

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Division of Pesticides and Environmental Programs

Application of Icon Pesticide (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 use of the pesticide, icon (fipronil).

Icon is an essential pesticide in the control of rice pests. Without its use the rice crop in Louisiana is in imminent danger of being damaged by pests, to the extent that a substantial reduction in rice yield will result. Failure to control rice pests, therefore, poses an imminent peril to the economy of the state of Louisiana and to the rice growing parishes of Louisiana. The cumulative effect of icon as a pesticide, saltwater intrusion, anticipated high water temperatures, and other weather related factors pose an imminent peril to the environment and to the economy of the state of Louisiana and to the rice growing parishes of Louisiana. The application of icon in accordance with its label and labeling, but inconsistent with the department's rules and regulations and the potential misuse of this pesticide poses an imminent peril to the public health, safety and welfare and to the environment, especially if it gets into the waterways of this state.

The department has, therefore, determined that these emergency rules implementing a monitoring and registration program and governing icon applications, during the current crop year, are necessary in order to alleviate these perils. Information will be gathered to determine whether the effectiveness of this chemical outweighs any potential risk to the public or the environment.

The Rule becomes effective upon signature, February 28, 2002, and will remain in effect 120 days.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides Subchapter I. Regulations Governing Application of Pesticides

§143. Restrictions on Application of Certain Pesticides

A. - M.2. ...

N. Persons applying icon to rice seed and persons selling or planting icon treated rice seed, intended to be planted in Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Iberia, Jefferson Davis, Lafayette, St. Landry, St. Martin, St. Mary, and Vermillion parishes shall comply with the following.

1. Registration Requirements

a. The Commissioner hereby declares that prior to making any application of icon to rice seed, the seed treatment owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs (DPEP) in writing.

b. The Commissioner hereby declares that prior to selling icon treated rice seed, the dealer must first register such intent by notifying the DPEP in writing.

c. The Commissioner hereby declares that prior to making aerial applications of icon treated rice seed, the aerial owner-operator must first register such intent by notifying the DPEP in writing.

2. Growers of rice shall not force or coerce applicators to apply icon treated rice, when the applicators, conforming to the Louisiana Pesticide Laws and Rules and Regulations or to the pesticide label and labeling, deem it unsafe to make such applications. Growers found to be in violation of this section shall forfeit their right to use icon treated rice seed, subject to appeal to the Advisory Commission on Pesticides.

3. Icon Application Restriction

a. Do not apply icon treated rice seed by ground within 25 feet, or by air within 100 feet of lakes, reservoirs, rivers, permanent streams, marshes or natural ponds, estuaries and commercial fish farm ponds.

b. Do not allow icon treated rice seed to drift into neighboring fields, ponds, streams or estuaries with fish, shellfish, or crustaceans (including crawfish).

c. All icon label and labeling use restrictions shall be strictly followed.

4. Monitoring of Icon

a. Rice seed treaters, registered to treat rice seed with icon, shall report daily to the DPEP, on forms prescribed by the Commissioner, all treatments of icon to rice seed. Information shall include but not be limited to:

- i. pounds treated;
- ii. treatment rate;
- iii. pounds sold or distributed;
- iv. purchaser and/or grower name, address, and phone number.

b. Dealers selling icon treated rice seed shall report daily, to the DPEP, on forms prescribed by the Commissioner all sales of icon treated rice seed. Information shall include but not be limited to:

- i. pounds sold;
- ii. treatment rate;
- iii. acres to be planted;
- iv. planting date;
- vi. purchaser and/or grower name, address, parish and phone number;
- vii. location and parish of field to be planted;
- viii. planting applicator-owner/operator (aerial or ground).

c. Aerial Owner/operators planting icon treated rice seed shall provide and maintain records daily, on forms prescribed by the Commissioner all applications of icon treated rice seed. Information shall include but not be limited to:

- i. pounds per acre planted;
- ii. acres planted;
- iii. date planted;
- iv. grower name, address, parish and phone number;
- v. location and parish of field planted;
- vi. pilot's name and certification number.

5. Upon determination by the Commissioner that a threat or reasonable expectation of a threat to human health or to the environment exists, he may consider:

- a. stop orders for use, sales, or application;
- b. label changes;
- c. remedial or protective orders;
- d. any other relevant remedies.

O. - P.6.a.iv. ...

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 10:196 (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 (June 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:1428 (July 2000), LR 26:1966 (September 2000), LR 27:279 (March 2001), LR 28:

Bob Odom
Commissioner

0203#007

DECLARATION OF EMERGENCY

Office of Student Financial Assistance Tuition Trust Authority

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

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 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 this Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective February 20, 2002, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28 EDUCATION

Part VI. Student Financial Assistance Higher Education Savings

Chapter 3. Education Savings Account

§315. Miscellaneous Provisions

A. - B.4. ...

5. For the year ending December 31, 2001, the Louisiana Education Tuition and Savings Fund earned an interest rate of 6.33 percent.

6. For the year ending December 31, 2001, the Earnings Enhancements Fund earned an interest rate of 6.38 percent.

C. - Q. ...

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), amended LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:

George Badge Eldredge
General Counsel

0203#010

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Commercial Laboratories Pending Accreditation
(LAC 33:I.4501 and 4719)(OS039E1)

In accordance with the emergency provisions of R.S. 49:953.B of the Administrative Procedure Act, which allows the Department of Environmental Quality to use emergency procedures to establish rules, and of R.S. 30:2011 and R.S. 30:2074, which allows the Department to establish standards, guidelines, and criteria, to promulgate rules and regulations, and to issue compliance schedules, the Secretary of the Department hereby finds that imminent peril to the public welfare exists and accordingly adopts the following Emergency Rule.

This is a renewal of Emergency Rule OS039E, which was effective November 16, 2001, and published in the *Louisiana Register* on December 20, 2001. The department is drafting a Rule (Log #OS039E) to promulgate this regulation.

