

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Chloramphenicol in Honey; Testing and Sale (LAC 7:XXXV.141)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule governing the testing and sale of honey in Louisiana. These Rules are being adopted in accordance with R.S. 3:2A, 3:3B, R.S. 3:4608 and the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act.

The Commissioner has promulgated these rules and regulations to implement standards relating to Chloramphenicol in honey that are consistent with standards adopted by the FDA regarding chloramphenicol in foods. All honey sold in Louisiana must meet the standards adopted by the Commissioner, herein, prior to distribution and sale.

Chloramphenicol is a broad-spectrum antibiotic that has been restricted by the FDA for use in humans only in those cases where other antibiotics have not been successful. The FDA has set a zero tolerance level for Chloramphenicol in food and has prohibited the extra label use of Chloramphenicol in the United States in food producing animals, including bees (21 CFR 530.41).

Chloramphenicol is known to cause aplastic anemia, which adversely affects the ability of a person's bone marrow to produce red blood cells. Aplastic anemia can be fatal. In addition, according to the National Institute on Environmental and Health Sciences, Chloramphenicol can reasonably be anticipated to be a human carcinogen. In widely accepted references such as "Drugs in Pregnancy and Lactation," the use of Chloramphenicol is strongly dissuaded during pregnancy, especially late pregnancy. Chloramphenicol can be transmitted to an unborn child through the placenta and to an infant through the mother's milk. The dosage transmitted to an unborn child is essentially the same dosage as is taken in by the mother. However, the unborn child is unable to metabolize Chloramphenicol as efficiently, thereby causing the risk of an increasing toxicity level in the unborn child. Although the effect on an infant as a result of nursing from a mother who has taken Chloramphenicol is unknown, it is known that such an infant will run the risk of bone marrow depression.

Recently, Canada, the United Kingdom, the European Union, and Japan have found chloramphenicol in honey imported from China. The Department has found chloramphenicol in honey imported from Thailand. Preliminary test results from Canada indicate about 80 Percent of the samples are positive for chloramphenicol. The possibility exists that other countries may export chloramphenicol-contaminated honey to the U.S.A., either by diversion of Chinese honey or their own use of chloramphenicol.

The sale of such honey in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to Chloramphenicol, a known health hazard. The sale, in Louisiana, of honey containing Chloramphenicol presents an imminent peril to the public's health, safety and welfare. This peril can cause consumers to quit buying honey from any source, including Louisiana honey. If consumers cease to buy, or substantially reduce, their purchases of Louisiana honey then Louisiana honey producers will be faced with substantial economic losses. Any economic losses suffered by Louisiana's honey producers will be especially severe in light of the current economic situation, thereby causing an imminent threat to the public welfare.

The Commissioner of Agriculture and Forestry has, therefore, determined that these emergency rules are necessary to immediately implement testing of honey for Chloramphenicol, to provide for the sale of honey and products containing honey that are not contaminated with Chloramphenicol. These Rules become effective upon signature, November 7, 2002, and will remain in effect 120 days, unless renewed by the Commissioner or until permanent rules are promulgated.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§141. Chloramphenicol in Honey Prohibited; Testing and Sale of

A. Definitions

Food Producing Animals Both animals that are produced or used for food and animals, including bees, which produce material used as food.

Geographic Area A country, province, state, or territory or definable geographic region.

Honey Any honey, whether raw or processed.

B. No honey or food containing honey may be held, offered or exposed for sale, or sold in Louisiana if such honey or food containing honey contains Chloramphenicol.

C. No honey that is harvested from or produced, processed or packed in a geographic area, that the Commissioner declares to be a location where Chloramphenicol is being used on or found in food producing animals, including bees, or in products from such animals, may be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E. No honey from any such geographic area may be used, as an ingredient in any food held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E.

D. The Commissioner may declare a geographic area to be a location where Chloramphenicol is being used on or found in food producing animals, including bees or in products from such animals, based upon information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in food

producing animals, or in products from such animals, in that geographic area.

1. Any such declaration shall be subject to promulgation in accordance with the provisions of the Administrative Procedure Act.

2. The Commissioner may release any such geographic area from a previous declaration that Chloramphenicol is being used on food producing animals, including bees, in that location. Any such release shall be subject to promulgation in accordance with the Administrative Procedure Act.

E. Honey that comes from a geographic area declared by the Commissioner to be a location where Chloramphenicol is being used on, or is found in food producing animals, including bees, or in products from such animals, must meet the following requirements for sampling, identification, sample preparation, testing and analysis before being held, offered or exposed for sale, or sold in Louisiana:

1. Sampling

a. The numbers of samples that shall be taken are as follows.

i. Two samples are to be taken of honey that is in lots of fifty pounds or less.

ii. Four samples are to be taken of honey that is in lots of fifty-one to one hundred pounds.

iii. Twelve samples are to be taken of honey that is in lots of one hundred and one pounds up to fifty tons.

b. For honey in bulk wholesale containers, each sample shall be at least one pound or twelve fluid ounces and must be pulled at random throughout each lot.

c. For packaged honey, each sample shall be at least eight ounces in size and shall be taken at random throughout each lot.

d. If the honey to be sampled consists of packages of honey grouped together, but labeled under two or more trade or brand names, then the honey packaged under each trade or brand name shall be sampled separately. If the honey to be sampled are not packaged, but are segregated in such a way as to constitute separate groupings, then each separate grouping shall be sampled separately.

e. A composite of the samples shall not be made. All samples shall be delivered to the lab. Each sample shall be clearly identifiable as belonging to a specific group of honey and shall be tested individually.

2. Each sample shall be identified as follows:

a. any package label;

b. any lot or batch numbers;

c. the country, province and city of origin;

d. the name and address of the importing company;

e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

3. Sample Preparation. For small packages of honey up to and including eight ounces, use the entire sample. If honey sample includes more than one container, they shall be blended together. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample as a reserve.

4. Sample Analysis

a. Immunoassay test kits may be used if the manufacturer's published detection limit is one part per billion, (1 ppb) or less. Acceptable test kits include

r-iopharm Ridascreen Chloramphenicol enzyme immunoassay kit and the Charm II Chloramphenicol kit. The Commissioner may authorize other immunoassay kits with appropriate detection limits of 1 ppb or below to be used. Each sample must be run using the manufacturer's test method. The Manufacturer's specified calibration curve must be run with each set. All results above 1 ppb must be assumed to be Chloramphenicol unless further testing by approved GC/LC method indicates the result to be an artifact.

b. HPLC-MS, GC-ECD, GC-MS methods currently approved by FDA, the United States Department of Agriculture or the Canadian Food Inspection Agency with detection limits of 1 ppb or below may also be used.

c. Other methods for sampling, identification, sample preparation, testing and analysis may be used if expressly approved in writing by the Commissioner.

