

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Horticulture Commission

#### Examination Fees (LAC 7:XXIX.109)

In accordance with the Administrative Procedure Act R.S. 49:953 and R.S. 3:3801, the Commissioner of Agriculture and Forestry, at the request of the Horticulture Commission, is exercising the emergency provisions of the Administrative Procedure Act in implementing the following Rules and regulations governing fees for exams administered by the Horticulture Commission.

For at least the last three years the Horticulture Commission budget has ended in a deficit. The department has used other funds to make up for each year's deficit. The department cannot continue to find funds from other areas to make up this continuing deficit.

Louisiana is experiencing an unprecedented shortfall in state finances. The legislature has cut the department's budget; therefore, using other department funds to cover the deficit of the Horticulture Commission is not a continuing option. The fiscal year begins on the first of July. The department must use the emergency adoption provisions to insure that programs that begin in July will have adequate funding for the entire fiscal year and beyond. Adoption of the Rule changes will take place according to the Administrative Procedure Act. However, this process takes up to six months to complete and would cause additional deficits to continue and the possibility of work reductions that could cause an imminent peril to the health and safety of Louisiana citizens.

These Rules become effective on July 1, 2003 upon signature and will remain in effect until the Rule becomes effective through the normal Administrative Procedure Act process. The Louisiana Department of Agriculture and Forestry (LDAF) will begin collecting the fees for all examinations requested or signed up for by individuals on or after July 1, 2003.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXIX. Horticulture Commission

#### Chapter 1. Horticulture

#### §109. Examination Fees

##### A. Retail Florist

1. The fee for examination for licensure as a retail florist shall be \$150.

2. The fee for re-examination in the written phase of the examination shall be \$50.

3. The fee for re-examination in any portion of the design phase of the examination shall be \$100.

##### B. Landscape Architect

1. The fee for examination for licensure as a landscape architect shall be the cost for each section of the examination plus an administrative fee of \$200 for first time applicants and those applying through reciprocity.

2. The fee for re-examination in the various sections for licensure as a landscape architect shall be the cost for each section plus one administrative fee of \$100.

C. Wholesale Florist, Horticulturist, Arborist, Utility Arborist, and Landscape Contractor.

1. The fee for examination or re-examination for licensure as a wholesale florist, horticulturist, arborist, utility arborist and landscape contractor shall be \$50.

D. All fees required under this Rule must be submitted at the same time as the application; failure to submit any required fees will bar the applicant from taking the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, R.S. 3:3805, and R.S. 3:3806.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982) amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 18:249 (March 1992), LR 20:640 (June 1994), LR 29:

Bob Odom  
Commissioner

0307#091

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

#### Fees for Termite Contracts and Wood Destroying Insect Reports (LAC 7:XXV.117 and 119)

In accordance with the Administrative Procedure Act R.S. 49:953 and R.S. 3:3202(A), the Commissioner of Agriculture and Forestry, at the request of the Structural Pest Control Commission, is exercising the emergency provisions of the Administrative Procedure Act in implementing the following Rules and regulations governing fees for termite contracts and wood destroying insect reports.

For the last five years the Structural Pest Control Commission budget has ended in a deficit. The department has used other funds to make up for each year's deficit. The department cannot continue to find funds from other areas to make up this continuing deficit.

Louisiana is experiencing an unprecedented shortfall in state finances. The Legislature has cut the department's budget; therefore, using other department funds to cover the deficit of the Structural Pest Control Commission is not a continuing option. The fiscal year begins on the first of July. The department must use the emergency adoption provisions to insure that programs that begin in July will have adequate funding for the entire fiscal year. Adoption of permanent Rules will take place according to the Administrative Procedure Act. However, this process takes several months to complete and would cause additional budgetary deficits and the reductions of programs and services that protect the health, welfare and safety of Louisiana citizens.

These Rules become effective August 1, 2003 and will remain in effect until the rule becomes effective through the normal Administrative Procedure Act process.

**Title 7**

**AGRICULTURE AND ANIMALS**

**Part XXV. Structural Pest Control**

**Chapter 1. Structural Pest Control Commission**

**§117. Obligations of the Licensee**

A. - L. ...

M. The fee per termite contract and wood-destroying insect report is \$6 per contract and/or inspection report issued and \$8 for each combination liquid spot and bait and baiting system contract and is due on or before the tenth day of each month.

N. - P. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 21:930 (September 1995), LR 23:855 (July 1997), LR 26:2437 (November 2000), LR 29:

**§119. Contracts for Termite Control Work**

A. - E. ...

F. The licensee shall pay a \$6 fee for each standard contract and shall pay an \$8 fee for each combination contract for liquid spot and bait and baiting system treatments reported under §119.E above when the required monthly report is filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:957 (November 1989), LR 26:2437 (November 2000), LR 27:1179 (August 2001), LR 27:2084 (December 2001), LR 28:1171 (June 2002), LR 29:

Bob Odom  
Commissioner

0307#011

**DECLARATION OF EMERGENCY**

**Department of Agriculture and Forestry  
Office of Agriculture and Environmental Sciences**

Pesticide Registration, Certifications and Testing Fees  
(LAC 7:XXIII.131)

In accordance with the Administrative Procedure Act R.S. 49:953 and R.S. 3:3202(A), the Commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in implementing the following rules and regulations governing fees for pesticide registration, certifications and testing.

The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary to conform to state statute and fund the operations of the Division of Pesticides and Environmental Programs. The fiscal year begins on the first of July. The department must use the emergency adoption provisions to insure that

programs that begin in July will have adequate funding for the entire fiscal year and beyond. Adoption of the Rule changes will take place according to the Administrative Procedure Act. However, this process takes several months to complete and would cause deficits and the possibility of work reductions that could cause an imminent peril to the health and safety of Louisiana citizens.

These Rules become effective upon signature, July 3, 2003, and will remain in effect until the Rule becomes effective through the normal Administrative Procedure Act process. The Louisiana Department of Agriculture and Forestry (LDAF) will begin collecting the fees on July 1, 2003.

**Title 7**

**AGRICULTURE AND ANIMALS**

**Part XXIII. Pesticide**

**Chapter 1. Advisory Commission on Pesticides**

**Subchapter G. Fees**

**§131. Fees**

A. Fees required under the pesticide statutes and these regulations are as follows:

1. Special Local Need Registration Application Fee ..... \$100
2. Examination Fees (for each exams' Private Applicator exempt)  
In Baton Rouge ..... \$ 25  
At Meeting Outside Baton Rouge ..... \$ 25  
At District Offices ..... \$ 50
3. Duplicate Licenses and/or Certification Cards ..... same as original
4. Requested Lists and Copies .....  
postage + minimum of \$1 or postage + 25 cents/page

A.5. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3221, R.S. 3:3222 and R.S. 3:3251.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:194 (March 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), LR 24:281 (February 1998), LR 29:

Bob Odom  
Commissioner

0307#012

**DECLARATION OF EMERGENCY**

**Department of Agriculture and Forestry  
Office of Agro-Consumer Services**

Chloramphenicol in Crabs (LAC 7:XXXV.143 and 145)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rules governing the testing and sale of crab or crabmeat in Louisiana. These Rules are being adopted in accordance with R.S. 3:2.A, 3:3.B, 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 crab or crabmeat that are consistent with standards adopted by the FDA regarding chloramphenicol in foods. All crab or crabmeat 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, (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, FDA, the states of Alabama and Louisiana have found chloramphenicol in crab or crabmeat imported from other countries. The department has found chloramphenicol in crab or crabmeat imported from Vietnam, Thailand and China. The possibility exists that other countries may export chloramphenicol-contaminated crab or crabmeat to the USA.

The sale of such imported crab or crabmeat in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to chloramphenicol, a known health hazard. The sale, in Louisiana, of crab or crabmeat containing chloramphenicol presents an imminent peril to the public's health, safety and welfare. This peril can cause consumers to quit buying crab or crabmeat from any source, including Louisiana. If consumers cease to buy, or substantially reduce, their purchases of Louisiana crab or crabmeat then Louisiana's crab industry will be faced with substantial economic losses. Any economic losses suffered by Louisiana's crab industry 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 crab or crabmeat for chloramphenicol, to provide for the sale of crab or crabmeat and any products containing crab or crabmeat that are not contaminated with chloramphenicol. These rules become effective upon signature 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

#### §143. Chloramphenicol in Crab and Crabmeat Prohibited; Testing and Sale of

##### A. Definitions

*Food Producing Animals* Both animals that are produced or used for food and animals, such as seafood, that produce material used as food.

