

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Office of the Commissioner

#### Meat Labeling (LAC 7:XXXV.135)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule for the implementation of regulations governing the labeling of meat in accordance with R.S. 3:3(B), R.S. 51:614 and the Emergency Rule provisions of R.S. 49:953(B), in the Administrative Procedure Act.

The Louisiana Legislature, by Act 487 of the 1999 Regular Session, enacted R.S. 51:614 to require the labeling of meat and to provide for the enforcement thereof. As a result of the current outbreak of foot and mouth disease in European livestock and the fact that meat consumed in the United States, including Louisiana, is imported from foreign countries there is an imminent danger that Louisiana citizens will substantially decrease their consumption of meat, including meat raised or processed in Louisiana, if they cannot identify the source of the meat.

Louisiana's livestock industry has suffered severe financial distress as a result of the four-year drought that this state has experienced. The threat of a substantial decline in the consumption of meat poses an imminent peril to Louisiana's livestock industry. Additional economic losses threaten 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 Louisiana's economy and to the welfare of the citizens of Louisiana, especially when it occurs in the midst of an economic slowdown.

The Commissioner of Agriculture and Forestry has, therefore, determined that this Emergency Rules are necessary in order to immediately implement and enforce the labeling of meat in Louisiana as to country of origin.

This 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 XXXV. Agro-Consumer Services

#### Chapter 1. Weights and Measures

#### §135. Meat Labeling

A. As used in this Section the following terms are defined.

1. *American* Any meat that is produced in the United States.
2. *Blend* Any combination of American and foreign meat.
3. *Imported* Any meat produced in a foreign country.

B. Unless otherwise provided in this Section, all processed or unprocessed meat sold in Louisiana, whether fresh or frozen, shall indicate the meat's country of origin.

1. The country of origin or designations "American," "imported" or "blend of imported and American meats" Proposed Settlement Agreement" shall be indicated in clear and conspicuous letters in English.

2. All meat shall be labeled with one of the following designations, "American," "imported" or "blend of imported and American meats" or shall contain the name of the country of origin preceded by the "product of." Example: Meat produced in the United States would be labeled "American" or "Product of U.S.A."

3. Meat displayed for sale or sold unwrapped shall contain the proper designation as to the country of origin on the meat, or on the immediate container or wrapping, or on a sign included with the display.

4. If an establishment sells only American meat, then a placard indicating that only American meat is sold will be sufficient to meet the requirements of these regulations.

C. The provisions of this Section shall not apply to prepared meat that is sold at retail for consumption on the premises and fully cooked meat as defined by the United States Department of Agriculture Food Safety Inspection Service rules and regulations.

D. The Commissioner of Agriculture and Forestry, the Weights and Measures Commission and the Department of Agriculture and Forestry shall have the power and authority granted under the Weights and Measures Law to enforce the provisions of this Section.

E. The penalty for any violation of this Section shall be as provided in R. S. 51:614.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4607 and R.S. 51:614.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 27:

Signed and attested to this 17<sup>th</sup> day of May 2001.

Bob Odum  
Commissioner

0106#006

## 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 and a tenth Emergency Rule, adopted January 18, 2001, 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 an eleventh Emergency Rule, effective May 18, 2001, to continue the requirements of the tenth 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. As a result of the E&P waste study conducted by Louisiana State University and CSI, Inc. (available for review on Conservation's web page), commercial land treatment facilities will not be permitted to receive, treat or dispose of natural gas plant processing waste (Waste Type 12). 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**

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

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

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

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*NOW*Cexploration and production waste

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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 26:2813 (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 (H<sub>2</sub>S) 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 H<sub>2</sub>S 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 § 511.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	Commercial land treatment facilities shall not receive, treat or dispose of natural gas plant processing waste (Waste Type 12)
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 26:2813 (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 Louisiana Revised Statutes. The adoption of the above Emergency Rule is not intended to affect any other provisions, rules, orders, or regulations of the Office of Conservation, except to the extent specifically provided for in this Emergency Rule.

Within five days from date hereof, notice of the adoption of this Emergency Rule shall be given to all parties on the mailing list of the Office of Conservation by posting a copy of this Emergency Rule with reasons therefor to all such parties. This Emergency Rule with reasons therefor shall be published in full in the *Louisiana Register* as prescribed by law. Written notice has been given contemporaneously herewith notifying the Governor of the state of Louisiana, the Attorney General of the state of Louisiana, the Speaker of the House of Representatives, the President of the Senate and the Office of 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 May 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 18<sup>th</sup> day of May, 2001.

Philip N. Asprodites  
Commissioner of Conservation

0106#008

### DECLARATION OF EMERGENCY

#### Department of Social Services Office of Family Support

#### Categorical Eligibility for Certain Recipients (LAC 67:III.1987)

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 June 1, 2001. This Rule shall remain in effect until the final rule takes effect July 1, 2001.

Pursuant to Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act, and subsequent amendments thereof, and to Public Law 106-387, the Agriculture Appropriations Act, signed into law on October 28, 2000, the agency proposes to amend §1987 in order to eliminate the certification of categorically -eligible households of three or more members whose net income exceeds the level at which benefits are issued. This change is federally mandated, and failure to implement the change by

this date would result in penalties and sanctions. The Notice of Intent pertaining to this amendment was published in the March 20, 2001, issue of the *Louisiana Register*.

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 3. Food Stamps**

**Chapter 19. Certification of Eligible Households**

**Subchapter J. Determining Household Eligibility and Benefit Levels**

**§1987. Categorical Eligibility for Certain Recipients**

A. Households Considered Categorically Eligible

1. - 9. ...

10. Benefits for categorically-eligible households shall be based on net income as for any other household. One and two person households will receive a minimum benefit of \$10. Effective June 1, 2001, households of three or more shall be denied if net income exceeds the level at which benefits are issued.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:28196 et seq., 7 CFR 271, 272, 273.10, and 274; F.R. 56:63612-63613, P.L. 104-193, 7 CFR 273.2(j)(2)(xi).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:90 (February 1987), amended LR 12:755 (November 1986), amended by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 24:1783 (September 1998), LR 26:349 (February 2000), LR 27:

J. Renea Austin-Duffin  
Secretary

0106#007

**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 June 14, 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

0106#025