

Emergency Rules

DECLARATION OF EMERGENCY

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Construction and Demolition Debris Tonnage Fee
(LAC 33:VII.529)(SW041E)

In accordance with the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), which allows the Department of Environmental Quality to use emergency procedures to establish rules, and under the authority of R.S. 30:2011, the secretary of the department hereby declares that an emergency action is necessary to secure additional funding to support the department's continued surveillance and oversight activities to prevent improper disposal of solid waste in order to protect the public health and the environment.

Hurricanes Katrina and Rita of 2005 produced an extraordinary amount of waste that is being handled as construction or demolition debris. This has enlarged a pre-existing lack of adequate funding for surveillance of landfills permitted to accept construction or demolition debris collected from these facilities. Prior to Act 718 of the 2006 Regular Session of the Louisiana Legislature, there was no source of funding for the department to finance the additional surveillance and oversight necessary to assure the proper cleanup and disposal of this waste. This Emergency Rule implements the provisions of Act 718 of the 2006 Regular Session of the Louisiana Legislature regarding the imposition of a \$0.20 per ton fee assessed on construction or demolition debris deposited in a facility permitted as a construction or demolition debris landfill. Permitted, as defined in the regulations (LAC 33:VII.115), in brief, is any written authorization issued by the administrative authority. Written authorizations include, but are not limited to, standard permits, temporary disposal site authorizations, orders to upgrade, or orders to close. This fee will apply to construction or demolition debris which is subject to a fee imposed by the facility. Submittal of the fee is not due to the department until the invoicing for Fiscal Year 2007-2008. Recordkeeping of data on which invoicing will be based will begin on July 1, 2006. The department will begin rulemaking to promulgate this regulation change.

This Emergency Rule is effective on July 10, 2006, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first. For more information concerning SW041E you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at www.deq.louisiana.gov under Rules and Regulations, and is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles,

LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Baratavia Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 5. Solid Waste Management System

Subchapter D. Solid Waste Fees

§529. Annual Monitoring and Maintenance Fee

A. - B.2.b. ...

c. for construction or demolition debris deposited at permitted construction or demolition debris facilities (Type III facilities), \$0.20/ton; and the fee is only applicable to construction or demolition debris that is subject to a fee imposed by the facility;

d. for surface impoundments, no tonnage fee;

e. for publicly operated facilities that treat domestic sewage sludge, no tonnage fee; and

f. for Type I-A, II-A, III (except for construction or demolition debris disposal facilities), and beneficial-use facilities, no tonnage fee.

B.3. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq and specifically 2014(D)(5).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:689 (May 2003), LR 29:2051 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

Mike D. McDaniel, Ph.D.
Secretary

0607#087

DECLARATION OF EMERGENCY

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Laboratory Accreditation Exemption for Analyses
of Target Volatile Organic Compounds
(LAC 33:I.4719)(OS064E4)

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

This is a renewal of Emergency Rule OS064E3, which was effective on March 13, 2006, and published in the *Louisiana Register* on March 20, 2006.

The department has issued a number of Administrative Orders (AOs) to certain facilities requiring monitoring and testing of ozone precursors. The intent of the fenceline monitoring program in the AOs is to make the data generated similar to and comparable to the data generated in the EPA Photochemical Assessment Monitoring Stations (PAMS) program. This Emergency Rule establishes laboratory requirements outlined in the Technical Assistance Document for Sampling and Analysis of Ozone Precursors (TAD) as guidance to those responsible for implementing the PAMS program. Compliance with these AOs will drastically increase the number of samples collected and analyzed. The department relies on analytical data submitted both directly and indirectly to the department to determine compliance with state and federal regulations. As a result of deadlines established in current Louisiana regulations, the department is prohibited from accepting data from commercial laboratories that have not received departmental accreditation. A finding of imminent peril to public health, safety, and welfare is based on the insufficient number of accredited laboratories existing at this time that are capable of performing the volume of sample analyses within the time frame required by the department. The department relies on analytical data to determine permit compliance, enforcement issues, and effectiveness of remediation of soils and groundwater. Permit issuance and compliance are effective means of determining the impact on human health and the environment. The department must have access to accurate, reliable, precise analytical data in order to meet its mandate to protect human health and the environment. This Emergency Rule will allow the department to accept data from laboratories that have supporting documentation showing the quality assurance and quality control program used to generate analytical data by the laboratory.

This Emergency Rule is effective on July 11, 2006, and shall remain in effect for a maximum of 120 days or until a final Rule is promulgated, whichever occurs first. For more information concerning OS064E4, you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at www.deq.louisiana.gov under Rules and Regulations, and is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 3. Laboratory Accreditation

Chapter 47. Program Requirements

§4719. Implementation

A. All commercial laboratories analyzing data as of the effective date of these regulations that are directly or indirectly submitting data to the department must submit an application for accreditation as required in LAC

33:I.4701.A.1, including the review fee, by July 1, 2000. The department shall not accept laboratory data generated by laboratories that do not comply with this deadline until such laboratories receive accreditation and fully comply with the requirements of this Section. Except as provided in Subsection E of this Section, the department shall not accept environmental data submitted to the department either directly or indirectly until the laboratory has applied for accreditation under these regulations.

B. All laboratories subject to these regulations must receive accreditation from the department, as provided in these regulations, undergo an on-site inspection as specified in LAC 33:I.4701.A.2, and successfully participate in proficiency evaluations as required in LAC 33:I.4701.A.3 by December 31, 2000, or as otherwise agreed to by the department and the applicant, not to exceed one year from December 31, 2000. Except as provided in Subsection E of this Section, the department shall not accept data generated by laboratories that do not comply with these deadlines until such laboratories receive accreditation and fully comply with the requirements of this Section.

C. - D. ...

E. The department shall accept, until December 31, 2007, analytical data generated by a laboratory that is not accredited under these regulations, provided that:

1. the laboratory has supporting documentation, and produces the documentation upon request by the department, showing the quality assurance and quality control programs used in generating analytical data by the laboratory and that the laboratory follows all requirements established by the Technical Assistance Document for Sampling and Analysis of Ozone Precursors, EPA 600-R-98/161 (TAD);

2. the laboratory is submitting analytical data pursuant to a departmental administrative order to a facility requiring monitoring and testing of ozone precursors; and

3. the laboratory is submitting analytical data for any of the target volatile organic compounds listed in Table 1 of this Section using the TAD, with modifications as specified below:

a. a reporting limit of at least 10 parts per billion (ppb) must be used;

b. any analytical result below the method detection limit (MDL) must be reported and flagged as an estimated value; and

c. any analytical result at the instrument detection limit (IDL) must be reported and flagged as an estimated value.

Table 1	
Target Volatile Organic Compounds	
Ethylene	
Acetylene	
Ethane	
Propylene	
Propane	
Isobutane	
1-butene	
n-Butane	
trans-2-Butene	
cis-2-Butene	
Isopentane (2-methylbutane)	
1-Pentene	
n-Pentane	
Isoprene	

Table 1
Target Volatile Organic Compounds
trans-2-Pentene
cis-2-Pentene
2,2-dimethylbutane
Cyclopentane
2,3-dimethylbutane
2-methylpentane
3-methylpentane
1-Hexene
n-Hexane
Methylcyclopentane
2,4-dimethylpentane
Benzene
Cyclohexane
2-methylhexane
2,3-dimethylpentane
3-methylhexane
2,2,4-trimethylpentane
n-Heptane
Methylcyclohexane
2,3,4-trimethylpentane
Toluene
2-methylheptane
3-methylheptane
n-Octane
Ethylbenzene
m/p Xylene
Styrene
o-Xylene
1,3-butadiene

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000), LR 29:312 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

Mike D. McDaniel, Ph.D.
Secretary

0607#028

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Oil and Gas Construction Activities Storm Water Waiver (LAC 33:IX.2511)(WQ069E)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allow the Department of Environmental Quality to use emergency procedures to establish rules, and of R.S. 30:2011 and 2074, which allow the department to establish standards, guidelines, and criteria, to promulgate rules and regulations, and to issue compliance schedules, the secretary of the department hereby declares that an emergency action is necessary in order to implement the Environmental Protection Agency (EPA) provisions finalized effective June 12, 2006, in 71 FR 33628-33640, to waive regulation of construction storm water for oil and gas related construction activities.

