined during the term of the May 1, 1998 Emergency Rule that sampling and testing should be extended for an additional 30 days for the purpose of receiving additional data in order to strengthen the validity of the inferred concentration distributions within the various E&P waste types. Therefore, a second Emergency Rule was issued on August 29, 1998, and effective through September 30, 1998.

The second Emergency Rule required continued comprehensive analytical testing of E&P waste at the site of generation together with verification testing at the commercial E&P waste disposal facility. During the terms of the first and second Emergency Rules, approximately 1,800 E&P waste testing batches were analyzed, with the raw data results being filed with the Office of Conservation. Technical experts under contract with the Office of Conservation, together with staff of the Office of Conservation, determined that the number of raw data sets of E&P waste types, along with other published analytical results of E&P waste testing, provided adequate numbers of validated test results of the various generic E&P waste types to reach statistically valid conclusions regarding the overall chemical and physical composition of each type of E&P waste.

Therefore, continued testing of E&P waste at the site of generation was unnecessarily redundant, and was discontinued. The third Emergency Rule adopted on October 1, 1998 required continued testing of each E&P waste shipment at the commercial disposal facility according to procedures described in Section D. Such continued testing was required to assure that E&P waste shipments received for disposal at commercial facilities were consistent with evolving E&P waste profiles.

A fourth Emergency Rule, adopted January 29, 1999, a fifth Emergency Rule, adopted May 29, 1999, a sixth Emergency Rule, adopted September 26, 1999, a seventh Emergency Rule, adopted January 24, 2000, and an eighth Emergency Rule, adopted May 23, 2000 provided requirements for continued testing of all E&P waste shipments received for disposal at commercial E&P waste disposal facilities, as well as identifying acceptable methods of storage, treatment and disposal of certain E&P waste types at such commercial facilities. However, since evaluation of data generated by Emergency Rules 1 and 2 has not been completed and a permanent rule has not been promulgated, it is necessary to adopt a ninth Emergency Rule, effective September 20, 2000, to continue the requirements of the fourth Emergency Rule.

Concurrent with implementation of this Emergency Rule, the Office of Conservation will continue development of a permanent rule for the management and disposal of E&P waste at commercial facilities within the state of Louisiana. Best E&P waste management practices, based on established

E&P waste profiles, will be incorporated into the permanent rule. Such permanent rule will also address specific storage, treatment and disposal options for the various categories of E&P waste.

Synopsis of Emergency Rule

1. E&P Waste Will Be Transported With Identification

Each load of E&P waste transported from the site of generation to a commercial facility for disposal will be accompanied by an Oilfield Waste Shipping Control Ticket (Form UIC-28) and presented to the operator before offloading. Copies of completed Form UIC-28 are required to be timely filed with the Office of Conservation.

Produced water, produced formation fresh water and other E&P waste fluids are exempt from certain provisions of the testing requirements provided they are:

- 1) transported in enclosed tank trucks, barges, or other enclosed containers,
- 2) stored in enclosed tanks at a commercial facility, and
- 3) disposed by deepwell injection. Such provision is reasonable because, provided the above conditions are met, exposure to the public and to the environment would be minimal.

2. Each Load of E&P Waste Will Be Tested At Commercial Facility

Before offloading at a commercial E&P waste disposal facility and in order to verify that the waste qualifies for the E&P category, each load of E&P waste shall be sampled for required parameters. Additionally, the presence and concentration of BTEX (benzene, toluene, ethyl benzene and xylene) compounds and hydrogen sulfide must be determined. Appropriate records of tests shall be kept at each commercial facility for review by the Office of Conservation.

3. Identification of Acceptable Storage, Treatment and Disposal Methods (Options) for E&P Waste

It is required that all offsite storage, treatment and disposal methods for E&P waste utilize approved technologies that are protective of public health and the environment. The fifth Emergency Rule required that injection in Class II wells, after storage in a closed system, shall be utilized for Waste Types 01 and 14. The remainder of the E&P waste types are currently under study to confirm acceptable storage, treatment and disposal methods. Any additional acceptable storage, treatment and disposal methods will be promulgated in the near future.

