

# Emergency Rules

## DECLARATION OF EMERGENCY

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

#### Aerial Applications of 2, 4-D or Products Containing 2, 4-D (LAC 7:XXIII.143)

In accordance with the Administrative Procedure Act R.S. 49:950(B) and R.S. 3:3202(A), the Commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in amending the following Section for the implementation of regulations governing the use of the pesticide 2, 4-D and products containing 2, 4-D.

The applications of 2, 4-D in certain parishes, in accordance with the current regulations and labels, have not been sufficient to control drift onto non-target areas. Failure to prevent the drift onto non-target areas will adversely affect other crops particularly cotton. The adverse effects to the cotton crop and other non-target crops will cause irreparable harm to the economy of central Louisiana and to Louisiana Agricultural producers.

The department has, therefore, determined that this Emergency Rule implementing further restrictions on the application of 2, 4-D, and products containing 2, 4-D.

This Rule becomes effective on April 4, 2007 and will remain in effect 120 days.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXIII. Pesticide

#### Chapter 1. Advisory Commission on Pesticides

#### Subchapter I. Regulations Governing Application of Pesticides

#### §143. Restrictions on Application of Certain Pesticides

A. In addition to all other pesticides classified by EPA as restricted use pesticides, the pesticides listed in §143.B are classified as restricted use pesticides within the state of Louisiana, except:

1. when formulated in concentration of 2 percent or less; or
2. when formulated with fertilizer for use by homeowners; or
3. when formulated in containers of one quart or less or two pounds dry weight or less.

B. - O. ...

P. Regulations Governing Aerial Applications of 2, 4-D or Products Containing 2, 4-D

##### 1. Registration Requirements

a. Prior to making any commercial aerial or ground application of 2, 4-D or products containing 2, 4-D, as described in LAC 7:XXIII.143.P.3.a.i, the owner/operator must first register such intent by notifying the Louisiana Department of Agriculture and Forestry, Division of Pesticides and Environmental Programs ("DPEP") in writing.

b. All permits and written authorizations of applications of 2, 4-D or products containing 2, 4-D in the areas listed in LAC 7:XXIII.143.P.3.a.i., shall be a part of the record keeping requirements, and be in the possession of the owner/operator prior to application.

2. Grower Liability. Growers of crops shall not force or coerce applicators to apply 2, 4-D or products containing 2, 4-D to their crops when the applicators, conforming to the Louisiana Pesticide Law and rules and regulations promulgated there under or to the pesticide label, deem it unsafe to make such applications. Growers found to be in violation of this section may be subject to a stop order, subject to an appeal to the Advisory Commission on Pesticides.

##### 3. 2, 4-D or products containing 2, 4-D;

###### a. Application Restriction

i. Aerial application of 2, 4-D or products containing 2, 4-D is limited to only permitted applications annually between April 3 and May 1 in the following parishes: Allen (East of U.S. Highway 165 and North of U.S. Highway 190), Avoyelles (West of LA Highway 1), Evangeline, Pointe Coupee (West of LA Highway 1 and North of U.S. Highway 190), Rapides, and St. Landry (North of U.S. Highway 190).

ii. Applications of 2, 4-D, or products containing 2, 4-D, shall not be made in any manner by any commercial or private applicators between May 1 and August 1 in the areas listed in LAC 7:XXIII.143.P.3.a.i., except commercial applications of 2, 4-D or products containing 2, 4-D is limited to only permitted applications annually between May 1 and August 1 in the area south of LA Highway 104 and LA Highway 26 and north of U.S. Highway 190 between U.S. Highway 165 and LA. Highway 13 in the parishes of Allen and Evangeline, and except upon written application to and the specific written authorization by the Assistant Commissioner of the Office of Agricultural and Environmental Sciences, or in his absence the Commissioner of Agriculture and Forestry.

4. Procedures for Permitting Applications of 2, 4-D or products containing 2, 4-D.

a. Prior to any application of 2, 4-D, or products containing 2, 4-D, a permit shall be obtained in writing from DPEP. Such permits may contain limited conditions of applications and shall be good for five days from the date issued. Growers or commercial ground or aerial applicators shall obtain permits from DPEP. Commercial ground and aerial applicators shall fax daily to DPEP all permitted or written authorized applications of 2, 4-D or products containing 2, 4-D. The faxed information shall include but not be limited to the following:

- i. wind speed and direction at time of application;
- ii. temperature at time of application;
- iii. field location and quantity of acreage;
- iv. time of application;
- v. grower name, address and phone number;
- vi. owner/operator firm name, address and phone number;

- vii. applicator name, address, phone number and certification number;
  - viii. product name and EPA registration number;
  - ix. any other relevant information.
- b. The determination as to whether a permit for application is to be given shall be based on criteria including but not limited to:
- i. weather patterns and predictions;
  - ii. wind speed and direction;
  - iii. propensity for drift;
  - iv. distance to susceptible crops;
  - v. quantity of acreage to be treated;
  - vi. extent and presence of vegetation in the buffer zone;
  - vii. any other relevant data.

5. Monitoring of 2, 4-D or Products Containing 2, 4-D

a. Growers or owner/operators shall apply to the DPEP, on forms prescribed by the Commissioner, all requests for aerial applications of 2, 4-D or products containing 2, 4-D.

b. All owner/operators and private applicators shall maintain a record of 2, 4-D or products containing 2, 4-D applications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:189 (April 1983), amended LR 10:196 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), LR 19:1119 (September 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:1428 (July 2000), LR 26:1966 (September 2000), LR 27:279 (March 2001), LR 27:1672 (October 2001), LR 33:

Bob Odom  
Commissioner

0704#012

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Seed Commission

#### Temporary Suspension of Germination Standards (LAC 7:XIII.185)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 3:1433, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached rules and regulations governing the sale of rice seed that do not meet current germination standards.