5. Any qualified laboratory may perform the testing and analysis of the samples unless it is located in a geographic area that the Commissioner has declared to be a location where Chloramphenicol is being used on or found in food producing animals including bees, or in products from such animals. The Commissioner shall resolve any questions about whether a laboratory is qualified to perform the testing and analysis.

6. The laboratory that tests and analyzes a sample or samples for Chloramphenicol shall certify the test results in writing.

7. A copy of the certified test results along with the written documentation necessary to show the methodology used for the sampling, identification, sample preparation, testing and analysis of each sample shall be sent to and actually received by the Department prior to the honey or food containing honey being held for sale, offered or exposed for sale, or sold in Louisiana.

a. The test results and accompanying documentation must contain a test reference number.

b. The certified test results and the accompanying documentation must be in English and contain the name and address of the laboratory and the name and address of a person who may be contacted at the laboratory regarding the testing of the honey.

8. Upon the Department's actual receipt of a copy of the certified test results and written documentation required to accompany the certified test results, the honey or food containing honey may be held, offered or exposed for sale, or sold in Louisiana, unless a written stop-sale, hold or removal order is issued by the Commissioner.

9. A copy of the test results, including the test reference number, shall either accompany every shipment of such honey or food containing honey, and be attached to the documentation submitted with every shipment sent to each location in Louisiana, or shall be immediately accessible to the Department, upon request, from any such location.

F. Any person who is seeking to bring honey, or any food containing honey, that is required to be sampled and tested under this Section, into Louisiana, or who holds, offers or exposes for sale, or sells such honey or food containing honey in Louisiana shall be responsible for having the honey, sampled and tested in accordance with Subsection E. Any such person must, at all times, be in full

and complete compliance with all the provisions of this Section.

G. The Commissioner may reject the test results for any honey if the Commissioner determines that the methodology used in sampling, identifying, sample preparation, testing or analyzing any sample is scientifically deficient so as to render the certified test results unreliable, or if such methodology was not utilized in accordance with, or does not otherwise meet the requirements of this Section.

H. If any certified test results are rejected by the Commissioner then any person shipping or holding the honey or food containing honey will be notified immediately of such rejection and issued a stop-sale, hold or removal order by the Commissioner. Thereafter, any such person shall abide by such order until the Commissioner lifts the order in writing. Any such person may have the honey retested in accordance with this Section and apply for a lifting of the Commissioner's order upon a showing that the provisions of this Section have been complied with and that the honey is certified as being free of Chloramphenicol.

I. The Department may inspect any honey and any food containing honey, found in Louisiana, and take samples for testing.

J. A stop-sale, hold or removal order, including a prohibition on disposal, may be placed on any honey or any food containing honey that does not meet the requirements of this Section. Any such order shall remain in place until lifted, in writing, by the Commissioner.

K. The Department may take physical possession and control of any honey or any food containing honey that violate the requirements of this Section if the Commissioner finds that the honey or food containing honey presents an imminent peril to the public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

L. The Commissioner declares that he has information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in food producing animals including bees, or in products from such animals, in certain geographic area(s).

1. The geographic area or areas are:
 - a. the country of the People's Republic of China;
 - b. the country of Thailand.

2. All honey harvested from or produced, processed or packed in any of the above listed geographic areas are hereby declared to be subject to all the provisions of this Section, including sampling and testing provisions.

M. All records and information regarding the distribution, purchase and sale of honey or any food containing honey shall be maintained for two years and shall be open to inspection by the Department.

N. Penalties for any violation of this Section shall be the same as and assessed in accordance with R.S. 3:4624.

O. The effective date of this Section is November 7, 2002.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture & Forestry, Office of the Commissioner, LR 28:

Bob Odom
Commissioner

0211#028

DECLARATION OF EMERGENCY

Department of Economic Development Office of Business Development Louisiana Economic Development Corporation

Matching Grants Program
(LAC 19:VII.Chapter 79)

The Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, pursuant to the emergency provision of the Administrative Procedure Act, R.S. 49:9536(B), adopts the following Emergency Rule implementing the Louisiana Matching Grants Program as authorized by R.S. 51:2312. This Emergency Rule is adopted October 29, 2002 in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., shall become effective October 29, 2002 and shall remain in effect for the maximum period allowed under the Act or until adoption of a permanent Rule, whichever occurs first.

The Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation has found an immediate need to provide financial assistance to provide matching grant funds to leverage state and local funding in order to maximize matching funds from federal and other grants for the purpose of assisting, whether individually or collectively, qualified Louisiana businesses, minority-owned businesses, high-growth potential businesses, women-owned businesses, small business enterprises and disabled persons' business enterprises as those terms are defined by R.S. 39:2303, and may also include providing matching funding for federal grants for infrastructure and basic infrastructure projects under the Louisiana Economic Development Award Program. Without this Emergency Rule the public welfare may be harmed as a result of the inability to obtain Federal grant funds, resulting in the loss of industry and jobs in this State.

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart 11. Louisiana Matching Grants Program

Chapter 79. Matching Grants Program

§7901. Purpose

A. The purpose of this program is to leverage State and Local funding in order to maximize matching funds from Federal and other grants for the purpose of assisting, whether individually or collectively, qualified Louisiana businesses, minority-owned businesses, high-growth potential businesses, women-owned businesses, small business enterprises and disabled persons' business enterprises as those terms are defined by R.S. 39:2303, in such manner and as may be determined by the Board in its discretion, and may also include providing matching funding for Federal grants for infrastructure and basic infrastructure projects under the Louisiana Economic Development Award Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Louisiana Economic Development Corporation, LR 28:

§7903. Definitions

Applicant the public entity requesting matching grant funds under this program. The public entity may be joined in the application by any other entity.

Award the funding of matching grant money under this program for eligible applicants.

Award Agreement the agreement of contract hereinafter referred to between the public entity, DED and LEDC, and where applicable, any other entity through which the parties by cooperative endeavor or otherwise, set forth the terms, conditions and performance objectives of the award provided pursuant to these rules.

DEDC the Louisiana Department of Economic Development.