Reasons

Recognizing the potential advantages of a testing program that is fully protective of public health and the environment and that adequately characterizes such waste as to its potentially toxic constituents, and by the identification of acceptable storage, treatment and disposal methods for certain types of E&P waste, it has been determined that failure to establish such procedures and requirements in the form of an administrative rule may lead to the existence of an imminent peril to the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally.

Protection of the public and our environment therefore requires the Commissioner of Conservation to take immediate steps to assure that adequate testing is performed and acceptable storage, treatment and disposal methods for

certain types of E&P waste are employed at commercial facilities. The Emergency Rule, Amendment to Statewide Order No. 29-B (Emergency Rule) set forth hereinafter, is now adopted by the Office of Conservation.

Title 43

NATURAL RESOURCES

Part XIX. Office of ConservationC General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 1. General Provisions

§129. Pollution Control

A. - L. ...

M. Off-site Storage, Treatment and/or Disposal of E&P Waste Generated From Drilling and Production of Oil and Gas Wells

1. Definitions

*Commercial Facility*Ca legally permitted waste storage, treatment and/or disposal facility which receives, treats, reclaims, stores, or disposes of exploration and production waste for a fee or other consideration, and shall include the term "transfer station."

*Exploration and Production (E&P) Waste*Cdrilling fluids, produced water, and other waste associated with the exploration, development, or production of crude oil or natural gas and which is not regulated by the provisions of the Louisiana Hazardous Waste Regulations and the Louisiana Solid Waste Regulations. Such wastes include, but are not limited to, the following:

Waste Type	Waste Description
01	salt water (produced brine or produced water), except for salt water whose intended and actual use is in drilling, workover or completion fluids or in enhanced mineral recovery operations
02	oil-base drilling mud and cuttings
03	water-base drilling mud and cuttings
04	completion, workover and stimulation fluids
05	production pit sludges
06	production storage tank sludges
07	produced oily sands and solids
08	produced formation fresh water
09	rainwater from ring levees and pits at production and drilling facilities
10	washout water generated from the cleaning of containers that transport E&P waste and are not contaminated by hazardous waste or material
11	washout pit water and solids from oilfield related carriers that are not permitted to haul hazardous waste or material
12	natural gas plant processing (E&P) waste which is or may be commingled with produced formation water
13	waste from approved salvage oil operators who only receive oil (BS&W) from oil and gas leases
14	pipeline test water which does not meet discharge limitations established by the appropriate state agency, or pipeline pigging waste, i.e., waste fluids/solids generated from the cleaning of a pipeline
5	wastes from permitted commercial facilities
16	crude oil spill clean-up waste
50	salvageable hydrocarbons
99	other approved E&P waste

*NOW*Cexploration and production waste

M.2. - .5.i. ...

i. Receipt, Sampling and Testing of E&P Waste

ii. ...

iii. Testing Requirements

(a). Before offloading E&P waste at a commercial facility, including a transfer station, each load of E&P waste shall be sampled and analyzed by commercial facility personnel for the following:

(i). pH, electrical conductivity (EC-mmhos/cm) and chloride (Cl) content; and

(ii). the presence and concentration of BTEX (benzene, toluene, ethyl benzene, and xylene) compounds using an organic vapor monitor or other procedures sufficient to identify and quantify BTEX;

(iii). the sample temperature (degrees Fahrenheit) representing actual testing conditions of the sample obtained for BTEX analysis by methodology that will assure sufficient accuracy; and

(iv). the presence and concentration of hydrogen sulfide (H₂S) using a portable gas monitor.

(b). The commercial facility operator shall enter the pH, electrical conductivity, chloride (Cl) content, BTEX, BTEX sample temperature and hydrogen sulfide measurements on the manifest (Form UIC-28) which accompanies each load of E&P waste.

(c). Produced water, produced formation fresh water, and other E&P waste fluids are exempt from organic vapor monitoring measurement (BTEX), and the H₂S measurement in (a) above if the following conditions are met:

(i). if transported by the generator or transporter in enclosed tank trucks, barges, or other enclosed containers; and

(ii). if stored in an enclosed container at a commercial facility; and

(iii). if disposed by deep well injection.

(d). Records of these tests shall be kept on file at each commercial facility for a period of three years and be available for review by the Commissioner or his designated representative. Copies of completed Form UIC-28 shall be filed with the Office of Conservation as provided in §129.M.6.d.

