

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Registration of Livestock Pharmaceuticals
(LAC 7:XXIII.101, 103, 111, 115, and 117)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule for the implementation of regulations governing the registration of pharmaceuticals administered to livestock in accordance with R.S. 3:3(B) and R.S. 3:3202(A) and the emergency rules provisions R.S. 49:953(B), of the Administrative Procedure Act.

The Louisiana Legislature, by Act 33 of the 2000 Regular Session, enacted R.S. 47:301(16)(f) to remove pharmaceuticals administered to livestock from the definition of "tangible personal property." The purpose of the legislation is to exclude pharmaceuticals administered to livestock from sales and use taxes in Louisiana. In Act 33, the Legislature required such pharmaceuticals to be registered with the Louisiana Department of Agriculture and Forestry. A question has been raised as to whether pharmaceuticals administered to livestock must be registered with the Department of Agriculture and Forestry before the sales and use tax exemption is available to the purchasers of such pharmaceuticals. Since purchasers of pharmaceuticals administered to livestock will save approximately \$200,000 a year in state and local sales taxes under the exclusion. The immediate implementation of this exclusion is an economic necessity to the producers of livestock in Louisiana.

Louisiana's livestock industry is currently suffering severe financial distress as a result of the four-year drought that this state is experiencing. The continued imposition of a tax on pharmaceuticals administered to livestock is a burden on Louisiana's livestock industry that directly affects the profitability of the livestock industry; which profitability is necessary to the continuation of the livestock industry in Louisiana. The livestock industry in Louisiana is a vital part of Louisiana's economic base. Therefore, financial deterioration and subsequent failures in the livestock industry pose an imminent peril to the welfare of the citizens of Louisiana. The Commissioner of Agriculture and Forestry has, therefore, determined that these emergency rules are necessary in order to immediately implement registration of pharmaceuticals administered to livestock so that livestock producers may take immediate advantage of the sales and use tax exclusion.

These rules become effective upon signature and will remain in effect 120 days, unless renewed by the Commissioner of Agriculture and Forestry or until permanent rules are promulgated in accordance with law.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

Subchapter A. Authority

§101. Authority

A. Under the authority of the Louisiana Pesticide Law, R.S. 3:3201, et seq., and in accordance with the provisions in R.S. 49:950, et seq., the Commissioner of Agriculture and Forestry adopts the following regulations.

B. The Commissioner of Agriculture and Forestry, in accordance with R.S. 3:3203(E) has determined that pharmaceuticals administered to livestock used for agriculture purposes are pesticides. Pharmaceuticals administered to livestock used for agricultural purposes shall be registered with the department in accordance with the Louisiana Pesticide Law and the rules and regulations found in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended by Department of Agriculture and Forestry, Office of the Commissioner LR 27:

Subchapter B. Definitions

§103. Definitions

* * *

Livestock Used for Agricultural Purposes Any animal bred, kept, maintained, raised or used for profit or for the purpose of selling or otherwise producing crops, animals, or plant or animal products for market. This definition includes cattle, buffalo, bison, oxen and other bovine; horses, mules, donkeys, and other equine; sheep; goats; swine; domestic rabbits; fish, pet turtles and other animals identified with aquaculture which are located in artificial reservoirs or enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; imported exotic deer and antelope, elk, farm-raised white-tailed deer, farm-raised ratites and other farm-raised exotic animals; chickens, turkeys and other poultry; any animals placed under the jurisdiction of the commissioner or the department; and any hybrid, mixture or mutation of any type of animal if used for an agricultural purpose. However, dogs and cats shall not be considered livestock under these regulations.

* * *

Pharmaceuticals Any substance intended for use in the diagnosis, cure, mitigation, treatment or prevention of plant or animal pests, diseases, viruses, bacteria or other microorganisms in or on livestock and any substance other than food intended to affect the structure or any function of the body of any livestock.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3202 and 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), amended by Department of Agriculture and Forestry, Office of the Commissioner, LR 27:

Subchapter D. Registration of Pesticides

§111. Registration Required

A. No pesticide, including pharmaceuticals administered to livestock used for agricultural purposes, shall be sold, offered for sale, or distributed in this state without being registered by the manufacturer annually with the department. This registration shall expire on December 31 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3221.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended by Department of Agriculture and Forestry, Office of the Commissioner, LR 27:

§115. Standard Registrations

A. - 1.c.i. ...

ii. the percentage of the active ingredients in the pesticide unless the proportion of the active ingredients are expressed in international units, or some other form of scientifically recognized and accepted measurement; in which case the proportion of active ingredients may be reported in that manner;

iii. the percentage of the inert ingredients in the pesticide unless the proportion of the active ingredients in the pesticide are expressed in international units, or some other form of scientifically recognized and accepted measurement; in which case the proportion of inert ingredients may be reported in that manner;

iv. - d. ...

e. the method for laboratory analysis if the pesticide is a pharmaceutical administered to livestock used for agricultural purposes;

f. such other information as the commissioner may require.

A.2. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3221.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), LR 23:192 (February 1997), LR 23:853 (July 1997), amended by Department of Agriculture and Forestry, Office of the Commissioner, LR 27:

§117. Special Registrations

1 - 3.iii. ...

d. Pharmaceuticals in Custom Blended Feed(s) Exemption. It shall not be necessary to register a feed as a pesticide that contains a pharmaceutical ingredient if the following conditions are met:

i. the feed blend is prepared to the order of the customer and is not held in inventory by the blender;

ii. the blend is to be used on the customer's property or fed to the customer's livestock;

iii. the pharmaceutical(s) used in the blend bears end-use labeling directions that do not prohibit use of the product in such a blend;

iv. the blend is prepared from a pharmaceutical registered with the department;

v. the blend is delivered to the end-user along with a copy of the end-use labeling of each pharmaceutical used in the blend and a statement specifying the composition of mixture.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3221.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), amended by Department of Agriculture and Forestry, Office of the Commissioner, LR 27:

Bob Odom
Commissioner

0105#009

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Pesticide Restrictions (LAC 7:XXIII.143)

In accordance with the Administrative Procedure Act R.S. 49:953(B) and R.S. 3:3203(A), the Commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in adopting the following rules for the implementation of regulations governing the application of certain pesticides in certain parishes.

