

Emergency Rules

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students
(TOPS) Eligibility (LAC 28:IV.703)

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).

This Emergency Rule is necessary to implement changes to the TOPS rule 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 this Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective January 10, 2001, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

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

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, Integrated Science
Algebra I	Algebra I, Parts I 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.a.iii. - 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 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 26:67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1998 (September 2000), LR 26:2268 (October 2000), LR 27:

Mark S. Riley
Assistant Executive Director

0102#005

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Community Supports and Services

Home and Community Based Services Waiver
Program Mentally Retarded/Developmentally Disabled
Waiver Request for Services Registry

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopts the following Emergency Rule under the Administrative Procedure Act, R.S. 49:950 et seq. The 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 governing the allocation of waiver slots, admission criteria and discharge criteria for the Mentally Retarded/Developmentally Disabled (MR/DD) Home and Community Based Services Waiver in June, 1997 (*Louisiana Register*, volume 23, number 6). The Rule was amended in March, 1998 to allow some slots allocated for the deinstitutionalization of Pinecrest and Hammond Developmental Centers residents to be alternatively used for the benefit of residents of private ICF/MR facilities (*Louisiana Register*, volume 24, number 3). The provisions governing the allocation of waiver slots contained in the March 20, 1998 Rule were subsequently amended by a Rule adopted to allow any slots vacated during the waiver year to be made available to residents leaving any publicly operated ICF-MR facility (*Louisiana Register*, volume 25, number 9). Certain slots for foster children in the custody of the Office of Community Services (OCS), and for the deinstitutionalization of residents of designated developmental centers or private ICF-MR facilities continued to be reserved under the September, 1999 Rule.

The department adopted a Rule to transfer responsibility for the MR/DD Waiver waiting list to the Bureau of Community Supports and Services and to set forth provisions for the orderly transition from regional waiting lists to a single statewide request for services registry to be maintained in the state office. The department also adopted policy specifying the point of entry for the MR/DD waiver

request for services registry and the criteria for inclusion on and removal from the registry (*Louisiana Register*, volume 26, number 11). Provisions contained in the previously cited Rules that are not related to the MR/DD waiver waiting list are not affected by adoption of this Emergency Rule. This Emergency Rule is being adopted to continue the provisions contained in the October 27, 2000 Rule.

Emergency Rule

Effective February 25, 2001, the Department of Health and Hospitals transfers responsibility for the waiting list for the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver to the Bureau of Community Supports and Services (BCSS). Regional MR/DD Waiver waiting lists shall be consolidated into a single statewide request for services registry arranged in order of the date and time of the initial request. Those persons on regional waiting lists prior to the date of the transfer of responsibility to BCSS shall be placed on the request for services registry in the order of the date and time on record when the candidate initially requested a slot in the waiver, subject to a subsequent determination that he/she meets the criteria for inclusion on the registry. When a candidate is listed on more than one regional waiting list, the earliest date and time on record shall be considered the initial request. Persons who wish to be added to the request for services registry shall contact a toll-free telephone number maintained by BCSS. In addition, the department adopts the following regulations regarding the request for services registry for the MR/DD Waiver.

I. Inclusion Criteria

A. Persons Currently on the Waiting List. Persons on the waiting list prior to October 27, 2000, shall be screened to determine whether they are legitimate candidates for waiver eligibility. Only persons found to meet the criteria for candidacy shall be placed on the request for services registry. However, if a waiver slot becomes available before the next person on the waiting list has been screened, that person shall be allowed to make application for the slot.

B. Entry to the Request for Services Registry. On or after October 27, 2000, persons who wish to be entered on the request for services registry shall be screened to determine whether they are legitimate candidates for waiver eligibility prior to their name being placed on the registry. Only persons who meet the criteria for candidacy shall be added to the registry for waiver services.