The United States Department of Agriculture (USDA) has banned the planting and distribution of Cheniere rice and the 2005, 2006, and 2007 registered and certified classes of Clearfield 131 rice variety. Further, farmers who planted Clearfield 131 rice last year must replant a Clearfield rice variety this year, also. While there are other Clearfield varieties of rice seed available portions of those varieties do not meet the current germination percentages established by the Louisiana Seed Commission.

The banning of the planting and distribution of these varieties of rice has created a severe shortage of rice seed that meets current germination percentage established by the Louisiana Seed Commission. The forecast is that the loss of these two varieties creates a shortage of seed rice sufficient to force farmers to forego planting approximately 100,000 acres of rice in Louisiana. Even allowing the sale of rice seed with sub-standard germination may not provide enough rice seed for the 2007 planting season.

The rice industry in Louisiana contributes over \$250,000,000 to Louisiana's economy through the sale of rice. Without a temporary suspension of current germination standards a substantial portion of that contribution will be lost. Some producers will be forced out of business, thereby causing permanent economic loss to Louisiana's rice industry and loss of income to the citizens of Louisiana and businesses that depend on the rice industry.

The ban on the planting and distribution of the Cheniere and Clearfield 131 rice varieties creates an imminent peril to the welfare of the citizens of Louisiana and to Louisiana's economy. The Seed Commission has determined that a temporary suspension of the current germination percentages and reduction of the germination percentage for all rice seed to 50 percent is necessary to help alleviate, to the extent possible, the shortage of rice seed available for planting for the 2007 crop year.

This Rule becomes effective upon signature, March 15, 2007.

## Title 7

### AGRICULTURE AND ANIMALS

#### Part XIII. Seeds

#### Chapter 1. Louisiana Seed Law

#### Subchapter C. Certification of Specific Crops/Varieties

#### §185. Rice Seed Certification Standards

A. - B. ...

C. Temporary Suspension of Germination Standards

1. Notwithstanding any other provision of this Chapter to the contrary, the germination percentage for rice seed offered for sale, whether foundation, registered, certified, or noncertified shall be 50 percent or above.

2. The label of noncertified rice seed with a germination percentage below 60 percent and certified rice seed with a germination percentage below 80 percent shall show the seed to be substandard, in addition to any other labeling requirements established by law or regulation.

3. In addition to the label showing the seed to be substandard, a red decal shall be placed as close to the label as possible. The red decal shall be at least three inches by three inches in size and shall contain in prominent and readable letters the statement:

"SUBSTANDARD GERMINATION"

"INCREASED PLANTING RATE REQUIRED."

4. The provisions of this subsection shall expire on August 31, 2007.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:576 (November 1982), amended LR 9:201 (April 1983), LR 9:754 (November 1983), LR 10:495 (July 1984), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 13:157 (March 1987), LR 13:233 (April 1987), LR 14:606 (September 1988), LR

Bob Odom  
Commissioner

0704#001

**DECLARATION OF EMERGENCY**

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

**Expedited Penalty Agreement  
(LAC 33:I.807, VII.115 and 315)(MM004E)**

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, 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 declares that an emergency action is necessary in order to implement expedited penalty agreements.

The Expedited Penalty Agreement Rule, OS054, became final on December 20, 2006. This Emergency Rule, MM004E, supplements that Rule by adding certain additional violations of the solid waste regulations to LAC 33:I.807, and amends LAC 33:VII.115 and 315 accordingly. The Emergency Rule will abate delays that have occurred in correcting violations of the Environmental Quality Act concerning the unauthorized transporting, disposal, and/or burning of solid wastes. Delays in enforcement reduce the effectiveness of the enforcement action and unnecessarily utilize resources. In the recent past, complaints of unauthorized disposal and burning of solid wastes have increased considerably, especially in the hurricane-impacted areas. This Emergency Rule will provide an alternative penalty assessment mechanism that the department may utilize, at its discretion, to expedite penalty agreements in appropriate cases, reducing staff time and increasing efficiency in addressing such violations. The report to the Governor by the Advisory Task Force on Funding and Efficiency of the Louisiana Department of Environmental Quality has approved an expedited penalty approach. It recommended a pilot program for addressing certain classes of violations with penalties in a timelier manner. The legislature approved that report and passed Act 1196 in the 2003 Regular Session allowing the department to promulgate rules for the program. A pilot program was created and monitored for approximately two years. Positive feedback on the program led the department to promulgate the permanent expedited penalty agreement Rule that became final on December 20, 2006.

This Emergency Rule is effective on March 20, 2007, 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 MM004E you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx), 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 1. Departmental Administrative Procedures**

**Chapter 8. Expedited Penalty Agreement**

**§807. Types of Violations and Expedited Penalty Amounts**

A. The types of violations listed in the following table may qualify for coverage under this Chapter; however, any violation listed below, which is identified in an expedited penalty agreement, must also meet the conditions set forth in LAC 33:I.805.E.

