

**I. EXECUTIVE ORDERS**

MJF 97-27—Special Permits—Agronomic and Horticultural Crop Harvest . . . . . 922  
 MJF 97-28—Bond Allocation—Jefferson Parish Home Mortgage Authority . . . . . 922

**II. EMERGENCY RULES**

**Agriculture and Forestry**

Office of Animal Health Services, Livestock Sanitary Board—Quarantining, Vaccinating and Testing of Swine (LAC 7:XXI.905 and 907) . . . . . 924

**Economic Development**

Office of the Secretary—Economic Development Award Program (LAC 13:I.Chapter 60 and Repeal of LAC 19:VII.Chapter 91) . . . . . 925  
 Workforce Development and Training Program (LAC 13:I.Chapter 50 and Repeal of LAC 19:VII.Chapter 81) . . . . . 928

**Health and Hospitals**

Office of the Secretary, Bureau of Health Services Financing—Long-Term Hospital Reimbursement Methodology . . . . . 931  
 Private Intermediate Care Facility for Mentally Retarded Qualifying Loss Review . . . . . 932

**Public Safety and Corrections**

Board of Pardons—Clemency Filing and Processing (LAC 22:V.Chapter 1) . . . . . 934  
 Corrections Services—Juvenile Transfer to Adult Facility (LAC 22:I.335) . . . . . 937

**Wildlife and Fisheries**

Office of Fisheries—King Mackerel Commercial Closure . . . . . 938  
 Wildlife and Fisheries Commission—Deer Season (Either Sex)—1997-98 . . . . . 939  
     Early Migratory Bird Season—1997-98 . . . . . 939  
     Fall Shrimp Season . . . . . 940  
     Muzzleloader Season . . . . . 940  
     Nonresident Fishing License Fees . . . . . 941  
     Oyster Season—1997-98 . . . . . 941  
     Pheasant Season—1997-98 . . . . . 941  
     Shrimp Season Closure—Zone 1 . . . . . 942  
     Shrimp Season Closure—Zone 3 . . . . . 942

**III. RULES**

**Agriculture and Forestry**

Forestry Commission—1997 Timber Stumpage Values (LAC 7:XXXIX.101) . . . . . 943  
 Office of Animal Health Services—Livestock Sanitary Board—Equine Infectious Anemia and Livestock Auction Market Requirements (LAC 7:XXI.Chapter 5) . . . . . 943  
 Sanitary Disposal of Dead Poultry (LAC 7:XXI.101 and 707) . . . . . 949

**Economic Development**

Racing Commission—Bleeder Medication (LAC 35:I.1507) . . . . . 950  
 Qualifications for Jockey/Apprentice Jockey; and Applicant for a License (LAC 46:XLI.701 and 703) . . . . . 950  
 Racing a Horse Under Investigation (LAC 35:I.1733) . . . . . 951

**Education**

Board of Elementary and Secondary Education—Bulletin 1929—Accounting and Uniform Governmental Handbook . . . . . 951

This public document was published at a total cost of \$4,611.66. Nine hundred, seventy-five copies of this public document were published in this monthly printing at a cost of \$2,611.66. The total cost of all printings of this document including reprints is \$4,611.66. This document was published by Bourque Printing, Inc., 13112 South Choctaw Drive, Baton Rouge, LA 70815, as service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 981-999. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

The Office of the State Register provides auxiliary aids for the *Louisiana Register* for visually impaired individuals. By appointment, oral presentation of the *Register* is available at the Office of the State Register, or an audio cassette tape of requested sections of the *Register* can be provided for the cost incurred by the Office of the State Register in producing such a tape. For more information contact the Office of the State Register.

**Environmental Quality**

Office of Waste Services, Hazardous Waste Division—Marathon Oil Delisting Petition (LAC 33:V.105 and Chapter 49.Appendix E)(HW057S) . . . . . 952  
Solid Waste Division—Financial Assurance for Local Governments (LAC 33:VII.315 and 727)(SW024) . . . . . 954  
Office of Water Resources, Water Pollution Control Division—Louisiana Pollutant Discharge Elimination System (LPDES) Program (LAC 33:IX.2341, 2443, 2531, 2533, 2709 and Appendix N)(WP024\*) . . . . . 957

**Health and Hospitals**

Board of Nursing—Licensure Eligibility and Educational Programs (LAC 46:XLVII.Chapters 33 and 35) . . . . . 960  
Officers of the Board; Registration and Licensure; and License Renewal (LAC 46:XLVII.3303, 3347 and 3355) . . . . . 962  
Board of Veterinary Medicine—Certified Animal Euthanasia Technicians (LAC 46:LXXXV.1201) . . . . . 963  
Fees (LAC 46:LXXXV.501 and 503) . . . . . 963  
Licensure Procedures (LAC 46:LXXXV.301-307) . . . . . 964  
Operations of the Board (LAC 46:LXXXV.101-106) . . . . . 965  
Preceptorship Program (LAC 46:LXXXV.Chapter 11) . . . . . 968  
Professional Conduct—Specialty List (LAC 46:LXXXV.1063) . . . . . 968  
Veterinary Practice (LAC 46:LXXXV.Chapter 7) . . . . . 969  
Office of the Secretary, Bureau of Health Services Financing—Nursing Facility Services—Standards for Payment (LAC 50:II.Chapter 101) . . . . . 970

**Insurance**

Office of the Commissioner—Regulation 46—Long-Term Care Insurance . . . . . 975

**Public Safety and Corrections**

Liquefied Petroleum Gas Commission—Liquefied Petroleum Gas as a Refrigerant (LAC 55:IX.183) . . . . . 990  
Office of Motor Vehicles—Privacy of Records (LAC 55:III.551-565) . . . . . 990

**Revenue and Taxation**

Tax Commission—1997 Timber Stumpage Values (LAC 7:XXXIX.101) . . . . . 943

**Social Services**

Office of Rehabilitation Services—Vocational Rehabilitation Policy Manual (LAC 67:VII.101) . . . . . 994

**Treasury**

Board of Trustees of the State Employees Group Benefits Program—Plan Document—Infertility Exclusion . . . . . 995  
Board of Trustees of the State Employees' Retirement System—Election of Trustees (LAC 58:I.Chapters 3 and 5) . . . . . 996

**Wildlife and Fisheries**

Wildlife and Fisheries Commission—Black Bass—Atchafalaya Basin Complex (LAC 76:VII.165) . . . . . 998  
Toledo Bend Reservoir Reciprocal Agreement (LAC 76:VII.110) . . . . . 998

**IV. NOTICES OF INTENT**

**Economic Development**

Licensing Board for Contractors—License, Examination and Hearings (LAC 46:XXIX.303, 503 and 703) . . . . . 1000  
Office of the Secretary—Economic Development Award Program (LAC 13:I.Chapter 60 and Repeal of LAC 19:VII.Chapter 91) . . . . . 1001  
Workforce Development and Training Program (LAC 13:I.Chapter 50 and Repeal of LAC 19:VII.Chapter 81) . . . . . 1001

**Education**

Board of Elementary and Secondary Education—Bulletin 741—Vocational Agriscience/Agribusiness . . . . . 1002  
Bulletin 1213—Minimum Standards for School Buses . . . . . 1003  
Tuition Trust Authority, Office of Student Financial Assistance—Bylaws (LAC 28:VII.Chapter 2) . . . . . 1003

**Environmental Quality**

Office of Air Quality and Radiation Protection, Air Quality Division—Chemical Accident Prevention Program (LAC 33:III.Chapter 59)(AQ157) . . . . . 1008  
Chemical Accident Prevention Program Fee Adjustment (LAC 33:III.223)(AQ154) . . . . . 1009  
Fee Adjustment for Title V Permit Program (LAC 33:III.223)(AQ153) . . . . . 1010  
Lead-Based Paint Activities (LAC 33:III.Chapters 2 and 28)(AQ114) . . . . . 1020  
Limiting Volatile Organic Compound Emissions from Batch Processing (LAC 33:III.2149)(AQ159) . . . . . 1035  
SOCMI Chemicals Revision (LAC 33:III.2147 and Chapter 21, Appendix A)(AQ156) . . . . . 1037  
Stage II Vapor Recovery Systems (LAC 33:III.2132)(AQ158) . . . . . 1038  
Synthetic Organic Chemical Manufacturing Industry Vent Stream Exemption (LAC 33:III.2147)(AQ150) . . . . . 1041  
Office of Water Resources—Louisiana Pollutant Discharge Elimination System (LPDES) Program (LAC 33:IX.Chapter 23)(WP025) . . . . . 1042

**Health and Hospitals**

Board of Dentistry—Advertising and Soliciting by Dentists (LAC 46:XXXIII.301) . . . . . 1044  
Dental Practice Address (LAC 46:XXXIII.304) . . . . . 1045  
Dental Services at Locations Other Than Dental Office (LAC 46:XXXIII.314) . . . . . 1045  
Dentists and Hygienists—Continuing Education (LAC 46:XXXIII.1611 and 1613) . . . . . 1046  
Dentists and Hygienists—Fees for Licenses, Permits, and Examinations (LAC 46:XXXIII.415 and 419) . . . . . 1047  
Health Care Provider Financial Interest Disclosure (LAC 46:XXXIII.316) . . . . . 1048  
Licensure by Credentials (LAC 46:XXXIII.306) . . . . . 1049  
Motions for Continuance of Hearing (LAC 46:XXXIII.915) . . . . . 1050

Restricted Licensees (LAC 46:XXXIII.105) .....	1050
Term of License; Renewal (LAC 46:XXXIII.409) .....	1051
Board of Veterinary Medicine—Certified Animal Euthanasia Technicians' Renewal Deadline (LAC 46:LXXXV.1211) .....	1052
Internships and Residencies (LAC 46:LXXXV.1105) .....	1052
Prescriptions and Microchip Implantation (LAC 46:LXXXV.705 and 713) .....	1053
Registered Veterinary Technician Certificate Renewals (LAC 46:LXXXV.811) .....	1054
Office of the Secretary, Bureau of Health Services Financing—Medically Needy Program—Service Coverage Restrictions .....	1055
Pharmacy Program—Maximum Allowable Overhead Cost .....	1056
Substance Abuse Clinics .....	1057
<b>Labor</b>	
Plumbing Board—Medical Gas Piping Installers (LAC 46:LV.304) .....	1058
<b>Revenue and Taxation</b>	
Sales Tax Division—Sales Tax Return—Quarterly Filing (LAC 61:I.4351) .....	1059
<b>Treasury</b>	
Board of Review of Deputy Sheriffs' Supplemental Pay Program—Board Operations; Supplemental pay requirements .....	1060
Housing Finance Agency—Homeownership Housing Program (LAC 71:II.Chapter 3) .....	1060
Office of the Treasurer—State Tax Revenue Limit .....	1066

**V. LEGISLATION**

**State Legislature**

House of Representatives—House Concurrent Resolution Number 31 of the 1997 Regular Session—Family Independence Project (by Representative Windhorst) .....	1068
House Concurrent Resolution Number 108 of the 1997 Regular Session—Medically Needy Program (by Representative Riddle) .....	1069