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

*Packaged Crab* Any crab or crabmeat, as defined herein, that is in a package, can, or other container, and which is intended to eventually be sold to the ultimate retail purchaser in the package, can or container.

*Crab* Any such animals, whether whole, portioned, processed, shelled, and any product containing any crab or crabmeat.

B. No crab or crabmeat may be held, offered or exposed for sale, or sold in Louisiana if such crab or crabmeat contains chloramphenicol.

C. No crab or crabmeat 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 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 crab or crabmeat 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 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 in that location. Any such release shall be subject to promulgation in accordance with the Administrative Procedure Act.

E. Crab or crabmeat 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 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 crab or crabmeat that are in lots of 50 pounds or less.

ii. Four samples are to be taken of crab or crabmeat that are in lots of 51-100.

iii. Twelve samples are to be taken of crab or crabmeat that are in lots of 101 pounds up to 50 tons.

iv. Twelve samples for each 50 tons are to be taken of crab or crabmeat that are in lots of over 50 tons.

b. For packaged crab or crabmeat, each sample shall be at least 6 ounces, (170.1 grams), in size and shall be taken at random throughout each lot of crab or crabmeat. For all other crab or crabmeat, obtain approximately 1 pound, (454 grams), of crab or crabmeat per sample from randomly selected areas.

c. If the crab or crabmeat to be sampled consists of packages of crab or crabmeat grouped together, but labeled under two or more trade or brand names, then the crab or crabmeat packaged under each trade or brand name shall be sampled separately. If the crab or crabmeat 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.

d. A composite of the samples shall not be made. Each sample shall be tested individually. Each sample shall be clearly identifiable as belonging to a specific group of crab or crabmeat. All samples shall be kept frozen and delivered to the lab.

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 crab or crabmeat up to and including 1 pound, use the entire sample. Shell the crabs, exercising care to exclude all shells from sample. Grind sample with food processor type blender while semi-frozen or with dry ice. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample in a freezer 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 1 ppb or above 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 the laboratory is located in any geographic area that the commissioner has declared to be a location where chloramphenicol is being used on or found in food producing animals, 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 crab or crabmeat 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 crab or crabmeat.

8. Upon actual receipt by the department of a copy of the certified test results and written documentation required to accompany the certified test results then the crab or crabmeat 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 and be attached to the documentation submitted with every shipment of such crab or crabmeat sent to each location in Louisiana or shall be immediately accessible to the department, upon request, from any such location.

H. Any person who is seeking to bring crab or crabmeat that is required to be sampled and tested under this Section, into Louisiana, or who holds, offers or exposes for sale, or sells such crab or crabmeat in Louisiana shall be responsible for having such crab or crabmeat 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.

I. The commissioner may reject the test results for any crab or crabmeat 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.

J. In the event that any certified test results are rejected by the commissioner then any person shipping or holding the crab or crabmeat will be notified immediately of such rejection and issued a stop-sale, hold or removal order by the commissioner. Thereafter, it will be the duty of any such person to abide by such order until the commissioner lifts the order in writing. Any such person may have the crab or crabmeat 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 crab or crabmeat are certified as being free of chloramphenicol.

K. The department may inspect, and take samples for testing, any crab or crabmeat, of whatever origin, being held, offered or exposed for sale, or sold in Louisiana.

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

M. The department may take physical possession and control of any crab or crabmeat that violate the requirements of this Section if the commissioner finds that the crab or crabmeat 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.

N. 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, or in products from such animals, in the following geographic area(s).

1. The geographic area or areas are: the countries of Vietnam, Thailand, Mexico, Malaysia and China.

2. All crab and crabmeat 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.

O. All records and information regarding the distribution, purchase and sale of crabs or crabmeat or any food containing crab or crabmeat shall be maintained for two years and shall be open to inspection by the department.

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

Q. The effective date of this Section is March 14, 2003.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 29:

#### **§145. Labeling of Foreign Crab and Crabmeat by Country of Origin**

##### **A. Definitions**

*Crab or Crabmeat* Any crab or crabmeat, whether whole, portioned, processed or shelled and any product containing any crab or crabmeat.

*Foreign Crab or Crabmeat* Any crab or crabmeat, as defined herein that is harvested from or produced, processed or packed in a country other than the United States.

B. All foreign crab or crabmeat, imported, shipped or brought into Louisiana shall indicate the country of origin, except as otherwise provided in this Section.

C. Every package or container that contains foreign crab or crabmeat, shall be marked or labeled in a conspicuous place as legibly, indelibly, and permanently as the nature of the package or container will permit so as to indicate to the ultimate retail purchaser of the crab or crabmeat with the English name of the country of origin.

1. Legibility must be such that the ultimate retail purchaser in the United States is able to find the marking or label easily and read it without strain.

2. Indelibility must be such that the wording will not fade, wash off or otherwise be obliterated by moisture, cold or other adverse factors that such crab or crabmeat are normally subjected to in storage and transportation.

3. Permanency must be such that, in any reasonably foreseeable circumstance, the marking or label shall remain on the container until it reaches the ultimate retail purchaser unless it is deliberately removed. The marking or label must be capable of surviving normal distribution and storing.

D. When foreign crab or crabmeat are combined with domestic crab or crabmeat, or products made from or containing domestic crab or crabmeat, the marking or label on the container or package or the sign included with any display shall clearly show the country of origin of the foreign crab or crabmeat.

E. In any case in which the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, appear on any container or package containing foreign crab or crabmeat, or any sign advertising such foreign crab or crabmeat for sale, and those words, letters or names may mislead or deceive the ultimate retail purchaser as to the actual country of origin of the crab or crabmeat, then the name of the country of origin preceded by "made in," "product of," or other words of similar meaning shall appear on the marking, label or sign. The wording indicating that the crab or crabmeat is from a country other than the United States shall be placed in close proximity to the words, letters or name that indicates the crab or crabmeat is a product of the United States in a legible, indelible and permanent manner. No provision of this Section is intended to or is to be construed as authorizing the use of the words "United States," "American," or the letters "U.S.A.," or any variation of such words or letters, or the name of any state, city or location in the United States, if such use is deceptive, misleading or prohibited by other federal or state law.

F. Foreign crab or crabmeat shall not have to be marked or labeled with the country of origin if such crab or crabmeat is included as components in a product manufactured in the United States and the crab or crabmeat is substantially transformed in the manufacturing of the final product. But in no event shall thawing, freezing, packing, packaging, re-packing, re-packaging, adding water, portioning, shelling, processing, peeling, partially cooking or combining with domestic crab or crabmeat shall not be considered to be a substantial transformation.

G. The commissioner shall have all the powers granted to him by law, or in accordance with any cooperative endeavor with any other public agency, to enforce this Section, including the issuance of stop-sale, hold or removal orders and the seizing of crab or crabmeat mislabeled or misbranded as to the country of origin.

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 29:

Bob Odom  
Commissioner

0307#101

## DECLARATION OF EMERGENCY

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

Economic Development Award Program (EDAP)  
(LAC 13:III.101-111)

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. 49:953.B., adopts the following Emergency Rule implementing the Louisiana Business Development Program, Subpart 1 of the Economic Development Award Program, as authorized by R. S. 51:2341.B. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., shall become effective June 9, 2003, and shall remain in effect for the maximum period allowed under the Act, or until the adoption of the Rule, whichever first occurs.

The Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, has found an immediate need to promote and enhance Louisiana Department of Economic Development's cluster development, the goals of Louisiana: Vision 20/20, Louisiana's long-term master plan for economic development, and related public policy for the introduction, growth and retention of Louisiana businesses by providing funding for defined business projects that fulfill these goals. These Rules are being amended to take advantage of immediate opportunities for business development within Louisiana. Without the emergency adoption of these Rules, such business opportunities may be exported out of Louisiana for development. If such business opportunities are exported outside of Louisiana, the state may lose crucial opportunities for the increase of business investment, development of wealth, production capabilities, quality jobs, diversification of the state's economy, and to improve the standard of living and quality of life of Louisiana's citizens.