This Emergency Rule will allow operators at construction sites related to oil and gas exploration, production, processing, or treatment operations or transmission facilities to legally conduct those construction activities without being permitted until the regulations found at LAC 33:IX.2511 can be revised to incorporate the new June 12, 2006, federal permit waiver for those construction activities. The Department of Environmental Quality, Office of Environmental Services, became the National Pollutant Discharge Elimination System (NPDES) permit issuing authority for the State of Louisiana on August 27, 1996. An emergency rule is necessary for the Louisiana Pollutant Discharge Elimination System (LPDES) program to be consistent with the EPA NPDES program. The department has begun rulemaking to promulgate these regulation changes.

This Emergency Rule is effective on July 5, 2006, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first. For more information concerning WQ069E you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at www.deq.louisiana.gov under Rules and Regulations, and is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program

Chapter 25. Permit Application and Special LPDES Program Requirements

§2511. Storm Water Discharges

A. - A.1.e.iv. ...

2. The state administrative authority may not require a permit for discharges of storm water runoff from the following:

a. mining operations composed entirely of flows that are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and that are not contaminated by contact with, or that have not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site of such operations, except in accordance with Subparagraph C.1.d of this Section; and

b. all field activities or operations associated with oil and gas exploration, production, processing, or treatment operations or transmission facilities, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, whether or not such field activities or operations may be considered to be construction activities, except in accordance with Subparagraph C.1.c of this Section. Discharges of sediment

from construction activities associated with oil and gas exploration, production, processing, or treatment operations or transmission facilities are not subject to the provisions of Clause C.1.c.iii of this Section.

[Note to Subparagraph A.2.b: The department encourages operators of oil and gas field activities or operations to implement and maintain Best Management Practices (BMPs) to minimize discharges of pollutants, including sediment, in storm water both during and after construction activities to help ensure protection of surface water quality during storm events. Appropriate controls would be those suitable to the site conditions and consistent with generally accepted engineering design criteria and manufacturer specifications. Selection of BMPs could also be affected by seasonal or climate conditions.]

A.3. - E.7.c. ...

8. Any storm water discharge associated with small construction activities identified in Subparagraph B.15.a of this Section requires permit authorization by March 10, 2003, unless designated for coverage before then.

E.9. - G.4.d, certification. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:957 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2273 (October 2000), LR 26:2552 (November 2000), repromulgated LR 27:40 (January 2001), amended LR 28:467 (March 2002), LR 29:701 (May 2003), repromulgated LR 30:230 (February 2004), amended by the Office of Environmental Assessment, LR 31:1321 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2510 (October 2005), LR 32:

Mike D. McDaniel, Ph.D.
Secretary

0607#029

DECLARATION OF EMERGENCY

Office of the Governor Division of Administration Racing Commission

Exacta
(LAC 35:XIII.10701, 10707, and 10709)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following Emergency Rule effective June 23, 2006, and it shall remain in effect for 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to amend this Rule to further promote horseracing and increased revenues therefrom, by ensuring fair and alternate wagering opportunities to the public.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 107. Exacta

§10701. Object; Separate Pool

A. ...

B. An exacta "Jackpot" may be offered instead of the exacta wager. The exacta "Jackpot" wager shall be held entirely separate from all other pools and is in no way a part of the daily double or the win, place or show pools. It may not be offered concurrently with an exacta wager during any race meet. The exacta "Jackpot" shall identify as such by the association conducting the meet, and may be given a distinctive name, subject to approval by the commission. The exacta "Jackpot" wager is the same in all respects as the exacta, except that the net pool from which wagers are paid is subject to a withholding of three percent to fund a separate jackpot pool. The exacta "Jackpot" pool shall be calculated and paid follows.

1. Ninety-seven percent of the net exacta pari-mutuel pool shall be distributed to ticket holders correctly selecting, in order, the official first and second place finisher in the designated exacta race.

2. Three percent of a net exacta pari-mutuel pool shall be withheld in a separate "Jackpot" pool to be paid as follows.

a. When the official second-place finisher of a race on which an exacta wager is authorized pays \$40 or greater in the place pool, then the "Jackpot" pool shall be distributed to ticket holders correctly selecting the official first and third place finishers.

b. Whenever the conditions of an exacta "Jackpot" wager are not met in a race, the three percent withheld shall be deposited in a separate "Jackpot" pool and carried over from race to race until such time as the conditions for payout are met.

c. Whenever the conditions of an exacta "Jackpot" wager are met in a race, all sums then held in the "Jackpot" pool shall be paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 2:442 (December 1976), amended LR 3:38 (January 1977), LR 4:283 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 32:

§10707. Dead Heats

A. ...

B. Where there is a dead heat for win or place on an exacta "Jackpot" race, the conditions to payout the "Jackpot" are met if any horse pays a sum of \$40 or greater in the place pool. In this event, the exacta "Jackpot" funds will be disbursed equally between all combinations of exacta "Jackpot" tickets correctly selecting, in order, the first and third place finishers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 2:442 (December 1976), amended LR 3:38 (January 1977), LR 4:283 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 32:

§10709. No Ticket Sold with Winning Combination

A. ...

B. If the conditions for payout of the exacta "Jackpot" pool are not met on or before the second to last race of the association meeting, all funds accumulated in the "Jackpot" wager pool shall be added and equally distributed to the win, place, show, exacta, trifecta and superfecta pools on the last

race of the meet. There shall be no deduction made for the exacta "Jackpot" wager on the last race of the meet.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 2:442 (December 1976), amended LR 3:38 (January 1977), LR 4:283 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 32:

Charles A. Gardiner III
Executive Director

0607#016

DECLARATION OF EMERGENCY

Office of the Governor Division of Administration Racing Commission

Pick Four (LAC 35:XIII.11615)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following Emergency Rule effective June 23, 2006, and it shall remain in effect for 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to amend this Rule to further promote horseracing and increased revenues therefrom, by ensuring fair and alternate wagering opportunities to the public.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 116. Pick Four

§11615. Dead Heats

A. In the event of a dead heat for win between two or more horses in any pick four race, all such horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool and payoffs. There shall be a separate payoff price, per dollar calculated, for each winning combination as follows: from the gross pool is deducted the takeout, consolation payoff amounts, if any, and amounts wagered on all winning combinations. The balance shall be divided by the number of different winning combinations upon which bets were sold, each resulting allocated part being assigned to each respective winning combination. An allocated part plus the amounts bet on each winning combination when divided by the amount bet on each winning combination (less breakage) shall be the resulting payoff per dollar per respective winning combination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 32:

Charles A. Gardiner III
Executive Director

0607#020

DECLARATION OF EMERGENCY

Office of the Governor Division of Administration Racing Commission

Triple Play
(LAC 35:XIII.11515 and 11517)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following Emergency Rule effective June 23, 2006, and it shall remain in effect for 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to amend this Rule to further promote horseracing and increased revenues therefrom, by ensuring fair and alternate wagering opportunities to the public.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 115. Triple Play

§11515. Scratches and Nonstarters

A. In the event a triple play ticket designates a selection in any one or more of the races comprising the triple play and that selection is scratched, excused or determined by the stewards to be a nonstarter in the race, prior to the official start of the first leg, all tickets designating that horse shall be refunded and the money deducted from the pool.