Expedited Penalties			
Violation	Citation	Amount	Frequency
<b>All Media</b>			
*** [See Prior Text]			
<b>Solid Waste</b>			
Unauthorized on-site disposal of solid waste by the owner, lessee, or other person having an actual right, title, or interest in the property.	LAC 33:VII.315. A and E	\$250	Per occurrence
Unauthorized disposal of solid waste by the generator at an off-site location not permitted to receive such waste.	LAC 33:VII.315. A and E	\$250	Per occurrence
Operation of an unauthorized disposal site where solid waste is disposed.	LAC 33:VII.315. A and E	\$1000	Per occurrence
An owner, lessee, or other person having an actual right, title, or interest in the property of an unauthorized disposal site in which solid waste is disposed.	LAC 33:VII.315. A and E	\$1000	Per occurrence
Failure to report any discharge, deposit, injection, spill, dumping, leaking, or placing of solid waste into or on the water, air, or land.	LAC 33:VII.315.K	\$500	Per occurrence
Open burning of solid waste as prohibited by regulation.	LAC 33:VII.315.Q	\$250	Per occurrence
Offering residential solid waste to an unauthorized transporter and/or facility not permitted to receive such waste.	LAC 33:VII.315.S	\$250	Per occurrence
Offering commercial solid waste and/or construction and demolition debris to an unauthorized transporter and/or a facility not permitted to receive such waste.	LAC 33:VII.315.S	\$500	Per occurrence
Offering industrial solid waste to an unauthorized transporter and/or a facility not permitted to receive such waste.	LAC 33:VII.315.S	\$750	Per occurrence
Transportation of solid waste to processing or disposal facilities not permitted to receive such waste.	LAC 33:VII.705.D	\$1,000	Per occurrence

Expedited Penalties			
Violation	Citation	Amount	Frequency
Waste Tires			
***			
[See Prior Text]			

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2025(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:2243 (December 2006), amended LR 33:

**Part VII. Solid Waste**

**Subpart 1. Solid Waste Regulations**

**Chapter 1. General Provisions and Definitions**

**§115. Definitions**

A. For all purposes of these rules and regulations, the terms defined in this Section shall have the following meanings, unless the context of use clearly indicates otherwise.

\* \* \*

*Transport*—to move solid waste off-site to a non-processing transfer station or collection, processing, or disposal facility.

*Transporter*—any person who moves solid waste off-site to a non-processing transfer station or collection, processing, or disposal facility, excluding individuals who transport their own residential waste to a collection facility, transfer station, or permitted solid waste landfill.

\* \* \*

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514, 2609 (November 2000), amended by the Office of Environmental Assessment, LR 31:1576 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

**Chapter 3. Scope and Mandatory Provisions of the Program**

**§315. Mandatory Provisions**

A. - R.2. ...

S. Generators shall not offer solid waste to transporters, processing facilities, or disposal facilities that have not received authorization and/or the required permits necessary to receive and/or manage the generator's solid waste.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), LR 19:1315 (October 1993), repromulgated LR 19:1421 (November 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:954 (August 1997), LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), LR 30:1675 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2487 (October 2005), LR 33:

Mike D. McDaniel, Ph.D.  
Secretary

0704#004

**DECLARATION OF EMERGENCY**

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

Disproportionate Share Hospital Payment Methodologies  
Non-Rural Community Hospitals and Federally Mandated  
Statutory Hospitals (LAC 50:V.307-309)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of 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 an Emergency Rule to repeal and replace all Rules governing disproportionate share hospital payment methodologies (*Louisiana Register*, Volume 31, Number 6). In compliance with Act 182 and Act 323 of the 2005 Regular Session, the June 20, 2005 Emergency Rule was amended to establish provisions for provider fees levied on hospitals as a result of the Healthcare Affordability Act (*Louisiana Register*, Volume 31, Number 7) and to revise the definition of a small rural hospital (*Louisiana Register*, Volume 31, Number 9). The June 20, 2005 Rule was subsequently amended to incorporate the provisions of the July 1, 2005 and September 1, 2005 Emergency Rules (*Louisiana Register*, Volume 31, Number 10).

The October 25, 2005 Emergency Rule was amended to: 1) change the provisions governing DSH payments to other uninsured hospitals; 2) establish provisions governing payments to private community hospitals for services rendered to displaced, uninsured citizens from mandatory evacuation parishes affected by Hurricanes Katrina and Rita; 3) change the provisions governing DSH payments to high uninsured hospitals and to establish provisions governing payments to public community hospitals (*Louisiana Register*, Volume 32, Number 7); and 4) revise the provisions governing disproportionate share hospital payments to non-rural community hospitals as a result of the allocation of additional funds by the Legislature during the 2006 Regular Session (*Louisiana Register*, Volume 32, Number 9). The department subsequently amended the October 25, 2005 Emergency Rule to incorporate the provisions of the June 28, 2006 and September 15, 2006 Emergency Rules (*Louisiana Register*, Volume 32, Number 10). The October 23, 2006 Emergency Rule was amended to revise the definition of a small rural hospital (*Louisiana Register*, Volume 33, Number 1) and to incorporate the provisions of the December 18, 2006 Emergency Rule (*Louisiana Register*, Volume 33 Number 2). The department promulgated an Emergency Rule to amend the February 21, 2007 Emergency Rule that repealed the provisions governing private community hospitals and revised the provisions governing non-rural community hospitals and federally mandated statutory hospitals to clarify that

hospitals qualifying as a non-rural community hospital in state fiscal year 2006-2007 may also qualify in the federally mandated statutory hospital category (*Louisiana Register*, Volume 33, Number 3). In compliance with Act 17 of the 2006 Regular Session which appropriated funds for non-rural community hospitals which meet the federal DSH requirements and do not qualify for payments for uninsured costs, the bureau now proposes to amend the March 1, 2007 Emergency Rule to rescind the provisions which allowed hospitals to qualify for DSH payments as both non-rural community hospitals and in the federally mandated statutory hospital category.

