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This public document was published at a total cost of \$1,895.55. Nine hundred, seventy-five copies of this public document were published in this monthly printing at a cost of \$3,895.55. The total cost of all printings of this document including reprints is \$1,895.55. 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. 981-987. 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.

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Executive Orders

EXECUTIVE ORDER MJF 97-20

Bond Allocation—Public Facilities 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 Louisiana Public Facilities Authority has requested an allocation from the 1997 Ceiling to be used in connection with providing funds for the purchase of student loans which bear interest rates at approximately 1 percent below the rates established by the United States Department of Education and which (1) are made (a) to residents of the state of Louisiana attending a post-secondary school located within or without the state, or (b) to an out-of-state resident attending a post-secondary school located within the state; (2) are guaranteed; (3) are "eligible student loans" within the meaning of the Higher Education Act of 1965 (hereafter "the Higher Education Act"); and (4) meet certain additional requirements under financing documents (hereafter "the Student Loan Program"). "Eligible student loans" include consolidation loans and other loans which are guaranteed and meet all the requirements of the Higher Education Act and applicable financing documents;

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
\$43,500,000	Louisiana Public Facilities Authority	Student Loan Revenue Bonds

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 through the end of 1997, provided that

such bonds are delivered to the initial purchasers thereof on or before July 9, 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 10th day April, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9705#010

EXECUTIVE ORDER MJF 97-21

School Based Health Clinic Task Force

WHEREAS, Executive Order MJF 96-74, signed on December 16, 1996, created and established within the Executive Department, Office of the Governor, the School Based Health Clinic Task Force (hereafter "Task Force") and ordered it to submit two reports to the Governor by specified dates;

WHEREAS, the dates specified for submitting the reports to the Governor were amended by Executive Order 97-13, signed on February 25, 1997; and

WHEREAS, it is once again necessary to change the dates on which the task force shall submit its reports to the governor on the progress and/or fulfillment of its primary and secondary objectives and duties;

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: Section 4 of Executive Order MJF 96-74 and Section 1 of Executive Order MJF 97-13 are amended to provide as follows:

The task force shall prepare and submit a report to the governor on the progress and/or fulfillment of its primary objectives and duties, no later than June 30, 1997, and on the progress and/or fulfillment of its secondary objectives and duties, no later than August 15, 1997.

SECTION 2: All other Sections and Subsections of Executive Order MJF 96-74 and 97-13 shall remain in full force and effect.

SECTION 3: The provisions of this order are 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 6th day May, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9705#069

Emergency Rules

DECLARATION OF EMERGENCY

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

Equine Infectious Anemia and Livestock
Auction Market (LAC 7:XXI.11765 and 11766)

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 Department of Agriculture and Forestry, Livestock Sanitary Board finds that this emergency rule setting forth the equine infectious anemia eradication program is required so that the eradication program can continue uninterrupted. The board has been advised of allegations that legal defects exist in the present equine infectious anemia eradication program. The board has further been advised that in the event the alleged legal defects are found to exist, the equine infectious anemia eradication program could be interrupted. The resultant interruption in the equine infectious anemia eradication program would cause imminent peril to public health, safety, and welfare of the citizens of this state in the that a major disease eradication program would be compromised. Out of an abundance of caution and in order to insure that the equine infectious anemia eradication program remains in place and uninterrupted pending final adoption of this rule through the normal promulgation process, the board declares an emergency to exist and adopts by emergency process the attached rule setting forth the equine infectious anemia eradication program. The effective date of this emergency rule is June 17, 1997, and it shall be in effect for 120 days or until an appropriate final rule takes effect through the normal adoption and promulgation process, whichever occurs first.

This declaration of emergency and adoption of rule by emergency process is in accordance with and under the authority of the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), R.S. 3:2093, and R.S. 3:2095.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

§11765. Equine Infectious Anemia and Livestock Auction Market

A. Identification. Beginning February 1, 1994, all equine prior to an official test for Equine Infectious Anemia (EIA) shall be individually and permanently identified by one of the following means:

1. implanted electronic identification transponder with individual number;
2. individual lip tattoo;
3. individual hot brand or freeze brand.