The Department of Agriculture and Forestry, Advisory Commission is amending these rules and regulations for the purpose of adding certain Wards in Pointe Coupee, St. Landry, St. Martin, Iberville, and West Baton Rouge parishes through the emergency process due to the planting of cotton in these wards. The application of certain pesticides by commercial applicators between March 15 and September 15 in those named parishes as well as other parishes, should be prohibited. The application of certain pesticides poses a threat to Louisiana cotton growers in these Parishes and Wards. Even though the pesticides will not be applied to the cotton itself, but to the surrounding areas, the cotton is in a very delicate stage and if there is any drift from the application of these pesticides it will irreparably damage the cotton that has already been planted causing the Louisiana cotton growers to lose potential production from their crops and greatly effecting the Louisiana cotton industry.

The Department has therefore, determined that these emergency rules are necessary in order to restrict the commercial application of certain pesticides so that certain pesticides do not do irreparable damage to the seasons cotton crop. This rule becomes effective upon signature and will remain in effect 120 days.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Advisory Commission on Pesticides

Chapter 1. Advisory Commission on Pesticides

Subchapter I. Regulations Governing Applications of Pesticides.

§143. Restrictions on Application of Certain Pesticides

A. - B.17. ...

C. The pesticides listed in 143.B shall not be applied by commercial applicators between March 15 and September 15 in the following parishes or wards:

- | | |
|----------------------------------|---|
| 1. Avoyelles | 16. Morehouse |
| 2. Bossier | 17. Natchitoches |
| 3. Caddo | 18. Ouachita |
| 4. Caldwell | 19. Pointe Coupee |
| 5. Catahoula | 20. Rapides |
| 6. Claiborne, Ward 4 | 21. Red River |
| 7. Concordia | 22. Richland |
| 8. DeSoto, Ward 7 | 23. St. Landry |
| 9. East Carroll | 24. St. Martin, Ward 5 |
| 10. Evangeline, Wards 1, 3 and 5 | 25. Tensas |
| 11. Franklin | 26. Union |
| 12. Grant | 27. West Carroll |
| 13. Iberville Ward 9 | 28. West Baton Rouge, Wards 5, 6, and 7 |
| 14. LaSalle | 29. Winn, Ward 7 |

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 19:791 (September 1993), LR 21:668 (July 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 27:

Bob Odom
Commissioner

0105#008

DECLARATION OF EMERGENCY

**Department of Economic Development
Office of the Secretary**

**Capital Companies Tax Credit Program
(LAC 13:XV.320)**

The Department of Economic Development, Office of the Secretary, pursuant to the emergency provision of the Administrative Procedure Act, R.S. 49:9536(B), adopts the following amendment to the rules of the Capital Companies Tax Credit Program as authorized by R.S. 51:1935. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., shall become effective April 20, 2001 and shall remain in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Economic Development, Office of the Secretary has found an immediate need to provide financial assistance to certified Louisiana capital companies whose

primary investment objectives include investing in certified disadvantaged businesses or business ventures operating in economically distressed areas. Although the law provided for establishment of the investment funds discussed herein no funding has been made in over two years. Without these Emergency Rules the public welfare may be harmed as a result of the failure to provide funding to certified Louisiana capital companies whose primary investment objectives include investing in certified disadvantaged businesses or business ventures operating in economically distressed areas, which have resulted disruption resulting in the loss of industry and jobs in the disadvantaged communities of this State.

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES, AND UCC**

Part XV. Other Regulated Entities

Chapter 3. Capital Companies Tax Credit Program

§320. Investment in Approved Funds

A. Any certified Louisiana capital company that has capital certified pursuant to R.S. 51:1931 for the calendar year 1999 or any year thereafter, and which qualifies for credits pursuant to R.S. 22:1068(E) shall invest an amount, as determined by the Secretary, into the following investments:

1. fifty percent of the amount determined by the Secretary shall be invested in one or more capital management funds as approved by the Secretary whose primary investment objectives include pre-seed, seed, and early stage business ventures, and whose investment in any such business and its affiliates is limited to one million dollars or less. Investments made by such funds must give special emphasis to the Targeted Technology Clusters identified in Vision 2020 Master Plan For Economic Development as adopted by the Louisiana Economic Development Council; and

2. fifty percent of the amount determined by the Secretary shall be invested equally in any certified Louisiana capital company whose primary investment objectives include investing in the following three categories:

- a. certified disadvantaged businesses;
- b. business ventures operating in economically distressed areas; or
- c. Louisiana businesses and affiliates in an amount not exceeding one million dollars.

B. The amount to be invested by each certified Louisiana capital company pursuant to subsection A shall be determined annually by the secretary beginning January 1, 2000. Such amount shall not exceed 10 percent of all capital certified by such certified Louisiana capital company in the previous calendar year that are eligible for credits pursuant to R.S. 22:1068(E). The amount to be invested pursuant to subsection A shall be invested within 120 days from the end of the calendar year in which the capital is certified or 120 days from the date the secretary determines the amount to be invested, whichever is later. If certified capital is paid in pursuant to a debt instrument in accordance with the provisions of R.S. 22:1068(E)(1)(a) and LAC 13:XV.303. *Investment(a)(iii)*, the investment required to be made by this section may be made at the rate of 10 percent of actual cash received each year.