**VI. POTPOURRI**

**Agriculture and Forestry**

Office of Agricultural and Environmental Sciences, Horticulture Commission—Landscape Architect Registration Exam .....	1070
Retail Floristry Examination .....	1070
Office of the Commissioner—Declaration of Quarantine: North Carolina Sweet Potato Quarantine and Embargo	1070

**Health and Hospitals**

Board of Embalmers and Funeral Directors—Embalmer/Funeral Director Examination .....	1071
Office of Public Health, Nutrition Section—Women, Infants and Children (WIC) State Plan—1997-1998 ...	1071

# Executive Orders

## EXECUTIVE ORDER MJF 97-27

### Special Permits—Agronomic and Horticultural Crop Harvest

WHEREAS: Act 420 of the Regular Session of 1997 enacted R.S. 32:387.8, the "Robert M. Marionneaux, Sr., Grain Transportation Act" (hereafter "the Act");

WHEREAS: although the Act was signed by the Governor on June 2, 1997, it will not become effective until August 15, 1997, pursuant to the provisions of Article III, §19 of the Louisiana Constitution of 1974;

WHEREAS: the Act authorizes the secretary of the Department of Transportation and development to issue, notwithstanding any other provision of law to the contrary, annual special permits for the operation of trucks which haul agronomic or horticultural crops in their natural state, at a gross vehicle weight not to exceed 100,000 pounds, for the fee of \$100 per permit, per year;

WHEREAS: the harvest season for many of Louisiana's agronomic and horticultural crops is in progress;

WHEREAS: as a result of the excessive amount of moisture caused by recent rains, if Louisiana's crops are not harvested and processed expeditiously, much of the 1997 harvest will be lost due to aflatoxin;

WHEREAS: to minimize the crop damage caused by aflatoxin, the recommended procedure is to harvest the crops as soon as possible and, without delay, dry the produce to below 15 percent moisture; and

WHEREAS: R.S. 32:387 provides for the issuance of special permits by the secretary of the Department of Transportation and Development when it is in the best interest of the state, due to unusual circumstances, to raise the gross weight limitation of vehicles or combination of vehicles from 80,000 pounds up to 100,000 pounds;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The secretary of the Department of Transportation and Development is authorized to issue special permits pursuant to R.S. 32:387, which shall be effective for a period of one year, to the operators of the vehicles that transport on Louisiana's state highway system Louisiana's agronomic and horticultural crops in their natural state. The special permits shall allow the operators of vehicles transporting said products a gross vehicle weight limitation, not to exceed 100,000 pounds, for any combination of vehicles having a minimum of 18 wheels and transporting said products. The permits shall not apply to the operation of vehicles on the Interstate Highway System.

SECTION 2: The fee for the permits shall be \$100 per permit issued. The permits shall be processed in the same

manner as the annual special permits issued for the hauling of sugarcane under R.S. 32:387.7.

SECTION 3: For violation of weight in excess of the special permit limitations which occur between the date the special permit is issued and August 14, 1997, the secretary of the Department of Transportation and Development may impose civil penalties pursuant to and consistent with the penalty provisions for violating the terms of a special permit issued under R.S. 32:387 and/or an annual permit issued under R.S. 32:387.7. For violations of weight in excess of the special permit limitations which occur on or after August 15, 1997, the secretary of the Department of Transportation and Development may impose a civil penalty of up to five cents per pound for each violation of the permit's limitations in accordance with the penalty provision set forth in R.S. 32:387.8.

SECTION 4: The last day that the secretary of the Department of Transportation and Development shall issue a special permit under the authority of this order is August 14, 1997.

SECTION 5: This order is effective upon signature of the governor and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 18th day of July, 1997.

M.J. "Mike" Foster, Jr.  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9708#003

## EXECUTIVE ORDER MJF 97-28

### Bond Allocation for Parish of Jefferson Home Mortgage Authority

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1997 (hereafter "the 1997 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1997

Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS: the Parish of Jefferson Home Mortgage Authority has requested an allocation from the 1997 Ceiling to be used in connection with a program of financing mortgage loans for first time home buyers throughout the Parish of Jefferson in accordance with the provisions of Section 143 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1997 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$12,000,000	Parish of Jefferson Home Mortgage Authority	Single Family Mortgage Revenue Bond Program

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before October 28, 1997.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 30th day of July, 1997.

M.J. "Mike" Foster, Jr.  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9708#032

# Emergency Rules

## DECLARATION OF EMERGENCY

Department of Agriculture and Forestry  
Office of Animal Health Services  
Livestock Sanitary Board

Quarantining, Vaccinating and  
Testing of Swine (LAC 7:XXI.905 and 907)

*Editor's Note:* All Agriculture and Forestry rules, found at LAC, Title 7, will be renumbered during the next few months, so that each Part (I through XLIII) will begin with a Chapter 1 and continue with sequential chapters (through Chapter 99), as needed. A revised *Louisiana Administrative Code*, Title 7, is scheduled for publication during Fall, 1997. As shown below, the *Louisiana Register* is promulgating all Title 7 emergency, proposed, and final rules under the new numbering system.

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), R.S. 3:2093, and R.S. 3:2095, the Livestock Sanitary Board finds an emergency situation to exist due to the continued persistent incidence of brucellosis and pseudorabies in the swine population in Louisiana. The board finds that continued implementation of change in ownership test requirements is necessary for Louisiana to reach a goal of eradication of brucellosis and pseudorabies in swine and to keep pace with the progress of the national eradication programs. The effective date of this emergency rule is September 5, 1997, and it shall be in effect for 120 days or until the final rule takes effect through normal promulgation process, whichever occurs first.

### Title 7

## AGRICULTURE AND ANIMALS

### Part XXI. Diseases of Animals

#### Chapter 9. Swine

#### §905. Quarantining, Vaccinating and Testing of Swine for Brucellosis and Pseudorabies

A.1. The state veterinarian, or his representative, shall have the authority to conduct epidemiologic investigations and quarantine of:

- a. swine herds in which one or more of the animals are found to be positive to pseudorabies, as determined by the epidemiologist, based on the interpretation of official tests;
- b. the herd of origin of swine that have been added to a herd that becomes quarantined because of pseudorabies, if swine have been acquired from said herd of origin within the last 12 months;
- c. herds which have received swine from herds found to have pseudorabies;
- d. herds of swine including feedlots, within a 1.5 mile radius of the quarantined herd, will be monitored in accordance with the recommendation of the state veterinarian and/or epidemiologist by either a test of all breeding swine or by an official random sample test.

2. A herd plan and epidemiology report must be completed within 30 days from the date an animal that originated from the herd was found to be a reactor at slaughter.

3. A herd test must be completed within 45 days from the date an animal that originated from the herd was found to be a reactor at slaughter.

B. To be eligible for release from quarantine, a swine herd must meet the following requirements:

1.a. All swine positive to an official pseudorabies test must be tagged with official reactor tags in the left ears and permitted on Form VS 1-27 to recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws within 15 days.

b. All swine, over 6 months of age and a random sampling of any growing/finishing swine which remain in the herd, must be tested negative 30 days or more after removal of reactors.

c. No livestock on the premises shall have shown signs of pseudorabies after removal of reactors.

#### 2. Whole Herd Depopulation

a. All swine on the premises must be tagged with official reactor tags in the left ears and permitted on a Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws.

b. The premises must remain depopulated for 30 days and the herd premises must be cleaned and disinfected with an approved disinfectant prior to putting swine back on the premises.

C. A herd of swine quarantined because of brucellosis must meet one of the following requirements:

1.a. All swine positive to an official brucellosis test must be tagged with official reactor tags in the left ears and permitted on Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises by disposal means authorized by applicable state laws within 15 days.

b. All swine over 6 months of age which remain in the herd, must be tested according to an approved herd plan.

c. A herd may be released from quarantine upon completion of three negative Complete Herd Tests (CHT).

i. The first test must be completed at least 30 days after removal of the last reactor.

ii. A second CHT must be conducted 60-90 days following the first CHT.

iii. A third CHT is required 60-90 days following the second CHT.

iv. A fourth CHT is required six months after the third CHT.

#### 2. Whole Herd Depopulation

a. All swine on the premises must be tagged with official reactor tags in the left ears and permitted on a Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws.

b. The premises must remain depopulated for 30 days and the herd premises must be cleaned and disinfected with an approved disinfectant prior to putting swine back on the premises.

D. All movement from pseudorabies/brucellosis quarantined herds, must be accompanied by a VS Form 1-27, Permit for Movement of Restricted Animals, listing the official, individual identification of each animal to be removed.

1. This form must be delivered to an authorized representative at destination.

2. These permits will be issued by a representative of the Louisiana Livestock Sanitary Board.

E. All exposed swine moving from quarantined premises in interstate or intrastate commerce, must move directly to a recognized slaughter establishment or to an approved swine quarantined feedlot or rendering plant.

F. The use of pseudorabies vaccine is prohibited, except by permission of the state veterinarian.

G.1. All swine, 6 months of age or older, must be tested negative for pseudorabies and brucellosis by an official test within 30 days prior to sale.

2. Swine originating from a brucellosis validated-pseudorabies qualified free herd or from a monitored feeder pig herd are exempt from this testing requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 16:392 (May 1990), amended LR 18:839 (August 1992), LR 20:1258 (November 1994), LR 23:

#### **§907. Operation of Livestock Auction Markets**

All swine which are sold or offered for sale in livestock auction markets must meet the general requirements of §111 and the following specific Pseudorabies/Brucellosis requirements:

1. All breeder and feeder swine moving to Louisiana auction markets from farms outside Louisiana, must meet the requirements of §111; and

2. All swine over 6 months of age, being sold at Louisiana livestock auction markets must be identified by official swine backtags, placed on the animals' foreheads and official metal eartags.

3.a. The market shall furnish the Livestock Sanitary Board's official representative a copy of each check-in slip, showing the name of the auction market, the date, the name and complete address of each consignor, and the official backtag numbers applied to the consignor's livestock.

b. It shall be a violation of this regulation for anyone to consign livestock to a Louisiana livestock auction market and give a name and address that is not the name and address of the owner consigning the livestock to the auction market.

4.a. All swine 6 months of age or older arriving at a livestock auction market without an official negative test will have a blood sample drawn for testing.

b. Swine originating from a brucellosis validated-pseudorabies qualified free herd or from a monitored feeder pig herd are exempt from this testing requirement.

c. Testing for pseudorabies and brucellosis at livestock auction markets may be suspended by the state veterinarian due to climatic conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:245 (March 1985), amended LR 11:615 (June 1985), LR 16:392 (May 1990), LR 18:839 (August 1992), LR 23:

Maxwell Lea, Jr.  
Executive Secretary

9708#002

## **DECLARATION OF EMERGENCY**

### **Department of Economic Development Office of the Secretary**

#### **Economic Development Award Program (LAC 13:I.Chapter 60 and Repeal of LAC 19:VII.Chapter 91)**

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act and the authority of R.S. 51:2331, the Department of Economic Development, Office of the Secretary hereby finds that emergency action is deemed necessary to prevent delays in the awarding of grants for economic development related infrastructure improvements under the provisions of the Economic Development Award Program inasmuch as such delays could result in the loss of industry and jobs to other states.