M.5.i.iii. - 5.l. ...

m. It is required that all offsite storage, treatment and disposal methods for E&P waste utilize approved technologies that are protective of public health and the environment. The following chart includes acceptable and required storage, treatment and disposal methods for each type of E&P waste disposed of at commercial facilities within the state of Louisiana.

Waste Type	Required Storage, Treatment and Disposal Method(s)
01	Injection in Class II well utilizing a closed system
02	(reserved)
03	(reserved)
04	(reserved)
05	(reserved)
06	(reserved)
07	(reserved)
08	(reserved)
09	(reserved)
10	(reserved)
11	(reserved)
12	(reserved)

13	(reserved)
14	Pipeline test water - Injection in Class II well utilizing a closed system Pipeline pigging waste - (reserved)
15	(reserved)
16	(reserved)
50	Commercial salvage oil facility
99	(reserved)

M.6. - S. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), promulgated by the Department of Natural Resources, Office of Conservation, LR 6:307 (July 1980), amended LR 8:79 (February 1982), LR 9:337 (May 1983), LR 10:210 (March 1984), LR 12:26 (January 1986), LR 16:855 (October 1990), LR 17:382 (April 1991), LR 26:

Summary

The Emergency Rule adopted herein above evidences the finding of the Commissioner of Conservation that failure to adopt the above rules may lead to an imminent risk to public health, safety and welfare of the citizens of Louisiana, and that there is not time to provide adequate notice to interested parties. However, the Commissioner of Conservation notes again that a copy of the permanent Amendment to Statewide Order No. 29-B will be developed in the immediate future, with a public hearing to be held as per the requirements of the Administrative Procedure Act.

The Commissioner of Conservation concludes that the above Emergency Rule will better serve the purposes of the Office of Conservation as set forth in Title 30 of the Revised Statutes, and is consistent with legislative intent. The adoption of the above Emergency Rule meets all the requirements provided by Title 49 of the Louisiana Revised Statutes. The adoption of the above Emergency Rule is not intended to affect any other provisions, rules, orders, or regulations of the Office of Conservation, except to the extent specifically provided for in this Emergency Rule.

Within five days from date hereof, notice of the adoption of this Emergency Rule shall be given to all parties on the mailing list of the Office of Conservation by posting a copy of this Emergency Rule with reasons therefor to all such parties. This Emergency Rule with reasons therefor shall be published in full in the *Louisiana Register* as prescribed by law. Written notice has been given contemporaneously herewith notifying the governor of the state of Louisiana, the attorney general of the state of Louisiana, the speaker of the House of Representatives, the president of the Senate and the State Register of the adoption of this Emergency Rule and reasons for adoption.

Effective Date and Duration

1. The effective date for this Emergency Rule shall be September 20, 2000.

2. The Emergency Rule herein adopted as a part thereof, shall remain effective for a period of not less than 120 days hereafter, or until the adoption of the final version of an Amendment to Statewide Order No. 29-B as noted herein, whichever occurs first.

Signed at Baton Rouge, Louisiana, this 20th day of September, 2000.

Philip N. Asprodites
Commissioner of Conservation

0010#008

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Wrap-Around Child Care Program (LAC 67:III.Chapter 52)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to adopt the following Emergency Rule to continue the Wrap-Around Child Care Program effective September 29, 2000. This declaration is necessary to extend the original Emergency Rule of June 1, 2000 since it is effective for a maximum of 120 days and will expire before a final Rule takes effect. The agency intends to publish the Notice of Intent in November; it has been delayed while eligibility factors and other aspects of the program were being finalized.

The purpose of this program is to provide very low-income working families with quality, full-day/full-year child care services. This second Emergency Rule revises the first Emergency Rule, in that, it allows household members to be employed, or employed and attending a job training or educational program; it reduces the required work/activity hours from 30 hours to 20 hours per week; and it raises the poverty level for income limits from 100 percent to 130 percent. There are also nonsubstantive changes in some language. This Emergency Rule will remain in effect for a period of 120 days or until the final Rule takes effect.