C. The capital management fund referred to in Paragraph A.1 shall be managed by a qualified individual or individuals or entity that is managed by a qualified individual or individuals and governed by a board consisting of one representative from each certified Louisiana capital company that has invested in the management fund as required by this section and the secretary or his designee, who shall act in an advisory capacity only, with the right to attend meetings but with no voting privileges. The governing board of the capital management fund will develop policies for the administration and operation of the capital management fund. Certified Louisiana capital companies investing in such capital management fund, shall share in the profits and losses of such fund in accordance with the documents providing for the creation and organization of the fund. The fund shall submit reports to the secretary, semi-annually. The report shall include information on all investments made by the fund and a copy of the most recent financial statements of the fund and shall be submitted on a form provided by the secretary.

D. Any entities receiving funds pursuant to Paragraph A.1 or A.2 shall comply with all requirements of R.S. 51:1921 et seq. (Chapter 26 of Title 51 of the Louisiana Revised Statutes) and with this Chapter with respect to such funds received as if those funds were certified capital as defined in R.S. 51:1923(1) with the exception that:

1. such funds shall earn no additional tax credits;
2. for purposes of R.S. 51:1926(A)(1), fifty percent must be invested in qualified investments and for purposes of R.S. 51:1926(A)(2), eighty percent must be invested in qualified investments; and
3. One hundred percent of such funds shall be invested in qualified investments within eight years.

E. Amounts invested pursuant to Subsection A.2 shall be invested directly into a certified Louisiana capital company. Investments directly into a business shall not qualify as an investment pursuant to Paragraph A.2.

F. With respect to capital raised and certified pursuant to R.S. 22:1068(E) during the calendar year 1999 only, if a certified Louisiana capital company demonstrates to the secretary that investments made from 1999 certified capital were made or committed prior to December 1, 2000, were made with the understanding that they would qualify under §1935 and were made in accordance with the terms of a previous agreement entered into by the secretary, such investments will be deemed to qualify pursuant to this section.

G. If a certified Louisiana capital company which is required to invest funds by this section is also a certified Louisiana capital company described in Subparagraph A.1.b above, it shall not be required to reinvest part of its certified capital into another certified Louisiana capital company pursuant to the requirements of Subparagraph A.1.b; however, it must still make the investment required by Subparagraph A.1.a.

H. Any certified Louisiana capital company may request a determination from the secretary that it is a certified Louisiana capital company described in Subsection A.2. A request for a determination shall be addressed to the

secretary and shall include a copy of the certified Louisiana capital company's:

1. articles of organization;
2. by-laws;
3. investment policy; and
4. any disclosure statement distributed to prospective investors. If any of those documents have been amended from its original form, a copy of both the original and amended documents must be provided. The secretary may request any additional information that he deems necessary to make a determination.

I. Failure to comply with this section shall result in the following consequences.

1. In the event any certified Louisiana capital company subject to the provisions of Subsection A, fails to comply with the requirements of this section, the certified Louisiana capital company shall be subject to involuntary decertification of its capital in an amount equal to the amount of funds required to be invested pursuant to this section. Such involuntary decertification shall result in the disallowance and recapture of any tax credits related to such capital.

2. If any entity that receives funds pursuant to Subsections A.1 or A.2 fails to comply with the provisions of this section regarding the investment of such funds, the secretary shall have the authority to specifically direct how such funds shall be invested, including the authority to name a specific business and amount for an investment. If the entity fails to comply with such directive, the entity shall remit such funds to the secretary for investment. The entity shall retain ownership of any funds and investments made with such funds.

J. For purposes of this section only, the following terms shall have the meaning provided in this subsection.

*Business Ventures Operating in Economically Distressed Areas*Ca business whose principal place of business is located in a Census Block Group designated by the Department of Economic Development as an Enterprise Zone pursuant to R.S. 51:1784(A) and (B) and not considering any designation pursuant R.S. 51:1785(B).

*Certified Disadvantaged Businesses*Cshall include any business which has received certification as such from any federal, state or local government agency or has been certified as a Small and Emerging Business by the division of small and emerging business development in the Department of Economic Development.

*Early Stage Business Venture*Cshall include and enterprise that has high growth potential, minimal revenues or minimal profits.

*Pre-Seed*Cshall include an enterprise that conducts research and development to demonstrate proof of concept, files for initial patents and plans the enterprise for at least the two rounds of financing subsequent to initial investment in the enterprise.

*Seed*Cshall include an enterprise that is completing its initial product research and development, building a prototype, completing market research, hiring the initial management team members and formulating a strategy to achieve very high growth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1935.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 27:

Don J. Hutchinson
Secretary

0105#003

DECLARATION OF EMERGENCY

Department of Economic Development Racing Commission

Licenses Necessary for Entry (LAC 46:I.1105)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following Emergency Rule effective April 18, 2001, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to amend this rule to provide for an age limitation for possessing an owner's license, and related requirements.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Horseracing Occupations

Chapter 11. Owners

§1105. Licenses Necessary for Entry

A. Before a horse may be entered, its owner or owners must secure the appropriate licenses from the commission, unless permission is granted by the stewards.

B. The minimum age for an owner's applicant is 16 years old. However, for every applicant under the age of 18 years old, the owner's license application shall be submitted with a notarized affidavit from his or her parent or legal guardian stating that the parent or legal guardian assumes responsibility for the minor licensee's financial, contractual and other obligations relating to the applicant's participation in racing. Further, the applicant's parent or legal guardian must be eligible and present for eligibility for licensing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:150.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, amended by the Department of Commerce, Racing Commission, LR 2:429 (December 1976), repromulgated LR 3:25 (January 1977), LR 4:274 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 27:

Charles A. Gardiner III
Executive Director

0105#011

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS)
Scholarship/Grant Programs
(LAC 28:IV.703, 803, 903, 1103, 2113, and 2303)

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 Scholarship/Grant programs (R.S. 17:3021-3026, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

The emergency rules are necessary to implement changes to the Scholarship/Grant programs 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 April 5, 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. ...

1. Be a U. S. citizen, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within 60 days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U. S. citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will be suspended until such time as proof of citizenship is provided.