This emergency rule is effective August 7, 1997 and shall remain in effect for 120 days or until adoption of the rule, whichever occurs first.

#### **Title 13**

#### **ECONOMIC DEVELOPMENT**

#### **Part I. Commerce and Industry**

#### **Subpart 3. Financial Incentives**

#### **Chapter 60. Economic Development Award Program (EDAP)**

#### **§6001. Purpose**

The purpose of the program is to finance publicly-owned infrastructures for industrial or business development projects that promote economic development and that require state assistance for basic infrastructure development.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

#### **§6003. Definitions**

*Applicant*—the sponsoring entity requesting financial assistance from DED under this program.

*Award*—funding approved under this program for eligible applicants.

*Awardee*—an applicant [and/or company(ies)] receiving an award under this program.

*Basic Infrastructure*—the construction, improvement or expansion of roadways, parking facilities, equipment, bridges, railroad spurs, water works, sewerage, buildings, ports, waterways and publicly-owned or regulated utilities.

*Company*—the business enterprise for which the project is being undertaken.

*DED*—Louisiana Department of Economic Development.

*Program*—the Economic Development Award Program.

*Project*—an expansion, improvement and/or provision of basic infrastructure that promotes economic development, for which DED assistance is requested under this program as an incentive to influence a company's decision to locate in Louisiana, maintain or expand its Louisiana operations, or increase its capital investment in Louisiana.

*Secretary*—the secretary of the Department of Economic Development.

*Sponsoring Entity*—the public or quasi-public entity responsible for performing and/or monitoring implementation of the project and monitoring the company's compliance with the terms and conditions of the award agreement.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

#### **§6005. General Principles**

The following principles will direct the administration of the Economic Development Award Program:

1. awards are not to be construed as entitlements for companies locating or located in Louisiana;
2. an award must reasonably be expected to be a significant factor in a company's location, investment and/or expansion decisions;
3. awards must reasonably be demonstrated to result in the enhanced economic well-being of the state and local communities;
4. the retention and strengthening of existing businesses will be evaluated using the same procedures and with the same priority as the recruitment of new businesses to the state;
5. the anticipated economic benefits to the state will be considered in making the award;
6. appropriate cost sharing among project beneficiaries;
7. if a company does not begin construction of the project within 365 calendar days after application approval, the secretary, at his discretion, may cancel funding for the infrastructure approved from the Economic Development Award Program.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, LR 23:

#### **§6007. Eligibility**

- A. An eligible applicant for the Grant Award must be one of the following:
1. a public or quasi-public state entity; or
  2. a political subdivision of the state.

B. A company shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to failure or inability to pay its obligations, including state or federal taxes; or bankruptcy proceedings; or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

#### **§6009. Criteria**

A. Preference will be given to projects for industries identified by the state as target industries, and to projects located in areas of the state with high unemployment levels.

B. Preference will be given to projects intended to expand, improve or provide basic infrastructure supporting mixed use by the company and the surrounding community.

C. Companies must be in full compliance with all state and federal laws.

D. No assistance may be provided for Louisiana companies relocating their operations to another labor market area (as defined by the U.S. Census Bureau) within Louisiana, except when company gives sufficient evidence that it is otherwise likely to relocate out of Louisiana.

E. The minimum award request size shall be \$25,000.

F. Projects must create or retain at least 10 permanent jobs in Louisiana.

G. Preference will be given for wages substantially above the prevailing regional wage.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

#### **§6011. Application Procedure**

The sponsoring entity must submit an application on a form provided by DED which shall contain, but not be limited to, the following:

1. an overview of the company, its history, and the business climate in which it operates;
2. a description of the need for the project and the factors creating the need;
3. quantifiable objectives for the project and plans to measure the effectiveness of the project according to those objectives;
4. evidence of the number, types and compensation levels of jobs to be created or retained by the project;
5. a specific description of the project, including construction, operation and maintenance plans, and a timetable for the project's completion;
6. any additional information the secretary may require.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

#### **§6013. Submission and Review Procedure**

A. Applicants must submit their completed application to DED. Submitted applications will be reviewed and evaluated by DED staff. Input may be required from the applicant, other

divisions of the Department of Economic Development, and other state agencies as needed in order to:

1. evaluate the strategic importance of the project to the economic well-being of the state and local communities;
2. determine whether the project's financing needs are best met by the proposed award;
3. validate the information presented;
4. determine the overall feasibility of the company's plan.

B. An economic cost-benefit analysis of the project, including an analysis of the net economic and fiscal benefits to the state and local communities, will be prepared by DED.

C. Upon determination that an application meets the eligibility criteria for this program and is deemed to be beneficial to the well-being of the state, DED staff will then make a recommendation to the secretary of the Department of Economic Development. The application will then be reviewed and approved by the following entities in the following order:

1. the secretary of the Department of Economic Development;
2. the governor; and
3. the Joint Legislative Committee on the Budget.

D. No funds spent on the project prior to the secretary's approval will be considered eligible project costs.

E. The secretary will issue a letter of commitment to the applicant within five working days of the application review and approval by the Joint Legislative Committee on the Budget.

F. The secretary can invoke emergency procedures and approve an application under the following conditions: The company documents, in writing, to the secretary of Economic Development, with copies to the governor and chairman of the Joint Legislative Committee on the Budget, that a serious time constraint exists and that a new plant, expansion or closure decision is to be made in fewer than 21 days or more than 31 days before the next scheduled meeting of the Joint Legislative Committee on the Budget.

G. If any application is rejected by any of the preceding entities, the application shall not be considered by the next succeeding entity unless first reconsidered and approved by the entity which initially rejected the application.

H. The final 15 percent of the grant amount will not be paid until DED staff inspects the project to assure that all work in the EDAP contract has been completed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:2341 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

#### **§6015. General Award Provisions**

A. **Award Agreement.** A grant agreement will be executed between DED, the sponsoring entity and the company. The agreement will specify the performance objectives expected of the company and the sponsoring entity and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time frames for investment and job creation. Under the agreement, the sponsoring entity will monitor the progress of the project. DED will disburse funds from invoices or certificates of work completed.

#### **B. Use of Funds**

1. Eligible project costs may include, but not be limited to, the following:

- a. engineering expenses;
- b. site acquisition;
- c. site preparation;
- d. construction expenses;
- e. building materials;
- f. capital equipment.

2. Project costs ineligible for award funds include, but are not limited to:

- a. recurrent expenses associated with the project (e.g., operation and maintenance costs);
- b. company moving expenses;
- c. expenses already approved for funding through the state's capital outlay process for which the Division of Administration and the Bond Commission have already approved a line of credit and the sale of bonds;
- d. improvements to privately-owned property, unless provisions are included in the project for the transfer of ownership to a public or quasi-public entity;
- e. refinancing of existing debt, public or private;
- f. furniture, fixtures, computers, consumables, transportation equipment, rolling stock or equipment with useful life of less than seven years.

#### **C. Amount of Award**

1. The portion of the total project cost financed by the award may not exceed:

- a. 90 percent for projects located in parishes with per capita personal income below the median for all parishes; or
- b. 75 percent for projects in parishes with unemployment rates above the statewide average; or
- c. 50 percent for all other projects.

2. Other state funds cannot be used as the match for EDAP funds.

3. The award amount shall not exceed 25 percent of the total funds available to the program during a fiscal year.

4. The secretary, in his discretion, may limit the amount of awards to effect the best allocation of resources based upon the number of projects requiring funding and the availability of program funds.

#### **D. Conditions for Disbursement of Funds**

1. Grant award funds will be available to the sponsoring entity on a reimbursement basis following submission of approved invoices from the sponsoring entity to DED. Only funds spent on the project after the secretary's approval will be considered eligible for reimbursement.

2. Award funds will not be available for disbursement until:

- a. DED receives signed commitments by the project's other financing sources (public and private);
- b. DED receives signed confirmation that all technical studies or other analyses (e.g., environmental or engineering studies), and licenses or permits needed prior to the start of the project have been completed or obtained;
- c. all other closing conditions specified in the award agreement have been satisfied.

#### **E. Compliance Requirements**

1. Companies and sponsoring entities shall be required to submit progress reports, as specified in the award agreement, describing the progress toward the performance objectives specified in the award agreement.

2. In the event a company or sponsoring entity fails to meet its performance objectives specified in its agreement with DED, DED shall retain the rights to withhold award funds, to modify the terms and conditions of the award, and to reclaim disbursed funds from the company and/or sponsoring entity in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

3. In the event a company or sponsoring entity knowingly files a false statement in its application or in a progress report, the company or sponsoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in R.S. 14:133.

4. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company and the sponsoring entity.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

#### **Title 19**

### **CORPORATIONS AND BUSINESS**

## **Part VII. Economic Development Corporation**

### **Subpart 7. Workforce Development and Training Program**

#### **Chapter 91. Infrastructure Financing Program**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), repealed by the Department of Economic Development, Office of the Secretary, LR 23:

Kevin P. Reilly, Sr.  
Secretary

9708#086

## **DECLARATION OF EMERGENCY**

### **Department of Economic Development Office of the Secretary**

#### **Workforce Development and Training Program (LAC 13:I.Chapter 50 and repeal of LAC 19:VII.Chapter 81)**

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act and the authority of R.S. 51:2331, the Department of Economic Development, Office of the Secretary hereby finds that emergency action is deemed necessary for the timely implementation of training programs for companies that are being recruited to Louisiana and for existing companies that are prepared to expand in the state if training assistance is

forthcoming. Undue delay in the implementation of this emergency rule could result in a decision to locate or expand in another state.

This emergency rule is effective August 7, 1997 and shall remain in effect for 120 days or until adoption of the rule, whichever occurs first.

#### **Title 13**

### **ECONOMIC DEVELOPMENT**

## **Part I. Commerce and Industry**

### **Subpart 3. Financial Incentives**

#### **Chapter 50. Workforce Development and Training Program**

##### **§5001. Purpose**

The purpose of the program is to develop and provide customized workforce training programs to existing and prospective Louisiana businesses as a means of:

1. improving the competitiveness and productivity of Louisiana's workforce and business community;
2. upgrading employee skills for new technologies or production processes; and
3. assisting Louisiana businesses in promoting employment stability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

##### **§5003. Definitions**

*Applicant*—the entity requesting training assistance from DED under this program.

*Award*—funding approved under this program for eligible training activities.

*Awardee*—an applicant [and/or company(ies)] receiving a training award under this program.

*Contract*—a legally enforceable agreement between the Department of Economic Development (DED), the awardee and a monitoring entity governing the terms and conditions of the training award.

*Contractee*—the awardee and monitoring entity that are party to a training award contract with DED under this program.

*DED*—Louisiana Department of Economic Development.

*Labor Demand Occupation*—an occupation for which there is, or is likely to be, greater demand than supply of adequately trained workers.

*Monitoring Entity*—a public or not-for-profit entity contracted to monitor the compliance of an awardee with the terms and conditions of a training award contract, and to reimburse the awardee for eligible training costs.

*Program*—the Workforce Development and Training Program.

*Secretary*—the secretary of the Department of Economic Development.