B. In the event the scratch was made in the second leg after the start of the first leg, a consolation payoff shall be computed for those bets combining the winners of the first and third legs with the scratched betting interest as follows: from the gross pool shall be deducted the statutory take-out and then the amount represented by bets on combinations involving betting interests scratched from the third leg (reduced by the take-out thereon). The resulting remainder shall be divided by the amounts bet on the combination of such first and third leg winners with all betting interests (less breakage) to determine the consolation price per dollar payable to those bets combining winners of the first and third legs with a betting interest scratched in the second leg. The breakage shall not be deducted from the pool.

C. If a betting interest is scratched in the third leg after the start of the first leg, a consolation payoff shall be computed as for those bets combining the winners of the first and second legs with such scratched betting interest as follows: from the gross pool shall be deducted the statutory take-out and then the amount represented by bets on combinations involving betting interests scratched from the second leg (reduced by the rate of the take-out thereon). The resulting remainder shall be divided by the amount bet on the combination of such first and second leg winners with all betting interests in the third leg (less breakage) to determine the consolation price per dollar payable to those bets combining winners of the first and second legs with an betting interest scratched in the third leg. The breakage shall not be deducted from the pool.

D. If betting interests are scratched in both the second and third legs after the start of the first leg, a consolation

payoff shall be computed for those bets combining the winner of the first leg with the betting interests scratched in both the second and third legs as follows: from the gross pool shall be deducted the takeout and the remainder shall be divided by the amount bet on the winner of the first leg combined with all other betting interests (less breakage) to determine the consolation price per dollar payable to those tickets combining the winner of the first leg with the scratched betting interests from both the second and third legs. The breakage shall not be deducted from the pool.

E. If all three legs of the triple play are cancelled or declared "no contest," the entire pool shall be refunded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 14:80 (February 1988), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 32:

§11517. Dead Heats

A. In the event of a dead heat for win between two or more horses in any triple play race, all the horses in the dead heat for win shall be considered as official winning horses in the race for the purpose of calculating the pool and payoffs. There shall be a separate payoff price, per dollar calculated, for each winning combination as follows: from the gross pool is deducted the takeout, consolation payoff amounts, if any, and amounts wagered on all winning combinations. The balance shall be divided by the number of different winning combinations upon which bets were sold, each resulting allocated part being assigned to each respective winning combination. An allocated part plus the amounts bet on each winning combination when divided by the amount bet on each winning combination (less breakage) shall be the resulting payoff per dollar per respective winning combination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 14:80 (February 1988), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 32:

Charles A. Gardiner III
Executive Director

0607#018

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Dentistry

General Supervision for Dental Hygienists (LAC 46:XXXIII.701)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), which allows the Louisiana State Board of Dentistry to use emergency procedures to establish rules, and under the authority of Act 744 of the Louisiana Regular Legislative Session of 2006 and R.S. 37:760(6), the Board of Dentistry hereby declares that an emergency action is necessary in order to regulate general supervision of dental hygienists by dentists. This Emergency Rule becomes effective on July 20 2006, and shall remain in effect for a maximum of 120 days or until a

final Rule is promulgated, whichever occurs first. For more information concerning this Emergency Rule, you may contact Mr. C. Barry Ogden, Executive Director at (504) 568-8574.

This Emergency Rule is available on the internet at www.doa.state.la.us/osr/osr.htm, and is available for inspection at the board office from 8 a.m. until 4:30 p.m. Monday through Friday, 365 Canal Street, Suite 2680, New Orleans, Louisiana 70130. Copies of this Emergency Rule may also be requested via telephone.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Profession

Chapter 7. Dental Hygienists

§701. Authorized Duties

A. - D. ...

E. In accordance with Act 744 of the regular session of the Louisiana legislature, effective June 29, 2006, dental hygienists may work under the general supervision of dentists licensed to practice in the state of Louisiana.

F. Under general supervision, a dental hygienist may provide to patients of record, for not more than five consecutive business days, all dental hygiene services (except local anesthesia and root planning which must be under direct supervision) if all of the following conditions are satisfied:

1. the dental hygienist has at least three years, or an equivalent amount of experience, in the practice of dental hygiene;

2. the dental hygienist has current CPR certification and complies with the established protocols for emergencies which the supervising dentist has established;

3. the supervising dentist has examined the patient of record not more than nine months prior to the date that the dental hygienist provides the dental hygiene services;

4. the dental hygienist provides dental hygiene services to the patient of record in accordance with a written treatment protocol prescribed by the supervising dentist for the patient;

5. the patient of record is notified in advance of the appointment that the supervising dentist will be absent from the location;

6. no licensed dental hygienist, under general supervision, may delegate or supervise any dental hygiene duties for an expanded duty dental assistant; and

7. the dentist is responsible for all actions of the dental hygienist during treatment of patients under general supervision.

G. The following limitations also apply to the practice of dental hygiene under general supervision.

1. No entity other than a public institution or school supervised by a Louisiana licensed dentist, or an office owned by a dentist or group of dentists licensed in Louisiana, may employ dental hygienists to provide treatment for patients of record under general supervision.

2. No duly licensed and registered dentist shall supervise more than two dental hygienists under general supervision at any one time.

3. No duly licensed and registered dentist shall supervise a dental hygienist for more than five consecutive

business days or for more than 20 total days in any calendar year.

4. No patient can be seen twice consecutively under general supervision.

5. An examination fee must not be charged if a patient is seen under general supervision.

6. No person shall practice dental hygiene in a manner which is separate or independent from a supervising dentist, or establish or maintain an office or a practice that is primarily devoted to providing dental hygiene services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 15:965 (November 1989), LR 19:206 (February 1993), LR 22:22 (January 1996), LR 22:1217 (December 1996), LR 24:1116 (June 1998), LR 27:1892 (November 2001), LR 32:

C. Barry Ogden
Executive Director

0607#082

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Examiners for Speech Language and Pathology

Temporary Credentialing during a
Declared Public Health Emergency
(LAC 46:LXXV.117)

The Department of Health and Hospital, Board of Examiners for Speech-Language Pathology and Audiology (the "Board") has adopted this Emergency Rule, effective June 29, 2006, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953, and the Speech-Language Pathology and Audiology Practice Act, R.S. 37:2652-2666, as well as R.S. 29:769(E), as amended in Act No. 207 of the 2006 Regular Session of the Louisiana Legislature, which became effective upon the governor's signature on June 2, 2006. The Emergency Rule is to remain in effect for a period of 120 days or until adoption of the final Rule, whichever occurs first.

In keeping with its function as set forth by the State Legislature in R.S. 29:769(E), as amended in the 2006 Regular Session, the board has developed and adopted this Emergency Rule thereby creating the process for adoption of a future Emergency Rule implementing temporary registration in Louisiana, during a public health emergency lawfully declared as such by the governor, for out of state audiologists, speech-language pathologists, or speech-language pathology assistants, whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States.

The 2006 hurricane season began June 1, 2006. The immediate implementation of this Emergency Rule is in the best interest for the protection of the public health and safety in the event a public health emergency is lawfully declared by the governor prior to the final promulgation of the Rule through regular rule-making procedure. This Emergency Rule will allow the implementation by subsequent Emergency Rule for the temporary registration in Louisiana,

during a public health emergency lawfully declared as such by the governor, for out of state audiologists, speech-language pathologists, or speech-language pathology assistants, whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States. The Emergency Rule will not limit or adversely impact the practices of Louisiana licensed audiologists, speech-language pathologists, or speech-language pathology assistants at the present time or during a declared state of public health emergency.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXV. Speech-Language Pathology and Audiology Chapter 1. General Rules

§117. Application Procedures

A. - K.1.f. ...

L. Temporary Registration During a Declared Public Health Emergency

1. In a public health emergency lawfully declared as such by the Governor of Louisiana, the requirement for a Louisiana License as an audiologist, speech-language pathologist, or speech-language pathology assistant may be suspended by the board at that time to those out of state audiologists, speech-language pathologists, or speech-language pathology assistants, whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States, for a period of time not to exceed the duration and scope of R.S. 29:769(E.), as more particularly set forth in this rule.