A.2. - A.5.c. ...

d.i. successfully complete at the twelfth grade level a home study program approved by BESE; or

ii. if ever was enrolled in a Louisiana public or nonpublic school approved by BESE, successfully completed at least the eleventh and twelfth grade levels of a home study program approved by BESE; and

iii. if having previously attended a Louisiana public high school, a Louisiana nonpublic high school, or an approved non-Louisiana high school, has provided LASFAC with certification by the previously attended high school that said student was in good standing at the time the student last attended such school; and

A.6. - 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 26:67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1998 (August 2000), LR 26:1996, (September 2000), LR 26:2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. ...

1. Be a U. S. citizen, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within sixty (60) days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U. S. citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will be suspended until such time as proof of citizenship is provided.

A.2. - 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 25:1795 (October 1999), LR 26:67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:

Chapter 9. TOPS-Teacher Award

§903. Establishing Eligibility

A. ...

1. Be a U.S. citizen, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within 60 days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such

citizenship within one year after the date of the application for citizenship. Those students who are eligible for U. S. citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will be suspended until such time as proof of citizenship is provided.

A.2. - 9. ...

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 24:637 (April 1998), amended LR 24:1906 (October 1998), LR 26:68 (January 2000), LR 26:2269 (October 2000), LR 27:284 (March 2001), LR 27:.

Chapter 11. Rockefeller State Wildlife Scholarship

§1103. Establishing Eligibility

To establish eligibility, the student applicant must meet all of the following criteria:

1. be a U.S. citizen or national or eligible noncitizen; and

2. ...

3. submit the completed Free Application for Federal Student Aid (FAFSA) or the Renewal FAFSA, whichever is applicable to the student, by final deadline set forth in §503.B.; and

4. - 9.b. ...

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 24:639 (April 1998), amended LR 24:1908 (October 1998), LR 27:

Chapter 21. Miscellaneous Provisions and Exceptions

§2113. Revision of the Core Curricula

A. LASFAC shall continually consult with BESE and the Louisiana Board of Regents to evaluate the adequacy of the TOPS core curricula to prepare students for postsecondary studies. Upon receipt of a written recommendation to change the core curriculum from BESE or the Louisiana Board of Regents, and to which the other board has concurred, LASFAC shall seek legislative amendment to effect the recommendation.

B. LASFAC is authorized by law to determine a high school level course to be equivalent to a course described in the core curricula or to authorize the name change of a core curricula course. Prior to initiating rule making to authorize a name change, LASFAC must seek the recommendation of BESE and the Louisiana Board of Regents. The determination of a course as equivalent to a course included in the definition of core curriculum shall be limited to those courses identified in the Secondary Programs of Study contained in the Louisiana Handbook for School Administrators (LDE Bulletin 741). Only those recommendations for a name change or for the designation of an equivalent course which have been submitted by a local school board or other equivalent education agency for private schools will be considered by LASFAC and such recommendations shall be submitted directly to the Office of Student Financial Assistance, Attention: Scholarship and Grant Division.

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 27:

Chapter 23. Tuition Payment Program for Medical School Students

§2303. Establishing Eligibility

A. ...

1. be a U.S. Citizen; and

2. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999) LR 25:2177 (November 1999), LR 26:2754 (December 2000), LR 27:

Mark S. Riley
Assistant Executive Director

0105#007

DECLARATION OF EMERGENCY

Tuition Trust Authority Office of Student Financial Assistance

Student Tuition and Revenue Trust
(START Saving) Program
(LAC 28:VI. 315)

Editor's Note: This Emergency Rule which appeared on page 507 of the April 20, 2001 *Louisiana Register*, is being republished to correct an error in the department listing.

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.

This Emergency Rule is necessary to allow the Louisiana Office of Student Financial Assistance to effectively administer this program. 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 Rules is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective March 9, 2001, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28 EDUCATION

Part VI. Student Financial AssistanceC Higher Education Savings

Chapter 3. Education Savings Account

§315. Miscellaneous Provisions

A.- C.2. ...

3. For the year ending December 31, 2000, the Louisiana Education Tuition and Savings Fund earned an interest rate of 6.51 percent.

4. For the year ending December 31, 2000, the Tuition Assistance Grant (TAGS) Fund earned an interest rate of 6.83 percent.

D. - R. ...

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 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:

Mark S. Riley
Assistant Executive Director

0105#004

DECLARATION OF EMERGENCY

Tuition Trust Authority Office of Student Financial Assistance

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

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 clarify restrictions on the allocation of tuition assistance grants (TAGS).

The Emergency Rules are necessary 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 authority 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 April 5, 2001, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28 EDUCATION

Part VI. Student Financial AssistanceC Higher Education Savings

Chapter 1. General Provisions

Subchapter A. Student Tuition Trust Authority

§107. Applicable Definitions

Fully Funded Account Can account having a balance, including contributions, earnings on contributions, TAGs and interest accrued thereon, which is equal to or greater than five times the annual *tuition* at the highest cost Louisiana public college or university as annually determined by the administering agency prior to the beneficiary's scheduled date of first enrollment. Once *fully funded*, an account continues to be *fully funded* if disbursements, refunds, or both reduce the amount of the balance below that of a *fully funded account*.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:

Chapter 3. Education Savings Account

§307. Allocation of Tuition Assistance Grants

A. - E.2. ...

3. are not fully funded accounts; and

E.4. - 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 26:1263 (June 2000), LR 26:2263 (October 2000), LR 27:37 (January 2001) LR 27:

Mark S. Riley
Assistant Executive Director

0105#006

DECLARATION OF EMERGENCY

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

Adult Denture Program Reimbursement Fee Increase

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, Office of the Secretary, Bureau of Health Services Financing provides coverage under the Medicaid Program for dentures and denture related services rendered to recipients age 21 years and older. As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau has determined it is necessary to increase the reimbursement fees for certain designated procedure codes. In addition, the bureau proposes to establish requirements for unique identification information to be processed into all new removable dental prosthetics reimbursed under the Medicaid program. The bureau proposes that Adult Denture Program providers process into the acrylic base of each new removable dental prosthesis, the recipient's last name and first initial, the month and year, and the Medicaid provider number. This criteria would apply to the following services: full upper denture, full lower denture, immediate full upper denture, immediate full lower denture, upper acrylic partial w/clasp and lower acrylic partial w/clasp. This emergency rule is being adopted to continue the provisions contained in the January 21, 2001 rule.