#### Title 13

### ECONOMIC DEVELOPMENT

#### Part III. Financial Assistance Programs

##### Subpart I. Louisiana Business Development Program Chapter 1. Economic Development Award Program (EDAP)

#### §101. Purpose

A. The purpose of this program is to provide assistance to, and attraction for, retention, expansion, and recruitment of industrial and business projects through funding, lending, or enhancing the credit of industrial and development projects that are not presently eligible for funding under the Economic Development Awards Program and Opportunity Fund Rules, in order to promote and enhance Louisiana Department of Economic Development's cluster development, the goals of Vision 20/20, Louisiana's long-term plan for economic development, and related public policy for the introduction, growth and retention of Louisiana businesses by providing funding for defined business projects that fulfill these goals. In doing so, these Rules will more fully implement the provisions of R.S. 51:2341 providing for the Economic Development Awards Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 B.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), amended by the Department of Economic Development, Office of the Secretary, LR 25:405 (March 1999), amended by the Department of Economic Development, Office of the Secretary, LR 25:1659 (September 1999), LR 26:236 (February 2000), LR 29:

#### §103. Definitions

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

**Award** Funding of money, the lending of money, or the enhancement of credit under this program for eligible applicants.

**Award Agreement** The agreement of contract hereinafter referred to between the public entity, LED 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.

**LEDC Board** The Board of Directors of the Louisiana Economic Development Corporation, and when referred to herein in terms of approval of an award, shall mean that the award has been approved in accordance with the by-laws and procedures of the Board of Directors whether such approval requires or does not require Board approval under those by-laws and procedures.

**LED** The Louisiana Department of Economic Development.

**Project** A proposal by a public entity for which an award is sought under this program. The program seeks to fund awards for projects that may not be defined as basic infrastructure or infrastructure under the present EDAP Rules or which are defined as basic infrastructure or infrastructure under the EDAP Rules, but for which, because of the nature of the business, eligibility for funding under those Rules is not available. Projects subject to these Rules may be eligible for funding when it can be established to the satisfaction of the LEDC Board that the project for which an award is sought promotes and enhances LED's Cluster Development, and the goals of Vision 20/20, the state's Master Plan for Economic Development.

**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. 51:2341 B.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), amended by the Department of Economic Development, Office of the Secretary, LR 25:405 (March 1999), amended by the Department of Economic Development, Office of the Secretary, LR 25:1659 (September 1999), LR 26:236 (February 2000), LR 29:

### **§105. General Principles**

A. The following general principles will direct the administration of the Louisiana Business Development Program.

1. Awards are not to be construed as an entitlement for companies locating or located in Louisiana, and are subject to the discretion of the LED, the secretary of the LED and the LEDC.

2. An award must reasonably be expected to be a significant factor in improving or enhancing economic development, including cluster 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 cluster development 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. Whether or not an award will be made is entirely at the discretion of the LED, its cluster directors, the secretary and 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 LED, its cluster directors, the secretary, or the LEDC Board to any future course of action with respect to any application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 B.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), amended by the Department of Economic Development, Office of the Secretary, LR 25:405 (March 1999), amended by the Department of Economic Development, Office of the Secretary, LR 25:1659 (September 1999), LR 26:237 (February 2000), LR 29:

### **§107. Eligibility**

A. In order to be eligible for an award pursuant to this program, the applicant must demonstrate to the satisfaction of the board that the award sought must be consistent with the principles set forth above, and the applicant must demonstrate a need for the project funding consistent with the requirements set forth below. Where it is represented that certain contingent actions will be taken in order to comply with these conditions, then the LEDC may, upon recommendation of the LED and its contract monitor, withhold funding until there is substantial performance of the contingencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 B.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:1659 (September 1999), LR 26:237 (February 2000), LR 29:

### **§109. Application for Louisiana Business Development Program**

A. In order to be eligible for this program, an applicant must submit the following to the LED for consideration by its staff and the applicable cluster director:

1. a detailed description of the project to be undertaken, particularly the nature of the assistance for which the funding is sought and the economic scope of the investment involved in the project; the goals, objectives and performance measures of the project, providing detailed support for the use of the funding provided; the nature of the treatment of the funding in the plan for the project; where a loan or credit enhancement is being sought, a cash flow analysis must be submitted together with a payment schedule for the loan that is consistent with the projected revenues generated by the project;

2. a description as to how the project furthers and promotes the development of cluster industries and businesses and will enhance the economic viability of the state and region of the state in which the project is located.

3. where the application seeks direct funding for the Project, then a description must be provided that sets forth the benefit to the state and shall contain such other provisions and conditions as may, in the opinion of the LED and the LEDC Board, protect and preserve the interest of the state in the investment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 B.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:1659 (September 1999), LR 26:237 (February 2000), LR 29:

### **§111. Award Funding**

A. All funding applications must be considered by the board after review by the assigned staff and upon recommendation of the relevant cluster director and the secretary. Thereafter, the LEDC Board, upon such review as may be necessary to make the determination as to the application in accordance with these Rules, shall either approve or disapprove the application. Upon approval by the LEDC Board:

1. The award shall be funded pursuant to the award agreement.

2. Any line of credit provided shall be drawn down in accordance with the schedule provided as approved by the cluster director, secretary and LEDC and incorporated into the loan agreement.

3. The award agreement shall include appropriate enforceable provisions for the monitoring of the contract.

4. The award agreement shall include such conventional provisions as may be appropriate to protect and secure the funding provided by the LEDC Board pursuant to these Rules.

5. The secretary of the LED shall designate the contract monitor for the loan agreement, and the contract monitor shall, on a semi-annual basis, report to the LEDC on the status of the contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 B.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:1659 (September 1999), LR 26:237 (February 2000), LR 29:

Don J. Hutchinson  
Secretary

0307#001

**DECLARATION OF EMERGENCY**  
**Department of Economic Development**  
**Office of the Secretary**

Capital Companies Tax Credit Program  
(LAC 10:XV.325)

Editor's Note: This Emergency Rule was received by the Office of the State Register on June 25, 2003. [See R.S. 49:953(B)(1)]

The Department of Economic Development, Office of the Secretary, pursuant to the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), adopts the following amendment to the rules of the Capital Companies Tax Credit Program as authorized by R.S. 51:1929. This Rule is adopted on June 16, 2003 in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., shall become effective June 16, 2003 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 the Secretary has found an immediate need to provide direction to certified Louisiana capital companies who are seeking investments of certified capital by Requests for Allocation of Tax Credits which are required to be filed by insurance company investors on October 1, 2003. Without these Emergency Rules the public welfare may be harmed as a result of the failure of certified Louisiana capital companies to obtain investments of certified capital from insurance companies, which may result in a reduction of certified capital available to be invested in qualified Louisiana businesses, including qualified Louisiana startup businesses, disadvantaged businesses and qualified Louisiana technology-based businesses.

**Title 10**

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

**Part XV. Other Regulated Entities**

**Chapter 3. Capital Companies Tax Credit Program**

**§325. Notes Receivable**

A. The provisions of R.S. 22:1068(E)(1)(b) will be satisfied with respect to a note receivable issued by a certified Louisiana capital company or its investment pool to an investing insurance company if:

1. the note receivable has a stated final maturity date of not less than five years from the date on which the certified Louisiana capital company or its investment pool issues the note receivable; and
2. either:
  - a. the note receivable is repaid in a manner which results in the note receivable being fully repaid or otherwise

satisfied in equal amounts over the stated maturity of the note receivable; or

b. the duration of the note receivable is no shorter than the duration of a hypothetical note that:

i. is issued on the same date as the note issued by the certified Louisiana capital company or its investment pool;

ii. has the same maturity date as the note issued by the certified Louisiana capital company or its investment pool;

iii. has a price and yield the same as that of the note issued by the certified Louisiana capital company or its investment pool, calculated in the same manner (i.e. with respect to compounding, 360 vs. 365 day per year calculations, etc.); and

iv. is fully amortized by equal daily payments, which amounts are calculated as follows:

(a). the aggregate of all amounts scheduled to be paid or otherwise credited to the holder of the note receivable issued by the certified Louisiana capital company or its investment pool for the entire term of the note receivable divided by;

(b). the total number of days scheduled to elapse from the date on which the certified Louisiana capital company or its investment pool issues its note receivable through and including the stated maturity date thereof, calculated on a 365 or 360 day year, consistent with the calculation of interest on the note receivable.

B. For purposes of this Section, a note receivable's "duration" shall mean the weighted-average time to receipt of the present value of the amounts used to repay or otherwise satisfy the note receivable obligation. For purposes of this Section, a note receivable's duration shall be calculated in a manner that is typical in the industry for publicly-traded debt instruments.