C. Waiver Candidacy. The candidate must provide documentation that there is a reasonable expectation that he/she meets the state's definition of being mentally retarded or developmentally disabled. In addition, the candidate must appear to meet the financial, disability, non-financial and ICF-MR level of care criteria for Medicaid eligibility according to his/her own statement or the statement of a responsible party.

II. Exclusion Criteria

A. Failure to Cooperate. Potential candidates who fail to provide requested documentation or otherwise fail to cooperate within a reasonable length of time shall be excluded from the registry. The potential candidate shall be informed of the time limits involved when the information is requested.

B. Insufficient Documentation of Disability. Documentation of the type and degree of disability must support the contention that the potential candidate meets the

state's definition of mentally retarded or developmentally disabled.

C. Ineligibility Determined during Pre-Screening. Persons who do not meet the eligibility criteria for an ICF-MR level of care according to their own statement on a pre-screening tool devised by BCSS shall be eliminated from the MR/DD waiver request for services registry.

D. Subsequent Determination of Ineligibility. BCSS may exercise its authority to eliminate a potential candidate from the registry when information provided about the potential candidate's situation indicates that he/she would not be eligible if he/she were to apply at the present point in time. For example, a candidate could not become eligible for a waiver slot if the candidate moved out of state with the intent to become a resident of that state, or was incarcerated and placed under the jurisdiction of the penal authorities, courts, or state juvenile authorities.

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and Services, Box 91030, Baton Rouge, LA 70821-9030. She 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

0102#073

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodologies for Large 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 R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, 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 directed the Department of Health and Hospitals to implement procedures to receive transfers of public funds from qualifying health care providers. The public funds would qualify as the state's matching share for the purpose of claiming federal financial participation (FFP). In compliance with Act 11, the department issued a public process notice announcing its intent to adopt an Emergency Rule to establish a supplemental payment to be issued to non-state public hospitals, which are not recognized by the department as a small rural hospital, for unreimbursed Medicaid costs incurred in providing care to Medicaid recipients. In order to facilitate the transfer of public funds from qualifying health care providers as directed in Act 11, the department determined it was necessary to establish an additional disproportionate share hospital group for state fiscal year 2001 only, for large public non-state hospitals which are not recognized as small rural hospitals. 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 being taken to enhance federal revenue.

It is estimated that the expenditures necessary to implement this proposed Emergency Rule will be approximately \$39,883,022 in federal funds only for state fiscal year 2001.

Emergency Rule

Effective February 1, 2001, 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 large public non-state hospitals which are not recognized as small rural hospitals. For those hospitals that previously received disproportionate share payments in accordance with the October 21, 2000 Emergency Rule, the sum of the disproportionate share payments to these hospitals shall not exceed the hospitals' uncompensated costs for the cost reporting period. 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. A large public non-state hospital is defined as any hospital owned by a parish, city or other local government agency or instrumentality; and not included in Section III.A or B of the May 20, 1999 Rule. A qualifying hospital may be a long-term hospital. Qualifying hospitals must meet the qualifying criteria contained in Section II.E and either Section II.A, B, or C of the May 20, 1999 Rule. Qualifying hospitals must maintain a log documenting the hospitals' provision of uninsured care as directed by the Department. All other provisions contained in the May 20, 1999 Rule remain intact. Issuance of the supplemental payment is contingent on the public non-state hospital entering into a cooperative endeavor agreement with the department to certify public funds as representing expenditures eligible for FFP.

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 uninsured patients only 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. If the department is required to prorate the Medicaid uncompensated costs supplemental payment to these hospitals for state fiscal year 2001, then the unpaid balance of the Medicaid uncompensated costs (as calculated according to the provisions of the December 21, 2000 Emergency Rule) shall be included in each hospital's uncompensated cost calculation. Payment will not exceed each qualifying hospital's actual uncompensated costs as defined above. 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 Ben A. Bearden, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0102#072

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 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 restored the 7 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 were 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 February 28, 2001 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 are 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*)
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* type of service

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

0102#074

DECLARATION OF EMERGENCY

**Department of Natural Resources
Office of Conservation**

Pollution ControlCStatewide Order No. 29-B
(LAC 43:XIX.501 and 503)