2. The following requirements for temporary registration may be imposed pursuant to the declared state of emergency and shall be in accordance with rules promulgated by the board.

3. An audiologist, speech-language pathologist, or speech-language pathology assistant not licensed in Louisiana, whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States, may gratuitously provide audiology and speech-language pathology services if:

a. the audiologist, speech-language pathologist, or speech-language pathology assistant has photo identification and a license to verify a current and unrestricted license, certification or registration in another jurisdiction of the United States, and properly registers with the board prior to providing audiology or speech language pathology services in Louisiana as follows:

i. the audiologist, speech-language pathologist, or speech-language pathology assistant is engaged in a legitimate relief effort during the emergency period, and provides satisfactory documentation to the board of the location site(s) that he will be providing gratuitous audiology or speech-language pathology services;

ii. the audiologist, speech-language pathologist, or speech-language pathology assistant shall comply with the Louisiana Speech-Language Pathology and Audiology Practice Act, board rules, and other applicable laws, as well as practice in good faith, and within the reasonable scope of his skill, training, and ability; and

iii. the audiologist, speech-language pathologist, or speech-language pathology assistant renders services on a gratuitous basis with no revenue of any kind to be derived

whatsoever from the provision of services within the state of Louisiana.

4. The authority provided for in the Emergency Rule shall be applicable for a period of time not to exceed 60 days at the discretion of the board, with the potential extension of up to two additional periods not to exceed 60 days for each extension as determined appropriate and necessary by the board.

5. All interested audiologists, speech-language pathologists, and speech-language pathology assistants shall submit a copy of their respective current and unrestricted licenses, certifications or registrations issued in other jurisdictions of the United States and photographic identification, as well as other requested information, to the Louisiana Board of Examiners for Speech-Language Pathology and Audiology for registration with this agency prior to gratuitously providing audiology or speech-language pathology services in Louisiana.

6. Should a qualified audiologist, speech-language pathologist, or speech-language pathology assistant registered with the board thereafter fail to comply with any requirement or condition established by this rule, the board may terminate his registration upon notice and hearing.

7. In the event an audiologist, speech-language pathologist, or speech-language pathology assistant fails to register with the board, but practices audiology or speech-language pathology, whether gratuitously or otherwise, then such conduct will be considered the unlawful practice of audiology or speech-language pathology and prosecuted accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:352 (May 1996), amended LR 27:199 (February 2001), LR 28:1974 (September 2002), LR 32:

Richard N. Burt
Administrator

0607#026

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Social Work Examiners

Temporary Credentialing during a
Declared Public Health Emergency
(LAC 46:XXV.309)

The Department of Health and Hospital, Board of Social Work Examiners (the "board") has adopted this Emergency Rule, effective June 29, 2006, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953, and the Louisiana Social Work Practice Act R.S. 37:2701-2723, as well as R.S. 29:769(E), as amended in Act. No. 207 of the 2006 Regular Session of the Louisiana Legislature, which became effective upon the governor's signature on June 2, 2006. The Emergency Rule is to remain in effect for a period of 120 days or until adoption of the final Rule, whichever occurs first.

In keeping with its function as set forth by the State Legislature in R.S. 29:769(E), as amended in the 2006

Regular Session, the board has developed and adopted this Emergency Rule thereby creating the process for adopting of a future Emergency Rule implementing temporary registration in Louisiana, during a public health emergency lawfully declared as such by the governor, for out of state social workers whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States.

The 2006 hurricane season began June 1, 2006. The immediate implementation of this Emergency Rule is in the best interest for the protection of the public health and safety in the event a public health emergency is lawfully declared by the governor prior to the final promulgation of the Rule through regular rule-making procedure. This Emergency Rule will allow the implementation by subsequent Emergency Rule for the temporary registration in Louisiana, during a public health emergency lawfully declared as such by the governor, for out of state social workers whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States. The Emergency Rule will not limit or adversely impact the practices of Louisiana social workers at the present time or during a declared state of public health emergency.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXV. Certified Social Workers

Chapter 309. General Provisions

§309. Application Procedure

A. - P.3. ...

Q. Temporary Registration During a Declared Public Health Emergency

1. In a public health emergency lawfully declared as such by the Governor of Louisiana, the requirement for a Louisiana License or credential as a Social Worker may be suspended by the board at that time to those out of state social workers, whose credentials are current and unrestricted in another North American jurisdiction, for a period of time not to exceed the duration and scope of R.S. 29:769E, as more particularly set forth in this rule.

2. The following requirements for temporary credentialing may be imposed pursuant to the declared state of emergency and shall be in accordance with rules promulgated by the board.

3. A social worker not credentialed in Louisiana, whose credential is current and unrestricted in another jurisdiction of North America, may gratuitously provide services under the Louisiana Social Work Practice Act if:

a. the social worker has photo identification and a license to verify a current and unrestricted license in another jurisdiction of the United States, and properly registers with the board prior to providing social work services in Louisiana as follows, provided:

i. the social worker is engaged in a legitimate relief effort during the emergency period, and provides satisfactory documentation to the Board of the location site(s) where gratuitous social work services will be provided;

ii. the social worker shall comply with the Louisiana Social Work Practice Act, board rules, and other applicable laws, as well as practice in good faith, and within the reasonable scope of his skill, training, and ability; and

ii. the social worker renders services on a gratuitous basis with no revenue of any kind to be derived whatsoever from the provision of services within the state of Louisiana.

4. The authority provided for in the Emergency Rule shall be applicable for a period of time not to exceed 60 days at the discretion of the board, with the potential extension of up to two additional periods not to exceed 60 days for each extension as determined appropriate and necessary by the board.

5. All interested social workers shall submit a copy of their respective current and unrestricted licenses, certifications or registrations issued in other jurisdictions of North America and photographic identification, as well as other requested information, to the Louisiana Board of Social Work Examiners for credentialing with this agency prior to gratuitously providing social work services in Louisiana.

6. Should a qualified social worker credentialed with the board thereafter fail to comply with any requirement or condition established by this Section, the board may terminate his registration upon notice and hearing.

7. In the event a social worker fails to become credentialed with the board, but practices social work, whether gratuitously or otherwise, then such conduct will be considered the unlawful practice of social work and prosecuted accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C. and R. S. 37:2701 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:302 (February 2000), amended LR 29:2383 (November 2003), LR 32:

Richard N. Burt
Administrator

0607#025

DECLARATION OF EMERGENCY
Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

CommunityCARE Program
Immunization Pay-for-Performance Initiative
(LAC 50:I.2915)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:I.2915 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing compiled the previously promulgated Rules governing the CommunityCARE Program to establish LAC 50:I.Chapter 29 (*Louisiana Register*, Volume 29, Number 6). The CommunityCARE Program provides a medical home for designated Medicaid recipients by linking the recipient to a primary care provider selected by the recipient. The bureau

now proposes to amend the provisions governing the CommunityCARE Program in order to implement an immunization pay-for-performance initiative fee based on the provider's participation in the Louisiana Immunization Network for Kids Statewide and performance in achieving immunization benchmarks.

This action is being taken to enhance federal revenue. It is estimated that the implementation of this Emergency Rule will increase the expenditures in the CommunityCARE Program by approximately \$1,048,152 for fiscal year 2006-07.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part I. Administration
Subpart 3. Medicaid Managed Care

Chapter 29. CommunityCARE
§2915. Immunization Pay-for-Performance

A. Effective July 1, 2006, a supplemental payment will be implemented as an incentive to promote the immunization of Medicaid eligible children.

1. Qualification for the supplemental payment shall be based on the CommunityCARE primary care provider's participation in the Louisiana Immunization Network for Kids Statewide (LINKS) and performance in achieving state-established immunization benchmarks for children being up to date with recommended immunizations.