C. Each certified Louisiana capital company or its investment pool that issues notes to insurance companies other than those described in A.2.a of this Section shall submit to the Office of Financial Institutions, in writing, the duration for each such note issued by it (or one representative note, if all notes are similar except for the face amount) and the duration for the note described in A.2.b of this Section. Each calculation shall show:

1. all information required to make the duration calculation; and

2. all interim worksheets and formulae used in the duration calculation, reasonably sufficient to allow the Office of Financial Institutions to duplicate the calculation. A copy of the actual spreadsheet model used by the certified Louisiana capital company or its investment pool for its duration calculation in a Microsoft Excel software format shall satisfy the requirements of the preceding sentence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1929.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 29:

Don J. Hutchinson  
Secretary

0307#006

## DECLARATION OF EMERGENCY

### Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Public Notification of Contamination  
(LAC 33:I.101, 103, and 105)(OS042E3)

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 July 5, 2003, 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 OS042E2, which was effective on March 7, 2003. The department has proposed a rule to promulgate these provisions. For more information concerning OS042E3, 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.

**Offsite**—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

0307#033

## DECLARATION OF EMERGENCY

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

#### Adult Denture Program Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates 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 promulgated 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, Bureau of Health Services Financing provides coverage under the Medicaid Program for dentures and denture related services rendered to recipients age 21 years and older. As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau increased the reimbursement fees for certain designated denture procedures. In addition, the bureau established

requirements for unique identification information to be processed into all new removable dental prosthetics reimbursed under the Medicaid Program (*Louisiana Register, Volume 27, Number 8*). As a result of the allocation of additional funds by the legislature during the 2003 Regular Session, the bureau proposes to promulgate a rule to increase the reimbursement fees for certain denture procedures. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging the participation of more dental providers in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures for adult denture services by approximately \$349,709 for state fiscal year 2003-2004.

**Emergency Rule**

Effective August 1, 2003 the Department of Health and Hospitals, Bureau of Health Services Financing increases the following reimbursement fees for certain designated procedures.

Procedure Code	Description	Fee
D0150	Comprehensive Oral Exam <b>C</b> Adult	\$ 20
D5110	Complete Denture, Maxillary	\$495
D5120	Complete Denture, Mandibular	\$495
D5130	Immediate Complete Denture, Maxillary	\$495
D5140	Immediate Complete Denture, Mandibular	\$495
D5211	Partial Denture, Resin Base, Maxillary	\$470
D5212	Partial Denture, Resin Base, Mandibular	\$470
D5510	Repair Complete Broken Denture Base	\$100
D5520	Repair Missing or Broken Teeth <b>C</b> Complete Denture, per Tooth	\$52/\$26*
D5610	Repair Resin Denture Base, Partial Denture	\$100
D5630	Repair or Replace Broken Clasp, Partial Denture	\$ 95
D5640	Replace Broken Teeth, Partial Denture, per Tooth	\$52/\$26*
D5650	Add Tooth to Existing Partial Denture	\$52/\$26*
D5660	Add Clasp to Existing Partial Denture	\$ 95
D5750	Reline Complete Maxillary Denture (Lab)	\$238
D5751	Reline Complete Mandibular Denture (Lab)	\$238
D5760	Reline Maxillary Partial Denture (Lab)	\$208
D5761	Reline Mandibular Partial Denture (Lab)	\$208

\*the rate for each subsequent tooth in the same arch

Implementation of the provisions of this 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

0307#069

**DECLARATION OF EMERGENCY**

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

Durable Medical Equipment Program  
Vagus Nerve Stimulators  
(LAC 50:XVII.Chapter 5)

Editor's Note: This Chapter has been moved from Chapter 136 (as published in the March 20, 2003, *Louisiana Register*) to Chapter 5.

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 final 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 (*Louisiana Register, Volume 27, Number 12*). 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 provisions contained in the December 1, 2001 Rule. This action is being taken in order to protect the health and well being of Medicaid recipients who have epilepsy related seizures and may benefit from use of this medical device.

**Emergency Rule**

Effective July 29, 2003, 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.

**Title 50**

**PUBLIC HEALTH **C**MEDICAL ASSISTANCE**

**Part XVII. Durable Medical Equipment**

**Subpart 1. Prosthetics**

**Chapter 5. Vagus Nerve Stimulator**

**§501. Prior Authorization**

A. The Vagus Nerve Stimulator (VNS) is an implantable device used to assist in the control of seizures related to epilepsy and must be prescribed by a physician. Implantation of the VNS device and all related procedures must be authorized by the department based on criteria in §§503-507.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

### §503. Recipient Criteria

A. Inclusion Criteria. Consideration shall be given for Medicaid reimbursement for implantation of the VNS if the treatment is considered medically necessary and the patient meets all of the following criteria. The patient:

1. has medically intractable epilepsy;
2. 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;
3. 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;
4. 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;
5. has undergone surgical evaluation and is not considered to be an optimal candidate for epilepsy surgery;
6. 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;
7. has undergone Quality of Life (QOL) measurements. 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 implant. This improvement should be in addition to the benefit of seizure frequency reduction.

B. Exclusion Criteria. Regardless of the provisions of §503.A, authorization for implantation of a VNS shall not be given if the patient meets one or more of the following criteria. The patient:

1. has psychogenic seizures or other nonepileptic seizures; or
2. has systemic or localized infections that could infect the implanted system; or
3. has a body mass that is insufficient to support the implanted system; or
4. has a progressive disorder that is a contraindication to VNS implantation. Examples are malignant brain neoplasm, Rasmussen's encephalitis, Landau-Kleffner Syndrome and progressive metabolic and degenerative disorders. Progressive disorders, psychosis, or mental retardation that are not contraindications to VNS implantation are not exclusion criteria. Taking into consideration the additional diagnosis, the treating physician must document the benefits of the VNS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

### §505. Programming the Vagus Nerve Stimulator

A. The programming of the VNS stimulator must be performed by the neurosurgeon who performed the implant

procedure or by a licensed neurologist. Programming subsequent to the first three times may be subject to post authorization review for medical necessity prior to payment of the claim. Authorization for payment will only be considered when there is documented clinical evidence to show that the recipient has experienced seizures since previous programming attempts. Payment for the programming procedure will only be authorized when it is performed as an attempt to reduce or prevent future episodes of seizures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

### §507. Subsequent Implants/Battery Replacement

A. Requests to replace batteries or for new implants must be submitted with documentation that shows that the recipient was benefiting from the original VNS transplant.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

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

0307#073

## DECLARATION OF EMERGENCY

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

Early and Periodic Screening, Diagnosis and Treatment  
Dental Program Reimbursement  
(LAC 50:XV.6903)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby amends LAC 50:XV.6903 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 promulgated 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, Bureau of Health Services Financing provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental services under the Medicaid Program. Reimbursement for these services is a flat fee established by the bureau minus the amount that any third party coverage would pay. The allocation of additional funds during the 2002 Legislative Regular Session allowed the bureau to increase the reimbursement rates for certain designated dental procedures (*Louisiana Register, Volume 28, Number 12*). As

a result of the allocation of additional funds by the Legislature during the 2003 Regular Session, the bureau proposes to promulgate a Rule to increase the reimbursement fees for certain dental procedures. This action is being taken to promote the health and welfare of Medicaid recipients and to maintain access to EPSDT dental services by encouraging the continued participation of dental providers in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures for EPSDT dental services by approximately \$1,561,642 for state fiscal year 2003-2004.

**Title 50**

**PUBLIC HEALTH MEDICAL ASSISTANCE**

**Part XV. Services for Special Populations**

**Subpart 5. Early and Periodic Screening, Diagnosis and Treatment**

**Chapter 69. Dental**

**§6903. Reimbursement**

A. Effective for dates of services on or after August 1, 2003, reimbursement fees are increased as follows for certain designated procedure codes. The Procedure Codes have been amended to comply with the Health Insurance Portability and Accountability Act.