Project a proposal by a public entity that promotes economic development for which matching grant funds are sought under this program. Where matching grant funds are sought for projects that are defined as Basic Infrastructure or Infrastructure under the EDAP Rules, then the rules pertaining to EDAP, in addition to these rules, apply to the determination as to the funding of the matching grant funds.

Public Entity the applying public or quasi-public entity that will be responsible for receiving and administering the performance and oversight of the project and for supervising compliance with the terms, conditions and performance objectives of the award agreement.

Secretary the Secretary of the Department of Economic Development, who is also the President of LEDC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Louisiana Economic Development Corporation, LR 28:

§7905. General Principles

A. The following general principles will direct the administration of the Matching Grant Award Program.

1. *Awards* are not to be construed as an entitlement for companies locating or located in Louisiana.

2. An *award* must reasonably be expected to be a significant factor in improving or enhancing economic development, whether in a particular circumstance, or overall.

3. *Awards* must reasonably be demonstrated to result in the enhanced economic well-being of the state and local communities.

4. *Awards* that promote retention and strengthening of existing businesses will be evaluated using the same procedures and with the same priority as the recruitment of new businesses to the state.

5. The anticipated economic benefits to the state will be considered in making the *award*.

6. Appropriate cost sharing among *project* beneficiaries is a factor in the consideration of the award.

7. Whether or not an *award* will be made is entirely at the discretion of the LEDC Board and shall depend upon the facts and circumstances of each case, funds available, funds already allocated, and other such factors as the board may, in its discretion deem to be pertinent. The grant or rejection of an application for an award shall not establish any precedent and shall not bind the board to any future course of action with respect to any application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Louisiana Economic Development Corporation, LR 28:

§7907. Eligibility

A. In order to be eligible for a Matching Grant Award pursuant to this program, the *applicant* must demonstrate the following to the satisfaction of the board:

1. The *award* sought must be consistent with the Principles set forth above, the *applicant* must demonstrate a need for the matching grant funds, the ability to administer the funds in accordance with all applicable laws, rules and regulations governing the receipt of the grant, and that management are, or will be, in place to provide the services the grant is intended to provide. Where it is represented that certain contingent actions will be taken in order to comply with these conditions, then the LEDC may, in its discretion, withhold funding until there is substantial performance of the contingencies.

2. Preference will be given to *applicants* representing rural communities, or those communities designated as renewal communities.

3. The *applicant* must demonstrate that the matching funds and resulting grant from available matching funds will serve, individually, or collectively, the purposes of the Program as defined in §7901 and the general principles defined in §7905 above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Louisiana Economic Development Corporation, LR 28:

§7909. Application for Matching Grant

A. The *applicant* must submit an application to the DED or LEDC on a form provided which shall contain the following information.

1. A copy of the application or a valid description of the grant for which matching funds are sought.

2. A letter of commitment or such other information as will provide the board necessary information to assure that if the funds are made available and other necessary and appropriate steps are taken, the grant will be matched by the granting authority.

3. An explanation for the reason that LEDC provide the match to the grant.

4. A plan which shall include a budget as to how and when the match and the grant are to be spent.

5. Résumés or other appropriate information on the grant administrator or grant monitor.

6. A statement that reflects that the value of the matching funds to the project and to the economic development of the state sought through the project will equal or exceed the benefits given to the recipient of the Grant funds.

7. How matching the grant funds will serve the best interests of the businesses defined in the Purposes set forth in §7901 above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Louisiana Economic Development Corporation, LR 28:

§7911. Matching Grant Funding

A. The *award* shall not be drawn down before the grant is funded by the federal or other entity that is providing the funds for which the matching grant is being awarded.

B. There shall be a contribution from the applicant that in the opinion of the board constitutes a commitment to the project for which the funds are being sought.

C. The Louisiana Economic Development Corporation may allocate funds to this program on a case by case basis and may, by vote, determine a maximum amount to be allocated for the fiscal year.

D. This program shall be evaluated by the board in one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Louisiana Economic Development Corporation, LR 28:

Don J. Hutchinson
Secretary

0211#019

DECLARATION OF EMERGENCY

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Scholarship/Grant Programs
(LAC 28:IV.703, 1103, 1705, and 2103)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the Scholarship/Grant programs (R.S. 17:3021-3026, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

This Emergency Rule is necessary to implement changes to the Scholarship/Grant programs to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that 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 October 10, 2002, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

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

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

§703. Establishing Eligibility

A. - D. ...

E. Students graduating in academic years 1996-97 and 1997-98 who qualified by reduction of the foreign language requirement must provide LASFAC a copy of their college transcript showing completion of one or more foreign

language courses. Eligibility for an award is not established until receipt of the transcript verifying that the foreign language credit was earned and the student shall first be awarded for the semester or term following that in which eligibility was established. Under this provision, eligibility must be established not later than the conclusion of the 1998-99 award year. High School Graduates of 1996-97 and 1997-98 who meet the requirements of §703.A.4.b. or d. or §803.A.4.b. or d. of these rules and who have not been discharged with an undesirable, bad conduct or dishonorable discharge must meet the foreign language requirement no later than one year after the date of separation from active duty.

F. - G.2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602, 1998 (August 2000), LR 26:1996, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), LR 27:1850 (November 2001), LR 28:772 (April 2002), LR:28:1760 (August 2002), LR 28:

Chapter 11. Rockefeller State Wildlife Scholarship

§1103. Establishing Eligibility

A. - A.7. ...

8. a. must have graduated from high school, and if at the time of application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, have earned a minimum cumulative high school grade point average of at least 2.50 calculated on a 4.00 scale for all courses completed in grades 9 through 12 and have taken the ACT or SAT and received test score results; or

b. if, at the time of application, the student applicant has earned 24 or more hours of college credit, then the applicant must have at least a 2.50 cumulative college grade point average.

c. If, at the time of application, the student is in graduate school, then the applicant must have at least a 3.00 cumulative grade point average on all credits earned in graduate school.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:639 (April 1998), amended LR 24:1908 (October 1998), LR 27:1220 (August 2001), repromulgated LR 27:1859 (November 2001), amended LR 28:774 (April 2002), LR 28:

**Chapter 17. Responsibilities of High Schools, School
Boards, Special School Governing
Boards, the Louisiana Department of
Education and LASFAC on Behalf of
Eligible Non-Louisiana High Schools**

§1705. Notification of Certified Students

A. - B. ...

C. If the certifying authority elects to notify students of their certification, then the following disclaimer shall be included in any communication to the student: "Although you have been certified as academically eligible for a Tuition

Opportunity Program for Students (TOPS) Award, you must satisfy all of the following conditions to redeem a scholarship under this program:

1. you must be a Louisiana resident as defined by the Louisiana Student Financial Assistance Commission; and
2. you must be accepted for enrollment by an eligible Louisiana college and be registered as a full-time undergraduate student; and
3. you must annually apply for federal student aid, if eligible for such aid, by the deadline required for consideration for state aid; and
4. you must have met all academic and nonacademic requirements and be officially notified of your award by the Louisiana Student Financial Assistance Commission (LASFAC)."