2. The supplemental payment will be issued on a quarterly basis.

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 32:

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 Jerry Phillips, 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0607#015

DECLARATION OF EMERGENCY
Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Disproportionate Share Hospital Payment Methodologies
Community Hospitals (LAC 50:V.Chapter 3)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:V.Chapter 3 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 promulgated a Rule to adopt the provisions governing the disproportionate share payment methodologies for hospitals in May of 1999 (*Louisiana Register*, Volume 25, Number 5). The May 20, 1999 Rule was later amended to change the criteria used to define rural hospitals and to clarify the policy governing final payments and adjustments (*Louisiana Register*, Volume 29, Number 1). The department adopted an Emergency Rule to repeal and replace all provisions governing disproportionate share hospital payments in compliance with Act 491, Act 1024 and Senate Concurrent Resolution 94 of the 2001 Regular Session and Senate Concurrent Resolution 27 of the 2002 Regular Session (*Louisiana Register*, Volume 29, Number 6).

The June 20, 2003 Emergency Rule has been subsequently amended to amend: the qualifying criteria and the payment methodology for disproportionate share payments to small rural hospitals (*Louisiana Register*, Volume 29, Number 9); designated provisions of the disproportionate share payment methodologies as directed by Act 182 of the 2005 Regular Session (*Louisiana Register*, Volume 31, Number 7); and the definition of a rural hospital as directed by Act 323 of the 2005 Regular Session (*Louisiana Register*, Volume 31, Number 9). The department hereby amends the October 25, 2005 Emergency Rule governing the provisions for disproportionate share payments to other uninsured hospitals and establishes provisions governing payments to private community hospitals for services rendered to displaced, uninsured citizens from mandatory evacuation parishes affected by Hurricanes Katrina and Rita. In addition, the department amends the provisions governing disproportionate share payments to high uninsured hospitals and establishes provisions governing payments to public community hospitals.

This action is being taken to enhance federal revenue. It is estimated that the implementation of this Emergency Rule will increase revenues by approximately \$23,600,000 in federal funds only for state fiscal year 2005-06.

Effective June 28, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the disproportionate share hospital qualifications, establishes provisions governing payment to private community hospitals for services provided to designated hurricane evacuees and establishes provisions governing payments to public community hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 3. Disproportionate Share Hospital Payment Methodologies

§303. Disproportionate Share Hospital Qualifications

A. In order to qualify as a disproportionate share hospital, a hospital must:

1. have at least two obstetricians who have staff privileges and who have agreed to provide obstetric services to individuals who are Medicaid eligible. In the case of a hospital located in a rural area (i.e., an area outside of a

metropolitan statistical area), the term *obstetrician* includes any physician who has staff privileges at the hospital to perform nonemergency obstetric procedures; or

2. treat inpatients who are predominantly individuals under 18 years of age; or

3. be a hospital which did not offer nonemergency obstetric services to the general population as of December 22, 1987; and

4. have a utilization rate in excess of one or more of the following specified minimum utilization rates:

a. Medicaid utilization rate is a fraction (expressed as a percentage). The numerator is the hospital's number of Medicaid (Title XIX) inpatient days. The denominator is the total number of the hospital's inpatient days for a cost reporting period. Inpatient days include newborn and psychiatric days and exclude swing bed and skilled nursing days. Hospitals shall be deemed disproportionate share providers if their Medicaid utilization rates are in excess of the mean, plus one standard deviation of the Medicaid utilization rates for all hospitals in the state receiving payments; or

b. hospitals shall be deemed disproportionate share providers if their low-income utilization rates are in excess of 25 percent. Low-income utilization rate is the sum of:

i. the fraction (expressed as a percentage). The numerator is the sum (for the period) of the total Medicaid patient revenues plus the amount of the cash subsidies for patient services received directly from state and local governments. The denominator is the total amount of revenues of the hospital for patient services (including the amount of such cash subsidies) in the cost reporting period from the financial statements; and

ii. the fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for inpatient services which are attributable to charity (free) care in a period, less the portion of any cash subsidies as described in §303.A.4.b.i in the period which are reasonably attributable to inpatient hospital services. The denominator is the total amount of the hospital's charges for inpatient hospital services in the period. For public providers furnishing inpatient services free of charge or at a nominal charge, this percentage shall not be less than zero. This numerator shall not include contractual allowances and discounts (other than for indigent patients ineligible for Medicaid), i.e., reductions in charges given to other third-party payers, such as HMOs, Medicare, or Blue Cross; nor charges attributable to Hill-Burton obligations. A hospital providing "free care" must submit its criteria and procedures for identifying patients who qualify for free care to the Bureau of Health Services Financing for approval. The policy for free care must be posted prominently and all patients must be advised of the availability of free care and the procedures for applying. Hospitals not in compliance with free care criteria will be subject to recoupment of DSH and Medicaid payments; or

5. effective November 3, 1997, be a small rural hospital as defined in §311.A.1.a-h; and

6. effective June 28, 2006, be a private community hospital as defined in §307.A.; or

7. effective June 28, 2006, be a public community hospital as defined in §305.A.; and

8. effective July 1, 1994, must also have a Medicaid inpatient utilization rate of at least 1 percent.

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 32:

§305. Public Community Hospitals

A. Definitions

Public Community Hospital—a hospital owned by a parish, city, or other local government instrumentality that does not qualify as a small rural hospital.

Uncompensated Care Costs—net uncompensated care cost is the total allowable cost of inpatient and outpatient hospital services less Medicare costs, Medicaid payments (excluding DSH payments), costs associated with patients who have insurance for services provided, private payer payments and all other inpatient and outpatient payments received from patients.

B. DSH payments to a public community hospital shall be calculated as follows.

1. Each qualifying public community hospital shall certify to the Department of Health and Hospitals its uncompensated care costs. The basis of the certification shall be 100 percent of the hospital's allowable costs for these services, as determined by the most recently filed Medicare/Medicaid cost report. The certification shall be submitted in a form satisfactory to the department each fiscal year. The department will claim the federal share for these certified public expenditures. The department's subsequent reimbursement to the hospital may be more or less than the federal share so claimed.

C. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid and other third party carriers and payments from patients. Hospitals must certify that excluded from net uncompensated cost are any costs for the care of persons eligible for Medicaid at the time of registration. Hospitals must maintain a log documenting the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Hospitals shall submit an attestation that patients whose care is included in the hospital's net uncompensated costs are not Medicaid eligible at the time of registration.

D. A hospital receiving DSH payments shall furnish emergency and non-emergency services to uninsured persons with family incomes less than or equal to 100 percent of the federal poverty level on an equal basis to insured patients.

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 32:

§307. Private Community Hospitals

A. Definitions

Community Hospital—a private hospital that is not a small rural hospital which provided services to uninsured evacuees during the period February 1, 2006 through June 30, 2006.

Evacuee—a Louisiana citizen who resided in one of the mandatory evacuated parishes for Hurricane Katrina on August 24, 2005 or Hurricane Rita on September 23, 2005.