This action is being taken to avoid sanctions. It is estimated that implementation of this proposed Emergency Rule will have no fiscal impact for state fiscal year 2006-2007.

Effective April 1, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the March 1, 2007 Emergency Rule governing disproportionate share hospital payment methodologies.

## **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Medical Assistance Program—Hospital Services**

##### **Subpart 1. Inpatient Hospitals**

#### **Chapter 3. Disproportionate Share Hospital Payment Methodologies**

##### **§307. Non-Rural Community Hospitals**

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

*Non-Rural Community Hospital*—a non-state hospital that does not receive disproportionate share payments under any other qualification category. These hospitals may be either publicly or privately owned. In addition, psychiatric, rehabilitation and long term hospitals may qualify for this category.

B. DSH payments to a public, non-rural community hospital shall be calculated as follows.

1. Each qualifying public, non-rural 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 no later than October 1st of each fiscal year. The department will claim the federal share for these certified public expenditures. The department's subsequent reimbursement to the hospital shall be in accordance with the qualifying criteria and payment methodology for non-rural community hospitals included in Act 17 and may be more or less than the federal share so claimed. Qualifying public, non-rural community hospitals that fail to make such certifications by October 1st may not receive Title XIX claim payments or any disproportionate share payments until the department receives the required certifications.

C. DSH payments to private, non-rural community hospitals located in Orleans, Jefferson, Calcasieu and Cameron Parishes shall be calculated as follows.

1. If the hospital's qualifying uninsured cost is less than 3.5 percent of total hospital cost, the payment shall be 30 percent of qualifying uninsured costs.

2. If the hospital's qualifying uninsured cost is equal to or greater than 3.5 percent of the total hospital cost but less than 6.5 percent of total hospital cost, the payment shall be 50 percent of qualifying uninsured cost.

3. If the hospital's qualifying uninsured cost is equal to or greater than 6.5 percent of total hospital cost but less than or equal to 8 percent of total hospital cost, the payment shall be 80 percent of qualifying uninsured cost.

4. If the hospital's qualifying uninsured cost is greater than 8 percent of total hospital cost, the payment shall be 90 percent of qualifying uninsured cost for the portion in excess of 8 percent of total hospital cost and 80 percent of qualifying uninsured cost for the portion equal to 8 percent of total hospital cost.

D. DSH payments to private, non-rural community hospitals located in all other parishes shall be calculated as follows.

1. If the hospital's qualifying uninsured cost is less than 3.5 percent of total hospital cost, no payment shall be made.

2. If the hospital's qualifying uninsured cost is equal to or greater than 3.5 percent of total hospital cost but less than 6.5 percent of total hospital cost, the payment shall be 50 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 3.5 percent of total hospital cost.

3. If the hospital's qualifying uninsured cost is equal to or greater than 6.5 percent of total hospital cost but less than or equal to 8 percent of total hospital cost, the payment shall be 80 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 3.5 percent of total hospital cost.

4. If the hospital's qualifying uninsured cost is greater than 8 percent of total hospital cost, the payment shall be 90 percent of qualifying uninsured cost for the portion in excess of 8 percent of total hospital cost and 80 percent of an amount equal to 4.5 percent of total hospital cost.

E. The department shall determine each qualifying hospital's uninsured percentage on a hospital-wide basis utilizing charges for dates of service from February 1, 2006 through July 31, 2006.

F. Hospitals shall submit supporting patient specific data in a format specified by the department. The deadline for submission of data used to determine qualification and the initial payment is January 12, 2007. The second payment to hospitals will be based on patient specific data for dates of service from August 1, 2006 through January 31, 2007. The deadline for submission of data used to calculate final payment is by April 16, 2007. Qualification for both payments is determined from the patient specific data for dates of services from February 1, 2006 through July 31, 2006.

1. For those hospitals that were non-operational due to Hurricane Katrina but became operational between July 1, 2006 and December 31, 2006, the patient specific data during July 1, 2006 through December 31, 2006 will be used for qualification purposes.

2. Submitted hospital charge data must agree with the hospital's monthly revenue and usage reports which reconcile to the monthly and annual financial statements.

The submitted data shall be subject to verification by the department before DSH payments are made.

G. In the event that the total payments calculated for all recipient hospitals are anticipated to exceed the total amount appropriated, the department shall reduce payments on a pro rata basis in order to achieve a total cost that is not in excess of the amounts appropriated for this purpose. The \$120,000,000 appropriation for the non-rural community hospital pool shall be effective only for state fiscal year 2007 and distributions from the pool shall be considered nonrecurring.

H. DSH payments shall be made as bi-annual lump sum payments.

I. Repealed.

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 33:

### **§308. Non-Rural Community Hospitals—SFY 2007**

Repealed

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, repealed LR 33:

### **§309. Federally Mandated Statutory Hospitals**

A. - D.2. ...

E. Repealed.

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 33:

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

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

0704#006

## **DECLARATION OF EMERGENCY**

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

Medicaid Eligibility—Disability Medicaid Program  
(LAC 50:III.2501)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:III.2501 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.