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, an eighth

Emergency Rule, adopted May 23, 2000, and a ninth Emergency Rule, adopted September 20, 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 tenth Emergency Rule, effective January 18, 2001, to continue the requirements of the ninth 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. Therefore, this Emergency Rule requires 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 5. Off-Site Storage, Treatment and/or disposal of Nonhazardous Oilfield Waste Generated from Drilling and Production of Oil and Gas Wells

§501. Definitions

*Commercial Facility*C a 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*C drilling 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
15	wastes from permitted commercial facilities
16	crude oil spill clean-up waste
50	salvageable hydrocarbons
99	other approved E&P waste

* * *

*NOW*Exploration and production waste

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), LR 27:

§509. Criteria for the Operation of Commercial Facilities and Transfer Stations

A. - H.3. ...

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

1. ...

2. 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:

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

b. 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;

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

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

3. ...

4. 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.

5. 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:

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

b. if stored in an enclosed container at a commercial facility; and

c. if disposed by deep well injection.

6. 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.

J. - 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)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2817 (December 2000), LR 27:

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 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 January 18, 2001.

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 eighteenth day of January, 2001.

Philip N. Asprodites
Commissioner of Conservation

0102#009

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

**Income Deductions and Resource Limits
(LAC 67:III.1983)**

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following change to Title 67, Part III, Subpart 3, Food Stamps, effective March 1, 2001. This Emergency Rule shall remain in effect for a period of 120 days.

Pursuant to a revision at 7 CFR 273 of the United States Department of Agriculture, Food and Nutrition Service, which was adopted in Public Law 106-387, the Agriculture Appropriations Act, there shall be an increase for certain households in the maximum allowable amount of the excess shelter expense deduction effective March 1, 2001. This change in the shelter cap is federally mandated and would result in sanctions or penalties if not implemented by this date.

**Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 3. Food Stamps
Chapter 19. Certification of Eligible Households
Subchapter I. Income and Deductions
§1983. Income Deductions and Resource Limits**

A. In determining eligibility and benefit levels, the household is allowed deductions for certain costs.

1. ...

2. The maximum shelter deduction is \$300 for households which do not include a member who is elderly or disabled. Effective March 1, 2001, a maximum shelter deduction of \$340 shall be allowed at certification, recertification, or at the time of other case action. For fiscal year 2002 and each subsequent fiscal year, the maximum shelter deduction will be computed based on the amount for the preceding fiscal year, adjusted to reflect changes in the

Consumer Price Index for All Urban Consumers for the 12-month period ending the preceding November 30.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.9 (d)(2) and (d)(6), P.L. 104-193, P.L. 106-387.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:285 (May 1986), amended LR 12:423 (July 1986), LR 12:824 (December 1986), LR 13:181 (March 1987), LR 14:684 (October 1988), LR 15:14 (January 1989), amended by the Department of Social Services, Office of Family Support, LR 19:303 (March 1993), LR 19:905 (July 1993), LR 20:780 (July 1994), LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 23:82 (January 1997), LR 27:

J. Renea Austin-Duffin
Secretary

0102#034

DECLARATION OF EMERGENCY

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

Boating Traffic CSt. Martin-Lafayette
Fish and Game Preserve
(LAC 76:III.333)

In accordance with the emergency provisions of the Administrative Procedure Act, the Wildlife and Fisheries Commission and the Department of Wildlife and Fisheries do hereby close a portion of Lake Martin, St. Martin Parish, to all boating traffic, both motorized and non-motorized.

The closed zone encompasses one of the largest and most significant bird rookeries in not only the state, but also the U.S.; and is both a natural treasure, as well as a significant eco-tourism attraction and economic asset to the local area and the state as a whole. Continued boating traffic through the rookery is extremely disruptive to the rookery and could even lead to its relocation or demise, which would pose an imminent peril to this natural and economic asset, and to those citizens who value it. Therefore this closure is necessary on an emergency basis, particularly in light of the fact that the nesting birds will begin returning to the rookery during the month of February.