*Subprogram*—the different components of the Louisiana Workforce Development and Training Program, including, but not limited to, New Employee Training and Workplace-Based Retraining.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

### §5005. General Principles

The following principles will direct the administration of the Workforce Development and Training Program:

1. training awards are not to be construed as an entitlement for companies locating or located in Louisiana;
2. awards must reasonably be expected to be a significant factor in companies' location, investment, and/or expansion decisions;
3. awards must reasonably be demonstrated to result in the enhanced economic well-being of the state and local communities;
4. the retention and strengthening of existing Louisiana businesses will be evaluated using the same procedures and with the same priority as the recruitment of new businesses to the state;
5. the anticipated economic benefits to the state will be considered in making the award;
6. appropriate cost sharing among project beneficiaries;
7. awards will be coordinated with the existing plans and programs of other government agencies whenever appropriate; and
8. a train-the-trainer approach will be adopted, whenever appropriate, in order to strengthen the institutional capacity of public and private sector training providers;
9. if a company does not begin the project within 365 days of application approval, the secretary, at his discretion, may cancel funding of the training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

### §5007. Subprogram Descriptions

#### A. New Employee Training

1. This subprogram provides training assistance for companies seeking prospective employees who possess sufficient skills to perform the jobs to be created by the companies.

2. The training to be funded can include:

- a. pre-employment training for which prospective employees are identified and recruited for training with the knowledge that the company will hire a subset of the trainees; and
- b. on-the-job training for new employees that is needed to bring the employees up to a minimum skill and/or productivity level.

B. Workplace-Based Retraining. This subprogram provides training assistance for companies seeking to upgrade the skills of existing employees in response to technological advances or improved production processes, or the need to ensure compliance with accepted international and industrial quality standards (e.g., ISO standards, proprietary technology).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

### §5009. Eligibility

A. An eligible applicant must be one of the following:

1. an individual employer who seeks customized training services to create, upgrade, or retain jobs in a:

- a. labor demand occupation;
  - b. nonlabor demand occupation to prevent job loss;
2. an employer, labor organization, or community-based organization that seeks customized training services to provide training for a labor demand occupation in a particular industry;
  3. a consortium made up of one or more educational institutions and individual employers, labor, or community-based organizations that seeks customized training services to provide training in a labor demand occupation;
  4. an individual employer who seeks customized training for employees at a facility which is being newly developed or is being relocated from another state into Louisiana.

B. Employees to be trained must be employed in Louisiana, except for projects locating at Stennis Space Center in Mississippi. Employees to be trained for projects at Stennis Space Center must be Louisiana residents.

C. A company shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to failure or inability to pay its obligations, including state or federal taxes; or bankruptcy proceedings; or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

### §5011. Criteria

A. General (These apply to all training subprograms administered under these rules.)

1. Preference will be given to applicants in industries identified by the state as target industries, and to applicants located in areas of the state with high unemployment levels.
2. Employer(s) must be in full compliance with Louisiana unemployment insurance laws.
3. During the first nine months of a fiscal year, not less than 25 percent of all funds available during a fiscal year shall be available for employers with 150 or fewer Louisiana-based employees. For the final three months of a fiscal year, the remaining available funds will be available to all eligible employers, without size restrictions.
4. No single employer shall receive more than 10 percent of the total funds available to the program during a fiscal year.
5. Employers receiving awards must provide evidence satisfactory to DED of their long-range commitment to employee training as a means of enhancing their future competitiveness.

#### B. New Employee Training

1. Applicants must create at least 10 net new jobs in the state.
  2. Participation in pre-employment training does not guarantee students a job upon completion of their training.
- C. Workplace-Based Retraining. Applicants must request training for at least five employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

### §5013. Application Procedure

DED will provide a standard form which applicants will use to apply for assistance. The application form will contain, but not be limited to, detailed descriptions of the following:

1. an overview of the company, its history, and the business climate in which it operates;
2. the company's overall training plan, including a summary of the types and amounts of training to be provided, and a description of how the company determined its need for training;
3. the specific training programs for which DED assistance is requested, including descriptions of the methods, providers and costs of the proposed training;
4. quantifiable objectives for the training related to the overall performance of the company, and plans to measure the effectiveness of the training according to those objectives; and
5. any additional information the secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

### §5015. Submission and Review Procedure

A. Applicants must submit their completed applications to DED. Submitted applications will be reviewed and evaluated by DED staff. Input may be required from the applicant, other divisions of the Department of Economic Development, and other state agencies as needed, in order to:

1. understand the labor market conditions the proposed training is seeking to mitigate;
2. evaluate the strategic importance of the proposed training to the economic well-being of the state and local communities;
3. determine whether the employer's specific needs are best met by training;
4. identify the availability of existing training programs which could be adapted to meet the employer's needs;
5. identify the resources the business can provide to support the training, including trainers, facilities, materials and equipment;
6. identify or develop appropriate curricula; and
7. determine the most cost effective approach to meet the employer's training needs.

B. A cost-benefit analysis tailored to applicants' specific industries shall be conducted by DED to determine the net benefit to the state of the proposed training award. Such analysis will include, but not be limited to, evaluations of:

1. the importance of the proposed training to the state and local economies;
2. the importance of the proposed training to the recruitment/retention of businesses and/or jobs in the state (factors to be considered include the degree of technological advancement of the skills to be taught, the transferability of those skills across companies and industries, and the wage levels of the jobs to be created and/or retained);
3. the training award's expectation as a significant factor in the company's location, investment, and/or expansion decision; and

4. the fiscal impact of the proposed training on state and local governments.

C. Upon determination that an application meets the eligibility criteria for this program and is deemed to be beneficial to the well-being of the state, DED staff will then make a recommendation to the secretary of the Department of Economic Development. The application will then be reviewed and approved by the following entities in the following order:

1. the secretary of the Department of Economic Development;
2. the governor; and
3. the Joint Legislative Committee on the Budget.

D. No funds spent on the project prior to the secretary's approval will be considered eligible project costs.

E. The secretary will issue a letter of commitment to the applicant within five working days of the application approval by the Joint Legislative Committee on the Budget.

F. If any application is rejected by any of the preceding entities, the application shall not be considered by the next succeeding entity unless first reconsidered and approved by the entity which initially rejected the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

### §5017. General Award Provisions

#### A. Award Contract

1. A contract will be executed between DED, the applicant [and/or company(ies)] receiving training and an appropriate monitoring entity from the same geographic area as the applicant. The contract will specify the performance objectives expected of the company(ies) and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time frames for job training and job creation.

2. The monitoring entity will monitor the progress of the training and reimburse the applicant from invoices submitted by the applicant on a form approved by DED.

3. DED will disburse funds from invoices or certificates of work completed.

4. The cost associated with this contract incurred by the monitoring entity will be considered part of the total training award, but will not exceed 5 percent of the award amount or \$10,000, whichever is less.

5. Funds may be used for training programs extending up to two years in duration.

#### B. Use of Funds

1. The Louisiana Workforce Development and Training Program offers financial assistance in the form of a grant for reimbursement of eligible training costs specified in the award agreement.

2. Eligible training costs may include, inter alia, the following:

- a. instruction costs: wages for company trainers and training coordinators, Louisiana public and/or private school tuition, contracts for vendor trainers and training seminars;
- b. travel costs (limited to 30 percent of the total training award): travel for trainers and training coordinators (company and other) and travel for trainees. Travel expenses

reimbursable under this agreement will comply with state travel regulations, PPM 49;

c. materials and supplies costs: training texts and manuals, audio/visual materials, skills assessment (documents or services to determine training needs), raw materials (for manufacturing and new employee on-the-job training); and

d. other costs: facility rental, wages for on-the-job trainees (limited to 25 percent of a trainee's wage, excluding benefits), and fees or service costs incurred by the monitoring entity associated with the contract to monitor the training and to disburse award funds, as limited by §5017.A.3.

3. Training costs ineligible for reimbursement include:

a. trainee fringe benefits;

b. nonconsumable tangible property (e.g., equipment, calculators, furniture, classroom fixtures), unless owned by a public training provider;

c. out-of-state, publicly supported schools;

d. employee handbooks; and

e. scrap produced during training.

4. Training activities eligible for funding consist of:

a. basic skills: literacy, numeracy, problem solving, team participation, etc.;

b. transferable skills: skills which will enhance an employee's general knowledge, employability and flexibility in the workplace (e.g., welding, computer skills, blueprint reading, etc.);

c. company-specific skills: skills which are unique to a company's workplace, equipment and/or capital investment;

d. quality standards skills: skills which are intended to increase the quality of a company's products and/or services and ensure compliance with accepted international and industrial quality standards (e.g., ISO standards); and

e. pedagogical skills: skills which pertain to instructional methods and techniques to be used by trainers (these are most relevant to train-the-trainer activities).

C. Amount of Award

1. New Employee Training. The training award amount may cover up to 100 percent of the eligible training costs, not to exceed \$500,000.

2. Workplace-Based Retraining. The training award amount may cover up to 50 percent of the eligible training costs, not to exceed \$500,000.

D. Conditions for Disbursement of Funds

1. Funds will be available on a reimbursement basis following submission of approved invoices to DED. Funds will not be available for reimbursement until a training agreement between the applicant [and/or company(ies)] receiving the training and an approved training provider has been executed. Only funds spent on the project after the secretary's approval will be considered eligible for reimbursement.

2. A maximum of 50 percent of the training award will be available for reimbursement of eligible costs until the awardee(s) has achieved 75 percent of its contracted performance objectives.

3. Once the awardee(s) has achieved 75 percent of its contracted performance objectives, an additional 25 percent of the grant award will be made available for reimbursement. After the company has achieved 100 percent of its contracted

performance objectives, the remaining 25 percent of the grant award will be made available for reimbursement.

E. Compliance Requirements

1. Contractees shall be required to complete quarterly reports describing progress toward the performance objectives specified in their contract with DED.

2. The termination of employees during the contract period who have received program-funded training shall be for documented cause only, which shall include voluntary termination.

3. In the event a company or sponsoring entity fails to meet its performance objectives specified in its contract with DED, DED shall retain the rights to withhold award funds, to modify the terms and conditions of the award, and to reclaim disbursed funds from the company and/or sponsoring entity in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

4. In the event a company or monitoring entity knowingly files a false statement in its application or in a progress report, the company or monitoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in R.S. 14:133.

5. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company and the monitoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

#### **Title 19**

### **CORPORATIONS AND BUSINESS**

#### **Part VII. Economic Development Corporation**

#### **Subpart 7. Workforce Development and Training Program**

#### **Chapter 81. Workforce Development**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), repealed by the Department of Economic Development, Office of the Secretary, LR 23:

Kevin P. Reilly, Sr.  
Secretary

9708#062

### **DECLARATION OF EMERGENCY**

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

#### **Long-Term Hospital Reimbursement Methodology**

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted the following emergency rule as authorized by R.S. 46:153 and pursuant to Title XIX of the

Social Security Act and as directed by the 1997-98 General Appropriation Act, which states:

"The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including, but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law."