Emergency Rule

Effective May 22, 2001 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement fees for certain designated procedure codes to the following rates.

Procedure Code	Procedure Name	New Rate
05110	Full Upper Denture	\$470.00
05120	Full Lower Denture	\$470.00
05130	Immediate Full Upper Denture	\$470.00
05140	Immediate Full Lower Denture	\$470.00
05211	Upper Acrylic Partial w/Clasp	\$425.00
05212	Lower Acrylic Partial w/Clasp	\$425.00
05750	Reline Full Upper Denture-Lab Reline	\$200.00
05751	Reline Full Lower Denture-Lab Reline	\$200.00
05760	Reline Upper Partial Denture-Lab Reline	\$175.00
05761	Reline Lower Partial Denture-Lab Reline	\$175.00

In addition, the bureau establishes requirements for unique identification information to be processed into all new removable dental prosthetics reimbursed under the Medicaid program. Adult Denture Program providers shall process into the acrylic base of each new removable dental prosthesis, the recipient's last name and first initial, the month and year, and the Medicaid provider number. This criteria applies to the following services: full upper denture, full lower denture, immediate full upper denture, immediate full lower denture, upper acrylic partial w/clasp and lower acrylic partial w/clasp.

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

David W. Hood
Secretary

0105#069

DECLARATION OF EMERGENCY

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

**Disproportionate Share Hospital Payment Methodologies
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, Office of the Secretary, 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 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 emergency rule is being adopted to continue the provisions contained in the February 1, 2001 rule.

Emergency Rule

Effective June 2, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes an additional disproportionate share hospital group 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 hospital's 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 hospital's provision of uninsured care as directed by the department. All other provisions contained in the May 20, 1999 rule

remain intact. Issuance of the disproportionate share 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.

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 July 1, 1999 through June 30, 2000 multiplied by the amount set for this pool. Payment will not exceed each qualifying hospital's actual uncompensated costs as defined in section I.G of the May 20, 1999 rule. 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, 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 for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0105#067

DECLARATION OF EMERGENCY

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

Early Periodic Screening Diagnosis and Treatment (EPSDT)
Dental Program Reimbursement Fee Increase

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, Office of the Secretary, 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 that any third party coverage would pay. As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the 7 percent reduction to the reimbursement rates for EPSDT dental services was restored and the reimbursement fees for certain designated procedure codes were increased (*Louisiana Register*, Volume 26, Number 7). The bureau has subsequently determined that it is necessary to make additional increases to the fees for certain designated procedure codes in order to be in compliance with Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature. In addition, the bureau proposes to establish requirements for unique identification

information to be processed into all new removable dental prosthetics reimbursed under the Medicaid program. The Bureau proposes that EPSDT Dental Program providers process into the acrylic base of each new removable dental prosthesis, the recipient's last name and first initial, the month and year, and the Medicaid provider number. This criteria would apply to the following services: full upper denture, full lower denture, immediate full upper denture, immediate full lower denture, upper acrylic partial w/clasp, lower acrylic partial w/clasp, upper cast partial/acrylic and lower cast partial/acrylic. This emergency rule is being adopted to continue the provisions contained in the January 21, 2001 rule.

Emergency Rule

Effective May 22, 2001 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement fees for certain designated procedure codes to the following rates.

Procedure Code	Procedure Name	New Rate
02930	Stainless Steel Crown-Primary	\$78.00
02931	Stainless Steel Crown-Permanent	\$78.00
05110	Full Upper Denture	\$470.00
05120	Full Lower Denture	\$470.00
05130	Immediate Full Upper Denture	\$470.00
05140	Immediate Full Lower Denture	\$470.00
05211	Upper Acrylic Partial w/Clasp	\$425.00
05212	Lower Acrylic Partial w/Clasp	\$425.00
05750	Reline Full Upper Denture-Lab Reline	\$200.00
05751	Reline Full Lower Denture-Lab Reline	\$200.00
05760	Reline Upper Partial Denture-Lab Reline	\$175.00
05761	Reline Lower Partial Denture-Lab Reline	\$175.00

In addition, the bureau establishes requirements for unique identification information to be processed into all new removable dental prosthetics reimbursed under the Medicaid program. EPSDT Dental Program providers shall process into the acrylic base of each new removable dental prosthesis, the recipient's last name and first initial, the month and year, and the Medicaid provider number. This criteria applies to the following services: full upper denture, full lower denture, immediate full upper denture, immediate full lower denture, upper acrylic partial w/clasp, lower acrylic partial w/clasp, upper cast partial/acrylic and lower cast partial/acrylic.

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

David W. Hood
Secretary

0105#002

DECLARATION OF EMERGENCY

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

Public Hospitals
Reimbursement Methodology
Upper Payment Limit

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, Office of the Secretary, Bureau of Health Services Financing adopted a rule in June of 1994 which established a prospective reimbursement methodology for inpatient services provided in non-state operated acute care hospitals (*Louisiana Register*, Volume 20, Number 6). The reimbursement methodology was subsequently amended in a rule adopted in January of 1996 which established a weighted average per diem for each hospital peer group (*Louisiana Register*, Volume 22, Number 1). The January 1996 rule was later amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5).