Mandatory Evacuated Parish or Area—a parish or a designated area of a parish for which a mandatory evacuation order was issued for Hurricane Katrina or Hurricane Rita. The parishes and designated areas include:

a. the mandatory evacuated parishes and designated areas for Hurricane Katrina include:

- i. Orleans Parish;
- ii. Jefferson Parish;
- iii. St. Bernard Parish;
- iv. Plaquemines Parish;
- v. Assumption Parish;
- vi. St. John Parish;
- vii. St. Charles Parish;
- viii. Lafourche Parish;
- ix. Terrebonne Parish;
- x. St. James Parish (south of Vacherie past LA Highway 20 and LA Highway 3127 and part of Paulina [Grand Point] past LA Highway 642 and LA Highway 3125, [zip codes 70090 and 70763]);
- xi. St. Tammany Parish (all areas south of Interstate 12 including Slidell, Lacombe, Mandeville, and Covington, [zip codes 70458, 70461, 70445, 70471, 70448, 70447, 70433, and 70435]);
- xii. Tangipahoa Parish (areas south of LA Highway 22 including Akers, Bedico & Lee's Landing, [zip codes 70454 and 70421]);
- xiii. St. Mary Parish (Cypremont Point, [zip code 70538] and Burns [zip code 70522]); and
- xiv. Iberia Parish (areas south of LA Highway 90 and down LA Highway 14 including Delcambre, [zip codes 70560 and 70528]).

b. the mandatory evacuated parishes and designated areas for Hurricane Rita include:

- i. Calcasieu Parish;
- ii. Cameron Parish;
- iii. Jefferson Davis Parish;
- iv. Plaquemines Parish;
- v. Acadia Parish (areas south of LA Highway 92);
- vi. Jefferson Parish (Lafitte, Crown Point, Barataria and Grand Isle);
- vii. Iberia Parish (Delcambre and areas south of LA Highway 90);
- viii. Lafourche Parish (south of Leon Theriot Floodgate and the lower portion of Pointe-Aux-Chenes);
- ix. St. Mary Parish (all areas south of the Intercoastal Canal including Cypremont Point, Burns, Four Corners, and Louisa);
- x. Terrebonne Parish (Grand Caillou/Dulac, Bayou du Large/Theriot, Pointe-Aux-Chenes and from the Montegut Fire Station south); and
- xi. Vermilion Parish (south of LA Highway 14 between Cameron Parish line and LA Highway 335, south of La 335, below Kaplan and Abbeville; south of Jacqueline Street in Abbeville and back to LA Highway 14 [near Erath and Delcambre], and all mobile homes south of LA Highway 14).

Uncompensated Care Costs—net uncompensated care cost is the total allowable cost of inpatient and outpatient hospital services less Medicare costs, Medicaid payments (excluding DSH payments), costs associated with patients who have insurance for services provided, private payer

payments, and all other inpatient and outpatient payments received from patients.

Uninsured—a person having no health insurance or sources of third party payment for services provided.

B. DSH payments to a private community hospital shall be calculated as follows.

1. Payment for allowable evacuee uninsured services shall be calculated by multiplying each qualifying hospital's allowable uninsured evacuee charges by its hospital specific cost-to-charge ratio as determined by the department. DSH payments to each qualifying community hospital shall not exceed the hospital specific net uncompensated care costs for the state fiscal year.

C. Hospitals shall submit supporting evacuee uninsured patient specific data for hospital services provided from February 1, 2006 through June 30, 2006 in a format specified by the department. The deadline for submission of all payment requests is September 30, 2006. Submitted uninsured patient data shall be subject to verification by the department before DSH payments are made.

D. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid and other third party carriers and payments from patients. Hospitals must certify that excluded from net uncompensated cost are any costs for the care of persons eligible for Medicaid at the time of registration. Hospitals must maintain a log documenting the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Hospitals shall submit an attestation that patients whose care is included in the hospital's net uncompensated costs are not Medicaid eligible at the time of registration.

E. Aggregate DSH payments for qualifying community hospitals shall be limited to the state DSH appropriated amount for community hospitals. In the event that aggregate allowable uninsured evacuee costs for community hospitals exceeds the state appropriated amount, each qualifying hospital's payment shall be calculated as follows:

1. dividing each hospital's uninsured evacuee cost by the total uninsured evacuee cost for all qualifying other community hospitals during the state fiscal year; and then

2. multiplying by the state DSH-appropriated amount for community hospitals.

F. A hospital receiving DSH payments shall furnish emergency and non-emergency services to uninsured persons with family incomes less than or equal to 100 percent of the federal poverty level on an equal basis to insured patients.

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 32:

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 Jerry Phillips, Department of Health and Hospitals, 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0607#071

DECLARATION OF EMERGENCY

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

Targeted Case Management Nurse Family Partnership Program (LAC 50:XV.11101 and 11103)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50.XV.11101-11103 under 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 clarified the provisions governing the Nurse Family Partnership (NFP) Program by adopting all existing Rules in codified format in Title 50 of the *Louisiana Administrative Code (Louisiana Register, Volume 30, Number 5)*. The Nurse Family Partnership Program provides case management services to a targeted population group composed of first-time mothers in certain Department of Health and Hospitals (DHH) administrative regions. The bureau amended the May 20, 2004 Rule to expand the DHH administrative regions served and to amend the eligibility criteria and staffing qualifications (*Louisiana Register, Volume 31, Number 8*). The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has provided clarification that eligibility for targeted case management services is not transferable between target groups. In compliance with the CMS directive, the bureau hereby amends the August 20, 2005 Rule to clarify that the first-time mother continues to be the focus of the NFP program after the birth of the child.

This action is being taken to avoid federal sanctions. It is anticipated that the implementation of this Emergency Rule will be cost neutral for state fiscal year 2006-2007.

Effective July 20, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions of the August 20, 2005 Rule addressing the program description and recipient qualifications in the Nurse Family Partnership Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 111. Nurse Family Partnership Program

§11101. Introduction

A. Nurse Family Partnership (NFP) targeted case management is a prenatal program designed to improve the

health and social functioning of Medicaid eligible first-time mothers and their babies.

B. ...

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 Community Supports and Services LR 30:1041 (May 2004), amended LR 31:2028 (August 2005), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 32:

§11103. Recipient Qualifications

A. Medicaid recipient must not be beyond the twenty-eighth week of pregnancy and must attest that she meets one of the following definitions of a first-time mother in order to receive NFP case management services. The recipient:

A.1. - B.3. ...

C. Nurse Family Partnership case management services to the mother may continue up to two years after the birth of the child.

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 Community Supports and Services LR 30:1041 (May 2004), amended LR 31:2028 (August 2005), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 32:

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 Jerry Phillips, 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0607#072

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary

Office for Citizens with Developmental Disabilities

Division of Long Term Supports and Services
Home and Community Based Services Waivers
Termination of Services for Displaced Recipients
(LAC 50:XXI.301)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities and the Division of Long Term Supports and Services adopts LAC 50:XXI.301 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is being 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 adopted provisions governing eligibility for home and community-based services waivers (*Louisiana Register*, Volume 24, Number 3). The Office for Citizens with Developmental Disabilities and the Division of Long Term Supports and Services adopted provisions governing the termination of services and limited retention of waiver opportunities for waiver recipients displaced by Hurricanes Katrina and Rita (*Louisiana Register*, Volume 32, Number 4). This Emergency Rule is being promulgated to continue the provisions of the April 20, 2006 Emergency Rule. This action is being taken to avoid federal sanctions for failure to comply with federal requirements to assure the health and welfare of recipients of home and community-based waiver services.

Effective August 19, 2006, the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities and the Division of Long Term Supports and Services adopts the following provisions governing the eligibility for home and community-based waiver services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers

Subpart 1. General Provisions

Chapter 3. Eligibility

§301. Termination of Coverage for Displaced Recipients

A. Effective July 1, 2006, waiver recipients who have been displaced by Hurricanes Katrina or Rita and are currently residing in other states will no longer be able to receive waiver services under the Louisiana Medicaid Program.

B. This termination of coverage is applicable to recipients receiving services in the following home and community-based waivers:

1. the New Opportunities Waiver;
2. Children's Choice;
3. the Elderly and Disabled Adult Waiver; and
4. the Adult Day Health Care Waiver.

C. If the individual returns to live in Louisiana on or before June 2008, he/she must contact the department to report his/her address and to request that waiver services be restarted.

D. The individual's name will be placed on a preferred registry with other hurricane evacuees who have returned to live in Louisiana and requested that their waiver services be restarted.

E. Waiver opportunities shall be offered to individuals on the preferred registry on a first come, first served basis.

1. The first available waiver opportunity shall be offered to an individual on this registry based on the date that the request to restart services was received.