B. Equine Required to be Tested

1.a. All equine moving into the state of Louisiana for any purpose other than immediate slaughter, shall be accompanied by a record of a negative official test for EIA, conducted within the past 12 months.

b. The official test shall be conducted by an approved laboratory.

c. The name of the laboratory, the case number, and the date of the official test shall appear on the health certificate, as required in LAC 7:XXI.11761.

2.a. All equine moving within the state to fairs, livestock shows, breeders association sales, rodeos, racetracks, or to any other concentration point, shall be accompanied by an official record of a negative official test for EIA, conducted within the past 12 months.

b. The official test shall be conducted by an approved laboratory and the name of the laboratory, the case number, and the date of the test shall appear on the official record of the test.

3.a. All equine sold or purchased in Louisiana shall have been officially tested negative for EIA within six months of the date of the sale or shall be officially tested negative for EIA at the time of sale or purchase.

b. The official test shall be conducted at an approved laboratory.

c. The official test record shall accompany the horse at the time of the sale or purchase and the name of the laboratory, the case number, and the date of the test shall appear on the official record of the test.

4.a. All equine offered for sale at Louisiana livestock auction markets must be accompanied by an official record of a negative official test for EIA conducted by an approved laboratory within six months of the date of the sale, except as provided in this Subsection hereof.

b. Exceptions are untested equine arriving at a Louisiana livestock auction market shall have a blood sample drawn for official EIA testing.

i. A fee of no more than \$18 shall be collected from the seller and paid to the testing veterinarian by the auction market.

ii. The buyer of the equine shall be charged a \$5 identification fee which will be collected by the auction market before the equine leaves the auction market. This fee will be forwarded to the Louisiana Department of Agriculture and Forestry.

iii. After the blood sample is obtained and the fee paid, untested horses may move to the purchaser's premises under a quarantine issued by Louisiana Livestock Sanitary board personnel until results of the official tests are received.

iv. The seller of any equine whose gross proceeds from the sale are less than \$50 will not be required to pay the fee for an official EIA test.

v. If no veterinarian is available for official EIA testing of equine at a Louisiana livestock auction market, the testing shall be done by Louisiana Livestock Sanitary Board personnel.

c. Authorized buyers for approved slaughter establishments may request that any equine they have purchased at a Louisiana livestock auction market be restricted to slaughter.

i. After the request, such equine shall be branded with the letter "S" on the left shoulder prior to leaving the auction market and shall be issued a VS Form 1-27 permit.

ii. The branding and permit issuing shall be done by Louisiana Livestock Sanitary Board personnel.

5. All equine domiciled within the state of Louisiana shall be maintained with a negative current official test for Equine Infectious Anemia.

a. A negative current official test is a written result of a test conducted by an approved laboratory where said official test was performed not more than 12 months earlier.

b. An equine is domiciled within the state when the equine has been pastured, stabled, housed, or kept in any fashion in the state more than 30 consecutive days.

c. Written proof of a negative current official test shall be made available in the form of negative results from an approved laboratory upon request by an authorized representative of the Louisiana Livestock Sanitary Board.

C. Identification and Quarantining of Equine Positive to the Official EIA Test

1.a. With the exception of the equine stabled at a racetrack regulated by the Louisiana State Racing Commission, all equine testing positive to the official test for EIA shall be quarantined to the owners premises and shall be destroyed or sold for immediate slaughter within 20 days of the date of the official test for EIA.

i. If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian.

ii. If sold for slaughter, the equine shall be accompanied by a VS Form 1-27 permit issued by Louisiana Livestock Sanitary Board personnel from the owner's premises to an approved Louisiana livestock auction market or to an approved slaughter facility.

b. The owner or trainer of all equine stabled at a racetrack regulated by the Louisiana State Racing Commission testing positive to an official EIA test shall be notified immediately by the testing veterinarian, or by racetrack officials, or by Louisiana Livestock Sanitary Board personnel and the equine testing positive shall be removed from the racetrack premises immediately.

c. Exceptions are:

i. Upon request by the owner, any female equine testing positive to the official test for EIA that is at least 270 days pregnant or has a nursing foal no more than 120 days of age at her side may be quarantined to the owner's premises and kept at least 200 yards away from any other equine.