In compliance with Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature, an emergency rule was adopted to establish supplemental payments to non-state public hospitals, which are not recognized by the Department as small rural hospitals, for unreimbursed Medicaid costs incurred in providing care to Medicaid recipients (*Louisiana Register*, Volume 26, Number 12). Issuance of the supplemental payment is contingent on the public hospital entering into a cooperative endeavor agreement with the department to certify public funds as representing expenditures eligible for federal financial participation (FFP).

The bureau now proposes to utilize the revised upper payment limit for non-state government-owned or operated hospitals as set forth in the 42 CFR §447.272(c) and §447.321(c). 42 CFR §447.272(c) and §447.321(c) states as follows: "Exceptions C (1) Non-State government-operated hospitals. The aggregate Medicaid payments may not exceed 150 percent (150%) of a reasonable estimate of the amount that would be paid for the services furnished by these hospitals under Medicare payment principles in subchapter B of this chapter." This action is being taken to enhance federal revenues in the Medicaid Program. It is estimated that the expenditures necessary to implement this emergency rule will be approximately \$45,835,864 for state fiscal year 2001-02.

Emergency Rule

Effective April 1, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will utilize the revised upper payment limit for non-state government-owned or operated hospitals as set forth in the 42 CFR §447.272(c) and §447.321(c). The hospital payment differential for any year shall be the difference between 150 percent of the upper limit of aggregate payments to non-state government-owned or operated hospitals, as defined in the 42 CFR §447.272(c) and §447.321(c), and the aggregate Medicaid per diem reimbursement paid to these hospitals for the year.

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

0105#068

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Wrap-Around Child Care Eligibility and Payments (LAC 67:I.5203, 5205, 5209, and 5211)

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 changes in the Wrap-Around Child Care Program effective May 1, 2001. This Emergency Rule will remain in effect for a period of 120 days.

In an effort to increase the availability of child care services to more low-income families, the agency is making the eligibility requirements less restrictive for full-day/full-year child care services. In particular those school-aged children who are eligible for the Free Lunch Program will now be eligible for Wrap-Around services since the need for child care for working parents, and especially the single parent, significantly increases at the end of the school year.

There exists the possibility that the working parent(s) would have to give up employment or job training situations because of the lack of affordable day care. Besides the social and intellectual benefits of quality child care, it may also prevent children from being involved in negative or illegal activities. There also exists the possibility of danger to children if they are left alone when a parent(s) cannot afford summer child care. For these several reasons, an emergency rule is needed to effect these changes in an effort to bring as many children as possible into the agency's child care programs.

The agency will give first availability for Wrap-Around services to those eligible children meeting the new requirements who are currently on the waiting list for child care assistance through the Child Care and Development Block Grant. Also, to remove the burden of receiving applications and verification from Head Start Grantees or

other qualified providers, the agency assumes full responsibility for all Wrap-Around Child Care applications.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 12. Child Care Assistance

Chapter 52. Wrap-Around Child Care Program

§5203. Conditions of Eligibility

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

1. ...
2. effective May 1, 2001, a child may not receive child care services simultaneously from the Wrap-Around Child Care Program, the Family Independence Work Program (FW), or the Child Care Assistance Program (CCAP);
3. effective May 1, 2001, a household in which any member receives Food Stamps, Medicaid, LaChip, SSI, Free or Reduced School Lunch, or Kinship Care Subsidy will be categorically income-eligible and may receive Wrap-Around Child Care if otherwise eligible;
4. effective May 1, 2001, FITAP children who live with a qualified relative who is not a required member of the FITAP assistance unit may receive Wrap-Around Child Care if otherwise eligible;
5. the head of household, that person's spouse, or non-legal 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. effective May 1, 2001, employed a minimum average of 20 hours per week ; or
 - b. effective May 1, 2001, engaged in a combination of employment and job training or an educational program, for a combined average of at least 20 hours per week;
6. effective May 1, 2001, the number of hours that child care is provided must reasonably correspond to the number of activity hours of the parents and/or adult household members;
7. effective May 1, 2001, at the time of application 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 through age 17, with a physical, mental, or emotional disability rendering him incapable of caring for himself, as verified by receipt of SSI or a signed statement of disability from a physician or licensed psychologist;
8. 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 services for that child;
9. 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.

B. - D. ...

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

1. ...
2. effective May 1, 2001, proof of age;
3. - 5. ...

F. - G ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:429 (March 2001), amended LR 27:

§5205. Income Limits

A. Effective May 1, 2001, unless determined categorically income eligible, a household must have total countable income no greater than 130 percent of the Federal poverty level. These amounts are updated annually.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001), amended LR 27:

§5209. Head Start Grantees and Other Qualified Providers

A. Effective May 1, 2001, the agency will provide services to eligible individuals through contracts with some Head Start Program grantees and other qualified providers who meet the standards and requirements set forth in paragraphs C through E of this section, for a designated number of slots. Available slots will be filled on a first-come, first-served basis.

B. Effective May 1, 2001, the contracted Head Start grantee or other qualified provider 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. - E. ...

F. Effective May 1, 2001, the Head Start grantee or other qualified provider 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., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001), amended LR 27:

§5211. Payments Effective May 1, 2001

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

B. The Head Start grantee or other qualified provider will be paid \$2.12 per hour per child for part-time care up to a maximum of eight hours per day per child.

C. The Head Start grantee or other qualified provider will be paid \$2.12 per hour for up to a maximum of eight hours per day 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 ten 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., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:431 (March 2001), amended LR 27:

J. Renea Austin-Duffin
Secretary

0105#010

DECLARATION OF EMERGENCY

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

Disability (LAC 58:I.2501 - 2523)

Under the authority of R.S. 11:515 and in accordance with R.S. 49:951 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") advertises its intent to amend and reenact LAC 58:I.2503, 2505, 2507, 2509, 2511, 2513, 2525, 2527, and 2529, and to repeal LAC 58.I. 2501, 2521 and 2523, and renumber accordingly.