Procedure Code	Description	Fee
D0120	Periodic Oral Exam	\$ 18
D0150	Comprehensive Oral Exam	\$ 20
D0220	Radiograph-Periapical <b>C</b> First Film	***
D0230	Radiograph-Periapical <b>C</b> Each Additional Film	***
D0272	Radiograph-Bitewing <b>C</b> Two Films	***
D1110	Adult Prophylaxis	\$ 29
D1120	Child Prophylaxis	***
D1351	Sealant <b>C</b> Per Tooth	\$ 17
D1510	Space Maintainer <b>C</b> Unilateral	\$ 95
D1515	Space Maintainer <b>C</b> Bilateral	\$ 177
D2140	Amalgam <b>C</b> One Surface, Primary or Permanent	***
D2150	Amalgam <b>C</b> Two Surface, Primary or Permanent	***
D2160	Amalgam <b>C</b> Three Surface, Primary or Permanent	***
D2161	Amalgam <b>C</b> Four or more Surface, Permanent	\$ 88
D2330	Resin-Based Composites <b>C</b> One Surface	***
D2331	Resin-Based Composites <b>C</b> Two Surface	***
D2332	Resin-Based Composites <b>C</b> Three Surface	***
D2335	Resin-Based Composites <b>C</b> 4 or More Surfaces, Anterior	\$ 88
D2390	Resin-based Composite Crown, Anterior	\$ 88
D2930	Stainless Steel Crown, Primary	\$ 88
D2931	Stainless Steel Crown, Permanent	\$ 88
D2932	Prefabricated Resin Crown	\$ 84
D2950	Crown Buildup	***
D3220	Pulpotomy <b>C</b> Deciduous Tooth Only	***
D3310	Root Canal <b>C</b> One Canal	***
D3320	Root Canal <b>C</b> Two Canals	***
D3330	Root Canal <b>C</b> Three Canals	***
D4341	Periodontal Scaling and Root Planning	\$ 75
D4355	Full Mouth Debridement	\$ 58
D5110	Complete Denture, Maxillary	\$ 495
D5120	Complete Denture, Mandibular	\$ 495

D5130	Immediate Complete Denture, Maxillary	\$ 495
D5140	Immediate Complete Denture, Mandibular	\$ 495
D5211	Partial Denture, Resin Base, Maxillary	\$ 470
D5212	Partial Denture, Resin Base, Mandibular	\$ 470
D5510	Repair Complete Broken Denture Base	\$ 100
D5520	Repair Missing or Broken Teeth-Complete Denture, per Tooth	\$52/\$26*
D5610	Repair Resin Denture Base, Partial Denture	\$ 100
D5630	Repair or Replace Broken Clasp, Partial Denture	\$ 95
D5640	Replace Broken Teeth, Partial Denture, per Tooth	\$52/\$26*
D5650	Add Tooth to Existing Partial Denture	\$52/\$26*
D5660	Add Clasp to Existing Partial Denture	\$ 95
D5750	Reline Complete Denture, Maxillary (Lab)	\$ 238
D5751	Reline Complete Denture, Mandibular (Lab)	\$ 238
D5760	Reline Partial Denture, Maxillary (Lab)	\$ 208
D5761	Reline Partial Denture, Mandibular (Lab)	\$ 208
D5820	Interim Partial Denture, Maxillary	\$ 300
D5821	Interim Partial Denture, Mandibular	\$ 300
D7140	Extraction, Erupted Tooth or Exposed Root	***
D7210	Surgical Extraction	***
D7220	Removal of Impacted Tooth, Soft Tissue	\$ 86
D7230	Removal of Impacted Tooth, Partially Bony	\$ 136
D7240	Removal of Impacted Tooth, Completely Bony	\$ 161
D7241	Removal of Impacted Tooth, Completely Bony with Unusual Surgical Complications	\$ 186
D8050	Interceptive Orthodontic Treatment, Primary Dentition	** \$ 350
D8060	Interceptive Orthodontic Treatment, Transitional Dentition	** \$ 350
D8070	Comprehensive Orthodontic Treatment, Transitional Dentition	** \$3,600
D8080	Comprehensive Orthodontic Treatment, Adolescent Dentition	** \$3,600
D8090	Comprehensive Orthodontic Treatment, Adult Dentition	** \$3,600
D9110	Palliative (emergency) Dental Pain Treatment	\$ 25
D9241	Intravenous Conscious Sedation/Analgesia <b>C</b> First 30 Minutes	\$ 94

\* Rate for each subsequent tooth in the same arch

\*\* Manually-priced maximum fee

[Editor's Note: \*\*\* in the table above are indicative of no changes in rates.]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:176 (February 2003), amended LR 29:

Implementation of the provisions of this 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 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

0307#070

## DECLARATION OF EMERGENCY

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

Early and Periodic Screening, Diagnosis and Treatment Program  
Early Intervention Services for Infants and Toddlers with Disabilities  
(LAC 50:XV.Chapter 81)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates 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 promulgated 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.

Congress enacted the Individuals with Disabilities Education Act (IDEA) Amendments of 1997 to ensure the availability of appropriate public education and related services and supports to children with disabilities and their families. Part C of IDEA addresses the special needs of young children through the provision of financial assistance to States to implement and maintain a statewide, comprehensive, coordinated, multi-disciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families [34 CFR 303.1(a)].

Louisiana's early intervention system under Part C of IDEA, is a comprehensive, coordinated, family centered system of educational and health services for infants and toddlers age birth to age three who have a physical or mental condition that has a significant possibility of resulting in a developmental disability. The system also serves infants and toddlers who do not have a medical condition, but have been determined to be delayed in cognitive, physical, communication, social/emotional or adaptive development. Presently, the Department of Education serves as the lead agency responsible for administering Part C of Idea. However, the Governor has mandated the transfer of Part C from the Department of Education, Division of Special Populations to the Department of Health and Hospitals, Office of Public Health. In conjunction with the transfer of Part C, the Bureau of Health Services Financing proposes to establish early intervention services for infants and toddlers with disabilities under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. Medicaid covered early intervention services will include physical therapy, occupational therapy, speech therapy, audiology services, psychological services and targeted case management. These individual services are currently furnished to Medicaid recipients through the outpatient hospital, home health, EPSDT health services, rehabilitation center, and targeted case management service programs. The individual services will continue to be covered through these service programs.

This action is necessary to promote the health and welfare of Medicaid eligible infants and toddlers with disabilities by enhancing the availability of early intervention services and to avoid possible federal sanctions. It is anticipated that implementation of this Emergency Rule will increase

program expenditures by approximately \$10,800,297 for state fiscal year 2003-2004.

Effective July 7, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes early intervention services for infants and toddlers with disabilities under the Medicaid Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program in conjunction with the transfer of Part C of the Individuals with Disabilities Education Act.

#### Title 50

### PUBLIC HEALTH MEDICAL ASSISTANCE

#### Part XV. Services for Special Populations

#### Subpart 5. Early and Periodic Screening,

#### Diagnosis, and Treatment

#### Chapter 81. Early Intervention Services

#### §8101. Reserved.

#### §8103. Recipient Qualifications

A. In order to qualify for Medicaid covered early intervention services, an individual must meet the following qualifications:

1. be a Medicaid eligible infant or toddler age birth to age three; and
2. be enrolled to participate in the Part C program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

#### §8105. Covered Services

A. Medicaid covered early intervention services shall be limited to the following services:

1. physical therapy;
2. occupational therapy;
3. speech therapy;
4. audiology services;
5. psychological services; and
6. targeted case management (family service coordination).

B. Psychological services includes diagnosis and psychological counseling/therapy for the child and his/her family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

#### §8107. Provider Participation

A. Provider participation shall be the Title V agency, the lead agency responsible for the administration of the provisions of Part C of the Individuals with Disabilities Education Act in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

#### §8109. Reimbursement

A. The reimbursement methodology for Medicaid covered early intervention services shall be a negotiated rate based on the cost for the provision of services in accordance with the terms of the intra-agency agreement between the Medicaid Program and the Title V agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

Interested persons may submit written comments to Ben A. Bearden at the 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

0307#010

## **DECLARATION OF EMERGENCY**

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

Non-Emergency Medical Transportation Services  
Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates 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 promulgated 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 and reimbursement for non-emergency medical transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third party coverage would pay.

As a result of the allocation of additional funds by the Legislature during the 2003 Regular Session, the bureau has determined that it is necessary to increase the reimbursement fees for certain designated procedures. This action is being taken to promote the health and welfare of recipients and to maintain access to non-emergency medical transportation services by encouraging the continued participation of these providers in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures for non-emergency medical transportation services by approximately \$1,258,598 for the state fiscal year 2003-2004.

### **Emergency Rule**

Effective for dates of service on or after August 1, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for the following designated procedures for non-emergency medical transportation services by 20 percent of the rate in effect on July 31, 2003.