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:644 (April 1998), amended LR 24:1913 (October 1998), repromulgated LR 27:1864 (November 2001), amended LR 28:

Chapter 21. Miscellaneous Provisions and Exceptions

§2103. Circumstances Warranting Exception to the

Initial and Continuous Enrollment

Requirements

A. - E.1.c. ...

4. Temporary Disability

a. - b.i. ...

ii. a written statement from a qualified professional of the existence of a temporary disability and a description of the injury, illness, or required surgery, including the dates of treatment, the treatment required, the prognosis, the length of the recovery period, the beginning and ending dates of the doctor's care, and opinions as to the impact of the disability on the student's ability to attend school; and

4.b.iii - 7.c. ...

8. Death of Immediate Family Member

a. Definition. The student's spouse, parent, stepparent, guardian, sister or brother, step sibling, or grandparent dies.

8.b.-11.c. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2004 (September 2000), LR 27:37 (January 2001), LR 27:1875 (October 2001), LR 27:1866 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:

George Badge Eldredge
General Counsel

0211#021

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs CDefinitions
(LAC 28:IV.301)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the Scholarship/Grant programs (R.S. 17:3021-3026, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

This Emergency Rule is necessary to implement changes to the Scholarship/Grant programs to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that 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 October 28, 2002, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

Part IV. Student Financial Assistance—Higher

Education Scholarship and Grant Programs

Chapter 3. Definitions

§301. Definitions

* * *

Cost of Attendance Cthe total amount it will cost a student to go to school, usually expressed as an academic year figure. This cost is determined by the school in compliance with Title IV of the Higher Education Act of 1965, as amended, and is annually updated and adopted by the institution. The cost of education covers tuition and fees, on-campus room and board (or a housing and food allowance for off-campus students) and allowances for books, supplies, transportation, child care, costs related to a disability, and miscellaneous expenses. Also included are reasonable costs for eligible programs of study abroad. An allowance (determined by the school) is included for reasonable costs connected with a student's employment as part of a cooperative education program.

Dependent Student Ca student who is dependent on his or her parents or legal guardian for support and therefore is required to include parental information on the Free Application for Federal Student Aid (FAFSA) or renewal FAFSA.

* * *

TOPS Cumulative Grade Point Average (Academic) Cthe grade point average calculated by LOSFA on all academic courses taken by a student at postsecondary institutions to determine whether the student has maintained Steady Academic Progress and whether the student has met the minimum grade point average required to maintain eligibility for continuation of a TOPS Award. The cumulative grade point average shall be calculated on a 4.00 scale and must include all academic courses from all postsecondary institutions attended for which the student has been awarded a grade. Academic courses taken at a college or university while the student was still in high school and at postsecondary institutions other than the institution at which the student is currently enrolled must be included in the calculation. Grades earned in non-academic courses and courses taken on a pass/fail basis are not considered in the calculation of the cumulative grade point average.

TOPS Cumulative Grade Point Average (Non-Academic) Cthe grade point average calculated by LOSFA on all non-academic courses taken by a student at postsecondary institutions to determine whether the student has maintained Steady Academic Progress and whether the student has met the minimum grade point average required to maintain eligibility for continuation of a TOPS Award. The cumulative grade point average shall be calculated on a 4.00 scale and must include all non-academic courses from all postsecondary institutions attended for which the student has been awarded a grade. Non-academic courses taken at a college or university while the student was still in high school and at postsecondary institutions other than the institution at which the student is currently enrolled must be included in the calculation. Grades earned in academic courses and courses taken on a pass/fail basis are not considered in the calculation of the cumulative grade point average.

TOPS Cumulative High School Grade Point Average Ceffective for high school graduates beginning with Academic Year (High School) 2002-2003, the grade point average calculated by LOSFA including only the grades achieved in those courses that were used to satisfy core curriculum requirements. In the event a student has received credit for more than 16.5 hours of courses that are included in the core curriculum, the TOPS Cumulative High School Grade Point Average shall be calculated by using the course in each core curriculum category for which the student received the highest grade. For example, if a student has taken more than one Advanced Mathematics course, the Cumulative Grade Point Average shall be determined by using only the course in which the student has received the highest grade.

For those high schools that utilize other than a 4.00 scale, all grade values shall be converted to a 4.00 scale utilizing the following formula.

$$\frac{\text{Quality Points Awarded for the Course}}{\text{Maximum Points Possible for the Course}} = \frac{X (\text{Converted Quality Points})}{4.00 (\text{Maximum Scale})}$$

For school's awarding a maximum of 5 points for honors courses, the formula shall be used to convert the honors course grade of "C" as shown in the following example.

$$\frac{3.00}{5.00} = \frac{X}{4.00}$$

By cross multiplying,
 $5X = 12; X = 2.40$

Quality points = Credit for course multiplied by the value assigned to the letter grade.

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

HISTORICAL NOTE: Promulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (July 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26: 2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1842, 1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:

George Badge Eldredge
 General Counsel

0211#017

DECLARATION OF EMERGENCY

Tuition Trust Authority Office of Student Financial Assistance

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

The Louisiana Tuition Trust Authority (LATA) 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 are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective October 28, 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 1. General Provisions

§107. Applicable Definitions

Maximum Allowable Account Balance Cthe amount, determined annually, and effective on August 1 of each year, and expressed as a current dollar value, which is equal to

five times the Qualified Higher Education Expenses at the highest cost institution in the state. Once the cumulative contributions, earnings on contributions, Earnings Enhancements and interest accrued thereon of an Education Savings Account equals or exceeds the Maximum Allowable Account Balance, principal deposits will no longer be accepted for the account. However, if subsequent increases occur in the Maximum Allowable Account Balance, principal deposits may resume until the cumulative credits equal the most recently determined Maximum Allowable Account Balance.