The Department relies on analytical data submitted both directly and indirectly to the Department to determine compliance with both state and federal regulations. As a result of deadlines established in current Louisiana regulations, the Department is prohibited from accepting data from commercial laboratories that have not received departmental accreditation. This rule will allow the Department to accept data from laboratories that have submitted complete applications and supporting documents, have submitted documentation verifying certification/accreditation by a department-approved

accreditation program or supporting documentation showing the quality assurance and quality control program used to generate analytical data by the laboratory, and have paid all appropriate fees. A finding of imminent peril to public health, safety, and welfare is based on the inability to accept and review analytical data. Furthermore, the environmental analytical laboratory industry could suffer a loss of jobs.

The Department is adding an exemption for personnel monitoring services and those activities specifically licensed in accordance with LAC 33:XV.Chapter 3.Subchapter B, equivalent agreement state regulations, and the Nuclear Regulatory Commission regulations, Title 10 *Code of Federal Regulations*, due to the fact that they are licensed under other department regulations and to prevent an additional economic burden and duplication of effort by the department.

The Department relies on the analytical data to determine permit compliance, enforcement issues, and effectiveness of remediation of soils and groundwater. Permit issuance and compliance are effective means of determining the impact on human health and the environment. The Department must have access to accurate, reliable, precise analytical data in order to meet its mandate to protect human health and the environment.

This emergency rule is effective on March 16, 2002, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first. For more information concerning OS039E1, you may contact the Regulation Development Section at (225) 765-0399.

Adopted this 8th day of March, 2002.

Title 33

Environmental Quality

Part I. Office of the Secretary

Subpart 3. Laboratory Accreditation

Chapter 45. Policy and Intent

§4501. Description and Intent of Program

A. - D. ...

E. This Subpart shall not apply to the following:

1. laboratory analyses programs accredited under the regulatory and statutory authority of the Louisiana Department of Health and Hospitals; and

2. personnel monitoring services in accordance with LAC 33:XV.430.C and to those activities specifically licensed in accordance with LAC 33:XV.Chapter 3.Subchapter B, equivalent agreement state regulations, and the Nuclear Regulatory Commission regulations, Title 10 *Code of Federal Regulations*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:917 (May 1998), amended by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1434 (July 2000), LR 28:

Chapter 47. Program Requirements

§4719. Implementation

A. - B. ...

C. The department will accept analytical data generated by laboratories that do not comply with the deadlines established in Subsection B of this Section for accreditation if such laboratories:

1. have submitted a complete application form and supporting documents;

2. have submitted documentation verifying certification/accreditation by a department-approved accreditation program or supporting documentation showing the quality assurance and quality control program used to generate analytical data by the laboratory; and

3. have paid appropriate fees.

D. These regulations shall not apply to field tests as defined in LAC 33:I.4503.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May 1998), amended by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000), LR 28:

J. Dale Givens
Secretary

0112#010

DECLARATION OF EMERGENCY

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

**Home and Community Based Services Waiver
Program
Adult Day Health Care Waiver
Request for Services Registry**

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implemented the Adult Day Health Care Waiver Program effective January 6, 1985. The Adult Day Health Care Waiver was designed to meet the individual needs of aged and functionally impaired adults by providing a variety of health, social and related support services in a protective setting. Candidates who meet all of the eligibility criteria are ranked in the order of the date on record when the candidate initially requested to be evaluated for waiver eligibility and placed on waiting lists maintained by the participating Adult Day Health Care centers. In order to facilitate the efficient management of the waiver waiting list, the department transferred responsibility for the Adult Day Health Care Waiver waiting lists to the Bureau of Community Supports and Services and established a single state-wide request for services registry.

This Emergency Rule is being adopted to continue the provisions contained in the December 3, 2001 Rule.

Emergency Rule

Effective April 3, 2002, the Department of Health and Hospitals transfers responsibility for the waiting list for the Adult Day Health Care (ADHC) Waiver to the Bureau of Community Supports and Services (BCSS) and consolidates the approximately 27 waiting lists into a centralized state-wide request for services registry that is maintained by region and arranged in order of the date of the initial request.

Persons who wish to be added to the request for services registry shall contact a toll-free telephone number maintained by BCSS. Those persons on the existing waiting lists prior to the date of the transfer of responsibility to BCSS shall remain on the request for services registry in the order of the date on record when the candidate initially requested waiver services. When a candidate is listed on more than one waiting list, the earliest date on record shall be considered the date of initial request.

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. She is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0203#005

DECLARATION OF EMERGENCY

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

Home and Community Based Services Waiver
Program Elderly and Disabled Adult Waiver
Request for Services Registry

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in August 1993 establishing the Home Care for the Elderly Waiver Program to provide community based services to individuals who are age 65 and older and meet the medical certification and financial eligibility requirements for nursing facility care (*Louisiana Register*, volume 19, number 8). The August 1993 Rule was amended by a Rule adopted in January 1998 to:

- 1) redefine the target population served by the Elderly and Disabled Adult (EDA) waiver and rename the waiver;
- 2) establish an average cost per day limit for each participant of the waiver;
- 3) establish and define new services;
- 4) establish methodology for the assignment of slots; and
- 5) clarify admission and discharge criteria, mandatory reporting requirements and the reimbursement requirement for the prior approval of the plan of care (*Louisiana Register*, volume 24, number 1).

The waiting lists for the EDA waiver were being maintained by 64 local Council on Aging agencies. In order to facilitate the efficient management of the waiver waiting list, the Department transferred responsibility for the Elderly and Disabled Adult waiver waiting list to the Bureau of

Community Supports and Services and established a single state-wide request for services registry. Provisions contained in the previously cited Rules that are not related to the Elderly and Disabled Adult waiver waiting list are not affected by adoption of this Emergency Rule.

This Emergency Rule is being adopted to continue the provisions contained in the December 3, 2001 Rule.