Section 1902(a)(10) of Title XIX of the Social Security Act and Section 435.210 of Title 42 of the Code of Federal Regulations (CFR) provides states with the option to cover individuals under their Medicaid State Plan who are aged, blind or have a disability, and who meet the income and resource requirements for Supplemental Security Income (SSI) cash assistance. These individuals are not currently included as an eligibility category under Louisiana's Medicaid State Plan and must be referred to the Social Security Administration for assistance. Their Medicaid eligibility is contingent upon a favorable decision for SSI cash assistance. Pursuant to Section 1902(a)(10) of Title XIX of the Social Security Act and 42 CFR 435.210, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt provisions to include this optional coverage group under the Medicaid State Plan and provide Medicaid-only services in the Disability Medicaid Program.

This action is being taken to avoid imminent peril to the health and safety of certain individuals who would have to wait for a Social Security Administration decision to receive Medicaid benefits in order to obtain necessary medical care. It is estimated that the implementation of this Emergency Rule will be \$1,387,635 for state fiscal year 2006-2007.

Effective April 20, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts provisions to provide Medicaid-only coverage to aged, blind and disabled individuals through the Disability Medicaid Program.

### **Title 50**

## **PUBLIC HEALTH—MEDICAL ASSISTANCE**

### **Part III. Eligibility**

#### **Subpart 3. Eligibility Groups and Factors**

### **Chapter 25. Eligibility Groups and Medicaid Programs**

#### **§2501. Disability Medicaid Program**

A. The Disability Medicaid Program provides Medicaid-only coverage to aged, blind and disabled individuals who meet income and resource requirements for Supplemental Security Income (SSI) cash assistance.

B. Individuals receiving services in the Disability Medicaid Program will be included as an optional coverage group under the Medicaid State Plan.

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 33:

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

0704#052

## DECLARATION OF EMERGENCY

### Department of Social Services Office of Community Services

#### Allocation of Hurricane Relief Funds SSBG Supplemental Appropriation (LAC 67:V.717)

The Department of Social Services, Office of Community Services (DSS/OCS), has exercised the emergency provision of the Administrative Procedures Act, R.S. 49:953(B) to adopt LAC 67:V.Section 717, Allocation of Hurricane Relief Funds Supplemental Appropriation. This Emergency Rule, effective March 23, 2007, shall remain in effect for 120 days.

Under the Department of Defense Appropriations Act (H.R. 2863), \$220,901,534 has been allocated to Louisiana in a supplemental appropriation to SSBG funds for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005. In addition to other uses permitted by Title XX of the Social Security Act, funds appropriated under this heading may be used for health services, including mental health services, and for repair, renovation and construction of health facilities, including mental health facilities. It recognizes that the hurricanes in the Gulf of Mexico in calendar year 2005 have imposed extreme demands for social and health care services in affected states. States may use SSBG funds for a wide array of human services. The Administration for Children and Families, (ACF) approved a waiver of the provisions under Section 2005(a) of the Social Security Act on June 2, 2006 to allow the use of SSBG Supplemental funds for the rebuilding and construction of childcare facilities in Louisiana.

The DSS/OCS proposes to enter into contracts, memoranda of understanding, or other agreements with the entities listed in this Rule including but not limited to such services as health services, including mental health services, for repair, renovation, and construction of facilities, including Class A child care facilities and mental health facilities, intensive benefits, and case management for the citizens of this state effected by the hurricanes.

Emergency action is necessary due to imminent peril to public health as the hurricanes in the Gulf of Mexico in calendar year 2005 have imposed extreme demands for social and health care services. SSBG funds may be used for a wide array of human services and the supplemental appropriation must be expended by September 30, 2007.

Two public hearings were held in accordance with SSBG rules and no comments were received.

## Title 67

### SOCIAL SERVICES

#### Part V. Community Services

##### Chapter 7. Social Services Block Grant

##### §717. Allocation of Hurricane Relief Funds SSBG Supplemental Appropriation

###### A. Purpose, Need, and Eligibility

1. Under the Department of Defense Appropriations Act (H.R. 2863), \$220,901,534 has been allocated to Louisiana in a supplemental appropriation to SSBG funds for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005. In addition to other uses permitted by Title XX of the Social Security Act, funds appropriated under this heading may be used for health services, including mental health services, and for repair, renovation and construction of facilities, including mental health facilities. The ACF approved a waiver of the provisions under Section 2005(a) of the Social Security Act on June 2, 2006 to allow the use of SSBG supplemental funds for the rebuilding and construction of childcare facilities in Louisiana. The OCS proposes to enter into contracts, memoranda of understanding, or other agreements with the entities listed in this rule including but not limited to such services as health services, including mental health services, for repair, renovation, and construction of facilities, including Class A child care facilities and mental health facilities, intensive benefits, and case management for the citizens of this state effected by the hurricanes. This rule is effective for the SSBG Allotment of Federal Fiscal Year 2006.

2. It recognizes that the hurricanes in the Gulf of Mexico in calendar year 2005 have imposed extreme demands for social and health care services in affected States. States may use SSBG funds for a wide array of human services.

3. Because of the nature of the natural disaster, many affected individuals and families will not have in their possession customary documentation of their economic status to substantiate eligibility for SSBG-supported services. Also, many individuals or families who may not have been eligible for assistance prior to the hurricanes may be, because of the devastation, eligible now. Therefore, "presumptive eligibility" determinations may be made based on applicant residence in known areas of devastation at the time of Hurricanes Katrina and Rita or post-hurricane experience of affected individuals or families. Each entity that receives the SSBG funding can have additional or different eligibility requirements.