* * *

Other Persons with respect to any designated Beneficiary, is any person, other than the Beneficiary, whether natural or juridical, who is not a Member of the Family, including but not limited to individuals, groups, trusts, estates, associations, organizations, partnerships, corporations, and custodians under the Uniform Transfer to Minors Act (UTMA).

* * *

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:

George Badge Eldredge
General Counsel

0211#018

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of the Secretary

Commercial Laboratories Pending Accreditation
(LAC 33:I.4501 and 4719)(OS039E3)

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 renewed effective March 16, 2002 and July 14, 2002. The department has begun rulemaking (Log #OS039) 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 November 11, 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 OS039E3, you may contact the Regulation Development Section at (225) 765-0399.

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 Office of Environmental Assessment, Environmental Planning Division, LR 26:1434 (July 2000), LR 29:

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 Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000), LR 29:

L. Hall Bohlinger
Secretary

0211#0023

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of the Secretary

Public Notification of Contamination (LAC 33:I.Chapter 1)(OS042E1)

In accordance with the emergency provision of the Administrative Procedure Act, R.S. 49:953.B, and under the authority of R.S. 30:2011, the secretary of the Department of Environmental Quality declares that an emergency action is necessary to comply with the Governor's October 1, 2001, Executive Order No. MJF 2001-46, entitled "Environmental Contamination Notification." The order states, "the health, safety, and welfare of the people of Louisiana would be improved, and the government would better fulfill its public trust obligations, if those executive branch agencies notified people who may be exposed to environmental contamination when such agency has sound scientific knowledge of environmental contamination that exceeds the applicable federal and state health standards and that may cause adverse health effects."

This Emergency Rule is effective on November 7, 2002, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first. This is a renewal of Emergency Rule OS042E, which was effective on July 10, 2002. The department is drafting a rule to promulgate these provisions. For more information concerning OS042E1, you may contact the Regulation Development Section at (225) 765-0399.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures Chapter 1. Public Notification of Contamination

§101. Purpose

A. The purpose of this Chapter is to establish requirements for notifying those members of the public that the department determines are likely to be adversely affected by a release.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:

§103. Definitions

Administrative Authority—the secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

Applicable Federal or State Health and Safety Standard—such standards the department, based on its knowledge and expertise, determines are applicable to the release site.

Department—the Department of Environmental Quality.

Off-Site—areas beyond the property boundary of the release site.

Person—any individual, municipality, public or private corporation, partnership, firm, the State of Louisiana, political subdivisions of the State of Louisiana, the United States government, and any agent or subdivision thereof or any other juridical person, which shall include, but not be limited to, trusts, joint stock companies, associations, commissions, and interstate bodies.

Release—the accidental or intentional spilling, leaking, pumping, pouring, emitting, escaping, leaching, or dumping of hazardous substances or other pollutants into or on any land, air, water, or groundwater. A release shall not include a federal or state permitted release or other release authorized by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:

§105. Notification Requirements

A. Notice shall be provided when the department confirms off-site impact that exceeds the applicable federal or state health and safety standard and the department determines that the off-site impact poses a risk of adverse health effects.

B. The department shall issue notice of a release to persons, within the area of contamination, where the department determines that the release poses a risk of adverse health effects.

C. The public notice shall be provided by means reasonably calculated to reach those members of the public directly affected by the release, as determined by the department, and shall provide information regarding potential adverse health effects posed by the contamination, as determined by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:

L. Hall Bohlinger
Secretary

0211#002

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Practical Nurse Examiners

Appointing Authority (LAC 46:XLVII.303)

The Board of Practical Nurse Examiners, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979, adopts, effective October 24, 2002, an amendment to §303.A.1. This Emergency Rule shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

This action is being taken to ensure that the board may act, without delay, to protect the citizens of the state against misconduct by board employees. In addition, this action will protect the board against an anticipated challenge to its lawfully delegated authority to take adverse actions against civil service employees. Implementation of this emergency rule will have no fiscal impact.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 1. Practical Nurses

Chapter 3. Board of Practical Nurse Examiners

§303. Additional Duties and Powers of the Board

A. In accordance with the Louisiana Statutes, Title 37, Section 969, the board shall have all such powers and duties as written. In addition the board shall:

1. appoint an executive director and associate executive director who shall be professional nurses currently licensed in the state of Louisiana and who shall serve as the executive staff of the board. The executive director, or in her absence the associate executive director, serves as the appointing authority of the board;

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969.

HISTORICAL NOTE: Promulgated by the Department of Health and Human

Resources, Board of Practical Nurse Examiners, LR 3:193 (April 1977), amended LR 10:335 (April 1984), amended LR 26:2614 (November 2000), LR 28:

Claire Doody Glaviano
Executive Director

0210#11

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodologies
Small Rural Hospitals

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance

Program as authorized by R.S. 34:254 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 final 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).

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 amended the March 20, 2000 rule to revise the disproportionate share qualification criteria for small rural hospitals (*Louisiana Register*, Volume 27, Number 3).

Act 35 of the 2002 First Extraordinary Session of the Louisiana Legislature provides changes to the criteria used to define rural hospitals. In compliance with Act 35, the bureau revised the disproportionate share qualification criteria for small rural hospitals. This Emergency Rule is being adopted to continue the provisions of the August 5, 2002 Rule.

This action is being taken to enhance federal revenues.

Emergency Rule

Effective for dates of service on and after December 4, 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.

III. Reimbursement Methodologies

A. ...

B. Small Rural Hospitals

1.a.-g. ...

h. has no more than 60 hospital beds or has notified the Department of Health and Hospitals as of March 7, 2002 of its intent to reduce its number of hospital beds to no more than 60, and is located, as measured by the 2000 census,

i. in a municipality with a population of less than 13,000; and

ii. in a parish with a population of less than 32,000.

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, 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

0211#087

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. 36:254 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 established medical necessity criteria for the prior authorization of vagus nerve stimulators. Vagus nerve stimulators (VNS) are implantable devices used to assist in the control of seizures related to epilepsy. This Emergency rule is being adopted to continue the provisions contained in the December 1, 2002 Rule.

Emergency Rule

Effective November 29, 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 trials 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

0211#089

DECLARATION OF EMERGENCY

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

**Early and Periodic Screening, Diagnosis and Treatment
ProgramCPsychological and Behavioral Services**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, adopts the following Emergency Rule in the Medical Assistance

Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing, currently provides coverage for an extensive range of medical services, including Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services for Medicaid recipients up to the age of 21. As a result of a lawsuit, the Department was ordered to make psychological and behavioral management services available to class members who meet certain criteria. The Bureau adopted an Emergency Rule to establish recipient criteria and the array of psychological and behavioral services available under the EPSDT Program (*Louisiana Register*, Volume 28, Number 4). The bureau repealed the April 20, 2002 Rule and adopted new provisions governing EPSDT Psychological and Behavioral Services.