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, Office for Citizens with Developmental Disabilities and the Division of Long Term Supports and Services, LR 32:

Implementation of this Emergency Rule is contingent upon approval by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P. O. Box 3117, Baton Rouge, LA 70821-3117 or Hugh Eley, Division of Long Term Supports and Services, P.O. Box 3767, Baton Rouge, LA 70821-3767. They are 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0607#073

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Electronic Disbursement of Child Support Payments (LAC 67:III.2518)

The Department of Social Services, Office of Family Support, has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III, Subpart 4, Support Enforcement Services, §2518 Electronic Disbursement of Child Support Payments, effective July 30, 2006. This declaration is necessary to extend the original Emergency Rule, effective April 1, 2006, 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 the August 2006 issue.) Pursuant to Section 454A(g) of the Social Security Act the agency will make it mandatory that all child support payments be distributed electronically. This Emergency Rule will remain in effect for 120 days.

As a result of delays with the distribution of child support payments experienced after Hurricanes Katrina and Rita, the agency chose to offer direct deposit and stored valued cards to eligible clients in certain designated parishes effective November 1, 2005. With the approaching 2006 hurricane season and the possibility of further delays in the distribution of child support payments, the agency will make electronic disbursement of child support payments mandatory effective April 1, 2006. This electronic disbursement process will allow the state to provide effective and efficient collections and disbursement of support payments. Failure to amend this Rule by emergency action may result in federal penalties and sanctions by the Administration for Children and Families, Office of Child Support Enforcement, the governing authority of the Support Enforcement Program in Louisiana.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter D. Collection and Distribution of Child Support Payments

§2518. Electronic Distribution of Child Support Payments

A.1. Effective April 1, 2006, electronic disbursement of child support payments shall be mandatory except in the following situations:

- a. payments are forwarded to private collection agencies;
- b. physical or other disabilities impose a hardship to receive payments via electronic disbursement;
- c. the custodial parent is receiving FITAP benefits;
- d. payments are forwarded to the non-custodial parent;
- e. payments received are in excess of FITAP benefits; and
- f. any other exceptions as shall be determined by Support Enforcement Services to be necessary for effective program operations.

2. Electronic disbursement of child support includes direct deposits to the custodial parent's bank account (checking or savings) or payments to a stored value card account.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with Section 454A(g) of the Social Security Act and PIQ-04-02.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:442 (March 2006), amended LR 32:

Ann S. Williamson
Secretary

0607#088

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Individual Development Account Program (LAC 67:III.5555)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to amend LAC 67:III, Subpart 15, Chapter 55 TANF Initiatives, §5555, Individual Development Account Program (IDA). This Emergency Rule effective July 1, 2006, will remain in effect for a period of 120 days.

Pursuant to the authority granted to the Department by Louisiana TANF Block Grant, the agency is amending language in §5555 so that the Department's focus may be on one or more of the qualified purposes listed in §5555.C based on the needs of the community.

The authorization for emergency action in this matter is contained in HB 1 of the 2006 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Family Support

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

Chapter 55. TANF Initiatives

§5555. Individual Development Account Program (Effective July 1, 2002)

A. - B. ...

C. Effective July 1, 2006, IDA funds may be used for one or more of the following qualified purposes as determined by the secretary:

C.1 - D. ...

E. 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 homes of relatives.

F. Eligibility is limited to low-income families at or below 200 percent of the federal poverty level.

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

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Act 1098, 2001 Reg. Session; Act 84, 2002 First Extraordinary Session; Act 13, Reg. Session; HB 1, 2006 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:45 (January 2003), amended LR 32:

Ann Silverberg Williamson
Secretary

0607#023

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Temporary Emergency Disaster Assistance Program (LAC 67.III.5583)

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 §5583, Temporary Emergency Disaster Assistance Program (TEDAP) effective June 15, 2006. This Emergency Rule shall remain in effect for a period of 120 days.

As a result of Hurricanes Katrina and Rita, there are an estimated 350,000 displaced individuals within the state of Louisiana who have urgent, unmet needs for basic human services as well as for intermediate and long-term assistance in restoring their lives and communities.

Pursuant to the TANF Emergency Response and Recovery Act of 2005, the agency adopted the Temporary Emergency Disaster Assistance Program as a new TANF Initiative effective October 26, 2005. The program provides disaster emergency services to families with dependent children or pregnant women who are displaced because of disasters. A Declaration of Emergency adopting this program was published in the November issue of the *Louisiana Register*. The Declaration was republished in January 2006 to clarify eligibility and verification requirements with an effective date of January 10, 2006. This Emergency Rule was

extended May 10, 2006, as the January Declaration expired May 9, 2006. The final Rule was to be published in the June 2006 issue of the *Register*. However, it is the agency's decision at this time to expand the type of services provided by TEDAP and to allow the provision of certain services beyond four months. The TANF goal to prevent and reduce out-of-wedlock pregnancies is also being added. Therefore, the program is being adopted as a new TANF Initiative with expanded services and goals effective June 15, 2006.

The authorization for emergency action in this matter is contained in Act 16 of the 2005 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

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

Chapter 55. TANF Initiatives

§5583. Temporary Emergency Disaster Assistance Program

A. Effective October 26, 2005, the agency will enter into contracts to provide disaster emergency services to needy families with dependent children or pregnant women who are displaced because of disasters. The program will provide the following services.

1. Services or benefits considered to meet on-going basic needs. These services shall not be provided for a period (in whole or in part) to exceed four months. Such services and benefits include, but are not limited to, the provision of such items as cash assistance, food assistance, child care and transportation for unemployed participants, basic personal items, household items, housing and utility assistance.

2. Services or benefits not considered to meet ongoing basic needs. These services may be provided to participant families for a period exceeding four months if considered vital to the long-term recovery of participant families. Such services may include, but are not limited to, supportive services such as transportation for employed participants, child care for employed participants, non-medical substance abuse treatment, employment assistance or job training, or other necessary supportive services as determined by the Department of Social Services, Office of Family Support.

B. These services meet the TANF goals to end dependence of needy parents by promoting job preparation, work and marriage; to encourage the formation and maintenance of two-parent families; and to prevent and reduce out-of-wedlock pregnancies.

C. Eligibility for services is limited to needy families with minor dependent children, or minor dependent children living with caretaker relatives within the fifth degree of relationship, or pregnant women:

1. who are displaced citizens of parishes or counties for which a major disaster has been declared under the Robert T. Stafford Disaster Relief and Assistance Act; and

2. whose income is at or below 200 percent of the federal poverty level or who are categorically eligible because a member of the family receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program

(LaCHIP), Supplemental Security Income (SSI), or Free or Reduced School Lunch.

D. The secretary may establish criteria whereby needy families are deemed to be needy based on their statement, circumstances, or inability to access resources and may also relax verification requirements for other eligibility factors.

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

F. The program shall be effective for the parishes or counties and time frames as designated by the secretary.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, TANF Emergency Response and Recovery Act of 2005.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:

Ann Silverberg Williamson
Secretary

0607#005

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Office of Fisheries

Freshwater Mussel Harvest (LAC 76:VII.161)

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, and R.S. 56:450, which allows the secretary to promulgate rules and regulations for the harvest of freshwater mussels, the Secretary of the Department of Wildlife and Fisheries hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following Emergency Rule. Any provisions of LAC 76:VII.161 in conflict herewith are hereby temporarily superseded by this declaration of emergency for the 2006 mussel season. This Emergency Rule shall be effective 12:01 a.m., June 15, 2006, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

The secretary has promulgated the Emergency Rule to implement scientific collections by Department of Wildlife and Fisheries, Inland Fish Division biologists from mussel harvesters and buyers for the purpose of determining potential harmful impacts to mussel populations from commercial harvest. These provisions are: require mussel harvesters to keep mussels separated by waterbody and tagged indicating the harvest location until sold to a mussel buyer; require mussel buyers to buy mussels on Wednesdays and Fridays only; require mussel buyers to agree to provide the department at the point of sale, not to exceed 5 percent by number by specie, any mussel harvested and sold by location. Since mussel harvest information is captured under trip tickets, this Emergency Rule eliminates the requirement for mussel harvesters to submit separate monthly reports to the department. The provisions of the Emergency Rule prohibit the harvest of mussels in the Pearl River where the federally threatened inflated heelsplitter (*Potamilus inflatus*) is found. The Emergency Rule also reduces the mussel season to begin on June 15, 2006 and end on August 30, 2006.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§161. Freshwater Mussel Harvest

A. - C.2. ...

D. Species for Harvest

1. - 2. ...