This Declaration of Emergency will become effective on February 15, 2001 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule.

**Title 76
WILDLIFE AND FISHERIES
Part III. State Game and Fish Preserves and Sanctuaries
Chapter 3. Particular Game and Fish Preserves and Commissions**

§333. St. Martin-Lafayette Fish and Game Preserve

A. That portion of the St. Martin-Lafayette Fish and Game Preserve, particularly the following described portion of Lake Martin, St. Martin Parish is hereby closed to all boating traffic, both motorized and non-motorized, said closure to remain in effect each year from February 15 through July 31 inclusive. The closed zone is described as follows. All that certain property containing 131.94 acres more or less located in Section 31, Township 9 South, Range 6 East and Section 6, Township 10 South, Range 6 East, St. Martin Parish, Louisiana described as follows. Beginning at

a point on the lake's edge located N 1 degree 59 minutes E a distance of 330 ft from a 4" x 4" concrete post, the post having State Plane Coordinates Louisiana South of X=1819303.09 ft, Y=561651.02 ft; thence N 1 degree 59 minutes E as distance of 1100 ft; thence S 88 degrees 1 minute E a distance of 2320 ft; thence S 36 degrees 54 minutes 58 seconds E a distance of 500 ft; thence S 1 degree 59 minutes W a distance of 2350 ft; thence N 88 degrees 1 minute W a distance of 660 ft; thence S 1 degree 59 minutes W a distance of 1320 ft; thence N 88 degrees 1 minute W a distance of 660 ft; thence N 1 degree 59 minutes E a distance of 2970 ft; thence N 88 degrees 1 minute W a distance of 1320 ft to the point of beginning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:610C and R.S. 56:1861 et seq.

HISTORICAL NOTE: Promulgated by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 27:

Dr. H. Jerry Stone
Chairman

James H. Jenkins, Jr.
Secretary

0102#027

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Offshore Shrimp Season Closure

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close the state's offshore waters to shrimping, the Wildlife and Fisheries Commission hereby orders a closure to shrimping in that portion of the state's territorial waters, south of the

Inside/Outside Shrimp Line as described in R.S. 56:495, from the eastern shore of Freshwater Bayou to the U.S. Coast Guard navigational light off the northwest shore of Caillou Boca at latitude 29E 03' 10" N and longitude 90E 50' 27" W. This closure is effective at 6 a.m., Monday, February 5, 2001. The commission also hereby orders that that portion of the state's territorial waters, south of the Inside/Outside Shrimp Line as described in R.S. 56:495, from the U.S. Coast Guard navigational light off the northwest shore of Caillou Boca at latitude 29E 03' 10" N and longitude 90E 50' 27" W to the Atchafalaya River Ship Channel at Eugene Island as delineated by the Channel Buoy Line, shall reopen to shrimping at 6 a.m. on Monday, April 16, 2001.

R.S. 56:498 provides that the minimum legal count on white shrimp is 100 (whole shrimp) count per pound after the third Monday in December. Current biological sampling conducted by the Department of Wildlife and Fisheries has indicated that white shrimp in this portion of the state's outside waters do not average 100 count minimum legal size and additional small white shrimp are expected to recruit to these waters. This action is being taken to protect these small white shrimp and allow them the opportunity to grow to a more valuable size.

The Wildlife and Fisheries Commission authorizes the secretary of the Department of Wildlife and Fisheries to close to shrimping, if necessary to protect small white shrimp, any part of the remaining territorial waters, if biological and technical data indicates the need to do so, and to reopen any area closed to shrimping when the closure is no longer necessary; and hereby authorizes the secretary of the Department of Wildlife and Fisheries to open special seasons for the harvest of white shrimp in any portion of the state's inshore waters where such a season would not detrimentally impact small brown shrimp.

Dr. H. Jerry Stone
Chairman

0102#028