Emergency Rule

Effective April 3, 2002, the Department of Health and Hospitals amends the January 1998 Rule to incorporate the transfer of responsibility for the waiting list for the Elderly and Disabled Adult waiver to the Bureau of Community Supports and Services (BCSS) and consolidate the 64 waiting lists into a centralized state-wide request for services registry arranged in order of the date of the initial request. Persons who wish to be placed on the request for services registry shall contact a toll-free telephone number maintained by BCSS. Those persons on the waiting lists prior to the date of the transfer of responsibility to BCSS shall remain on the request for services registry in the order of the date on record when the candidate initially requested to be evaluated for waiver services.

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. She is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0203#011

DECLARATION OF EMERGENCY

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

Home and Community Based Services
Waiver Program Personal Care Attendant
Waiver Request for Services Registry

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in February 1993 to implement a home and community services waiver to provide Personal Care Attendant (PCA) services to individuals who have lost sensory or motor functions and require assistance with personal care needs, ambulation and other related services. Candidates who meet all of the eligibility criteria are ranked by degree of need using the Degree of Need formula. Waiver slots in the three designated service areas are then filled in order of the highest scores as determined by the formula (*Louisiana Register*, volume 19, number 2).

The three PCA waiver waiting lists were being maintained by the regional PCA waiver provider agencies. In order to facilitate the efficient management of the waiver waiting list, the Department transferred responsibility for the Personal Care Attendant (PCA) Waiver waiting list to the Bureau of Community Supports and Services and established a single state-wide requested for services registry. Provisions contained in the previously cited Rule that are not related to the Personal Care Attendant waiver waiting list are not affected by adoption of this Emergency Rule.

This Emergency Rule is being adopted to continue the provisions contained in the December 3, 2001 Rule.

Emergency Rule

Effective April 3, 2002, the Department of Health and Hospitals transfers responsibility for the Personal Care Attendant (PCA) waiver waiting list to the Bureau of Community Supports and Services (BCSS) and consolidates the three waiting lists into a state-wide request for services registry arranged by degree of need and the date of the initial request. Persons who wish to be placed on the request for services registry shall contact a toll-free telephone number maintained by BCSS. Those persons on the existing waiting lists prior to the date of the transfer of responsibility to BCSS shall remain on the request for services registry in the order of degree of need score and the date on record when the candidate initially requested waiver services.

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. She is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0203#014

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodologies

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 May 20, 1999 governing the disproportionate share payment methodologies for hospitals (*Louisiana Register*, volume 25, number 5). This rule was adopted pursuant to Act 19 of the 1998 Legislative Session and Act 1485 (the Rural Hospital Preservation Act) of the 1997 Legislative Session. The May 20, 1999 rule was subsequently amended

to revise the disproportionate share qualification criteria for small rural hospitals in compliance with Senate Concurrent Resolution Number 48 and Act 1068 of the 1999 Regular Session of the Louisiana Legislature (*Louisiana Register*, volume 26, number 3).

The Bureau subsequently adopted a rule to establish an additional disproportionate share hospital group, for state fiscal year 2001 only, composed of large public non state hospitals in order to facilitate the transfers of public funds from qualifying health care providers as directed in Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature (*Louisiana Register*, volume 27, number 2).

Act 1074 of the 2001 Regular Session of the Louisiana Legislature amended the Rural Hospital Preservation Act to add certain hospitals to the definition of rural hospitals. In compliance with Act 1074, the Bureau has determined that it is necessary to amend the March 20, 2000 rule to revise the disproportionate share qualification criteria for small rural hospitals.

Qualification for disproportionate share is based on the hospital's latest year end cost report for the year ended during the specified period of the previous year. Payment is equal to each qualifying hospital's pro rata share of the uncompensated cost for all hospitals meeting these criteria for the cost reporting period ended during the specified period of the preceding year multiplied by the amount set for each pool. The specified cost reporting period for all hospitals except small rural hospitals is July 1 through June 30 of the previous year. The specified cost reporting period for small rural hospitals is April 1 through March 31 of the previous year. As a result of Medicare amending its reimbursement methodology for hospitals and granting extensions on the submission dates for hospital cost reports, the bureau amended the provisions governing cost reporting periods for qualification and calculation of payments for disproportionate share. This emergency rule is being adopted to continue the provisions contained in the August 8, 2001 rule.

Emergency Rule

Effective for dates of service on or after April 7, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends the provisions governing the disproportionate share payment methodologies for hospitals by incorporating the following revisions.

I. General Provisions

A. - C. ...

D. DSH payments to a hospital determined under any of the methodologies below shall not exceed the hospital's net uncompensated cost as defined in section I.G for the state fiscal year to which the payment is applicable.

E. Qualification is based on the hospital's latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports will be assumed to be ineligible for disproportionate share payments. Only hospitals that return timely disproportionate share qualification documentation will be considered for disproportionate share payments. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

F. - I. ...

III. Reimbursement Methodologies

B. Small Rural Hospitals

1. A small rural hospital is a hospital (excluding a long-term care hospital, rehabilitation hospital or free-standing psychiatric hospital, but including distinct part psychiatric units) that meets the following criteria:

a. had no more than 60 hospital beds as of July 1, 1994 and is located in a parish with a population of less than fifty thousand or in a municipality with a population of less than 20,000; or

b. meets the qualifications of a sole community hospital under 42 CFR §412.92(a); or

c. had no more than sixty hospital beds as of July 1, 1999 and is located in a parish with a population of less than 17,000 as measured by the 1990 census; or

d. had no more than 60 hospital beds as of July 1, 1997 and is a publicly owned and operated hospital that is located in either a parish with a population of less than fifty thousand or a municipality with a population of less than 20,000; or

e. had no more than 60 hospital beds as of June 30, 2000 and is located in a municipality with a population, as measured by the 1990 census, of less than 20,000; or

f. had no more than 60 beds as of July 1, 1997 and is located in a parish with a population, as measured by the 1990 and 2000 census, of less than 50,000; or

g. was a hospital facility licensed by the Department that had no more than 60 hospital beds as of July 1, 1994, which hospital facility has been in continuous operation since July 1, 1994, is currently operating under a license issued by the department, and is located in a parish with a population, as measured by the 1990 census, of less than 50,000.