3. Minimum size will be measured by passing the specimen through a ring or appropriate circular measuring device so designed as to allow undersized mussels to pass through the opening. There is no allowance for undersized shell. All mussels must be sized (graded) immediately after each dive and undersized shell returned to the mussel bed before the harvester moves his boat or begins another dive. All mussels harvested shall be removed from the water daily during daylight hours only and shall be kept separated by waterbody and tagged with harvest location until sold. All mussels harvested must be sold on a daily basis unless stored and tagged as required herein. Mussels may not be stored in the water after sunset. All mussels not sold at the end of each day shall be sacked and tagged before official sunset. The tag shall contain the following information:

3.a. - 5. ...

E. Time of Harvest

1. Mussels may be harvested from June 15 through August 30 during 2006 between official sunrise and official sunset; except that harvest of mussels will be closed on national holidays (July 4 and Labor Day) and Saturdays and Sundays of each week.

2. ...

F. Areas Open to Harvest

1. - 2.d. ...

e. Pearl River and any tributary within 1/2 mile of the main channel of Pearl River in Washington and St. Tammany Parishes from the Mississippi-Louisiana state line to its mouth at Lake Borgne.

3. - 3.h. ...

G. Reporting

1. ...

2. Mussel buyers must contact the department either in the region where they will be conducting buying operations, or at the department's toll-free telephone number, and provide information as to which site these operations are to be set up. This notification is to be made on the day previous to setting up these operations. The buyer must also notify the department within 24 hours when buying activities at that location have been completed. Mussel buyers may not conduct buying activities outside of designated and/or approved sites. Mussel buyers may conduct buying activities on Wednesdays and Fridays only.

3.a. Mussel buyers are limited to setting up buying operations at department approved sites in or nearby to these cities:

- i. Bogalusa;
- ii. Columbia;
- iii. Coushatta;
- iv. Delhi;
- v. Kinder;

- vi. Ferriday;
- vii. Leesville;
- viii. Livingston;
- ix. Minden;
- x. Port Barre;
- xi. Ramah;
- xii. Simmesport;
- xiii. Tioga.

b. Additional buyer's sites may be set up at department discretion to facilitate harvest.

4. Each permittee harvesting mussels for sale is responsible for department notification. The permittee shall notify the department at a designated phone number (1-800-442-2511) at least four hours prior to harvesting any mussels. The permittee shall provide, at the time of notification, the parish and area to be fished. Such notification will be on a daily basis, unless the harvester fishes in the same area during a Monday through Friday period. However, even if harvesting in the same location for an extended period, weekly notification will be required. The permittee will be given a confirmation number at the time of initial notification.

5. Each permittee must again notify the department at 1-800-442-2511 immediately prior to selling any mussels. The permittee must report their confirmation number and the name and mussel buyer's permit number of the individual who will be purchasing mussels obtained under the permit.

H. Special Restrictions

1. - 7. ...

8. The mussel buyer agrees to provide the department at the point of sale, not to exceed 5 percent by number by specie, any mussel harvested and sold by location. The maximum number of mussels the department will collect by specie by location will be 50 annually.

I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:450.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 19:510 (April 1993), amended LR 21:193 (February 1995), LR 22:374 (May 1996), LR 23:1327 (October 1997), LR 32:

Dwight Landreneau
Secretary

0607#001

DECLARATION OF EMERGENCY

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

2006 Spring Inshore Shrimp Season Closure—Zone 1

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 4, 2006 which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2006 Spring Inshore

Shrimp Season in any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data indicate the need to do so, or if enforcement problems develop, the secretary hereby declares:

The 2006 spring shrimp season in inside waters will close in Shrimp Management Zone 1 on Wednesday, July 5, at 6 a.m., except for that portion of Mississippi Sound from a position along the Mississippi-Louisiana state line at 30 degrees 09 minutes 39.6 seconds north latitude and 89 degrees 30 minutes 00 seconds west longitude southeastward to the US Coast Guard navigational light off the eastern shore of Three-Mile Pass at latitude 30 degrees 03 minutes 12 seconds north latitude and 89 degrees 21 minutes 30 seconds west longitude thence northeastward to a position which intersects the double-rig line as described in (R.S. 56:495.1(A)2) north of Isle au Pitre at 30 degrees 10 minutes 00 seconds west latitude, and the open waters of Breton and Chandeleur Sounds as described by the double-rig line. Zone 1 comprises State inside waters from the Mississippi-Louisiana state line to the eastern shore of South Pass of the Mississippi River.

The 2006 spring inshore shrimp season within Shrimp Management Zone 3 will remain open until further notice. Zone 3 comprises State inside waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island to the Louisiana-Texas state line. State territorial waters south of the Inside/Outside Shrimp Line, as described in R.S. 56:495 will also remain open to shrimping.

The number, distribution and percentage of small juvenile white shrimp taken in biological samples within Zone 1 has progressively increased in recent weeks and the region is being closed to protect these developing shrimp.

Dwight Landreneau
Secretary

0607#024

DECLARATION OF EMERGENCY

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

2006 Spring Inshore 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 April 26, 2006, which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2006 Spring Inshore Shrimp Season in any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data indicate the need to do so, or if enforcement problems develop, the Secretary hereby declares:

The 2006 spring inshore shrimp season within Shrimp Management Zone 2 will close on Monday, June 19, at 6 a.m. Zones 1 and 3 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.

The number, distribution and percentage of small juvenile white shrimp taken in biological samples within Zone 2 have progressively increased in recent weeks and the region is being closed to protect these developing shrimp.

Dwight Landreneau
Secretary

0607#004

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Commercial Deepwater Grouper Closure

The commercial season for the harvest of deepwater groupers in Louisiana state waters will close effective 12:01 a.m. on June 27, 2006. The deepwater grouper assemblage includes misty, snowy, yellowedge, Warsaw grouper, and speckled hind. The secretary has been informed that the commercial season for deepwater groupers in the Federal waters of the Gulf of Mexico off the coast of Louisiana will close at 12:01 a.m. on June 27, 2006, and will remain closed until 12:01 a.m., January 1, 2007.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in its resolution of January 5, 2006 to modify opening and closing dates of 2006 commercial reef fish seasons in Louisiana

state waters when he is informed by the Regional Director of the National Marine Fisheries Service that the seasons have been closed in adjacent federal waters, and that the NMFS requests that the season be modified in Louisiana state waters, the secretary hereby declares:

The commercial fishery for deepwater groupers in Louisiana waters will close at 12:01 a.m. on June 27, 2006, and remain closed until 12:01 a.m., January 1, 2007. Effective with this closure, no person shall commercially harvest, possess, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell deepwater groupers whether within or without Louisiana waters. Effective with closure, no person shall possess deepwater grouper in excess of a daily bag limit, which may only be in possession during the open recreational season. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing deepwater grouper taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

The secretary has been notified by National Marine Fisheries Service that the commercial deepwater grouper season in Federal waters of the Gulf of Mexico will close at 12:01 a.m. on June 27, 2006, and the season will remain closed until 12:01 a.m., January 1, 2007. Having compatible season regulations in State waters is necessary to provide effective rules and efficient enforcement for the fishery to prevent overfishing of this species in the long term.

Dwight Landreneau
Secretary

0607#010