The Retirement System is changing the administration of the disability program from the current Third Party Administrator to begin the administration of the disability program in-house. In order to protect the welfare of the disability applicant it is necessary to promulgate these emergency rules to ensure that there will be no interruption of service to disability applicants, who may have no other source of income. It is in the best interest of the disability applicants, to ensure their welfare that there be no interruption in the administration of the disability program, and the enactment of these rules should ensure that no interruption is service occurs.

These rules shall become effective on June 1, 2001, and will remain in effect for 120 days.

Title 58

RETIREMENT

Part I. State Employees' Retirement

Chapter 25. Procedures for Processing Disability Applications

§2501. Application for Disability Retirement

A. Applications for disability retirement shall be submitted in accordance with instructions provided to the applicant or applicant's employer by LASERS, and shall be reviewed as follows.

1. Upon receipt of a disability application, LASERS shall verify applicant's eligibility within five business days of receipt of the application.

2. The application; examining physician's report; the disability report by immediate supervisor; and report by applicant's human resource administrator shall be reviewed for completeness.

3. If the application or any of the required forms are incomplete or missing, the applicant shall be notified in writing, and will have 10 business days to furnish the

requested information. If the applicant fails to comply with this request the Application shall be rejected as ineligible.

B. Whether the applicant is determined to be eligible or ineligible to apply for disability, the applicant shall be notified in writing by LASERS within 10 business days of the determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1957 (October 1998), LR 27:

§2503. Disability Board Physician's Recommendation

A. LASERS shall determine the appropriate State Medical Disability Board physician to perform the initial medical review, based on the area of medical specialty most closely related to applicant's disability.

B. If the State Medical Disability Board does not have a physician practicing in the requisite specialty, LASERS shall appoint a physician who practices in the requisite specialty to the Board or as an alternate physician to perform the initial medical review.

C. The State Medical Disability Board physician shall determine from his review whether to conduct a medical examination of the applicant, or waive the medical examination because obvious and overwhelming medical evidence of disability exists to his satisfaction.

D. State Medical Disability Board physician determines that a medical examination is needed to determine whether an applicant is eligible for a disability retirement, LASERS shall schedule an appointment with the appropriate Board physician. The applicant shall be notified of the appointment date and time in writing. The initial examination shall be completed within six weeks of the date the completed disability application is received and eligibility is verified by LASERS.

E. LASERS shall pay the cost of the initial medical examination, including cost of laboratory tests, x-rays, and other direct examination procedures. If the Applicant fails to appear for this medical examination and the physician charges a cancellation fee, the Applicant shall be responsible for this fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1958 (October 1998), LR 27:

§2505. Final Determination

A.1. LASERS shall review the State Medical Disability Board physician's recommendation and based on that recommendation, either approve, or disapprove the application. An applicant shall be considered as certified totally disabled when the State Medical Disability Board physician declares the applicant to be totally incapacitated for the further performance of the normal duties of the job and states that such incapacity is likely to be permanent. In all cases, the examining physician shall make a recommendation if the application should be approved or disapproved. If the physician's recommendation is unclear, the file shall be forwarded to the disability manager for review. The disability manager shall contact the physician for clarification of the recommendation.

2. If a correction officer, probation or parole officer, or security officer of the Department of Public Safety and

Corrections, or an employee of the enforcement division in the Department of Wildlife and Fisheries is found to be permanently totally or partially disabled the applicant shall be entitled to a disability retirement benefit in accordance with either R.S. 11:212(B) or 214, as applicable.

B. If the disability manager cannot make a clear determination, the file shall be sent to LASERS' Executive Director, who shall contact the examining physician for clarification, or another State Medical Disability Board physician for consultation, or an appointed alternate physician shall be consulted when necessary.

C. Any unusual applications shall immediately be presented to the Executive Director for his review and determination on how it should best be handled.

D. When the final determination is made, the applicant shall be notified in writing and a copy shall be forwarded to applicant's agency.

E. A final determination shall be made within 120 days from the date the completed application is verified by LASERS.

F. Disability benefits shall accrue from the date the application was filed or from the day following exhaustion of all sick leave or annual leave claimed by applicant, whichever is later. If an applicant elects to remain on unused sick or annual leave past the 120 days necessary to complete his application, a waiver shall be signed by the applicant and a re-exam shall be scheduled at LASERS' expense after one year from date of application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1958 (October 1998), LR 27:

§2507. Contesting Board Physician's Determination

A. If the certification of the examining physician is contested by either the Applicant or LASERS, the contesting party shall have the right to a second medical examination if a written appeal is filed within 30 days of notification of the initial determination.

B. The second examination shall be performed by a State Disability Board Physician, or appointed alternate physician. LASERS shall schedule the appointment and notify the applicant of the time and place of the second examination in writing.

C. The cost of the second examination shall be paid by the contesting party. If the Applicant fails to appear for this examination and the physician charges a cancellation fee, the Applicant shall be responsible for this fee.

D. If the second physician concurs in the findings and recommendations of the first physician, the original decision shall stand as final and binding on the parties.

E. If the second physician disagrees with the first physician's finding and recommendation, the two physicians shall select a third physician to conduct another examination. The findings and recommendations of the third physician shall be binding, and the cost of the third physician shall be paid by LASERS if the applicant is certified disabled, or by the applicant if the disability claim is denied. If the Applicant fails to appear for this examination and the physician charges a cancellation fee, the Applicant shall be responsible for this fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1958 (October 1998), LR 27:

§2509. Judicial Appeal

The applicant has the right to appeal the decision that applicant is not entitled to a disability retirement to the Nineteenth Judicial District Court, Parish of East Baton Rouge. This appeal shall be filed within 30 days of the receipt of the final medical decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 27:

§2511. Certification of Continuing Eligibility

A. LASERS shall require a disability retiree to complete an Annual Attending Physician Statement (AAPS) once each year during the first five years following the disability retirement and once in every three years thereafter until the retiree has reached the equivalent age of regular retirement unless the medical evidence shows conclusively that the disability retiree cannot recover from the disability. The AAPS needs to be returned within ten business days of receipt by the disability retiree. Depending on the results of the AAPS LASERS may require a disability retiree to undergo a medical examination.