(a). The female equine shall be identified with a "72A" brand at least 3 inches in height on the left shoulder.

(b). The female equine may remain in quarantine until her foal dies or reaches an age of 120 days at which time

the female equine shall be destroyed or sold for immediate slaughter within 20 days.

(i). If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian.

(ii). If sold for slaughter, the female equine shall be accompanied by a VS Form 1-27 permit issued by Louisiana Livestock Sanitary Board personnel from the owner's premises to an approved Louisiana livestock auction market or to an approved slaughter facility.

(c). Any foal kept in quarantine with its EIA positive dam shall be officially tested for EIA no later than 90 days after it is weaned.

ii. Any equine testing positive to the official EIA test prior to the effective date of this regulation may be quarantined to the owner's premises and kept at least 200 yards away from any other equine.

(a). This equine shall be identified with a "72A" brand at least 3 inches in height on the left shoulder.

(b). If the EIA positive equine is sold, it must be sold for slaughter and a VS Form 1-27 permit must be issued by Livestock Sanitary Board personnel to move the EIA positive equine from the owner's premises to slaughter.

(c). If the EIA positive equine is destroyed or dies, verification of said destruction or death by written and signed statement must be furnished to the office of the state veterinarian.

iii. Any EIA positive equine found in violation of this quarantine shall be required to be sold for slaughter or destroyed within 20 days.

2. All equine stabled at a racetrack regulated by the Louisiana State Racing Commission, testing positive to the official EIA test and immediately removed from the racetrack shall be quarantine to the premises to which they are moved and shall be destroyed or sold for immediate slaughter within 20 days of the date of the official test for EIA.

a. If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian.

b. If sold for slaughter, the equine shall be accompanied by a VS Form 1-27 permit issued by Louisiana Livestock Sanitary Board personnel from the owner's premises to an approved Louisiana livestock auction market or to an approved slaughter facility.

3. With the exception of the equine stabled at a racetrack regulated by the Louisiana State Racing Commission, the following shall be quarantined and officially tested for EIA no sooner than 30 days after the positive equine has been removed:

a. all equine on the same premises as an equine testing positive to the official EIA test;

b. all equine on all premises within 200 yards of the premises of the equine testing positive to the official EIA test; and

c. all equine which have been on these aforementioned premises within the past 30 days at the time the equine which is positive to the official EIA test was tested.

4. All equine stabled at a racetrack regulated by the Louisiana State Racing Commission which are stabled in the

same barn or in a directly adjacent barn of an equine which tests positive to the official EIA test shall be quarantined until the positive equine is removed and all other horses in the aforementioned barns are tested negative to the official EIA test.

5.a. Equine which are required to be officially tested for EIA as a result of being quarantined due to the circumstances described in §11765.C.3 and 4 of this Section may be tested by an accredited veterinarian chosen by the owner or by a state employed veterinarian if requested by the owner of the quarantined equine.

b. In the event that the official testing for EIA is done by a state employed veterinarian, the official record (VS Form 10-11) will not be made available to the owner.

6. Equine positive to the official test for EIA:

a. shall be identified with a "72A" brand on the left shoulder at least 3 inches in height, by Louisiana Livestock Sanitary Board personnel;

b. will be retested prior to identification by branding upon request by the owner, by Louisiana Livestock Sanitary Board personnel and the blood sample submitted to the Louisiana Veterinary Medical Diagnostic Laboratory for confirmation.

D. Collection and Submission of Blood Samples

1.a. All blood samples for official EIA testing must be drawn by an accredited veterinarian and submitted to either an approved laboratory or the Louisiana Veterinary Medical Diagnostic Laboratory as provided herein.

b. The seller of any equine which sells at a Louisiana livestock auction market in which the gross proceeds from the sale are less than \$50 may request that the blood sample be drawn by Louisiana Livestock Sanitary Board personnel.

2.a. Blood samples for official EIA testing shall be accompanied by a VS Form 10-11, Equine Infectious Anemia Laboratory Test Report, with completed information as to the equine owner's name, address, telephone number, and permanent individual identification of the equine.

b. The VS Form 10-11 shall be considered the official record for all official EIA tests conducted in Louisiana.