2. ...

3. Payment is equal to each qualifying rural hospital's pro rata share of uncompensated cost for all hospitals meeting these criteria for the latest filed cost report multiplied by the amount set for each pool. If the cost reporting period is not a full period (12 months), actual uncompensated cost data from the previous cost reporting period may be used on a pro rata basis to equate a full year.

4. ...

C. Large Public Non-State Hospitals

1. 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.

2. 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. Issuance of the disproportionate share payment is contingent on the public non state hospital certifying public funds as representing expenditures eligible for FFP in compliance with Act 12 of the 2001 Regular Session of the Louisiana Legislature.

3. 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 latest filed cost report multiplied by the amount set for this pool. Payment shall 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.

D. All Other Hospitals (private rural and urban hospitals, free-standing psychiatric hospitals exclusive of state hospitals, rehabilitation hospitals and long-term care hospitals)

1. - 2.c. ...

Implementation of this emergency rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 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

0203#008

DECLARATION OF EMERGENCY

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

**Durable Medical Equipment Program
Vagus Nerve Stimulators**

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 for durable medical equipment and supplies under the Medicaid Program. All medical equipment, appliances and supplies must be prior authorized to determine medical necessity. In concurrence with the recommendations of the Medical practices Committee, the bureau proposes to establish medical necessity criteria for the prior authorization of vagus nerve stimulators. Vagus nerve stimulators are implantable devices used to assist in the control of seizures related to epilepsy.

Emergency Rule

Effective April 1, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following criteria for prior authorization of vagus nerve stimulators (VNS) under the Durable Medical Equipment Program. The VNS is an implantable device used to assist in the control of seizures related to epilepsy and must be prescribed by a physician.

A. Inclusion Criteria. Consideration shall be given for Medicaid reimbursement for implantation of the VNS if the treatment is considered medically necessary, the patient has medically intractable epilepsy and meets one or more of the following criteria:

1. is 12 years of age or older, although case by case consideration may be given to younger children who meet all other criteria and have sufficient body mass to support the implanted system; or

2. has a diagnosis of partial epilepsy confirmed and classified according to the International League Against Epilepsy classification. The patient may also have associated generalized seizures, such as tonic, tonic-tonic, or atonic. The VNS may have efficacy in primary generalized epilepsy as well. Video electroencephalographic monitoring is usually necessary for confirmation and classification of seizure type; or

3. has seizures that resist control by antiepilepsy treatment, with adequately documented trails of appropriate antiepilepsy drugs or documentation of the patient's inability to tolerate these medications; or

4. has undergone surgical evaluation and is not considered to be an optimal candidate for epilepsy surgery; or

5. is experiencing at least four to six identifiable partial onset seizures each month. The patient must have had a diagnosis of intractable epilepsy for at least two years. The two year period may be waived if it is deemed that waiting would be harmful to the patient; or

6. has undergone Quality of Life measurements (QOL). The choice of instruments used for the QOL must assess quantifiable measures of day to day life in addition to the occurrence of seizures. In the expert opinion of the treating physician, and clearly documented in the request for prior authorization, there must be reason to believe that QOL will improve as a result of the VNS. This improvement should be in addition to the benefit of seizure frequency reduction; or

7. has progressive disorders, psychosis, or mental retardation that are not contraindications to VNS implantation. Taking into consideration the additional diagnosis, the treating physician must document the benefits of VNS.

B. Exclusion Criteria. Medicaid reimbursement for implantation of a VNS shall not be made if the patient meets one or more of the following criteria:

1. has psychogenic seizures or other nonepileptic seizures; or

2. has systemic or localized infections that could infect the implanted system; or

3. the patient's body mass is insufficient to support the implanted system.

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 at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

00203#009

DECLARATION OF EMERGENCY

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

Facility Need Review Emergency
Community Home Bed Pool
(LAC 48:I.12501-12505)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule for Facility Need Review as authorized by R.S. 40:2116. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B) 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 adopted a rule governing the Facility Need Review process in August 1995 (*Louisiana Register*, volume 21, number 8). The August 1995 rule was amended to adopt new provisions governing the relocation of nursing facility beds (*Louisiana Register*, volume 25, number 7).

The Department amended the August 1995 rule governing the Facility Need Review process in order to implement provisions of the 2001 Appropriations Bill, Act 12 of the 2001 Regular Session. The Act provides that the Department of Health and Hospitals is authorized to transfer 50 beds currently licensed to state developmental centers to non-state operated community homes for the mentally retarded in accordance with a plan to be developed by the department. The department intends to use those fifty 50 beds to address emergency situations which cannot be dealt with adequately through the normal request for proposals process because of the significant delay in placement which is inherent in that process. Therefore, the department exercised its emergency rule making authority and amended its rules on Facility Need Review to include a plan whereby fifty 50 beds were used to create a pool of beds which are available for transfer to non-state operated community homes. This emergency rule is being adopted to continue the provisions contained in the August 1, 2001 rule.

Emergency Rule

Effective March 31, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends the August 20, 1995 rule on Facility Need Review to include a plan whereby 50 beds will be used to create a pool of beds which will be available for transfer to non-state operated community homes.

Title 48
PUBLIC HEALTHC GENERAL
Part I. General Administration
Subpart 5. Health Planning

Chapter 125. Facility Need Review

§12501. Introduction

- A. ...
- B. Definitions

* * *

*Emergency Community Home Bed Pool*Ca pool consisting of 50 approved beds which have been transferred from state developmental centers and which are made available for transfer to non-state operated community homes in order to address emergency situations on a case-by-case basis.

* * *

- C. - F.6. ...

7. Beds may not be disenrolled, except as provided under the alternate use policy, under the Emergency Community Home Bed Pool exception, and during the 120-day period to have beds re-licensed or re-certified. The approval for beds disenrolled, except as indicated, will automatically expire.