###### 4. The following areas to be addressed include:

a. the health care needs of people affected by the hurricanes in the Gulf of Mexico in calendar year 2005 and who lack health insurance or other adequate access to care and to help health care create a "safety net." This would include intended uses of these funds in areas of mental health service provision and provision for substance and addictive disorder interventions and services;

b. expanding services to meet the needs of families in the child welfare system in the areas of foster care, adoption, prevention, intervention, and protective services in child welfare;

c. institutions serving these populations in order to build community health centers, rural hospitals and clinics, community mental health centers, public hospitals, and other providers with substantial percentages of uninsured patients. Funds may be made available for repairs and reconstruction needed to allow health centers and similar providers to resume or expand operations, or to help key providers meet salary and other costs associated with resuming or restoring health services;

d. providing social service delivery and case management services to families in order to assist with identification of housing needs, development of individualized recovery plans and referral of families to available disaster relief services, provide for case management and follow-up with families, and to provide for direct emergency assistance in human services;

e. restoring critical child care services will support families as they return to work in hurricane affected parishes. Child care supports are vital to reestablishing a workforce and strengthening our state's economy. Child care is a critical need to promote independence and safety of families and children. Restoring the child care infrastructure is a current need in Louisiana. Funds will be available to rebuild the child care infrastructure by repairing and/or building Class A child care centers and providing training and technical assistance necessary in attracting and retaining a child care workforce.

#### B. Department of Social Services

##### 1. Child Welfare Services—Foster Care, Adoption, Prevention, Intervention and Protective Services

a. Services will include anger management, parenting skills, counseling, etc. Visitation expenses include travel for the foster child and foster parent/caretaker from their displaced location to the birthparent's location, lodging, and meals during the travel. This includes travel both within and outside of Louisiana. It is estimated that 2/3 of impacted children lost at least a significant portion or all of their personal belongings that have yet to be replaced. These were possessions lost or damaged during the time during and after Hurricanes Katrina and Rita. These funds will be used in this arena. These funds will be used to provide for the youth effected by Hurricanes Katrina and Rita in OCS independence programs. These are programs used to assist children aging out of foster care and who have greater needs for transitional assistance than is typically provided, especially in the aftermath of the upheaval and displacement brought on by the storms of 2005. These funds will be used for foster care reunification services, as additional demands for such services are felt as a result and impact on the child welfare system of services due to H Katrina and H Rita. After most disasters, there is an evidenced increase in abuse and/or neglect as well as disruptions in foster care. Such funds will be used to obtain trauma-related services to help stabilize placements and prevent disruptions by providing increased service access for family services, respite care, counseling, parenting classes, etc.

##### 2. Child Care Services

a. Louisiana must rebuild the child care infrastructure in the hurricane affected parishes to assist families in returning to work while ensuring their children receive quality child care. To meet the critical need for child care in Louisiana, DSS/OFS will implement a child care

support system to rebuild the child care sector. This will be done by three initiatives.

i. Training and Technical Assistance for Child Care Providers. The objective of this program is to provide intensive training and technical assistance for current and prospective child care providers to increase the supply of child care businesses opening and reopening in the hurricane affected areas. Training and technical assistance will also be provided to current and prospective child care providers and other professionals engaged in the system. The services will be available in Calcasieu, Cameron, Orleans, Jefferson, Plaquemines, St. Bernard, St. Tammany and Washington parishes.

ii. Furnishing Child Care Centers Program. This component will offer a program for equipping, furnishing, and supplying Class A child care centers whose licenses were suspended due to hurricane-related damage and have reopened, Class A centers in the process of opening or reopening, or Class A centers being constructed. An assessment of each center will be conducted and a priority for equipping Class A child care centers will be established. Furnishings, equipment and supplies include but are not limited to curriculum, books, furniture, appliances, office equipment, developmentally and age appropriate play equipment for both indoor and outdoor space and other items appropriate to the operation of a Class A licensed day care center.

(a.) Eligibility will be limited to the Class A child care centers that are currently participating in the Child Care Assistance Program (CCAP) funding; those reopening, that participated in the CCAP within a year prior to August 2005; or for those new Class A child care centers that have opened since August 29, 2005, and are committing to serve CCAP eligible children within 60 days of opening for business.

(b.) The program will be offered in Calcasieu, Cameron, Orleans, Jefferson, Plaquemines, St. Bernard, St. Tammany and Washington parishes.

(c.) Eligible expenses dated October 1, 2005 or after will be reimbursable. Eligible reimbursable expenses are those not covered by other reimbursements, such as insurance and other state or federal funds.

(d.) Class A child care centers participating in this program must agree to accept all requirements as defined by SSBG and the state, including federal and state interest.

iii. Child Care Facilities Restoration Fund. This program will provide funds for repair and/or construction of Class A child care centers in the hurricane devastated parishes of Calcasieu, Cameron, Orleans, Jefferson, Plaquemines, St. Bernard, St. Tammany and Washington. The state must apply its appropriate administrative standards when issuing sub awards to guarantee the protection and disposition of real estate rebuilt, constructed or purchased with grant funds and the state is also required to file a Notice of Federal Interest document to officially recognize the federal government's continuing financial interest in the property. The minimum eligibility criteria for the child care facilities will include the following:

(a.) previously held Class A license or agree to become a Class A licensed facility and agree to maintain a Class A license;

(b.) for Class A centers that previously held a Class A license, have served children subsidized with CCAP funds within 12 months prior to August 2005 and commit to doing so moving forward, and provide assurance that SSBG funding along with any other identified funding will allow the center to reopen and serve children;

(c.) for an entity wishing to open a new Class A child care center, must declare intention to serve children subsidized with CCAP funding and provide assurance that SSBG funding along with any other identified funding will allow the center to reopen and serve children;

(d.) must provide evidence of current demand for services;

(e.) must provide evidence of capacity to provide quality child care services;

(f.) must agree to accept all requirements as defined by SSBG and the state including federal and state interest;

(g.) eligible expenses dated October 1, 2005 or after will be reimbursable. Eligible reimbursable expenses are those not covered by other reimbursements, such as insurance and other state or federal funds.