3. Only serum samples in sterile tubes shall be accepted for testing.

4. Blood samples drawn for EIA testing at Louisiana livestock auction markets and blood samples drawn for EIA testing by Louisiana Livestock Sanitary Board personnel shall be submitted to the Louisiana Veterinary Medical Diagnostic Laboratory for testing.

E. Testing of Blood Samples Collected

1. Only laboratories approved by the United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services, shall be authorized to conduct the official test for EIA in Louisiana and such laboratories must also receive approval by the Louisiana Livestock Sanitary Board.

2. Approved laboratories shall submit the original (white copy) of each VS Form 10-11 at the end of each week to the Louisiana Livestock Sanitary Board office.

3. Approved laboratories may charge a fee to the accredited veterinarian for conducting the official test.

F. Requirements for a Permit for the Operation of an Equine Quarantine Holding Area

1. Any buyer desiring to operate an equine quarantine holding area must file an application for approval of the facility on forms to be provided by the Louisiana Livestock Sanitary Board.

2. The facility to be operated as an equine quarantine holding area, must have an area where equine testing positive to the official EIA test and/or "S" branded horses are kept and where such horses are separated by at least 440 yards from all other horses.

3. The facility must be approved by the Louisiana Livestock Sanitary Board in an inspection of the premises prior to the issuance of the permit.

4. The buyer desiring to operate an equine quarantine holding area, must agree, in writing, to comply with the rules and regulations of the Louisiana Livestock Sanitary Board.

5. No other equine except equine consigned for slaughter, shall be kept in an equine quarantine holding area.

6. No equine shall be kept in the equine quarantine holding area longer than 60 days.

7. All permits must be renewed annually.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 11:243 (March 1955), amended LR 11:615 (June 1955), LR 14:223 (April 1988), LR 14:697 (October 1988), LR 20:406 (April 1994), LR 20:1257 (November 1994), LR 23:

§11766. Equine Infectious Anemia Testing Laboratory

A. No person shall operate an Equine Infectious Anemia testing laboratory without first obtaining approval from the Louisiana Livestock Sanitary Board.

B. Conditions for Approving an Equine Infectious Anemia Testing Laboratory

1. The person must submit an application for approval to the office of the state veterinarian.

2. An inspection of the facility must be made by someone representing the office of the state veterinarian and who shall submit a report to the Louisiana Livestock Sanitary Board indicating whether or not the person applying for an Equine Infectious Anemia testing laboratory approval has the facilities and equipment which are called for in Veterinary Service Memorandum 555.8.

3. The applicant must agree, in writing, to operate the laboratory in conformity with the requirements of the regulation and Veterinary Service Memorandum 555.8.

4. The applicant must show the board that there is a need for the laboratory.

5. If the application is approved by the Louisiana Livestock Sanitary Board, the applicant will proceed with training, examination, and United States Department of Agriculture laboratory visitation.

6. Laboratory check test results shall be provided to the state veterinarian for final approval.

7. All Equine Infectious Anemia testing laboratories which have been approved by the United States Department of Agriculture, prior to the adoption of this regulation, shall

be automatically approved at the time this regulation goes into effect.

C. Conditions for Maintaining Equine Infectious Anemia Testing Laboratory Approval

1. Laboratories must maintain a work log clearly identifying each individual sample and tests results, which must be available for inspection, for a period of 18 months from the date of the test.

2. Laboratories must maintain on file and make available for inspection, a copy of all submitting forms for a period of 18 months.

3. Laboratories must continually meet all the requirements of Veterinary Services Memorandum 555.8.

4. Samples shall be periodically collected and laboratories periodically inspected without prior notification.

5. Laboratories shall report, immediately, by telephone or telephonic facsimile, all positive results to the official test for EIA to the state veterinarian's office.

6. The state veterinarian shall renew the approval in January of each year, as long as laboratories maintain the standards required by this regulation and Veterinary Services Memorandum 555.8.