- F.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 25:1250 (July 1999), amended LR 27:0000.

§12503. Determination of Bed Need

- A.1. - 6.d. ...

7. Emergency Community Home Bed Pool Exception:
a. The Emergency Community Home Bed Pool is hereby created, consisting of fifty 50 Medicaid enrolled beds transferred from state developmental centers.

b. The beds in the Emergency Community Home Bed Pool shall be available for transfer to non-state operated community homes in order to address emergency situations on a case-by-case basis.

c. Emergency situations which may be addressed through the use of the Emergency Community Home Bed Pool shall include, but not be limited to, situations in which it is difficult or impossible to find a placement for an individual in an ICF/MR because of one of the following:

- i. an inadequate number of available ICF/MR beds in the service area to serve the needs of the mentally retarded/developmentally disabled population in general;

- ii. an inadequate number of available ICF/MR beds in the service area to serve the needs of the mentally retarded/developmentally disabled population who also have physical or behavioral disabilities or difficulties;

- iii. an inadequate number of available ICF/MR beds in the service area to provide for the transition of individuals from residing in large residential facilities to residing within the community.

d. Any agency or individual who becomes aware of an actual or potential emergency situation should inform the Office for Citizens with Developmental Disabilities (OCDD). The OCDD shall submit to the Facility Need Review Program its recommendations for emergency placement. The recommendations from the OCDD shall

include identification of the individual in need of emergency placement, the individual's needs, the service area in which transfer from the Emergency Community Home Bed Pool is requested, and the names of one or more existing community homes that would be appropriate for emergency placement.

e. In order to be eligible for transfer of one or more beds from the Emergency Community Home Bed Pool, a community home must meet the following requirements, based on documentation provided by the Health Standards Section.

- i. The facility must comply with the physical accessibility requirements of the Americans with Disabilities Act and section 504 of the Rehabilitation Act of 1973, or if it does not comply with those requirements, it must have a written plan to be in compliance within 24 months.

- ii. The facility can not have been on a termination track or have had any repeat deficiencies within the last 12 months.

- iii. The facility must meet all square footage requirements, Life Safety Code requirements, and general construction requirements of 42 CFR Subpart D, Conditions of Participation for ICF/MR, as well as Standards for Payment, LAC 50:II Chapter 103 and Louisiana Licensing Requirements for Intermediate Care Facilities.

- iv. The facility must ensure the provision of sufficient staffing and behavior modification plans to meet the needs of current residents and prevent clients residing in the facility from being adversely affected by the emergency admission.

- f. The Secretary shall authorize the transfer of the bed to be used at the non-state operated community home, and upon the enrollment of the transferred bed at that community home, it shall be permanently transferred to that facility, subject to the following conditions: Once the bed is no longer needed to remedy the emergency situation, the facility shall continue to make it available for subsequent emergency placements, although it may be used temporarily to serve other individuals until it is needed for a new emergency placement. The facility shall make the bed available for a new emergency placement within 72 hours after receiving a request for such placement from the Department as set forth herein. If the facility does not comply with such a request, the Secretary may, at his discretion, transfer the bed from the facility back to the Emergency Community Home Bed Pool.

- g. Beds which have been placed in the Emergency Community Home Bed Pool shall be exempt from the bed need criteria and the requirements for requests for proposals which are normally applicable to ICF/MRs.

- h. For purposes of the Emergency Community Home Bed Pool exception, the definition of "service area" provided in §12503.A.1 is applicable.

- B. - B.11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 27:

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 at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0203#012

DECLARATION OF EMERGENCY

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

Medicaid Pharmacy Program Average Wholesale Price

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 April, 1990, amending the reimbursement methodology for drugs under the Louisiana Medicaid Pharmacy Program (*Louisiana Register*, Volume 16, Number 4). In compliance with Act 10 of the 1999 Regular Session of the Louisiana Legislature, the Bureau amended the April 20, 1990 rule to limit payments for prescription drugs to the lower of:

- 1) average wholesale price (AWP) minus 10.5 percent for independent pharmacies and 13.5 percent for chain pharmacies;
- 2) Louisiana's maximum allowable cost (MAC) limitation plus the maximum allowable overhead cost (MAOC);
- 3) federal upper limits plus the; or
- 4) provider's usual and customary charges to the general public. In addition, the definition of chain pharmacies was established as five or more Medicaid enrolled pharmacies under common ownership (*Louisiana Register*, Volume 26, Number 6).

As a result of a budgetary shortfall, the Bureau adopted a rule amending the June 20, 2000 rule to limit payments for prescription drugs to the lower of (AWP) minus 15 percent for independent pharmacies and 16.5 percent for chain pharmacies. In addition, the definition of chain pharmacies was changed from five or more to more than fifteen Medicaid-enrolled pharmacies under common ownership (*Louisiana Register*, Volume 26, Number 8). As a result of the allocation of funds by the Legislature during the 2001 Regular Session, the Bureau increased the reimbursement rate for prescription drugs under the Medicaid Pharmacy Program by amending the estimated acquisition cost formula from (AWP) minus 15 percent to 9(AWP) minus 13.5 percent for independent pharmacies and from (AWP) minus 16.5 percent to (AWP) minus 15 percent for chain

pharmacies. This emergency rule is being adopted to continue the provisions contained in the August 6, 2001 rule.

Emergency Rule

Effective for dates of services on or after April 5, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rate for prescription drugs under the Medicaid Pharmacy Program by amending the estimated acquisition cost formula from average wholesale price (AWP) minus 15 percent to AWP minus 13.5 percent for independent pharmacies and from AWP minus 16.5 percent to AWP minus 15 percent for chain pharmacies. This adjustment applies to single source drugs, multiple source drugs that do not have a state maximum allowable cost (MAC) or federal upper limit and those prescriptions subject to (MAC) overrides based on the physician's certification that a brand name product is medically necessary.