This action is being taken to promote the health and welfare of Medicaid recipients who are 21 years of age or younger and to ensure access to psychological and behavioral services by encouraging the participation of qualified providers in the Medicaid Program. This Emergency Rule is being adopted to continue the provisions of the August 5, 2002 Rule.

Emergency Rule

Effective December 4, 2002 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, repeals the April 20, 2002 Rule and adopts the following provisions governing Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT) Psychological and Behavioral Services.

A. Recipient Criteria

In order to be eligible for services, a Medicaid recipient must be under the age of 21, be a member of the Chisholm lawsuit class and meet one of the following criteria:

1. have a diagnosis of Pervasive Developmental Disorder (PDD) according to a clinically appropriate diagnostic screening tool or other assessment; or
2. have an impaired functional status that can be addressed by psychological treatment on an instrument or other assessment of individual functioning that is appropriate for individuals with developmental disabilities; or
3. engage in behaviors so disruptive or dangerous that harm to others is likely (e.g., hurts or attempts to hurt others, such as hitting, biting, throwing things at others, using or threatening to use a weapon or dangerous object). Behaviors are recurrent, not a single instance; or
4. engage in behaviors that have resulted in actual physical harm to the child himself/herself, such as bruising, lacerations or other tissue damage, or would result in physical harm if the child was not physically restrained. Behaviors are recurrent, not a single instance. Behaviors are not the result of clinically suicidal intent.

B. Covered Services

The following services, as identified by the accompanying Current Physicians Terminology (CPT) procedure codes, are covered under EPSDT Psychological and Behavioral Services:

1. necessary evaluations - CPT codes 90801 and 96100;
2. family education and training - CPT code 90847;
3. clinical interventions - CPT codes 90804 and 90806; and
4. periodic follow-up - CPT codes 90847, 90804, and 90806.

C. Provider Qualifications

In order to receive reimbursement as a Medicaid provider of EPSDT Psychological and Behavioral Services, a psychologist must provide verification that he or she meet all of the following qualifications:

1. have a PH.D;
2. be licensed to practice within the State of Louisiana; and
3. be professionally qualified to treat children, or to treat children and/or adults with PDD, including autism and/or developmental disorders.

D. Reimbursement Methodology

Reimbursement for EPSDT psychological and behavioral services shall be based on 70 percent of the allowable rate on the 2002 Medicare Fee Schedule for Area 1.

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

David W. Hood
Secretary

0211#086

DECLARATION OF EMERGENCY

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

Public Nursing Facilities C Reimbursement Methodology

Editor's Note: The Office of the State Register received this Emergency Rule on November 31, 2002.

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. 36:254 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, 1984 to establish a prospective reimbursement methodology for nursing facilities participating in the Medical Assistance Program (*Louisiana Register*, Volume 10, Number 6). The June 20, 1984 rule was subsequently amended to revise the reimbursement methodology for state-operated nursing facilities (*Louisiana Register*, Volume 16,

Number 4). The department now proposes to revise the reimbursement methodology for state-operated nursing facilities in order to reimburse these facilities in accordance with the Medicare upper payment limit.

This action is necessary to improve the quality of care given to patients in state operated nursing facilities. It is estimated that the implementation of this proposed emergency rule will increase expenditures to state operated nursing facilities by approximately \$949,047 for state fiscal year 2002-03.

Emergency Rule

Effective October 14, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions contained in the April 20, 1990 rule governing the reimbursement methodology for state-operated nursing facilities. The aggregate prospective payment rates for these facilities will be calculated on a quarterly basis using the state's best estimate of what facilities would be paid under Medicare's prospective payment system for skilled nursing facilities. The acuity measurements used in the quarterly rate calculations will be the acuity of each facility's Medicaid residents, as determined under Medicare's 44 RUG classification methodology. Adjustments to these gross Medicare prospective payment rates will be made to account for differences in coverage between the Medicare and Medicaid programs based on Medicare's principles of reimbursement and methods of cost apportionment contained in the HIM-15 manual that are applicable to skilled nursing facilities.

Implementation of this emergency rule is subject to approval by the United States 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 for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0211#016

DECLARATION OF EMERGENCY

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

**Home and Community Based Services Waivers
Provider Training Requirement**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 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 final rule, whichever occurs first.

Under the provisions of Section 1915(c) of the Social Security Act, states may provide services not generally reimbursable by Medicaid to groups of individuals in the community who meet the qualifications for institutional care. Such programs are known as Home and Community Based Services waivers.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services currently administers five Home and Community Based Services Waiver Programs: the Elderly and Disabled Adult Waiver, the Mental Retardation/Developmental Disabilities Waiver, the Children's Choice Waiver, the Personal Care Attendant Waiver, and the Adult Day Health Care Waiver.

Participation by service providers in these programs is voluntary. Knowledge of the waiver populations as well as the supports and services available in the community and from the Bureau of Community Supports and Services is considered crucial for the effective delivery of services by these providers. Act 13 of the 2002 Regular Session of the Louisiana Legislature authorizes the Department of Health and Hospitals to suspend the enrollment of new private MR/DD waiver service providers until such time as it has completed drafting the minimum qualifications and standards of performance expected of such providers. In order to increase provider knowledge of available supports and services and ensure the quality of services rendered, the department adopted an Emergency Rule requiring attendance at the bureau's provider enrollment orientation sessions prior to enrollment as a Medicaid provider of services for certain designated waivers. This Emergency Rule is being adopted to continue the provisions contained in the August 4, 2002 Rule.

This action is being taken to protect the health and welfare of Medicaid waiver recipients by enhancing provider knowledge and promoting the quality of service delivery.

Emergency Rule

Effective December 3, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopts the following regulations governing participation as a private Medicaid provider in designated Home and Community Based Services Waivers.

Attendance at a provider enrollment orientation shall be required prior to enrollment as a private Medicaid provider of services under the following waivers:

1. the Elderly and Disabled Adult Waiver;
2. the Mental Retardation/Developmental Disabilities Waiver; and
3. the Children's Choice Waiver.