This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B) et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Medicaid Program published reimbursement methodology for hospital services including long-term acute hospitals under specialty hospital peer groups in the June 20, 1994 rule (*Louisiana Register*, Volume 20, Number 6), and subsequently amended the percentile used to establish rates at the lowest blended per diem rate for each specialty hospital category without otherwise changing the methodology (*Louisiana Register*, Volume 22, Number 1). Reimbursement for psychiatric treatment in long-term acute hospitals was later disjoined from the methodology for other types of services to be provided at the same prospective per diem rate established for psychiatric treatment facilities (*Louisiana Register*, Volume 23, Number 2).

The emergency rule alters the percentile at which the components used in calculation of the rate for services other than psychiatric services provided by a long-term hospital are considered. Under this methodology, the per diem rate is set based on the 30th percentile facility in the categories of operating costs, movable equipment, and fixed capital rather than the weighted average. The emergency rule does not otherwise alter the factors considered in setting rates or the calculations performed, nor does it affect criteria for participation, service quality expectations, or reporting requirements.

This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that total savings resulting from implementation of this emergency rule for SFY 1997-1998 will be approximately \$9,234,731.

#### **Emergency Rule**

Effective August 1, 1997, inpatient services, excluding psychiatric services, provided by long-term care hospitals will be reimbursed at a per diem rate based on the 30th percentile facility by cost category as reported on the as-filed cost report for the year ending between July 1, 1995 and June 30, 1996. Cost categories include operating costs, movable equipment, and fixed capital. Costs are trended forward to the midpoint of the rate year using the lowest of the DRI Type Hospital Market Basket Index, the Consumer Price Index—All Urban Consumers, or the Medicare PPS Market Basket Index.

Interested persons may submit written comments to Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, 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 at parish Medicaid offices for review by interested parties.

Bobby P. Jindal  
Secretary

9708#036

## **DECLARATION OF EMERGENCY**

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

**Private Intermediate Care Facility for  
Mentally Retarded Qualifying Loss Review**

The Department of Health and Hospitals, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B) et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing established reimbursement methodology for private ICF-MR facilities (*Louisiana Register*, Volume 15, Number 10). The department has determined it is necessary to amend the rule to incorporate a qualifying loss review process for intermediate care facilities for mentally retarded seeking an adjustment to the per diem rate. This action is necessary to protect the citizens of Louisiana from an imminent peril to their health and welfare that would result if they were unable to continue to receive necessary services in intermediate care facilities for the mentally retarded. It is anticipated that the implementation of this emergency rule will increase expenditures by approximately \$900,000 for fiscal year 1997-98.

#### **Emergency Rule**

Effective August 2, 1997, the Department of Health and Hospitals, Bureau of Health Services Financing establishes a qualifying loss review process for intermediate care facilities for mentally retarded (ICFs/MR) seeking an adjustment to the per diem rate. Qualifying loss in this context refers to that estimated amount by which the facility's cost for the affected rate period exceeds the anticipated Title XIX Medicaid reimbursement. Cost in this context means a facility's cost incurred in providing covered services to Title XIX Medicaid recipients, as calculated in the relevant definitions governing cost reporting.

#### **XI. Qualifying Loss Review Process**

##### **A. Basis for Administrative Review**

1. **Permissible Basis.** Except in cases where the basis for the facility's appeal is limited to a claim that rate-setting methodologies or principles of reimbursement established under the reimbursement plan were incorrectly applied, or that incorrect data or erroneous calculations were used, the department will not award additional reimbursement to a facility unless the facility demonstrates that the estimated reimbursement based on its prospective rate is less than 95 percent of the estimated costs to be incurred by the facility in providing Medicaid services during the period the rate is in effect in compliance with the applicable state and federal laws related to quality and safety standards.

2. **Basis Not Allowable.** The following matters are not subject to a qualifying loss review:

- a. the methodology used to establish the per diem;
- b. the use of audited and/or desk reviews to determine allowable costs;
- c. the economic indicators used in the rate setting methodology;
- d. rate adjustments related to changes in federal or state laws, rules or regulations (e.g., minimum wage adjustments).

**B. Request for Administrative Review.** Any intermediate care facility for the mentally retarded (hereafter referred to as facility) seeking an adjustment to the per diem rate shall submit a written request for administrative review to the director of Institutional Reimbursements (hereafter referred to as director) in the Department of Health and Hospitals (hereafter referred to as department).

1. **Time Frames**

a. Requests for administrative review must be received by DHH within 30 days of either the notification of rate reduction or promulgation of this rule, whichever is later. The receipt of the letter notifying the facility of its rates will be deemed to be five days from the date of the letter.

b. The department shall acknowledge receipt of the written request within 30 days after actual receipt.

c. The director shall notify the facility of his decision within 60 days after receipt of all necessary documentation, including additional documentation or information requested after the initial request is received.

d. If the facility wishes to appeal the director's decision, the appeal request must be received by the Bureau of Appeals within 30 days after receipt of the written decision of the director. The receipt of the decision is deemed to be five days from the date of the decision.

2. **Content of the Request.** The facility shall bear the burden of proof in establishing the facts and circumstances necessary to support a rate adjustment. Any costs that the provider cites as a basis for relief under this provision must be calculable and auditable.

a. **Basis of the Request.** Any facility seeking an adjustment to the per diem rate must specify all of the following:

- 1) the nature of the adjustment sought;
- 2) the amount of the adjustment sought;
- 3) the reasons or factors that the facility believes justify an adjustment.

b. **Financial Analysis.** An analysis demonstrating the extent to which the facility is incurring or expects to incur a qualifying loss shall be provided by the facility unless the basis for review is one of the following:

- 1) the rate setting methodology or criteria for classifying facilities was incorrectly applied; or
- 2) incorrect data or erroneous calculations were used in establishment of the facility's per diem; or
- 3) the facility has incurred additional costs because of a catastrophe.

**C. Basis for Rate Adjustment**

1. **Factors Considered.** The department shall award additional reimbursement to a facility that demonstrates by substantiating evidence that:

- a. the facility will incur a qualifying loss;
- b. the loss will impair a facility's ability to provide services in accordance with state and federal health and safety standards;
- c. the facility has satisfactorily demonstrated that it has taken all appropriate steps to eliminate management practices resulting in unnecessary expenditures; and
- d. the facility has demonstrated that its unreimbursed costs are generated by factors generally not shared by other facilities in the facility's bed size Level of Care (LOC).

2. **Determination to Award Relief.** In determining whether to award additional reimbursement to a facility that has made the showing required, the director shall consider one or more of the factors and may take any of the actions described below:

a. the director shall consider whether the facility has demonstrated that its unreimbursed costs are generated by factors generally not shared by other facilities in the facility's bed size LOC. Such factors may include, but are not limited to, extraordinary circumstances beyond the control of the facility; or

b. the director may consider and may require the facility to provide financial data, including, but not limited to, financial ratio data indicative of the facility's performance quality in particular areas of operations; or

c. the director shall consider whether the facility has taken every reasonable action to contain costs on a facility-wide basis. In making such a determination the director may require the facility to provide audited cost data or other quantitative data and information about actions that the facility has taken to contain costs.

**D. Awarding Relief.** The director shall make notification of the decision to award or not award relief in writing.

1. **Adverse Decision**

a. **Basis**

1) The director may determine that the review request is not within the scope of the purpose for qualifying loss review.

2) The director may determine that the information presented does not support the request for rate adjustment.

b. Adverse decisions may be appealed to the Office of the Secretary, Bureau of Appeals for the Department of Health and Hospitals, P.O. Box 4183, Baton Rouge, Louisiana 70821-4183, within 30 days of receipt of the decision.

2. **Awarding Relief**

a. **Action by Director.** In awarding relief under this provision, the director shall:

1) make any necessary adjustment so as to correctly apply the reimbursement methodology to the facility submitting the appeal; or to correct calculations, data errors, or omissions; or

2) increase the facility's per diem rate by an amount that can reasonably be expected to ensure continuing access to sufficient services of adequate quality for Title XIX Medicaid recipients served by the facility.

b. **Scope of Decisions.** Decisions by the director to recognize omitted, additional or increased costs incurred by

any facility; to adjust the facility rates; or to otherwise award additional reimbursement to any facility shall not result in any change in the bed size LOC per diem for the remaining facilities in the bed size LOC, except the department may adjust the per diem if the facilities receiving adjustment comprises over 10 percent of total utilization for that bed size LOC based on the latest audited and/or desk reviewed cost reports. Should a single facility that is an entity under common ownership or control with another facility or groups of facilities be awarded relief, all facilities under common ownership or control with the facility awarded relief shall be subject to audit and cost settlement up to, but not over, the amount of their rates.

c. **Effective Date.** The effective date of the adjustment shall be the later of:

- 1) the date of occurrence of the rate change upon which the rate appeal is in response; or
- 2) the effective date of this emergency rule.

d. **Limitations.** The director shall not award relief to provider over 95 percent of appellant facility's cost coverage determined by inflationary trending of the year on which rates are based. The rate adjustment shall also be limited to no more than the amount of the rate for the previous rate year. Any facility awarded relief shall be audited and cost settled up to, but not over, the amount of the adjusted rate. Should a single facility that is an entity under common ownership or control with another facility or group of facilities be awarded relief, all facilities under common ownership or control with the facility awarded relief will be subject to audit and cost settlement up to, but not over, the amount of their rates.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, 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.

Bobby P. Jindal  
Secretary

9708#037

## DECLARATION OF EMERGENCY

### Department of Public Safety and Corrections Board of Pardons

Clemency Filing and Processing  
(LAC 22:V.Chapter 1)

Pursuant to the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and R.S. 15:572 et seq., the Board of Pardons, at its meeting of August 5, 1997, adopted the following emergency rules and procedures for processing and filing for clemency (pardon or commutation of sentence to include restoration of parole and/or goodtime). It is specifically provided that rules previously adopted and adhered to, unless included herein, are void.

## Title 22 CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

### Part V. Board of Pardons

#### Chapter 1. Applications

##### §101. General

A. Any completed application will be considered for hearing by the board the first Tuesday of each month. Should the first Tuesday fall on a legal holiday the board will meet the following Tuesday.

B. Applications must be received in the Board of Pardons office by the 15th of the month to be placed on the docket for consideration the following month.

C. Four members of the board shall constitute a quorum for the transaction of business, and all actions of the board shall require the favorable vote of at least four members of the board.

D. Any offender sentenced to death shall submit an application within one year from the date of the direct appeal denial.

E. Any offender sentenced to life may not apply until he has served 15 years from the date of sentence, unless he has sufficient evidence which would have caused him to have been found not guilty.

F. No application will be considered by the board until it deems the application to be complete in accordance with the rules and procedures in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.1 and 15:572.4

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 23:

##### §103. Filing Procedure

###### A. All Applicants

1. Every application must be submitted on the form approved by the Board of Pardons and must contain the following information:

- a. name of applicant;
- b. prison number [Department of Corrections (DOC) number];
- c. date of birth;
- d. race/sex;
- e. education (highest grade completed);
- f. age at time of offense;
- g. present age;
- h. offender class;
- i. place of incarceration, (incarcerated applicant only);
- j. parish of conviction/judicial district/court docket number;
- k. offense(s) charged, convicted of or plead to;
- l. parish where offense(s) committed;
- m. date of sentence;
- n. length of sentence;
- o. time served;
- p. prior parole and/or probation;
- q. when and how parole or probation completed;
- r. prior clemency hearing/recommendation/approval;
- s. reason for requesting clemency;
- t. relief requested and narrative detailing the events surrounding the offense;

u. institutional disciplinary reports (incarcerated applicants only) total disciplinary reports, number within the last 12 months, nature and date of last violation, and custody status.