Implementation of this proposed rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

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 at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0203#013

DECLARATION OF EMERGENCY

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

Minimum Licensing Standards C Ambulatory Surgical Centers C Stereotactic Radiosurgery

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. 40:2131-2141. This Emergency Rule is adopted in accordance with the Administrative Procedure Act 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 Human Resources adopted regulations governing the licensing of ambulatory surgical centers (*Louisiana Register*, volume 3, number 3). The March 20, 1977 rule was subsequently amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing to repeal requirements for the periodic processing of cultures (*Louisiana Register*, Volume 24, Number 2) and the semi-annual sampling for bacteria (*Louisiana Register*, volume 24, number 10).

Act 754 of the 2001 Session of the Louisiana Legislature amended R.S. 40:2133(A) and 2136 to expand the definition of ambulatory surgical centers to include treatment centers that offer stereotactic radiosurgery by use of a gamma knife or similar neurosurgical tool. In addition, the Act directed

the department to establish rules, regulations and minimum standards for the licensing of ambulatory surgical centers as defined in R.S. 40:2133(A). In compliance with Act 754, the department proposes to amend the licensing standards for ambulatory surgical centers in order to exempt facilities that perform stereotactic radiosurgery procedures from certain requirements. This action is being taken in order to comply with R.S. 40:2136(B). It is estimated that the implementation of this emergency rule has no fiscal impact other than the administrative cost of promulgating the rule.

Effective March 21, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the licensing standards governing the operations of ambulatory surgical centers to exempt facilities operated primarily for the purpose of performing stereotactic radiosurgery procedures from certain requirements.

Title 48

PUBLIC HEALTH - GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 45. Ambulatory Surgical Center

§4571. Stereotactic Radiosurgery

A. Ambulatory surgical centers operated primarily for the purpose of offering stereotactic radiosurgery by use of a gamma knife or similar neurosurgical tool, shall comply with all licensing requirements contained in Chapter 45 and applicable sections of the *Guidelines for Design and Construction of Hospital and Health Care Facilities*, except for the following.

1. Section 4509.L
2. Section 4545.B
3. Section 4545.D

4. The centers shall also be exempt from Section 9.5.F5.c of the *Guidelines for Design and Construction of Hospital and Health Care Facilities*. This Section states: "Scrub facilities. Station(s) shall be provided near the entrance to each operating room and may service two operating rooms if needed. Scrub facilities shall be arranged to minimize incidental splatter on nearby personnel or supply carts."

B. The exceptions listed in this Section do not apply to ambulatory surgical centers performing surgical procedures in conjunction with stereotactic radiosurgery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

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

0203#004

DECLARATION OF EMERGENCY

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

Public Hospitals CReimbursement
Methodology CUpper 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 utilized 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, (1) Non-State government-operated hospitals. The aggregate Medicaid payments may not exceed 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 emergency rule is being adopted to continue the provisions contained in the April 1, 2001 rule.

Emergency Rule

Effective March 30, 2002 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 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

0203#015

DECLARATION OF EMERGENCY

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

**Child Care Assistance Program Providers and Payment
(LAC 67:III.5107 and 5109)**

This Emergency Rule is being repromulgated to correct a typographical error. The original Emergency Rule may be viewed in its entirety on pages 258-259 of the February 20, 2002 edition of the *Louisiana Register*.

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 Child Care Assistance Program effective March 1, 2002. This emergency rule will remain in effect for a period of 120 days.

The agency implemented cost-saving measures effective January 1, 2001, and the effects of this action have now made more funding available. The low-income families who are eligible for Child Care Assistance need as much help as possible with those costs because of the declining economy and the negative impact on employment. This action will allow the eligibility of more applicants and eliminate or

decrease the co-payments required from participants by increasing the percentages paid by DSS.

Whereas the health and safety of the children of working families is entrusted to child care environments and the goal of this program and the federal Child Care and Development Fund is to serve as many families as possible, a Declaration of Emergency is necessary to effect changes in these regulations.

Programmatic eligibility will increase from 60 percent to 75 percent of the State Median Income. The sliding fee scale has been adjusted to reflect this change and to provide that families at or below the federal poverty level will not be required to contribute to the cost of child care up to the State Maximum Rate. Due to the time and action required to program these changes, March 1 is the earliest implementation date possible.

In addition to this change, because Family Child Day Care Home providers are having difficulty obtaining pediatric first-aid training, these providers will now only be required to have current training in first aid, eliminating the need for it to be specifically "pediatric."

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance

Subchapter B. Child Care Assistance Program

§5107. Child Care Providers

A. - B.1.b. ...

c. effective March 1, 2002, furnish verification of 12 clock hours of training in job-related subject areas approved by the Department of Social Services and current verification of first aid training by the provider's renewal date each year.

B.1.d. - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:

§5109. Payment

A. The sliding fee scale used for non-FITAP recipients is subject to adjustment based on the state median income and poverty levels which are published annually. A non-FITAP household may pay a portion of its child care costs monthly in accordance with the sliding fee scale, and this shall be referred to as a "copayment." The sliding fee scale is based on a percentage of the state median income.

Sliding Fee Scale for Child Care Assistance Recipients Effective March 1, 2002C75 Percent of Projected Median Income

Number in Household	2	3	4	5	6	DSS %
Monthly Household Income	0 - 968	0 - 1219	0 - 1471	0 - 1723	0 - 1974	100%
	969 - 1535	1220 - 1908	1472 - 2281	1724 - 2654	1975 - 3027	95%
	1536 - 2101	1909 - 2596	2282 - 3090	2655 - 3585	3028 - 4079	85%
	Above 2101	ABOVE 2596	ABOVE 3090	ABOVE 3585	ABOVE 4079	0%

Number in Household	7	8	9	10	11	DSS %
Monthly Household Income	0 - 2226	0 - 2478	0 - 2729	0 - 2981	0 - 3233	100%
	2227 - 3199	2479 - 3372	2730 - 3543	2982 - 3716	3234 - 3888	95%
	3200 - 4172	3373 - 4265	3544 - 4357	3717 - 4450	3889 - 4543	85%
	Above 4172	ABOVE 4265	ABOVE 4357	ABOVE 4450	ABOVE 4543	0%