The frequency of the provider enrollment orientations shall be determined by the Bureau of Community Supports and Services, but they shall be conducted at least semi-annually.

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 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

0211#088

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Initiatives
Adult Education, Basic Skills Training,
Job Skills Training and Retention Services
(LAC 67:III.5507)

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 §5507 effective August 14, 2002. This Emergency Rule is effective December 12, 2002, and will remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule of August 14, 2002, since it is effective for a maximum of 120 days and will expire before the final rule takes effect. (The final Rule regarding the Adult Education, Basic Skills Training, Job Skills Training, and Retention Services will be published in January 2003).

Pursuant to Act 13 of the 2002 Regular Session of the Louisiana Legislature, the Office of Family Support will amend §5507, Adult Education, Basic Skills Training, Job Skill Training and Retention Services Program, to revise language regarding the TANF partner identified in the Memorandum of Understanding (MOU). The agency initially entered into an MOU with the Workforce Commission; however, the MOU now includes the Louisiana Community and Technical College System as a TANF partner involved in the administration of this initiative. To avoid future amendments to the Code subsequent to altering the TANF partners, language is being revised to be non-specific in regards to whom the Agency contracts with or enters into an MOU.

The authorization for emergency action is contained in Act 13 of the 2002 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

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 Memoranda of Understanding or contracts to create programs 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. - D. ...

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; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:870 (April 2002), LR 28:

Gwendolyn Hamilton
Secretary

0211#049

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Initiatives
Women's and Children's Residential and
Prevention Treatment Program (LAC 67:III.5521)

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 §5521 effective November 8, 2002. This Emergency Rule will remain in effect for a period of 120 days.

Act 12 of the 2001 Regular Session of the Louisiana Legislature authorized the Office of Family Support to implement the TANF Initiative, Women and Children's Residential Prevention and Treatment Program, through a Memorandum of Understanding with the Office of Addictive Disorders. Eligibility factors were established which limited services to needy families who were eligible for certain types of benefits.

Pursuant to Act 13 of the 2002 Regular Session of the Louisiana Legislature and in an effort to expand the groups targeted for services under this program, the agency will include needy families who have earned income at or below 200 percent of the federal poverty level.

The authorization for emergency action in the expenditure of TANF funds is contained in Act 13 of the 2002 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Family Support

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

Chapter 55. TANF Initiatives

§5521. Women and Children's Residential Prevention and Treatment Program

A. - B. ...

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 effective October 1, 2002, who has earned income at or below 200 percent of the federal poverty level.

D. ...

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 28:352 (February 2002), amended LR 29:

Gwendolyn Hamilton
Secretary

0211#046

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Commercial King Mackerel Closure

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the Secretary of the Department, by the Commission in its resolution of January 3, 2002, to close the 2002 commercial king mackerel season in Louisiana state waters when he is informed that the designated portion of the commercial king mackerel quota for the Gulf of Mexico has been filled, or was projected to be filled, the Secretary hereby declares:

Effective 12:00 noon October 25, 2002, the commercial fishery for king mackerel in Louisiana waters will close and remain closed through June 30, 2003. Nothing herein shall preclude the legal harvest of king mackerel by legally licensed recreational fishermen. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell king mackerel whether taken from within or without Louisiana state waters. Effective with this closure, no person shall possess king mackerel in excess of a daily bag limit within or without Louisiana state waters. The prohibition on sale/purchase of king mackerel during the closure does not apply to king mackerel that were harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor provided appropriate records in accordance with R.S. 56:306.5 and 56:306.6 are properly maintained.

The Secretary has been notified by National Marine Fisheries Service that the commercial king mackerel season in Federal waters of the Gulf of Mexico will close at 12:00 noon October 25, 2002. Closing the season in State waters is necessary to provide effective rules and efficient enforcement for the fishery and to prevent overfishing of this species in the long term.

James H. Jenkins, Jr.
Secretary

0211#012

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Deer Season Closure

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act and under the authority of R.S. 56:115, the Secretary of the Department of Wildlife and Fisheries hereby adopts the following emergency rule:

Upon the authority of R.S. 56:6.1 and the authority granted to the Secretary by the Commission to close seasons, deer hunting in the following described portion of the state is hereby closed, effective thirty minutes before sunrise on October 12, 2002, and shall remain closed to deer hunting until further notice. This closure shall apply to that portion of Louisiana north and west of US Hwy. 51 from US 61 to Frenier Rd, north of Frenier Road to Lake Pontchartrain, west of Lake Pontchartrain to Tangipahoa River, west bank of Tangipahoa River to LA Hwy. 22, south of LA Hwy. 22 to LA Hwy. 70 in Sorrento, east of LA Hwy. 70 to LA Hwy. 3125, north of LA Hwy. 3125 to LA Hwy. 641, north and west of Hwy. 641 to US Hwy. 61, north of US Hwy. 61 to Hwy. 51. The decision to close deer hunting was based upon the flooding that has continued in this area since Tropical Storm Isidore, Hurricane Lili, and the recent rainfall that has occurred since the hurricane. This season closure will remain in effect until the decision is made by the Department Secretary to reopen deer hunting.

James H. Jenkins, Jr.
Secretary

0210#006

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Deer Season Re-Opening

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act and under the authority of R.S. 56:6.1, R.S. 56:115, and the authority granted to the Secretary by the Commission to close and open seasons, the Secretary of the Department of Wildlife and Fisheries hereby adopts the following emergency rule:

Deer hunting in the following described portion of the state previously closed on October 12, 2002 (that portion of Louisiana north and west of US Hwy. 51 from US 61 to Frenier Road, north of Frenier Road to Lake Pontchartrain, west of Lake Pontchartrain to Tangipahoa River, west bank of Tangipahoa River to LA Hwy. 22, south of LA Hwy. 22 to LA Hwy. 70 in Sorrento, east of LA Hwy. 70 to LA Hwy.

3125, north of LA Hwy. 3125 to LA Hwy. 641, north and west of Hwy. 641 to US Hwy. 61, north of US Hwy. 61 to Hwy. 51) will re-open 30 minutes before sunrise on October 26, 2002.

James H. Jenkins, Jr.
Secretary

0210#11

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Shrimp Excise Tax (LAC 76:VII.365)

In accordance with the emergency provisions of the Administrative Procedure Act, the Wildlife and Fisheries Commission does hereby promulgate this Declaration of Emergency relative to the excise tax on shrimp.