#### C. Department of Health and Hospitals

##### 1. Behavioral Health Services

a. Funds shall be used to restore and expand mental health services, substance abuse treatment and prevention services and developmental disability services as follows:

i. Immediate Intervention—Crisis Response System;

ii. Substance Abuse Treatment and Prevention;

iii. Behavioral Health Services for Children and Adolescents;

iv. Preventing or Reducing Inappropriate Institutional Care;

v. Behavioral Health Program Restoration and Resumption;

vi. Health care work force; and

vii. Operational tools

##### 2. Preventive and Primary Care

a. Funds shall be used to issue grant awards to parishes as bridge funding to restore and develop comprehensive and integrated primary, preventive and behavioral health care services, with an emphasis on restoring safety net services for the uninsured and underinsured.

#### D. Louisiana State University Health Sciences Center (LSU-HSC)

1. Funds allocated to LSU-HSC would be used as follows.

a. Keep the healthcare workforce intact by retaining faculty and residents.

b. Set up primary care clinics across the city with funding for salaries for dentists, physicians, nurses and allied health personnel.

c. Expand capabilities to address psychiatric needs in New Orleans and surrounding areas.

d. Support the General Dentistry Residency, Oral and Maxillofacial Surgery Residency, and Oral Medicine programs that provide preventive and primary care to the uninsured at multiple sites in the state.

e. Prepare an adequate number of allied health professionals who can function in primary, secondary, and

tertiary care through the School of Allied Health Professions. The LSU-HSC in New Orleans is a primary source of graduate level practitioners in the areas of Physical Therapy, Occupational Therapy, Speech and Language Pathology, Audiology, Medical Technology, Cardiopulmonary Technology, and Rehabilitation Counseling for New Orleans and the state of Louisiana.

f. Resume Early Intervention Institute and the Human Development Center direct service, consultative, and advocacy programs for individuals with disabilities. Reestablishing these services will ensure maintenance of high-quality health care educational experiences for individuals who work with these citizens who represent a portion of our population that is typically uninsured, underserved, and at the greatest risk for developing physical and mental problems.

#### E. LSU Health Care Services Division (HCSO)

1. Funding to the HCSO in the current fiscal year will enable the Division to continue providing the following services:

a. the enhancement of primary care services at the regional hospitals to accommodate the population shifts which have occurred;

b. the patient pharmaceutical procurement program which matches needy patients with low cost medications that is essential to proper management of such conditions as diabetes, hypertension, asthma, HIV and asthma which have the effect of preventing further and/or rapid development of the disease;

c. provide needed financing for eight neighborhood health units currently under development for placement in New Orleans;

d. continued funding of the EMED currently at the New Orleans Convention Center;

e. funding for the Level I Trauma Service operational costs anticipated at the Elmwood Hospital location;

f. provide the HCSO hospitals with the ability to continue its current level of support for Mental and Behavioral Health Programs.

#### F. Louisiana Family Recovery Corps

1. The DSS/OCS will contract with the Louisiana Family Recovery Corps (LFRC) to provide SSBG approved services to individuals and families displaced by H Katrina and H Rita through programs developed by LFRC. The LFRC, an independent non-profit organization, was created to mobilize and coordinate humanitarian services to displaced Louisiana families in the wake of these disasters.

2. Eligibility for SSBG approved services is limited to individuals and families who were displaced as a result of Hurricanes Katrina or Rita. LFRC, in coordination with the department, is authorized to develop programs with more restrictive eligibility requirements than those provided above, including but not limited to financial eligibility, pre-storm residence, current or prospective residence, age, and disability.

3. Eligible services are those directed at the goals of:

a. achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

b. achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

c. preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;

d. preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; and

e. securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

4. LFRC, in coordination with the department, is authorized to develop programs that provide services that are necessary to address the consequences of the hurricanes for the eligible population and are directed at the goals of SSBG.

G. Tulane University Health Sciences Center

1. Tulane University will help sustain the health care safety net in New Orleans, as well as assist in responding to the new health care crisis in this community. These funds may be utilized in the following areas:

a. sustain, and when needed, enhance capacity to provide primary care, emergency care, public health preparedness and training, adult and child psychiatry, women's health, children's health, health equality, environmental health, infectious diseases to the under and uninsured;

b. maintain a high-quality biomedical workforce in the greater New Orleans region through retention of existing healthcare faculty and residents;

c. support for the School of Public Health and Tropical Medicine;

d. retention and establishment of primary care clinics;

e. support for Cancer Center and Gene Therapy Center;

f. support for Clinical Research and supporting faculty and staff.