2. The application shall be signed and dated by applicant and shall contain a prison or mailing address and home address.

3. An application must be completed; if any required information does not apply the response should be "NA".

B. In addition to the information submitted by application, the following required documents must be attached as they apply to each applicant.

1. Incarcerated Applicants. Any applicant presently confined in any institution must attach a current master prison record and time computation/jail credit worksheet and have the signature of a classification officer verifying the conduct of the applicant as set out in §103.A.1.u.

2. Parolees. Applicants presently under parole supervision or who have completed parole supervision must attach a copy of their master prison record or parole certificate.

3. Probationers. Applicants presently under probation supervision or who have completed probationary period must attach a certified copy of sentencing minutes or automatic first offender pardon.

4. First Offender Pardons [R.S. 15:572(B)]. Applicants who have received an Automatic First Offender Pardon must attach a copy of the Automatic First Offender Pardon.

C. No additional information or documents may be submitted until applicant has been notified that he/she will be given a hearing unless applicant has a life sentence and has served less than 15 years and has documentation proving innocence. The Board of Pardons will not be responsible for items submitted prior to notification that a hearing will be granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 23:

#### **§105. Discretionary Powers of the Board**

A. The Board of Pardons at its discretion may deny any applicant a hearing for any of the following reasons: serious nature of the offense; insufficient time served on sentence; insufficient time after release; proximity of parole/good time date; institutional disciplinary reports; probation/parole-unsatisfactory/violated; past criminal record; or any other factor determined by the board. However, nothing in this Chapter shall prevent the board from hearing any case.

B. Any applicant denied under this Chapter shall be notified in writing of the reason(s) for denial and thereafter may file a new application two years from date of the letter of denial. Any applicant with a life sentence denied after August 15, 1997 may reapply six years after the initial denial; three years after the subsequent denial; and every two years thereafter.

C. Any fraudulent documents or information submitted by applicant will result in an automatic denial by the board and no new application will be accepted until four years have elapsed from the date of letter of denial. Any lifer denied

because of fraudulent documents may reapply 10 years from the date of letter of initial denial; seven years if subsequent denial; and six years of denials thereafter.

D. In any matters not specifically covered by these rules, the board shall have discretionary powers to act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 23:

#### **§107. Contact with the Board of Pardons**

A. Contact with the Board of Pardons or any member is prohibited except by appearing/testifying at a public hearing or by written letter addressed to the Board of Pardons.

B. If a board member is improperly contacted, he/she must immediately notify the individual that the contact is illegal. The letter must be accompanied by a copy of R.S. 15:573.1, and the contact must be reported to the other board members.

C. Any prohibited contact after an individual has been informed of the prohibition as provided in §107.B shall be fined not more than \$500 or imprisoned for not more than six months or both.

D. All letters in favor of or opposition to pardon, clemency, or commutation are subject to public inspection. Exceptions to this Section are:

1. letters from any victim of a crime committed by the inmate being considered for pardon, clemency, or commutation of sentence, or any person writing on behalf of the victim;

2. any letters written in opposition to pardon, clemency, or commutation of sentence;

E. All letters written by elected or appointed public officials in favor of or opposition to pardon, clemency, or commutation of sentence received after August 15, 1997 are subject to public inspection and shall be recorded in a central register maintained by the board. The register shall contain, the name of the individual whose pardon, clemency, or commutation of sentence is subject of the letter, the name of the public official who is the author of the letter and the date the letter was received by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 23:

#### **§109. Hearing Granted**

A. After notice to an applicant that a hearing has been granted, the applicant must provide the Board of Pardons office with proof of advertisement within 90 days from the date of notice to grant a hearing. Advertisement must be published in the official journal of the parish where the offense occurred. This ad must state:

"I, (applicant's name), DOC number, have applied for clemency" and must be published for three days within a 30-day period without cost to the Department of Public Safety and Corrections, Corrections Services, Board of Pardons.

B. Applicant may submit additional information, e.g., letters of recommendation and copies of certificates of achievement and employment/residence agreement.

C. All letters in support of applicant's request for clemency are subject to public inspection.

D. All letters in support of and/or opposition to authored by an elected or appointed public official are subject to public inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1063 (December 1990), amended LR 23:

#### **§111. Public Hearing Dates**

A. The board will meet the first Tuesday of each month to determine which applicants will receive a hearing. Should the first Tuesday fall on a legal holiday the board will meet the following Tuesday.

B. The board shall also meet at the discretion of the chairman to act on those applications granted a hearing under §103 when cases have been deemed ready to hear, and to transact such other business as deemed necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.1(C) and 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1063 (December 1990), amended LR 23:

#### **§113. Notice of Public Hearings**

A. After receipt of all documents required by §§103 and 109.A and the clemency investigation from the appropriate probation and parole district, the board shall set the matter for public hearing.

B. At least 30 days prior to public hearing date, the board shall give written notice of the date, time and place to the following:

1. the district attorney and sheriff of the parish in which the applicant was convicted; and, in Orleans Parish, the superintendent of police;

2. the applicant;

3. the victim who has been physically or psychologically injured by the applicant (if convicted of that offense), and the victim's spouse or next of kin, unless the injured victim's spouse or next of kin advises the board, in writing, that such notification is not desired;

4. the spouse or next of kin of a deceased victim when the offender responsible for the death is the applicant (if convicted of that offense), unless the spouse or next of kin advises the board, in writing, that such notification is not desired;

5. the Crime Victims Services Bureau of the Department of Public Safety and Corrections; and

6. any other interested person who notifies the Board of Pardons in writing, giving name and return address.

C. The district attorney, injured victim, spouse or next of kin, and any other persons who desire to do so shall be given a reasonable opportunity to attend the hearing. The district attorney or his representative, victim, victim's family, and a victim advocacy group, may appear before the Board of Pardons by means of telephone communication from the office of the local district attorney.

D. Only three persons in favor, to include the applicant and three in opposition, will be allowed to speak at the

hearing. However, there is no limit on written correspondence in favor of and/or opposition to the applicant's request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4 and 15:574.12(G) and R.S. 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Correction, Board of Pardons, LR 16:1063 (December 1990), amended LR 23:

#### **§115. Denials by Board After Public Hearing**

A. The board shall notify the applicant of the denial. Applicant may submit a new application two years after the date of letter of denial. Any applicant serving life may apply six years after initial denial, three years after subsequent denial and thereafter every two years.

B. The board shall terminate hearing should the applicant become disorderly, threatening or insolent. Any hearing terminated due to applicant's disorderly, threatening or insolent behavior is an automatic denial; and the applicant may re-apply four years from the date of hearing, except those serving life sentence who may reapply 10 years from the date of initial hearing termination, seven years from the subsequent hearing termination and six years from hearing termination thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 23:

#### **§117. Denial—No Action Taken by Governor after Favorable Recommendation**

A. The board shall notify the applicant after its receipt of notification that favorable recommendation was denied or no action was taken by the governor. Applicant may submit a new application two years from the date of the letter of denial or notice of no action.

B. An applicant who has been paroled, released under good time parole supervision, or released from sentence within one year of the date of letter of denial or notice of no action by the governor, may submit a new application three years after the date of release from confinement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 23:

#### **§119. Governor Grants**

The Office of the Governor will notify the applicant if any clemency is granted. Applicant may submit a new application for additional relief four years from the date of granted notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 23:

Interested persons may submit written comments to Sally L. McKissack, Chairman, Board of Pardons, Box 94304, Baton Rouge, LA 70804-9304. Comments will be accepted through the close of business, 4:30 p.m., September 15, 1997.

Sally L. McKissack  
Chairman

9708#087

# DECLARATION OF EMERGENCY

## Department of Public Safety and Corrections Corrections Services

### Juvenile Transfer to Adult Facility (LAC 22:I.335)

The Department of Public Safety and Corrections, Corrections Service, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) in order to implement the provisions of R.S. 15:902.1 and adopts the following emergency rule, effective August 4, 1997.

Emergency rulemaking is necessary as the backlog of juveniles pending assignment to secure state correctional facilities has reached crisis proportions. R.S. 15:902.1 authorizes the transfer of certain adjudicated juvenile delinquents to adult facilities and procedures have been developed to implement such transfers. Implementation of the provisions of the act allows for an immediate reduction in the backlog.

This emergency rule shall remain in effect for 120 days or until a final rule is promulgated, whichever occurs first.

#### TITLE 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part I. Corrections

#### Chapter 3. Adult and Juvenile Services

#### Subchapter A. General

#### §335. Juvenile Transfer to Adult Facility

A. Purpose. To establish the secretary's policy regarding the limited transfer of juvenile offenders 17 years of age or older to adult facilities.

B. To Whom This Regulation Applies. LAC 22:I.335 is applicable to the deputy secretary, assistant secretaries, wardens, and director of the Division of Youth Services of the Department of Public Safety and Corrections.

#### C. Definitions

*Adult*—an individual convicted by a criminal court and sentenced to the custody of the Department of Public Safety and Corrections (DPS&C).

*Disposition*—the written order of the juvenile court, following adjudication, which specifies the court's sentence.

*Juvenile*—an individual who is adjudicated delinquent by a judge exercising juvenile jurisdiction and sentenced to the custody of the DPS&C.

#### D. Policy

1. It is the secretary's policy, in accordance with R.S. 15:902.1, to authorize the limited transfer of juveniles adjudicated delinquent to adult facilities when the juveniles have attained the age of 17 years *and* are otherwise eligible as defined by this regulation.

2. Juvenile offenders who are adjudicated delinquent for an offense that, if committed by an adult, could not result in a sentence at hard labor, are not eligible for transfer.

3. Generally, juvenile offenders will be transferred to one of the following adult facilities:

- a. Adult Reception and Diagnostic Center (ARDC);
- b. Elayn Hunt Correctional Center (EHCC);

- c. Wade Reception and Diagnostic Center (WRDC);
- d. David Wade Correctional Center (DWCC);
- e. Louisiana Correctional Institute for Women (LCIW).

4. Juvenile offenders in adult facilities will not have a parole or diminution of sentence release date.

a. They will only have a "full term date." This date will be either:

- i. their twenty-first birthday;
- ii. their eighteenth birthday if the crime was committed before their thirteenth birthday and it is not a crime enumerated under *Louisiana Children's Code*, Article 897.1;
- iii. the date upon which the juvenile has completed the period of commitment as specified in the judgment of the juvenile court; or
- iv. the date which reflects the maximum term that an adult could receive if sentenced for the same offense, whichever is earlier.

b. If the period of commitment specified by the juvenile court exceeds the twenty-first birthday, the eighteenth birthday under circumstances outlined, or the maximum term for which an adult could be sentenced for the same crime, then the Office of Youth Development and the Headquarters Legal Section should be notified immediately.