Act 75 of the 2002 Regular Session of the Louisiana Legislature enacted a shrimp excise tax to be collected on shrimp harvested in Louisiana waters and shrimp imported into Louisiana. The legislation mandates that the Department begin the process for collection of this excise tax on July 1, 2002, the effective date of the Act. In order to meet the statutorily-mandated timeline, and to provide the mechanism which will allow wholesale/retail seafood dealers to comply with the Act, and to put other provisions in place which are essential for the effective administration of the program, the following Rule must be promulgated by a Declaration of Emergency.

Further, effectively enforcing regulations which enable the identification of both domestically-harvested and imported shrimp will provide mechanisms to more adequately monitor harvest information of shrimp in Louisiana.

Such regulations will further enable the identification of imported shrimp, which may be subject to testing for the antibiotic chloramphenicol under rules and regulations adopted by the Louisiana Department of Agriculture and Forestry. Chloramphenicol is used in some countries in connection with the production of shrimp and other seafood products. The United States Food and Drug Administration has banned the use of chloramphenicol in animals which are raised for human consumption. In January of 2002, the European Union banned imported Chinese products intended for human consumption or for use in animal feed, as a result of the discovery of chloramphenicol residues in seafood products harvested from and produced in that country.

Implementation of this Emergency Rule will also provide information relative to the amounts and sources of imported shrimp in Louisiana's extremely important commercial markets. The inability of the state to measure the economic importance of imported shrimp in Louisiana poses an imminent fiscal and economic peril to the state and its citizens. It is critical for the state of Louisiana to track and monitor the importation of shrimp from other countries for health reasons. Previous and existing laws and regulations only accommodated the monitoring and tracking of shrimp harvested within the state. Imported shrimp numbers have

been increasing nationwide over the past several years. Monitoring and tracking imported shrimp will enhance the enforcement effort required to monitor harvest, and track, and to prevent the mislabeling, commingling, smuggling, false reporting and under-reporting of domestically harvested Louisiana shrimp.

Additional revenue in the form of an import tax or excise tax or other revenue-generating mechanism will be necessary in order to accomplish this end; therefore it is imperative that the Department begin immediately to implement the Act and to put in place the mechanisms for doing so.

This Declaration of Emergency will become effective on November 28, 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 3. Saltwater Sport and Commercial Fishing

§365. Shrimp Excise Tax

A. Shrimp Excise Tax, Shrimp Records, Shrimp Packaging

1. A shrimp excise tax shall be paid in accordance with the provisions as set forth in R.S. 56:506. Dealers shall file monthly tax reports and furnish all information required thereon on forms provided by the department. A wholesale/retail seafood dealer shall file a monthly report indicating "zero" in amount due, for each month in which such wholesale/retail seafood dealer does not import shrimp into the state and does not purchase or acquire shrimp harvested in Louisiana directly from a harvesting vessel.

2. Wholesale/retail seafood dealers, retail seafood dealers, restaurants and retail grocers shall maintain records in accordance with R.S. 56:306.5 and 56:506. In addition to the requirements therein, wholesale/retail seafood dealers when selling or otherwise transferring shrimp shall specify on each invoice of sale or transfer required to be delivered to retail dealers, restaurants and/or retail grocers the specific country of origin of the shrimp being sold or transferred. All purchase and sales records of wholesale/retail seafood dealers, which are required to be maintained by law, shall specify the country of origin of all shrimp acquired and sold or transferred. All purchase records of retail dealers, restaurants and retail grocers which are required to be maintained by law, shall specify the country of origin of shrimp acquired or purchased. Shrimp from different countries shall be recorded separately on all records.

3. All records for shrimp, which are harvested from Louisiana waters or which are landed in Louisiana from a harvesting vessel, shall indicate such shrimp are a "Product of Louisiana" or "Louisiana Shrimp" or "Louisiana (and shrimp species)."

4. It shall be a violation of this section for any wholesale/retail seafood dealer to purchase, barter, sell, exchange or possess any shrimp without paying all excise taxes owed on the shrimp as provided by law.

5. Wholesale/retail seafood dealers shall provide all information required on forms provided for the purpose of data collection relating to the shrimp excise tax.

a. Such information shall include but not be limited to:

- i. wholesale/retail seafood dealer license number;
- ii. month and year, indicating reporting month and year;
- iii. date of submission, date in which the dealer or authorized representative completes and submits shrimp excise report form;
- iv. legal name of business;

b. If purchasing or acquiring shrimp from vessels harvesting or landing in Louisiana waters, pounds of such shrimp purchased or acquired; shrimp that are landed in Louisiana by harvesting vessels are deemed to be taken in Louisiana waters.

c. If purchasing, importing, storing, brokering, or receiving shrimp domestically harvested within the United States, pounds of such shrimp purchased, imported, stored, brokered or received.

d. If purchasing, importing, storing, brokering, or receiving shrimp from a foreign country, pounds of such shrimp purchased, imported, stored, brokered or received.

e. If purchasing, importing, storing, brokering, or receiving shrimp which were taken, harvested or landed in Louisiana and excise tax has previously been paid and such shrimp are packaged, labeled and recorded to be a "Product of Louisiana" or "Louisiana Shrimp" or "Louisiana (and shrimp species)" indicate the pounds of such shrimp. No shrimp excise tax is due again on such shrimp.

f. For all shrimp reported, the shrimp excise report form shall indicate the form in which all shrimp is purchased, imported, received, brokered or stored (i.e. heads-on, headless, or peeled). Shrimp which are fully

cooked, canned cooked or breaded cooked, and frozen cooked shrimp ready for immediate consumption, shall be exempt from the requirements herein.

j. All lines, columns and blocks on the shrimp excise tax report form shall be filled out in order for the form to be deemed completed.

k. Signature of dealer or authorized representative, (first and last name) and date.

6. No wholesale/retail seafood dealer, retail seafood dealers, restaurants or retail grocers shall knowingly possess, package, process, sell, barter, exchange or attempt to sell, barter, trade or exchange shrimp which is represented to be a product of the United States or a product of Louisiana unless such shrimp is actually a product of the United States or a product of Louisiana.

7. No wholesale/retail seafood dealer, retail seafood dealers or restaurants shall possess, package, process, sell, barter, exchange or attempt to sell, barter, trade or exchange shrimp from a foreign country which is commingled with shrimp caught in the United States or which is represented to be a product of the United States.

B. Violations of the provisions of this Section shall constitute a class four violation as defined in R.S. 56:34.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:506.

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

James H. Jenkins, Jr.
Secretary

0211#020