B. If a medical examination is required LASERS shall schedule the appointment with a State Medical Board or appointed alternate physician and notify the disability retiree of the appointment time and place in writing. LASERS must pay the cost of this examination. If the retiree fails to appear for this examination and the physician charges a cancellation fee, the retiree shall be responsible for this fee.

C. The disability retiree shall be notified in writing of the physician's determination. If the physician does not recommend continuing disability, the disability retiree has the same appeal rights as the original applicant as set forth in §2507 herein.

D. If the disability retiree refuses to submit to the examination, or fails to submit the AAPS in the manner set out above his benefit shall be discontinued until he agrees to the examination or submits the AAPS. The benefit will be discontinued 30 days after written notification to the disability retiree. If the refusal continues for one year, all of the retiree's rights in and to the disability benefit shall be revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 26:1490 (July 2000), LR 27:

§2513. Limitation on Earnings

A. If a disability retiree is gainfully employed, the amount of the retiree's earnings are limited; the total amount of earnings plus the disability benefit cannot exceed his final average compensation.

B. For purposes of computing this limitation, an annual cost-of-living adjustment to the final average compensation shall be made based on the Federal Consumer Price Index for the preceding calendar year.

C. The disability retiree must notify LASERS immediately if the retiree becomes employed and the retiree's earnings will exceed the limitation.

D. Each disability retiree shall submit a notarized annual statement of earned income for the previous calendar year. The statement must be submitted no later than May 1, of each calendar year, otherwise the benefit will be discontinued effective June 1 of that calendar year, without retroactive reimbursement, until the statement is filed. If a disability retiree refuses to submit the statement for the remainder of the calendar year, all the retiree's rights in and to the disability retirement shall be revoked.

E. If the earnings limit is exceeded, future benefits shall be reduced to recover the amount of excess earnings. The disability retiree shall be notified in writing of the reduced amount at least 30 days prior to the reduction taking effect.

F. If it is determined that a disability retiree is engaged in gainful occupation which places the retiree over the earnings limit, then the amount of the disability benefit shall be reduced to an amount within the retiree's earnings limit. Should the retiree's earning capacity later change, the disability benefit may be further modified in accordance with R.S. 11:221.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 27:

§2515. Report to the Board of Trustees

A. The applicants' names and disposition of applications shall be provided to the board in addition to the monthly retirement supplement for the board's ratification.

B. The board shall receive a summary report of the number of applications received, the number approved, the number disapproved, a summary of the types of disabilities, the average age of approved applicants, the average number of years of state service, and the agencies of the applicants annually in March for the previous calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 27:

§2517. Appointment of Physicians to the State Medical Disability Board

A. Physicians may be appointed to the State Medical Disability Board or as an alternate physician by the Executive Director. Such appointments shall be subject to ratification by the Board of Trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 27:

§2519. Termination of Benefits

A. Upon receipt of a final medical determination that a disability retiree is no longer disabled as a result of the failure to obtain a certification of continuing eligibility the retiree shall have the right to appeal the medical determination under §2507 herein. The benefit shall continue during the appeal period.

B. The disability retiree has the right to appeal this decision to the Nineteenth Judicial District Court, Parish of East Baton Rouge. This appeal shall be filed within thirty (30) days of the receipt of the Board's decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1960 (October 1998), LR 27:

§2521. Notices

A. Any notice that will terminate a benefit given under this Chapter shall be given as follows.

1. If a disability retiree, the notice shall be given with the retiree's benefit check. If the retiree is receiving his benefit through an electronic fund transfer (EFT), the EFT shall be discontinued for the month notice is required and the retiree shall receive a paper check for that month; or

2. If no benefit is being paid by LASERS, the notice shall be by certified mail, return receipt requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1960 (October 1998), LR 27:

§2523. Conversion to Regular Retirement

A. In accordance with R.S. 11:217, when a disability retiree vest in a regular retirement benefit under R.S. 11:441, except R.S. 11:441(4), the disability retiree shall be converted to a regular retiree upon attaining the normal vested retirement age and shall receive the full vested benefit. The retiree shall have the option to, but not be required, to select the regular retirement benefit under R.S. 11:441(4) in lieu of a disability retirement benefit if the retiree qualifies for the benefit under R.S. 11:441(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1960 (October 1998), LR 27:

Glenda Chambers
Executive Director

0105#012

DECLARATION OF EMERGENCY

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

2001 Spring Inshore Shrimp Season

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 fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters, the Wildlife and Fisheries Commission does hereby set the 2001 Spring Inshore Shrimp Season to open as follows:

Zone 1, that portion of Louisiana's inshore waters from the Mississippi State line to the eastern shore of South Pass of the Mississippi River, to open at 6 a.m., May 21, 2001, except the open waters of Breton and Chandeleur Sounds as described in the menhaden rule (LAC 76:VII.307.D) which shall open at 6 a.m., May 14, 2001; and

Zone 2, that portion of Louisiana's inshore waters from the eastern shore of South Pass of the Mississippi River westward to the western shore of Vermilion Bay and Southwest Pass at Marsh Island, as well as that portion of the State's Territorial Waters south of the Inside/Outside Shrimp Line as described in R.S. 56:495 from the Atchafalaya River Channel at Eugene Island as delineated by the River Channel buoy line to Freshwater Bayou, all to open at 6 a.m., May 10, 2001; and

Zone 3, that portion of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island westward to the Texas State Line, to open at 6 a.m. May 28, 2001.

The commission also hereby grants to the secretary of the Department of Wildlife and Fisheries the authority to close any portion of the state's inshore waters to protect small white shrimp if biological and technical data indicates the need to do so, or enforcement problems develop.

Dr. H. Jerry Stone
Chairman

0105#005