Title 67

SOCIAL SERVICES

Subpart 12. Child Care Assistance

Chapter 52. Wrap-Around Child Care Program

§5201. Authority

A. The Wrap-Around Child Care Program is established effective June 1, 2000 and is administered under the authority of state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

§5202. Definitions

Head of Household - the individual who may apply for Wrap-Around Child Care services for a child who customarily resides more than half the time with him/her, that is, the child's parent or the adult with primary responsibility for the child's care and financial support if the child's parent is not living in the home or is living in the home but under age 18 and not emancipated by law.

*Household*Ca group of individuals who live together consisting of the head of household, the spouse of the head of household, and all children under the age of 18, including the minor unmarried parent of any dependent children who need child care services (unless the minor unmarried parent has been emancipated by law).

*Training and Employment Mandatory Participant*Ceach household member who is required to be employed, or in a combination of employment and attendance at a job training or educational program, including the head of household, spouse of head of household, and the minor unmarried parent of a child who needs Wrap-Around Child Care services.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

§5203. Conditions of Eligibility

A. A household must meet all of the following eligibility criteria:

1. all children receiving services must reside with their parent or adult head of household;
2. any child receiving Wrap-Around Child Care Program services must not be receiving assistance from the Family Independence Temporary Assistance Program (FITAP) or the Child Care Assistance Program (CCAP) to ensure that Wrap-Around services are not considered assistance according to 45 CFR 260.31 and that there will be no duplication of services;
3. the head of household, that person's spouse, or nonlegal spouse (if the parent of a child in the household), including any minor unmarried parent who is not legally emancipated and whose child(ren) are in need of Wrap-Around Child Care services, must be:
 - a. employed a minimum average of 20 hours per week and all countable work hours must be paid at the federal minimum hourly wage; or
 - b. engaged in a combination of employment, which is paid at least at the federal minimum hourly wage, and job training or an educational program, for a combined average of at least 20 hours per week;
4. each parent and/or adult household member must be working, or engaged in a combination of working and attending a job training or educational program, during the hours that child care is needed, that is, child care will only be provided during hours that parents and/or adult household members are actually at work, a job training, an educational program, or commuting to, or from, these activities;
5. the household must include at least one child with a need for Wrap-Around Child Care services defined as full-day/full-year child care, that is, full time (30 or more hours per week) or part-time (less than 30 hours per week) and holiday care provided in conjunction with part-time care during the school year, who is:
 - a. under age 13; or
 - b. age 13 to under age 18, with a physical, mental, or emotional disability rendering him incapable of caring for himself, as verified by a physician or licensed psychologist;
6. the child needing care must customarily reside more than half of the time with the head of household who is applying for child care services, ensuring that only one household can receive child care service for that child;

7. the head of household or another adult household member must be responsible for the payment of child care costs for a child who lives in the household. A need for child care services does not exist if child care costs will be paid by a third party who is not a household member. However, this will not apply if a third party, not legally obligated to make child care payments, is temporarily doing so until payments begin; and

8. there must be a current need for child care at the time of application.

B. The household must qualify under the income guidelines set forth in §5205, based on the following income sources:

1. gross earnings from all sources of employment and the profit from self-employment; and
2. any unearned income, such as child support, alimony, retirement and disability benefits, Social Security, SSI, unemployment compensation benefits, or veteran's benefits, that is received by any household member.

C. A slot must be available with the selected Head Start grantee.

D. The child in need of care must be either a citizen or a qualified alien. Program policy on qualified aliens is the same as policy defined in LAC 67:III.1223

E. The household must provide the information and verification necessary for determining eligibility and payment amount. Required verification includes:

1. proof of social security numbers for all household members;
2. birth or baptismal certificates for all children in need of care;
3. proof of all countable household income; and
4. proof of the hours of all employment.

F. Eligible cases may be assigned a certification period of up to 12 months.

G. The household is required to report any changes that could affect eligibility or payment amount within 10 days of the change. Failure to report a change that affects eligibility or payment amount may result in action to recover any ineligible payment.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

§5205. Income Limits

A. A household must have total countable income no greater than the monthly maximum amount for the appropriate household size as follows, based on 130 percent of poverty level:

Household Size	Monthly Maximum	Household Size	Monthly Maximum
		11	\$4049
2	\$1219	12	\$4364
3	\$1533	13	\$4679
4	\$1848	14	\$4994
5	\$2162	15	\$5309
6	\$2476	16	\$5624
7	\$2790	17	\$5939
8	\$3104	18	\$6254
9	\$3419	19	\$6569
10	\$3734	20	\$6884

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

§5207. Rights and Responsibilities

A. The head of the household applying for, or receiving, Wrap-Around Child Care services shall have certain rights and responsibilities.