Number in Household	12	13	14	15	16	DSS %
Monthly Household Income	0 - 3484	0 - 3736	0 - 3988	0 - 4239	0 - 4491	100%
	3485 - 4060	3737 - 4232	3989 - 4405	4240 - 4577	4492 - 4749	95%
	4061 - 4636	4233 - 4728	4406 - 4821	4578 - 4914	4750 - 5006	85%
	Above 4636	ABOVE 4728	ABOVE 4821	ABOVE 4914	ABOVE 5006	0%

Number in Household	17	18	19	20		DSS %
Monthly Household Income	0 - 4743	0 - 4994	0 - 5246	0 - 5498		100%
	4744 - 4921	4995 - 5093	5247 - 5266			95%
	4922 - 5099	5094 - 5192	5267 - 5285			85%
	Above 5099	ABOVE 5192	ABOVE 5285			0%

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445(December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:

Gwendolyn P. Hamilton
Secretary

0203#006

DECLARATION OF EMERGENCY

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

Temporary Assistance to Needy Families (TANF) Initiatives (LAC 67:III.5507, 5511, 5541, and 5547)

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 amend LAC 67:III.5507, 5511, 5541, and 5547, effective March 31, 2002. This Emergency Rule will remain in effect for a period of 120 days.

The original publication of these initiatives was in a Declaration of Emergency effective November 30, 2001. The final Rule was published in February 2002 for all sections of that Emergency Rule with the exception of these four. These sections required a separate Notice of Intent which was published in January 2002.

The final Rule for §§5507, 5511, 5541, and 5547 will be published on April 20. Therefore, a Declaration of Emergency is necessary to extend the effectiveness of these

TANF Initiatives as the original Emergency Rule will expire March 30.

Separation of these initiatives became necessary when the agency determined that eligibility factors as originally published for these TANF Initiatives were not consistent with the Memoranda of Understanding which implemented each initiative.

**Title 67
SOCIAL SERVICES**

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5507. Adult Education, Basic Skills Training, Job Skills Training, and Retention Services Program

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Workforce Commission to provide adult education, basic skills training, jobs skills training, and retention services to low income families. Employed participants will be provided child care and transportation services. Unemployed participants will be provided short-term child care and transportation services.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by providing education, training, and employment-related services to low income families in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), Free or Reduced School Lunch, or who has earned income at or

below 200 percent of the federal poverty level. Within the needy family, only the parent or caretaker relative is eligible to participate. A needy family also includes a non-custodial parent who has earned income at or below 200 percent of the federal poverty level. Families who lose FITAP eligibility because of earned income are considered needy for a period of one year following the loss of cash assistance.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5511. Micro-Enterprise Development

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office of Women's Services to provide assistance to low-income families who wish to start their own businesses.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage. This goal will be accomplished by providing assistance to low-income families through the development of comprehensive micro-enterprise development opportunities as a strategy for moving parents into self-sufficiency.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), Free or Reduced School Lunch, or who has earned income at or below 200 percent of the federal poverty level. Only the parent or caretaker relative within the needy family is eligible to participate.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5541. Court-Appointed Special Advocates

A. OFS shall enter into a Memorandum of Understanding with the Supreme Court Of Louisiana to provide services to needy children identified as abused or neglected who are at risk of being placed in foster care or, are already in foster care. Community advocates provide information gathering and reporting, determination of and advocacy for the children's best interests, and case monitoring to provide for the safe and stable maintenance of the children or return to their own home.

B. The services meet the TANF goal to provide assistance to needy families so that children may be cared for in their own homes or in the home of relatives by ensuring that the time children spend in foster care is minimized.

C. Eligibility for services is limited to needy families, that is, one in which any member receives a Family

Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP) benefits, Supplemental Security Income (SSI), Free or Reduced School Lunch, or who has earned income at or below 200 percent of the federal poverty level.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5547. Housing Services

A. The Department of Social Services, Office of Family Support, may enter into Memoranda of Understanding or contracts to create pilot programs that provide transitional, short-term, or one-time housing services to needy families with minor children who participate in self-sufficiency activities, who are at risk of losing existing housing arrangements, who are in an emergency situation, or who face ineligibility because of increased earnings. These services can include but are not limited to: relocation assistance; costs associated with moving or relocation; down payment of deposit and/or initial month's rent; short-term continuation of a housing voucher; down payment for the purchase of a house; housing counseling and homebuyer education for prospective homeowners; or other transitional services determined in conjunction with the Department of Social Services and the Division of Administration.

B. These services meet the TANF goal to provide assistance to needy families so that children can be cared for in their own homes or the homes of relatives and the TANF goal to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage.

C. Eligibility for services is limited to parents, legal guardians, or caretaker relatives of minor children who are members of a needy family. A needy family is one in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, Housing and Urban Development (HUD)-funded services, or who has earned income at or below 200 percent of the federal poverty level.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Gwendolyn P. Hamilton
Secretary

0203#003

DECLARATION OF EMERGENCY

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

Oyster Harvest Area Grid System
(LAC 76:VII.519)

In accordance with the emergency provisions of R.S. 49:953.B of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures when it finds that an imminent peril to the public welfare requires adoption of a rule upon shorter notice than provided in R.S. 49:953.A, and in accordance with R.S. 56:430.1.B, which provides for the establishment of an oyster harvest area grid system, the Wildlife and Fisheries Commission does hereby adopt the following emergency rule. Adoption of this Declaration of Emergency is necessary inasmuch as it is an essential component of the coastal

restoration program which must move forward immediately to protect the public resources that are critical to the economy and welfare of our coastal areas.

This Declaration of Emergency will become effective on March 19, 2002, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule.