5. Absent special statutory or regulatory restrictions to the contrary, juveniles in adult facilities will participate in all work, education, and other rehabilitative programs on the same basis as adults and will be subject to the same classification and disciplinary processes as adults, including custody status determination. Security supervision and security practices will also be the same for juvenile offenders in adult facilities as for adult inmates.

6. Records of juveniles housed in adult facilities shall be confidential and information may not be disclosed to *anyone* except in accordance with department Regulation No. B-03-003, "Access to and Release of Juvenile Offender and Ex-Offender Records", as set forth in LSA-R.S. 15:574.12 and *Louisiana Children's Code*, Article 412.

#### E. Procedures

1. A classification committee will be formed at all juvenile facilities to review offenders for eligibility and suitability for transfer and to make appropriate recommendations to the warden. It will be the responsibility of this committee to review all relevant information.

a. The following variables should be considered by the classification committee when evaluating a juvenile offender for possible transfer to an adult facility:

- i. chronological age of 17 years or older;
- ii. emotional and physical maturity;
- iii. disciplinary history and potential to disrupt juvenile institutional operations;
- iv. potential to benefit from educational programs;
- v. potential to benefit from other programs;
- vi. offenders diagnosed with mental health and/or medical special needs who can be better served in an adult facility;
- vii. offenders who pose a threat to security, i.e. who are considered escape risks, who have exhibited violent behavior, who are committed for serious offense(s), or who have an extensive criminal history;

viii. to accomplish one of the following objectives:

- (a). minimize risk to the public;
- (b). minimize risk to institutional staff;
- (c). minimize risk to other offenders.

b. Disciplinary history may impact the recommendation, but the transfer itself is not a disciplinary sanction or disciplinary activity. The disciplinary committee can refer offenders to the classification committee for review.

2. The warden of each juvenile facility will review the recommendation made by the classification committee and will make the final determination relative to transfer. The secretary and assistant secretaries will be notified of any transfer. In addition, the warden will notify the appropriate juvenile judge, Division of Youth Services Office, the legal guardian, and the classification administrator at ARDC of the proposed transfer.

3. Notification to the classification administrator at ARDC should include pertinent information, e.g., the Juvenile Information Reporting Management System (JIRMS) master record, judicial commitment documents, classification committee report and recommendation, and warden's decision. ARDC PreClass Section will then assign a unique six digit Department of Corrections (DOC) number to each juvenile-in-adult custody, (such number will begin with the numeral seven followed by the juvenile's original JIRMS number), update the CAJUN II information, and establish the adult institutional record prior to transfer (except in emergency cases). The classification administrator will schedule the date of transfer and will notify the appropriate juvenile institution.

4. The sending facility will be responsible for the transportation of the offender to the appropriate receiving institution and will provide all institutional and medical records at the time of transfer in accordance with department Regulation No. B-06-001, "Health Care." The offender's personal funds should be transmitted by check at the time of transfer or as soon as possible thereafter. In addition, the JIRMS transfer screen will be updated to reflect the transfer and will be subsequently utilized for inquiry purposes.

5. Once transferred to an adult facility, a juvenile will not be returned to a secure juvenile facility within the DPS&C. In addition, any subsequent placement in a nonsecure residential juvenile program would generally be considered inappropriate.

6. Initial evaluation to determine appropriate housing while in the reception process should include evaluation of emotional and physical maturity.

7. ARDC, WRDC, or LCIW will conduct a full evaluation in accordance with department regulations and ACA Standards to determine subsequent placement at EHCC or DWCC (or suitable housing assignment at LCIW). The evaluation will include, but is not limited to, the following:

- a. emotional and physical maturity to evaluate the need for assignment to Level 1 or Level 2 protective custody;
- b. review of information previously generated by JRDC, as available;
- c. history of gang affiliation and prior juvenile institutional assignment and security history;
- d. special educational needs or other programming

needs and the appropriateness of assignment to academic and/or vocational programs;

e. medical needs, including substance abuse assessment, and assignment of an appropriate medical level of care;

f. mental health needs with particular emphasis on suicide potential and assignment of an appropriate mental health level of care;

g. consideration of geographical location.

8. Upon completion of evaluation, the Transfer Section at ARDC will schedule transfer to the appropriate permanent facility.

9. The receiving institution will assign housing and provide services as set forth in department regulations and American Correctional Association (ACA) Standards. The records office of the receiving institution will maintain the juvenile institutional record and the adult inmate record and will update the CAJUN database. Upon discharge, all institutional records will be returned to the Juvenile Reception and Diagnostic Center at Jetson Correctional Center for Youth.

10. The adult facility must report the location and condition of the juvenile to the juvenile court every six months (or more frequently if requested). This format may be utilized to make early release recommendations as appropriate.

11. Sex offender notifications are generally not applicable to juvenile offenders housed in adult facilities. Other crime victim notice requirements for juveniles as indicated in department Regulation No. C-01-007, "Crime Victims Services Bureau" are applicable.

12. Visiting lists will be established pursuant to the provisions of department Regulation No. C-03-006, "Inmate Visitation." These transfers are to be considered as new admissions for the purposes of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:902.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 23:

Richard L. Stalder  
Secretary

9708#038

## **DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Office of Fisheries**

**King Mackerel Commercial Closure**

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons; and R.S. 56:317 which provides that the secretary of the department may declare a closed season when it is in the best interest of the state, 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.

Effective 12:01 a.m., August 9, 1997, the commercial fishery for king mackerel in Louisiana waters will close and remain closed until 12:01 a.m., July 1, 1998. Nothing herein shall preclude the legal harvest of king mackerel by legally licensed recreational fishermen. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell king mackerel. Effective with the closure, no person shall possess king mackerel in excess of a daily bag limit. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing king mackerel taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.4.

The secretary has been notified by the Gulf of Mexico Fishery Management Council and the National Marine Fisheries Service that the commercial quota for king mackerel in the western Gulf has been reached, and the season closure is necessary to prevent overfishing of this species.

James H. Jenkins, Jr.  
Secretary

9708#029

**DECLARATION OF EMERGENCY**

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

**Deer Season (Either Sex)—1997-98**

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

A declaration of emergency is necessary to allow for hunting of "either sex" deer. The final rule for the 1997-98 hunting seasons was formally adopted at the July commission meeting with the "either sex" seasons in the below-mentioned areas closed. The commission closed "either sex" hunting in the above described areas in response to HB 1316. This legislation has subsequently been vetoed by Governor Foster and it is in the best interest of deer management to allow "either sex" hunting in these areas. There is not sufficient time to adhere to the Administrative Procedure Act and allow for "either sex" hunting this fall. Dates and other pertinent information shall appear in the 1997-98 Louisiana hunting regulations pamphlet.

**Either Sex Hunting**

"Either sex" hunting in the following areas shall be open:

Parish	Portion Opened	Weapon Type Allowed (Archery, Muzzle-loader, Modern Firearm)	Season Dates
Caldwell	Entire Parish	All weapon types	AREA 1 Nov 22-23 Nov 28-30  AREA 2 Oct 25-26 Nov 28-30
Catahoula	That portion of Representative District 20 designated as Precincts 1-1, 1-2, 2-1, 2-2, 3-1, 3-2, 4-1, 4-2, 5-1, 5-2, 6-1, and 8-1	All weapon types	Nov 22-23 Nov 28-30
Concordia	That portion of Representative District 20 designated as Precincts 5-3 and 5-4	All weapon types	Nov 22-23 Nov 28-30 Dec 6-7 Dec 13-14
Franklin	Entire Parish	All weapon types	Nov 22-23 Nov 28-Dec 3

The aforementioned season dates, bag limits and shooting hours will become effective on October 1, 1997 and extend through sunset on February 2, 1998.

Daniel J. Babin  
Chairman

9708#056

**DECLARATION OF EMERGENCY**

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

**Early Migratory Bird Season—1997-98**

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

A declaration of emergency is necessary because the U.S. Fish and Wildlife Service establishes the framework for all migratory species. In order for Louisiana to provide hunting opportunities to the 200,000 sportsmen, selection of season dates, bag limits, and shooting hours must be established and presented to the U.S. Fish and Wildlife Service immediately.

The below mentioned season dates, bag limits and shooting hours will become effective on September 1, 1997 and extend through sunset on February 28, 1998.

The hunting seasons for early migratory birds during the 1997-98 hunting season shall be as follows:

**MIGRATORY BIRDS OTHER THAN WATERFOWL**

- DOVE: Split Season, Statewide, 70 days  
September 6 - September 14  
October 18 - November 17  
December 13 - January 11  
Daily bag limit 12, possession limit 24
  - TEAL: September 20 - September 28  
Daily bag limit 4, possession limit 8, Blue-winged, Green-winged and Cinnamon teal only. Federal and state waterfowl stamps required.
  - RAILS: Split Season  
September 20 - September 28  
November 8 - January 7
  - KING AND CLAPPER: Daily bag limit 15 in the aggregate, possession 30.
  - SORA AND VIRGINIA: Daily bag and possession 25 in the aggregate.
  - GALLINULES: Split season  
September 20 - September 28  
November 8 - January 7  
Daily bag limit 15, possession limit 30
  - SNIPE: November 8 - February 22  
Daily bag limit 8, possession limit 16
  - WOODCOCK: December 18 - January 31  
Daily bag limit 3, possession 6
- SHOOTING HOURS**  
Teal, Rail, Gallinule, Snipe and Woodcock: one-half hour before sunrise to sunset.  
Dove: one-half hour before sunrise to sunset except noon to sunset on September 6-7, October 18-19, and December 13-14.

Daniel J. Babin  
Chairman

9708#057

**DECLARATION OF EMERGENCY**

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

**Fall Shrimp Season**

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 inside waters, the Wildlife and Fisheries Commission does hereby set the 1997 Fall Inshore Shrimp Season to open as follows:

Zone 1, that portion of Louisiana's inshore waters from the Mississippi State line westward to the eastern shore of South Pass of the Mississippi River; and

Zone 2, that portion of Louisiana's inshore waters from the eastern shore of South Pass of the Mississippi River westward to the western shore of Vermilion Bay and Southwest Pass at Marsh Island; and

Zone 3, that portion of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island westward to the Texas state line.

All to open at official sunrise August 18, 1997.

The commission also hereby sets the closing date for the 1997 Fall Inshore Shrimp Season at official sunset Sunday, December 14, 1997 except in Breton and Chandeleur Sounds in Zone 1, as described in R.S. 56:495.1.A(2), which shall remain open until 6 a.m., April 1, 1998. The commission also grants authority to the secretary of the Department of Wildlife and Fisheries to change the closing date if biological and technical data indicate the need to do so or if enforcement problems develop.

Daniel J. Babin  
Chairman

9708#060

**DECLARATION OF EMERGENCY**

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

**Muzzleloader Season**

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

A declaration of emergency is necessary to close the muzzleloader season in these two areas to avoid conflict with the opening day of the statewide squirrel and rabbit seasons. The commission believes that allowing the muzzleloader season and the statewide squirrel and rabbit seasons to open simultaneously could result in a dangerous situation for hunters going afield on the opening weekend. The final rule for the 1997-98 hunting seasons was formally adopted at the July commission meeting and the hunting pamphlet is currently being printed. As a result, there is insufficient time to adopt this change through the normal process of the Administrative Procedure Act.