Profit - Local Trip  
Capitated Regular - Urban  
Capitated Regular - Rural  
Enhanced Capitated - >5 Trips Per Week  
Capitated Remote - Rural  
Capitated Wheelchair - Rural

Capitated Wheelchair - Urban  
Local Profit - Wheelchair  
Local Nonprofit - Wheelchair  
Nonprofit - Local Trip

Implementation of the provisions of this 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

0307#071

## **DECLARATION OF EMERGENCY**

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

Out-of-State Hospitals  
Inpatient Services  
Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2002-2003 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure 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 promulgated a Rule in January of 1996 which established the reimbursement methodology for inpatient hospital services provided in out-of-state hospitals at the lower of 50 percent of billed charges or the Medicaid per diem rate of the state wherein the services were provided (*Louisiana Register, Volume 22, Number 1*). This Rule was subsequently amended in September of 1997 to increase the reimbursement to 72 percent of billed charges for inpatient services provided in out-of-state hospitals to recipients up to age 21 (*Louisiana Register, Volume 23, Number 9*).

As a result of a budgetary shortfall, the bureau amended the reimbursement methodology contained in the January 1996 and September 1997 rules for out-of-state hospitals that provided at least 500 inpatient hospital days in state

fiscal year 1999 to Louisiana Medicaid recipients and were located in border cities. The reimbursement is established at the lesser of each hospital's actual cost per day as calculated from the 1998 filed Medicaid cost report or the Mississippi Medicaid per diem rate. The actual cost per day is calculated by dividing total Medicaid inpatient cost by total Medicaid inpatient days, including nursery days. This reimbursement methodology is applicable for all Louisiana Medicaid recipients who received inpatient services in an out-of-state hospital located in a border city, including those recipients up to the age of 21 (*Louisiana Register, Volume 26, Number 12*).

As a result of a budgetary shortfall, the bureau reduced the reimbursement for inpatient services provided in out-of-state hospitals. In addition, the bureau amended the reimbursement for children's hospitals located in states bordering Louisiana (*Louisiana Register, Volume 29, Number 4*). This Emergency Rule is promulgated to continue the provisions of the April 1, 2003 Emergency Rule. This action is necessary in order to avoid a budget deficit in the medical assistance programs.

#### **Emergency Rule**

Effective for dates of service on or after July 31, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the January 1996 and September 1997 Rules governing the reimbursement methodology for inpatient services provided in out-of-state hospitals. Reimbursement shall be established at the lower of 40 percent of billed charges or the Medicaid per diem rate of the state wherein the services are provided for recipients age twenty-one and older and the lower of 60 percent of billed charges or the Medicaid per diem rate of the state wherein the services are provided for recipients under the age of 21. Hospitals designated as children's hospitals that are located in states that border Louisiana shall be reimbursed at the lower of the Medicaid per diem rate of the state wherein the services are provided or the Louisiana children's hospital Medicaid peer group rate. Neonatal intensive care unit services, pediatric intensive care unit services, and burn unit services provided in these children's hospitals shall be paid the Louisiana peer group rate for the qualifying level of service documented by the hospital. The hospital stay and the level of service shall be authorized by the bureau.

Out-of-state hospitals that provided at least 500 inpatient hospital days in State Fiscal Year 1999 and are located in border cities (cities located within a 50 mile trade area of the Louisiana state border) will continue to be reimbursed at the lesser of each hospital's actual cost per day (based on the 1998 filed cost report) or the Medicaid per diem rate of the state wherein the services are provided. This reimbursement methodology is applicable for all Louisiana Medicaid recipients who receive inpatient services in an out-of-state hospital located in a border city, including those recipients up to the age of 21.

Implementation of the provisions of this 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 at 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

0307#074

### **DECLARATION OF EMERGENCY**

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

Out-of-State Hospitals  
Outpatient Services  
Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2002-2003 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R. S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure 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 promulgated a Rule in January of 1996 which established the reimbursement methodology for outpatient hospital services provided in out-of-state hospitals. Reimbursement is set at 50 percent of billed charges except for those services subject to a fee schedule (*Louisiana Register, Volume 22, Number 1*).

As a result of a budgetary shortfall, the bureau reduced the reimbursement for outpatient services provided in out-of-state hospitals to 31.04 percent of billed charges. Outpatient services subject to a fee schedule will continue to be reimbursed per the fee schedule amounts (*Louisiana Register, Volume 29, Number 4*). This Emergency Rule is promulgated to continue the provisions of the April 1, 2003 Emergency Rule. This action is necessary in order to avoid a budget deficit in the medical assistance programs.

#### **Emergency Rule**

Effective for dates of service on or after July 31, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the

reimbursement methodology contained in the January 1996 Rule for outpatient services provided in out-of-state hospitals. Reimbursement shall be reduced to 31.04 percent of billed charges. Outpatient services subject to a fee schedule will continue to be reimbursed in accordance with the amount on the fee schedule. This reimbursement methodology is applicable for all Louisiana Medicaid recipients who receive outpatient services in an out-of-state hospital, including those recipients up to the age of 21.

Implementation of the provisions of this 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 at 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

0307#075

#### **DECLARATION OF EMERGENCY**

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

##### **Private Hospitals Inpatient Services Reimbursement Reduction Restoration**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates 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 promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq.

##### **Emergency Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated an Emergency Rule that reduced the reimbursement paid for inpatient services rendered in private (non-state) acute hospitals, including long term hospitals, to 85 percent of the per diem rates (a 15 percent reduction) in effect on March 31, 2003 (*Louisiana Register, Volume 29, Number 4*). The bureau subsequently promulgated another Emergency Rule, effective for dates of service from May 19, 2003 through June 30, 2003, that reduced the reimbursement paid for inpatient services rendered in private (non-state) acute hospitals, including long term hospitals to 95 percent of the per diem rates (a 5 percent reduction) in effect on March 31, 2003 for private hospitals with a Medicaid inpatient days utilization rate of 25 percent or greater and 90 percent of the per diem rates (a 10 percent reduction) in effect on March 31, 2003 for private hospitals with a Medicaid inpatient days utilization rate of less than 25 percent (*Louisiana Register, Volume 29, Number 6*). Act 432 of the 2003 Legislative

Session (Supplemental Appropriations Act) directed the Department of Health and Hospitals to restore reductions implemented in SFY 2002-2003 to Medicaid reimbursement rates for inpatient hospital services. The department has now determined that it is necessary to rescind these Emergency Rules and notification is hereby provided to interested persons.

David W. Hood  
Secretary

0306#004

#### **DECLARATION OF EMERGENCY**

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

##### **Private Inpatient Psychiatric Services Reimbursement Reduction Restoration**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates 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 promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq.

##### **Emergency Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated an Emergency Rule that reduced the reimbursement paid for private inpatient psychiatric services to 85 percent of the per diem rates (a 15 percent reduction) in effect on March 31, 2003 (*Louisiana Register, Volume 29, Number 4*). The bureau subsequently promulgated another Emergency Rule, effective for dates of service from May 19, 2003 through June 30, 2003, that reduced the reimbursement paid for private inpatient psychiatric hospital services to 95 percent of the per diem rates (a 5 percent reduction) in effect on March 31, 2003 for private hospitals with a Medicaid utilization rate of 25 percent or greater and 90 percent of the per diem rates (a 10 percent reduction) in effect on March 31, 2003 for private hospitals with a Medicaid utilization rate of less than 25 percent (*Louisiana Register, Volume 29, Number 6*). Act 432 of the 2003 Legislative Session (Supplemental Appropriations Act) directed the department of Health and Hospitals to restore reductions implemented in SFY 2002-2003 to Medicaid reimbursement rates for inpatient hospital services. The department has now determined that it is necessary to rescind these Emergency Rules and notification is hereby provided to interested persons.

David W. Hood  
Secretary

0306#005

## DECLARATION OF EMERGENCY

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

#### Rehabilitation Services Reimbursement Fee Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates 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 promulgated 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 provides coverage and reimbursement for rehabilitation services under the Medicaid Program. Rehabilitation services include physical, occupational and speech therapies. Reimbursement is available for these services through outpatient hospital, home health, rehabilitation center and Early and Periodic Screening, Diagnosis and Treatment (EPSDT) health services. The bureau also adopted a Rule establishing the reimbursement methodology for rehabilitation services rendered in rehabilitation centers and outpatient hospital settings in June of 1997 (*Louisiana Register, Volume 23, Number 6*). The bureau adopted a subsequent Rule in May of 2001 to establish the reimbursement methodology for rehabilitation services rendered by home health agencies (*Louisiana Register, Volume 27, Number 5*). Reimbursement for these services is a flat fee established by the bureau minus the amount that any third party coverage would pay.