Title 76

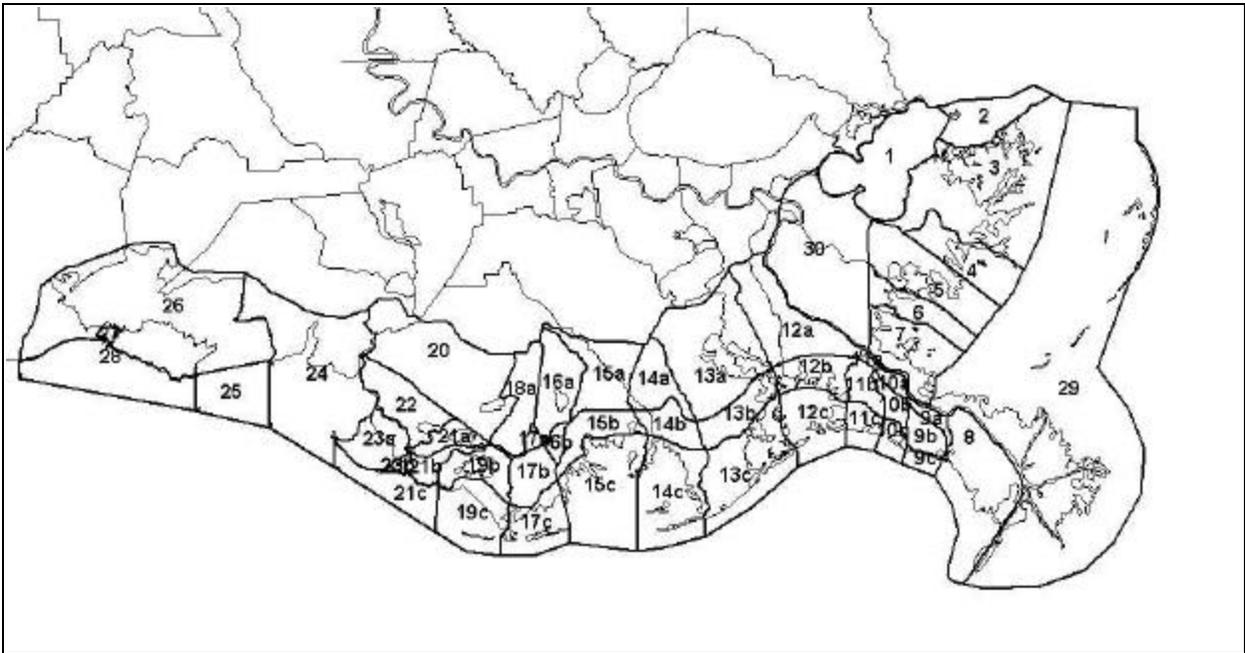
WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

§519. Establishment of an Oyster Harvest Area Grid System

A. For the purpose of submission of oyster leaseholder production information, as required in R.S. 56:430.1, the oyster harvest area grid system is established as those grid areas detailed on the map which is attached hereto and made a part hereof.



AUTHORITY NOTE: Promulgated in accordance with R.S. 56:430.1.B.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:

James H. Jenkins, Jr.
Secretary

0203#017

DECLARATION OF EMERGENCY

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

Oyster Lease Moratorium (LAC 76:VII.505)

In accordance with emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and in accordance with R.S. 56:6(10), R.S. 56:422, R.S. 56:425, R.S. 56:429 and R.S. 56:432.1, the Wildlife and Fisheries Commission declares an immediate moratorium on the

issuance of oyster leases and on the taking of oyster lease applications for state waterbottoms not presently under lease. Continuation of issuance of new oyster leases would pose an imminent peril to the public welfare and requires adoption of a rule upon shorter notice than provided in R.S. 49:953.A, the Wildlife and Fisheries Commission does hereby adopt the following Emergency Rule. Adoption of this Declaration of Emergency is necessary, according to the Department of Natural Resources, inasmuch as immediate action is essential to reduce the state's exposure to potential claims from oyster leaseholders and further, that failure to do so would pose an imminent peril to the coastal restoration program and to the federal/state partnership which is critical to the efforts of the state to obtain comprehensive coast-wide restoration authorization and funding.

This Declaration of Emergency will become effective on March 7, 2002, 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 VII. Fish and Other Aquatic Life

Chapter 5. Oyster

§505. Oyster Lease Moratorium

A. A moratorium on the issuance of oyster leases for waterbottoms not presently under lease is established. This includes a moratorium on the taking of oyster lease applications for waterbottoms not presently under lease. All pending applications will be held, along with all fees paid, pending a resolution of the moratorium, unless the applicant requests cancellation of the application and refund of fees. In the event of the death of an applicant, the applicant's heirs or legatees should so notify the department; and any lease ultimately issued shall only be issued to persons placed in possession of the application by Judgement of Possession or to a court-appointed administrator or executor on behalf of a deceased applicant's estate.

B. A moratorium is placed on the auction of oyster leases in default in payment of rent per LAC 76:VII.501.G, as authorized by R.S. 56:429.

C. Any leases selected by a leaseholder who has previously selected the relocation option pursuant to R.S. 56:432.1 shall be exempt from this moratorium but only to the extent of such previous selection.

D. At such time as the moratorium is lifted, applications for oyster leases will be accepted in accordance with all

applicable statutes, rules and regulations and the procedures set out below.

1. One week prior to the date that the moratorium is lifted, the date, time and place where applications are to be taken will be publicly advertised.

2. On the date for taking of applications only one applicant at a time will be allowed in the office and this applicant will be allowed to take only one application. Each applicant will have 15 minutes to designate the area he wishes to apply for. After the applicant pays the application and survey fees, he may return to the end of the line for another application.

3. Applications will be taken 24 hours a day (on a first come basis) until the department feels the influx of applicants can be handled during regular office hours at the New Orleans Office, at which time anyone will be able to take an application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), R.S. 56:422, R.S. 56:425, R.S. 56:429, and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 10:948 (November 1984), amended LR 28:

Thomas M. Gattle, Jr.
Chairman

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