The below-mentioned season dates will become effective October 1, 1997 and extend through sunset on February 2, 1998.

**Muzzleloader Season for Areas 3 and 7**

The muzzleloader season in Areas 3 and 7 shall be changed to read as follows:

- Area 3: October 6—October 10  
December 13—December 19
- Area 7: October 6—October 10  
January 19—January 25

Daniel J. Babin  
Chairman

9708#061

**DECLARATION OF EMERGENCY**

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

**Nonresident Fishing License Fees**

In accordance with the emergency provisions of R.S. 49:953(B) and under the authority of R.S. 56:6(28), the Wildlife and Fisheries Commission hereby adopts the following emergency rule.

With the passage of Act 1236 of the 1997 Legislature, effective August 15, 1997, the only valid nonresident licenses available to the public for a period of two to three months will be the nonresident basic fishing license with a fee of \$31, and the nonresident saltwater fishing license with a fee of \$36. This Act repealed the seven-day nonresident basic fishing license and the seven-day nonresident saltwater fishing license; it also deleted the two-day combination basic and saltwater fishing licenses. This Act created a three-day saltwater fishing license with a fee of \$20, and increased the established three-day nonresident basic fishing license from \$10 to \$20. It will take two to three months to have these licenses printed and distributed statewide.

Thus, until it is possible to print and distribute these new three-day nonresident licenses, there is a need to have available nonresident trip fishing licenses. Failure to have such licenses available will serve as a severe inconvenience to the fishing public and will have dire economic impacts on the state from the loss of revenue associated with nonresident recreational fishing activity.

In lieu of a recreational fishing license, nonresidents may purchase one of the following temporary recreational fishing licenses:

1. a three-day basic recreational sport fishing license for a fee of \$10. This three-day license shall be valid for three consecutive days, including the day of issue.
2. a two-day temporary combination basic fishing and saltwater fishing license for a fee of \$23.

Daniel J. Babin  
Chairman

9708#055

**DECLARATION OF EMERGENCY**

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

**Oyster Season—1997-98**

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 967, and under the authority of R.S. 56:433 and R.S. 56:535.1, notice is hereby given that the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby declare:

1. The public oyster seed grounds not currently under lease, Bay Gardene Oyster Seed Reservation, Hackberry Bay, and the Sister Lake Oyster Seed Reservations will open one-half hour before sunrise September 3, 1997.
2. The Bay Junop Oyster Seed Reservation will remain closed for the 1997/98 oyster season.
3. A designated sacking only area east of the Mississippi River will open one-half hour before sunrise on September 3, 1997. The sacking only area of the public grounds is generally Lake Fortuna and Lake Machias to a line from Mozambique Point to Point Gardner to Grace Point at the Mississippi River Gulf Outlet.
4. The secretary of the Department of Wildlife and Fisheries is authorized to take emergency action if necessary, to close areas if oyster mortalities are occurring, or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or where it is found that there are excessive amounts of shell in seed oyster loads.
5. The secretary is authorized to take emergency action to reopen areas previously closed if the threat to the resource subsides.
6. The Calcasieu and Sabine Lake tonging areas will open one-half hour before sunrise on October 16, 1997 and remain open until one-half hour after sunset on April 30, 1998.
7. Notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such action.

Daniel J. Babin  
Chairman

9708#059

**DECLARATION OF EMERGENCY**

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

**Pheasant Season—1997-98**

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

Fisheries Commission hereby adopts the following emergency rule.

A declaration of emergency is necessary to allow for hunting of pheasants during the upcoming season which will begin in November 1997 and there is not sufficient time to meet the requirements of the Administrative Procedure Act.

The following season dates, bag limits and shooting hours will become effective on November 1, 1997 and extend through sunset on February 1, 1998.

PHEASANT SEASON FOR THE 1997-98 HUNTING SEASON	
Date:	Nov. 27 - Jan. 31
Bag Limit:	2 males only
Possession Limit:	4 males only
Shooting Hours:	one-half hour before sunrise to one-half hour after sunset
<b>AREA DESCRIPTION</b> Pheasant season restricted to the following portions of Calcasieu and Cameron parishes: that portion west of Choupique Bayou south of Highway 90 to LA 27, west of LA 27 to north boundary of Sabine NWR, north of Sabine NWR north boundary to Sabine River, east of Sabine River to Intracoastal Waterway, south of Intracoastal Waterway to Gum Cove Road, east of Gum Cove Road to LA 108, north and east of LA 108 from Gum Cove Road to Highway 90, and south of Highway 90 from Vinton to Choupique Bayou.	

Daniel J. Babin  
Chairman

9708#058

#### DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

##### Shrimp Season Closure—Zone 1

In accordance with the emergency provisions of R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons; R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters; and pursuant to a resolution adopted by the Wildlife and Fisheries Commission on May 1, 1997 which authorized the secretary of the Department of Wildlife and Fisheries to close the 1997 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicates the need to do so, the secretary of the Department of Wildlife and Fisheries hereby declares:

The 1997 Spring Inshore Shrimp Season shall be closed in most of Zone 1 at 6 a.m., Monday, July 21, 1997.

Small white shrimp have begun to show up in department samples in portions of Zone 1 and the secretary has determined that a large portion of Zone 1 should be closed to protect these immigrating white shrimp.

The following portions of Zone 1 shall remain open until 6 a.m., Friday, August 1, 1997:

1. Lake Pontchartrain and Middle Ground, not to include any sanctuary or normally closed areas of the lake;
2. Lake Borgne and the Mississippi Sound;
3. Chef Menteur and Rigolets Passes;
4. Mississippi River Gulf Outlet; and
5. the Intracoastal Waterway from the overhead power lines at the Inner Harbor Navigation Canal east to its junction with the Mississippi River Gulf Outlet.

The passes and tributaries of these waterbodies shall be closed.

The open waters of Breton and Chandeleur Sounds as described in the menhaden rule (LAC 76:VII.307.D) shall remain open to shrimping until further notice.

Zone 3, that portion of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island to the Texas State Line, shall also remain open until further notice.

James H. Jenkins, Jr.  
Secretary

9708#005

#### DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

##### Shrimp Season Closure—Zone 3

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons; R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters; and a resolution adopted by the Wildlife and Fisheries Commission on May 1, 1997 which authorized the secretary of the Department of Wildlife and Fisheries to close the 1997 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicates the need to do so, the secretary hereby declares:

The 1997 Spring Inshore Shrimp Season shall be closed in all of Zone 3, of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island west to the Louisiana/Texas State Line, at 6 a.m., Friday, July 25, 1997.

Small white shrimp have begun to show up in shrimp samples taken by department personnel throughout Zone 3. The number of white shrimp is expected to increase substantially over the next few weeks.

James H. Jenkins, Jr.  
Secretary

9708#004

# Rules

## RULE

**Department of Agriculture and Forestry  
Forestry Commission  
and  
Department of Revenue and Taxation  
Tax Commission**

**1997 Timber Stumpage Values  
(LAC 7:XXXIX.101)**

*Editor's Note:* All Agriculture and Forestry rules, found at LAC, Title 7, will be renumbered during the next few months, so that each Part (I through XLIII) will begin with a Chapter 1 and continue with sequential chapters (through Chapter 99), as needed. A revised *Louisiana Administrative Code*, Title 7, is scheduled for publication during Fall, 1997. As shown below, the *Louisiana Register* is promulgating all Title 7 emergency, proposed, and final rules under the new numbering system.

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue and Taxation, Tax Commission amends rules regarding the value of timber stumpage for calendar year 1997. These rules comply with and are enabled by R.S. 47:633.

### Title 7

#### AGRICULTURE AND ANIMALS

##### Part XXXIX. Forestry

##### Chapter 1. Timber Stumpage

##### §101. Stumpage Values

The Louisiana Forestry Commission, and the Louisiana Tax Commission, as required by R.S. 47:633, determined the following timber stumpage values based on current average stumpage market values to be used for severance tax computations for 1997:

1. Pine Trees and Timber	\$ 348.00/MBF	\$ 43.50/Ton
2. Hardwood Trees and Timber	\$ 188.58/MBF	\$ 19.85/Ton
3. Pine Chip and Saw	\$ 88.80/Cord	\$ 32.89/Ton
4. Pine Pulpwood	\$ 23.95/Cord	\$ 8.87/Ton
5. Hardwood Pulpwood	\$ 15.05/Cord	\$ 5.28/Ton

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

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 4:9 (January 1978), amended LR 5:7 (January 1979), LR 6:728 (December 1980), LR 7:627 (December 1981), LR 8:651 (December 1982), LR 9:848 (December 1983), LR 10:1038 (December 1984), LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission, LR 12:819 (December 1986), LR 13:432 (August 1987), LR 14:9 (January 1988), LR 15:5 (January 1989), LR 16:16 (January 1990), LR 17:476 (May 1991), LR 18:6 (January 1992), LR 19:611 (May 1993), LR 20:408 (April 1994), LR

21:930 (September 1995), LR 21:1069 (October 1995), amended by the Louisiana Forestry Commission and Louisiana Tax Commission, LR 22:581 (July 1996), LR 23:943 (August 1997).

Billy Weaver, Chairman  
Forestry Commission

Malcolm Price, Chairman  
Tax Commission

9708#039

## RULE

**Department of Agriculture and Forestry  
Office of Animal Health Services  
Livestock Sanitary Board**

**Equine Infectious Anemia and Livestock Auction  
Market Requirements (LAC 7:XXI.Chapter 5)**

*Editor's Note:* All Agriculture and Forestry rules, found at LAC, Title 7, will be renumbered during the next few months, so that each Part (I through XLIII) will begin with a Chapter 1 and continue with sequential chapters (through Chapter 99), as needed. A revised *Louisiana Administrative Code*, Title 7, is scheduled for publication during Fall, 1997. As shown below, the *Louisiana Register* is promulgating all Title 7 emergency, proposed, and final rules under the new numbering system.

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Livestock Sanitary Board has adopted LAC 7:XXI.Chapter 5.

These rules will govern the Equine Infectious Anemia control program whereby the Livestock Sanitary Board identifies and controls equine that are infected with Equine Infectious Anemia and removes infected equine from the population in order to prevent the spread of Equine Infectious Anemia.

These rules comply with the statutory law administered by the Livestock Sanitary Board, R.S. 3:2091-2222, including R.S. 3:2093(1), the enabling legislation.

A preamble to the rules is contained in §513 ("Statement of Purpose") of the rules.

### Title 7

#### AGRICULTURE AND ANIMALS

##### Part XXI. Diseases of Animals

##### Chapter 5. Equine

##### §511. Definitions

Wherever in these EIA rules and regulations the masculine is used, it includes the feminine and vice versa; wherever the singular is used, it includes the plural and vice versa.

*Approved EIA Testing Laboratory*—a laboratory which is authorized by the board to conduct the EIA test analysis on equine blood samples.

*Board*—the Louisiana State Livestock Sanitary Board.