Act 13 of the 2002 Regular Session of the Louisiana Legislature directed the department to increase the reimbursement for physical therapy, occupational therapy, and speech/language and hearing therapy services provided to children under three years of age. In compliance with the Appropriation Bill and as a result of the allocation of additional funds by the Legislature, the bureau promulgated an Emergency Rule that increased the reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of three, regardless of the type of provider performing the services (*Louisiana Register, Volume 28, Number 7*). The bureau increased the reimbursement for additional rehabilitation services provided by outpatient hospitals and home health agencies (*Louisiana Register, Volume 29, Number 4*). This Emergency Rule is being promulgated to continue provisions contained in the April 21, 2000 Rule. This action is being taken to protect the health and welfare of Medicaid recipients under the age of three and to ensure access to rehabilitation services by encouraging the participation of rehabilitation providers in the Medicaid Program.

#### Emergency Rule

Effective for dates of service on or after April 21, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the

June 20, 1997 and May 20, 2001 Rules governing the reimbursement methodology for rehabilitation services provided by outpatient hospitals and home health agencies to increase the reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of 3. The new reimbursement rates for rehabilitation services are as follows.

Home Health Agencies and Outpatient Hospitals	
Procedure Name	New Rate
Physical Therapy, one modality	\$37.00
Physical Therapy, 2 or more modalities	\$56.00
P.T. with 1 or more procedures, and/or modalities, 15 minutes	\$18.50
P.T. with procedures, 30 minutes	\$37.00
P.T. with procedures, 75 minutes	\$92.50
Occupational Therapy, 15 minutes	\$15.00
Occupational Therapy, 30 minutes	\$30.00
Speech and Hearing Therapy, 15 minutes	\$14.00
Speech and Hearing Therapy, 30 minutes	\$28.00
Speech and Hearing Therapy, 45 minutes	\$42.00
Speech and Hearing Therapy, 60 minutes	\$56.00

Implementation of the provisions of this 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 at the 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

0307#076

## DECLARATION OF EMERGENCY

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

#### State Hospitals Reimbursement Methodology Upper Payment Limit

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates 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 promulgated 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 July of 1983 which established a reimbursement methodology for inpatient services provided in acute care hospitals (*Louisiana Register, Volume 9, Number 7*). Inpatient hospital services were reimbursed in accordance with the Medicare reimbursement principles with a target rate set based on the cost per discharge for each hospital, except that the base year to be used in determining the target rate was the fiscal year ending on September 30, 1981 through September 29, 1982. In a rule adopted in October of 1984 (*Louisiana Register, Volume 10, Number 10*), separate per diem limitations were established for neonatal and pediatric intensive care and burn units using the same base period as the target rate per discharge calculation. A Rule was adopted in October 1992, which provided that inpatient hospital services to children under one year of age shall be reimbursed as pass-through costs and shall not be subject to per discharge or per diem limits applied to other inpatient hospital services.

In compliance with House Bill 1 of the 2003 Louisiana Legislative Session, the bureau has determined that it is necessary to promulgate an Emergency Rule to utilize the upper payment limit for state government-owned or operated hospitals as set forth in the 42 CFR §447.272(b) and §447.321(b). 42 CFR §447.272(b) and §447.321(b) states as follows: "General Rules C(1) Upper payment limit refers to a reasonable estimate of the amount that would be paid for the services furnished by the group of facilities under Medicare payment principles in Subchapter B of this Chapter." This action is being taken to enhance federal revenues in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures for services by approximately \$35,000,000 for state fiscal year 2003-2004.

#### **Emergency Rule**

Effective July 3, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will utilize the upper payment limit for state government-owned or operated hospitals as set forth in the 42 CFR §447.272(b) and §447.321(b). The hospital payment differential for any year shall be the difference between the upper limit of aggregate payments to state government-owned or operated hospitals, as defined in the 42 CFR §447.272(a)(1) and §447.321(a)(1), and the aggregate Medicaid reimbursement paid to these hospitals for the year.

Implementation of the provisions of this Rule shall be delayed until July 27, 2003 and 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 the Ben A. Bearden at 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

0307#072

## **DECLARATION OF EMERGENCY**

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

Child Care Assistance Program Increased Activity  
Hours and Adjustment of Agency Payments  
(LAC 67:III.5103 and 5109)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III, Subpart 12, effective July 30, 2003. This Rule shall remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule of April 1, 2003, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. The final Rule will be published in September 2003.

The number of low-income participants served by the Child Care Assistance Program (CCAP) has increased dramatically and the cost of servicing these customers has increased proportionately. Therefore, to ensure that continued CCAP services are available and in order to avoid severe budget deficits and the abrupt closure of the entire Child Care Assistance Program (CCAP), the agency shall decrease the percentage of child care cost paid for by the agency and increase the number of required activity hours for parents receiving low-income child care. Failure to effect these changes may jeopardize the safety and well being of the children served through CCAP and result in job loss for some parents who may be forced to quit working because of lack of child care.

#### **Title 67**

#### **SOCIAL SERVICES**

#### **Part III. Office of Family Support**

#### **Subpart 12. Child Care Assistance**

#### **Chapter 51. Child Care Assistance Program**

#### **§5103. Conditions of Eligibility**

A. - A.1. ...

B. Low-income families not receiving FITAP cash assistance, including former FITAP recipients who are given priority consideration, must meet the following eligibility criteria:

1. - 3. ...

4. Effective September 1, 2002, unless disabled as established by receipt of Social Security Administration Disability benefits, Supplemental Security Income, Veteran's Administration Disability benefits for a disability of at least 70 percent, or unless disabled and unable to care for his/her child(ren) as verified by a doctor's statement or by worker determination, the TEMP must be:

a. employed a minimum average of 25 hours per week effective April 1, 2003, and all countable work hours must be paid at least at the Federal minimum hourly wage; or

b. attending a job training or educational program that is legally authorized by the state for a minimum average of, effective April 1, 2003, 25 hours per week (attendance at

a job training or educational program must be verified, including the expected date of completion); or

c. engaged in some combination of employment which is paid at least at the Federal minimum hourly wage, or job training, or education as defined in §5103.B.4.b that averages, effective April 1, 2003, at least 25 hours per week;

d. exception: a household in which all of the members described in §5103.B.4 meet the disability criteria is not eligible for child care assistance unless one of those members meets, effective April 1, 2003, the required minimum average of 25 activity hours per week.

B.5. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February

1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:

**§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. Effective April 1, 2003, the agency's percentage of payments for Low-Income Child Care cases is adjusted and reflected in the following tables.

**Sliding Fee Scale for Child Care Assistance Recipients  
Effective March 1, 2002 - 75 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	70%
	969 - 1535	1220 - 1908	1472 - 2281	1724 - 2654	1975 - 3027	50%
	1536 - 2101	1909 - 2596	2282 - 3090	2655 - 3585	3028 - 4079	30%
	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	70%
	2227 - 3199	2479 - 3372	2730 - 3543	2982 - 3716	3234 - 3888	50%
	3200 - 4172	3373 - 4265	3544 - 4357	3717 - 4450	3889 - 4543	30%
	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	70%
	3485 - 4060	3737 - 4232	3989 - 4405	4240 - 4577	4492 - 4749	50%
	4061 - 4636	4233 - 4728	4406 - 4821	4578 - 4914	4750 - 5006	30%
	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		70%
	4744 - 4921	4995 - 5093	5247 - 5266			50%
	4922 - 5099	5094 - 5192	5267 - 5285			30%
	Above 5099	Above 5192	Above 5285			0%

NOTE: Effective April 1, 2003, the department's percentage of payments for low-income child care has been adjusted as reflected in the above table.

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 26:2829

(December 2000), LR 27:1933 (November 2001), LR 28:1491 (June 2002), LR 29:

Gwendolyn P. Hamilton  
Secretary

0307#046

## DECLARATION OF EMERGENCY

### Department of Social Services Office of Family Support

Community Supervision Program (LAC 67:III.5573)

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 §5573, Community Supervision Program (CSP) effective June 17, 2003. This Emergency Rule will remain in effect for a period of 120 days.

Under the provisions of the Temporary Assistance to Needy Families (TANF) Block Grant, a state may expend its Maintenance of Effort (MOE) funds on a variety of services, benefits and supports that help families become self-sufficient. To effectuate the use of its MOE funds in accordance with federal and state regulations, the Office of Family Support will provide funds to the Department of Public Safety and Corrections (DPSC), Office of Youth Development (OYD), to implement and administer the Community Supervision Program, a program intended to further goals and intentions of the federal TANF Block Grant. Emergency rulemaking is necessary as failure to meet MOE funding requirements in accordance with TANF regulations could result in the loss of these monies. This could cause severe federal penalties or sanctions to be imposed, or the loss of TANF Block Grant funds resulting in a decrease or termination of services.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Family Support

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

#### Chapter 55. TANF Initiatives

#### §5573. Community Supervision Program

A. OFS shall enter into a Memorandum of Understanding (MOU) with the Department of Public Safety and Corrections (DPSC), Office of Youth Development (OYD), to provide services to youth and their families as a result of an adjudication and disposition by a court that orders DPSC/OYD to supervise youth in their communities in an effort to prevent removal from the home.