AUTHORITY NOTE: Promulgated in accordance with Title XX of the Social Security Act and Department of Defense Appropriations Act (H.R. 2863).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 33:

Ann Silverberg Williamson  
Secretary

0704#005

**DECLARATION OF EMERGENCY**

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

**2006-2007 Oyster Season Closure**

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and R.S. 49:967(D), and under the authority of R.S. 56:433(B)1 which provides that the Wildlife and Fisheries Commission may designate what parts or portions of the natural reefs may be fished for oysters and it may suspend the fishing of oysters altogether from natural reefs not leased by it when such reefs are threatened with depletion as determined by the department, and a Resolution adopted by the Wildlife and

Fisheries Commission on August 3, 2006 which authorized the Secretary of the Department of Wildlife and Fisheries to take emergency action if necessary to close areas based on adverse impacts to oyster reefs, the presence of a significant spat catch, and/or if enforcement problems are occurring, the secretary hereby declares:

The 2006/2007 oyster season shall close as follows.

1. The Primary Public Oyster Seed Grounds east of the Mississippi River as described in Louisiana Administrative Code (LAC) 76:VII.511, the Bay Gardene Public Oyster Seed Reservation as described in R.S. 56:433(E), the Lake Borgne Public Oyster Seed Grounds as described in LAC 76:VII.513, the Hackberry Bay Public Oyster Seed Reservation as described in R.S. 56:433(E), the Little Lake Public Oyster Seed Grounds as described in the Louisiana Administrative Code (LAC) 76:VII.521 and the Vermilion/East and West Cote Blanche/Atchafalaya Bay Seed Grounds as described in LAC 76:VII.507 and 509 shall close on Sunday, April 1, 2007 at one-half hour after sunset.

2. The Calcasieu Lake Public Oyster Area as described in R.S. 56:435.1.1 shall close on Monday, April 30, 2007 at one-half hour after sunset.

Fishing effort has reduced market-size oyster stocks in these areas and adversely impacted oyster reefs. In addition, a large number of enforcement citations have been issued for oyster-related infractions, most notably for the harvest of undersized oysters for market purposes. Biologists have also noted young oyster spat in recent biological samples from some of these areas. These closures are being enacted to protect the remaining oyster resources.

Bryant O. Hammett, Jr.  
Secretary

0704#011

**DECLARATION OF EMERGENCY**

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

**2007 Red Snapper Recreational Season**

The red snapper fishery in the Gulf of Mexico is cooperatively managed by the Department of Wildlife and Fisheries (LDWF), the Wildlife and Fisheries Commission (LWFC) and the National Marine Fisheries Service (NMFS) with advice from the Gulf of Mexico Fishery Management Council (Gulf Council). Regulations promulgated by NMFS are applicable in waters of the Exclusive Economic Zone (EEZ) of the U.S., which in Louisiana is generally three miles offshore. Rules were established by NMFS to close recreational harvest season in the EEZ off of Louisiana effective midnight October 31, 2006 until 12:01 a.m., April 21, 2007 by reducing the bag limit to zero, and NMFS requested that consistent regulations be established in Louisiana waters. NMFS typically requests consistent regulations in order to enhance the effectiveness and enforceability of regulations for EEZ waters.

In order to enact regulations in a timely manner so as to have compatible regulations in place in Louisiana waters for the 2007 red snapper season, it is necessary an Emergency Rule be enacted.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, size limits, and all rules and regulations pursuant thereto, and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons and daily take limits based upon biological and technical data for saltwater finfish, the Wildlife and Fisheries Commission hereby sets the following seasons for harvest of red snapper in Louisiana state waters.

The season for the recreational harvest of red snapper in Louisiana state waters will remain closed until 12:01 a.m., April 21, 2007 by reducing the bag limit to zero for that time period. The season will open at 12:01 a.m., April 21, 2007. The daily take and possession limit shall be 4 red snapper per person until 12:01 a.m., May 2, 2007. At that time, the daily take and possession limit shall be reduced to two red snapper per person. Also effective at 12:01 a.m., May 2, 2007, no red snapper may be retained by the captain or crew of a vessel operating as a charter vessel or headboat. Their bag limit is reduced to zero.

The season for the recreational harvest of red snapper in Louisiana state waters shall close at midnight October 31, 2007; provided however that the secretary is hereby authorized to close the season earlier than that time if the season is closed or projected to be closed in adjacent Federal waters.

Effective immediately, the minimum size for red snapper harvested commercially is reduced to 13 inches total length.

All applicable rules regarding red snapper harvest including size, daily take and possession limits established by the commission shall be in effect during the season hereby established.

During the effective period of this Declaration of Emergency, the recreational daily take and possession limit

and commercial size limit set out in LAC 76:VII.335 are hereby superceded.

The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to close the recreational red snapper season when he is informed by the Regional Administrator of NMFS that the recreational red snapper season is closed or projected to be closed in adjacent Federal waters.

The commission also hereby authorizes the secretary to modify the opening and closing dates in State waters if he is notified that the opening and closing of Federal waters are other than those specified in this Declaration of Emergency, and to open an additional recreational red snapper season in Louisiana state waters if he is informed that NMFS has opened an additional recreational season, and to close such season when he is informed that the recreational season is closed or projected to be closed in adjacent Federal waters.

Effective with any recreational take or possession limit under this Emergency Rule, no person shall recreationally harvest or possess red snapper whether taken from within or without Louisiana territorial waters in excess of such established trip or possession limit.

Effective with any recreational red snapper season closure, no person except those who possess a commercial reef fish permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish, and who are legally taking red snapper under federal rules regarding Individual Fishing Quotas for red snapper, shall possess any red snapper whether taken from within or without Louisiana territorial waters.

Earl P. King, Jr.  
Chairman

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