1. Information provided by the household will not be released without written consent, except to agencies and officials as allowed by law (LAC 67:III.101-103).

2. The household is entitled to receive timely, written notification of action taken on applications or reported changes in household circumstances.

3. The head of household is responsible for reporting the following within 10 days of the change:

- a. termination of employment or attendance at a job training or educational program;
- b. reduction to less than an average of 20 hours per week of employment or a combination of employment and job training or educational program;
- c. an eligible child moves out of the home;
- d. household composition;
- e. earned and unearned income; and
- f. number of days or hours that a child is in care.

4. Any applicant or recipient who has been denied services under the program may appeal the denial by filing a written request within 10 days of receipt of the written notice of denial. The request must contain a copy of the notice of denial and must state the reason(s) the applicant believes services were wrongfully denied. Notice of denial is deemed received on the seventh calendar day after it is mailed to the applicant or recipient with correct postage paid at the address listed on his most recent application.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

§5209. Head Start Grantees

A. The agency will provide services to eligible individuals through contracts with some Head Start Program grantees for a designated number of slots. Available slots will be filled on a first-come, first-served basis.

B. The contracted Head Start grantee will establish a child care program that consists of full-day/full-year child care, that is, full time (30 or more hours per week) or part time (less than 30 hours per week) and holiday care provided in conjunction with part-time care during the school year.

C. The center shall maintain the following child/staff ratios:

- 1. 4:1 up to age 12 months;
- 2. 6:1 from age 12 months to age 24 months;
- 3. 8:1 from age 24 months to age 36 months;
- 4. 10:1 from age 36 months to age 60 months;
- 5. 16:1 from age 5 years to age 12 years;
- 6. children with disabilities will have a child/staff ratio sufficient to provide adequate care but under no circumstances shall the child/staff ratio exceed 16:1.

D. Each group/class shall consist of two staff members for the appropriate number of children. In mixed-age groups, the ratio and group size for the youngest child shall be used.

E. Each group/class shall be supervised by one teacher and one aide, or by two teachers. All teachers at each facility

must have at least a CDA (Child Development Associate credential) for the appropriate age of children.

F. The grantee shall ensure that procedures are in place to prevent, identify, and report suspected abuse or neglect of children as required by Children's Code Articles 601-610 and 45 CFR 1301.31.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

§5211. Payment

A. The Head Start grantee will be paid a weekly rate of \$85 per week (\$17 per day) per child for full-day, full-time child care.

B. The Head Start grantee will be paid \$2.12 per hour per child for part-time care.

C. The Head Start grantee will be paid \$2.12 per hour for up to a maximum of eight hours per child (\$17 per day) for allowable, holiday care provided in conjunction with part-time care during the school year.

D. Payment will not be made for a child who is absent from day care more than five days in a calendar month or for an extended closure by a provider of more than five consecutive days in a calendar month.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

J. Renea Austin-Duffin
Secretary

0010#009

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

2000 Commerical King Mackerel Season

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department, by the commission in its Resolution of May 4, 2000, to close the 2000 commercial king mackerel season in Louisiana state waters when he is informed that the designated portion of the commercial king mackerel quota for the Gulf of Mexico has been filled, or was projected to be filled, the secretary hereby declares:

Effective 12 p.m., August 26, 2000, the commercial fishery for king mackerel in Louisiana waters will close and remain closed through June 30, 2001. Nothing herein shall preclude the legal harvest of king mackerel by legally licensed recreational fishermen. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell king mackerel. Effective with the closure, no person shall possess king mackerel in excess of a daily bag limit. The prohibition on sale/purchase of king mackerel during the closure does

not apply to king mackerel that were harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor provided appropriate records in accordance with R.S. 56:306.5 and 56:306.6 are properly maintained.

The secretary has been notified by National Marine Fisheries Service that the commercial king mackerel season in Federal waters of the Gulf of Mexico will close at 12 p.m., August 26, 2000. Closing the season in state waters is

necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of this species in the long term.

James H. Jenkins, Jr.
Secretary

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