B. OYD/CSP will complete an intake/assessment and develop a case plan for addressing the needs of the youth. The case plan will contain goals for all need areas and when indicated, include referrals to community programs for both youth and parents. These referrals may include but are not limited to:

1. case management, counseling, and in-home services;
2. parenting education and training, either in-home or out-of-home;
3. diagnostic and evaluation services provided in an attempt to make the most appropriate out-of-home placement;
4. supervision or non-residential programs for youth who remain in the home.

C. The agency will identify eligibility retroactive to October 1, 2002.

D. These 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 homes of relatives by providing services to youth, who are in jeopardy of removal from their homes, and their families.

E. Financial eligibility for those services attributable to TANF/Maintenance of Effort (MOE) funds is limited to eligible families, which include a minor child living with a custodial parent, an adult caretaker relative, or a legal guardian. An eligible 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 XIX (Medicaid) Medical Assistance Program benefits, Louisiana Children's Health Insurance Program (LACHIP) benefits, or Supplemental Security Income (SSI).

F. 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.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:

Gwendolyn Hamilton  
Secretary

0306#002

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2003 Shrimp Season Closure

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 1, 2003 which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2003 Spring Shrimp Season in any portion of the state's inside waters if enforcement problems develop or to protect small white shrimp if biological and technical data indicates the need to do so, the secretary hereby declares:

The 2003 spring shrimp season in inside waters will close in that part of Shrimp Management Zone 2 from the eastern shore of South Pass of the Mississippi River to the western shore of Vermilion Bay and Southwest Pass at Marsh Island except for that portion of state inside waters within Timbalier and Terrebonne Bay as described below.

From a point along the inside/outside shrimp line east of East Timbalier Island at longitude 90E 15' 00" W, thence due north to a position at latitude 29E 10' 00" N and longitude 90E 15' 00" W, thence due west along latitude 29E 10' 00" N to the intersection of the Houma Navigational Channel, thence south along eastern edge of the Houma Navigational Channel as delineated by the U. S. Coast Guard Channel red buoy line to a point originating along the inside/outside shrimp line in Cat Island Pass, on Friday, June 20, at 6 a.m. The percentage, relative number and distribution of small white shrimp in these waters has increased substantially in

the last week and the region is being closed to protect these immigrating shrimp.

Zones 1 and 3 as well will remain open until further notice.

The State Territorial waters south of the Inside/Outside Shrimp Line, as described in R.S. 56:495, shall remain open.

James H. Jenkins, Jr.  
Secretary

0306#003

## **DECLARATION OF EMERGENCY**

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

#### **2003 Spring Shrimp Season Closure** Zones 1 and 3

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 1, 2003 which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2003 Spring Shrimp Season in any portion of the state's inside waters to protect small white shrimp if biological and technical data indicates the need to do so or if enforcement problems develop, the secretary hereby declares:

The 2003 spring shrimp season in inside waters will close in Shrimp Management Zone 1 on Monday, July 7, at 6 a.m. except for that portion of Mississippi Sound originating at a point along the Mississippi-Louisiana territorial sea boundary at longitude 89E 30' 00" W thence due south to a position at latitude 30E 05' 00" N and longitude 89E 30' 00" W thence southeasterly to the US Coast Guard navigational light off the eastern shore of Three-Mile Pass at latitude 30E 03' 12" N and longitude 89E 21' 30" W thence northeasterly to a position which intersects the menhaden line as described in the Menhaden Rule (LAC 76:VII.307D) north of Isle au Pitre at latitude 30E 10' 00" W. The open waters of Breton and Chandeleur Sounds as described in the Menhaden Rule, will remain open to shrimping until further notice. Zone 1 comprises State inside waters from the Mississippi-Louisiana state line to the eastern shore of South Pass of the Mississippi River.

The 2003 spring shrimp season in inside waters will close in Shrimp Management Zone 3 on Monday, July 7, at 6 a.m. except for that portion of the Calcasieu Ship Channel originating at Channel Marker 68 southward to a point originating along the inside/outside shrimp line at Calcasieu Pass and including East Pass from its origin at the Calcasieu Ship Channel to the south end of Calcasieu Lake and West Pass from its origin at the Calcasieu Ship Channel to the south end of West Cove which will close on Monday, July 14, at 6:00 a.m. Zone 3 is that portion of Louisiana's inside waters from the western shore of Vermilion Bay and

Southwest Pass at Marsh Island to the Louisiana-Texas state line.

The relative number, percentage and distribution of small white shrimp immigrating into the areas to be closed has increased substantially in the last week and the regions are being closed to protect these developing shrimp.

With this closure, all State inside waters from the Mississippi-Louisiana state line west to the Louisiana-Texas state line except for Breton and Chandeleur Sounds and a portion of Mississippi Sound and a portion of the Calcasieu Ship Channel, are closed to the harvest of shrimp.

The State Territorial waters south of the Inside/Outside Shrimp Line, as described in R.S. 56:495, shall remain open to shrimping.

James H. Jenkins, Jr.  
Secretary

0307#031

## **DECLARATION OF EMERGENCY**

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

#### **2003 Shrimp Season Closure** Zone 2

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 1, 2003 which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2003 Spring Shrimp Season in any portion of the State's inside waters if enforcement problems develop or to protect small white shrimp if biological and technical data indicates the need to do so, the secretary hereby declares:

On Saturday, June 28, 2003 at 6 a.m. the 2003 spring shrimp season in inside waters will close in the remainder of the state inside waters in Shrimp Management Zone 2, specifically, that area in Timbalier and Terrebonne Bays within the area as described below:

From a point along the inside/outside shrimp line east of East Timbalier Island at longitude 90E 15' 00" W, thence due north to a position at latitude 29E 10' 00" N and longitude 90E 15' 00" W, thence due west along latitude 29E 10' 00" N to the intersection of the Houma Navigational Channel, thence south along the eastern edge of the Houma Navigational Channel as delineated by the U. S. Coast Guard Channel red buoy line to a point originating along the inside/outside shrimp line in Cat Island Pass.

The percentage, relative number and distribution of small white shrimp in these waters has increased substantially in the last week and the region is being closed to protect these immigrating shrimp.

Zones 1 and 3 as well will remain open until further notice.

The State Territorial waters south of the Inside/Outside Shrimp Line, as described in R.S. 56:495, shall remain open.

James H. Jenkins Jr.  
Secretary

0307#009

**DECLARATION OF EMERGENCY**

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

**2003 Wild Alligator Harvest Season**

In accordance with the emergency provisions of R.S.49:953(B) and R.S.49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set seasons, the Wildlife and Fisheries Commission does hereby set the 2003 wild alligator harvest season.

The 2003 wild alligator harvest season shall be from official sunrise September 3, 2003 through official sunset October 2, 2003. Alligators taken from the wild may be removed from hook and line and taken with other legal capture devices only during daylight hours between official sunrise and official sunset.

Emergency procedures are necessary to allow department biologists adequate time to gather the biological data required to recommend season dates and harvest quotas.

The Wildlife and Fisheries Commission does hereby also authorize the Secretary of the Department of Wildlife and

Fisheries to delay, extend, close or reopen this season based on technical data or if enforcement problems develop.

Terry D. Denmon  
Chairman

0307#053

**DECLARATION OF EMERGENCY**

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

**Waterfowl Hunting Closure Times**

In accordance with the provisions of R.S. 49:953(B) and 967 of the Administrative Procedure Act, and under the authority of R.S. 56:115, the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopt the following Emergency Rule.

A Declaration of Emergency is necessary to amend the waterfowl hunting times for Pass-a-Loutre, Biloxi and Wisner WMAs from a 2:00 p.m. closing time to a sunset closing time and Pointe-aux-Chenes, Lake Boeuf and Salvador/Timken WMAs from a 2:00 p.m. closing time to a 12:00 noon closing time. Due to overwhelming opposition by the public to the proposed 2:00 p.m. closure the waterfowl hunting closing times will remain the same as they have been previously.

Terry D. Denmon  
Chairman

0307#055