D. Cancellation of Equine Infectious Anemia Testing Laboratory Approval. An Equine Infectious Anemia testing laboratory may have its approval canceled if the Louisiana Livestock Sanitary Board finds, at a public hearing, that the laboratory has failed to meet the requirements of this regulation or has falsified its records or reports.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 14:698 (October 1988), amended LR 20:408 (April 1994), LR 23:

Maxwell Lea, Jr.
Executive Secretary

9705#053

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.11776)**

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 immediate 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 May 9, 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

§11776. 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 an official reactor tag in the left ear 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 an official reactor tag in the left ear 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 an official reactor tag in the left ear 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 an official reactor tag in the left ear 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:

§11777. Operation of Livestock Auction Markets

All swine which are sold or offered for sale in livestock auction markets must meet the general requirements of

LAC 7:XXI.11709 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 LAC 7:XXI.11709; and

2. All swine over 6 months of age, being sold at Louisiana livestock auction markets must be identified by an official swine backtag, placed on the animals's forehead and an official metal eartag.

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

9705#052

DECLARATION OF EMERGENCY

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

Sanitary Disposal of Dead Poultry
(LAC 7:XXI.Chapter 117)

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 Department of Agriculture and Forestry, Livestock Sanitary Board finds that this emergency rule, setting forth the regulations governing the sanitary disposal of dead poultry, is necessary for the health and safety of the citizens of Louisiana. The board has discovered that certain Subsections of §11771 of the Livestock Sanitary Board regulations which outline the approved methods for the sanitary disposal of dead poultry were deleted through a

clerical error which occurred during an amendment of that Section in August, 1994. The lack of approved methods of sanitary disposal of dead poultry, and the resultant disposal of dead poultry through unapproved methods would cause imminent peril to public health, safety, and welfare of the citizens of this state in that other, unsanitary, disposal methods may be employed and could result in a health crisis in Louisiana. In order to insure that noted methods of sanitary disposal of dead poultry remains in place and uninterrupted pending final adoption of this rule through the normal promulgation process, the board declares an emergency to exist and adopts by emergency process the following emergency rule. The effective date of this emergency rule is June 17, 1997, and it shall remain in effect for 120 days or until the final rule takes effect through the normal adoption and promulgation process, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board

§11701. Definitions

* * *

Digester—a specially designed water tight system which is buried in the ground below the frost line and has the ability and strength to hold liquid, without leakage or seepage, and is used to dispose of dead poultry through use of bacteria.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985), amended LR 12:289 (May 1986), LR 12:498 (August 1986), LR 14:217 (April 1988), LR 15:811 (October 1989), LR 16:391 (May 1990), LR 17:29 (January 1991), LR 18:840 (August 1992), LR 23:

Subchapter D. Poultry

§11771. Sanitary Disposal of Dead Poultry

A. All commercial poultry producers are required to obtain a certificate of approval. Failure to obtain a certificate shall be considered a violation of this regulation. Certificates of approval are continuous, but subject to review and cancellation should the poultry producer fail to dispose of dead poultry in accordance with this regulation.

B. Approved Methods. Dead poultry must be removed from the presence of the live poultry without delay. The carcasses, parts of carcasses and offal must be held in covered containers until disposal is made by one of the approved methods. In no instance, however, will the storage of dead poultry be allowed to create sanitary problems. Commercial poultry producers shall be required to dispose of dead poultry by one of the following methods:

1. Disposal pits shall be constructed in a manner and design capable of providing a method of disposal of dead poultry to prevent the spread of diseases. The design and construction must be approved by an authorized representative of the Livestock Sanitary Board.

a. Effective January 1, 1993, no disposal pits will be approved.

b. Disposal pits that are currently in use will be allowed to operate until January 1, 1995.

2. Incinerators. Incinerators shall be constructed in a manner and design capable of providing a method of disposal of dead poultry to prevent the spread of diseases. The design and construction must be approved by an authorized representative of the Livestock Sanitary Board.

3. Rendering Plant. Dead poultry, parts of carcasses and poultry offal may be transported in covered containers to approved rendering plants. Poultry carcasses may be held on the premises of commercial poultry producers as long as the storage does not create a sanitary problem. All such methods of storage and transportation of dead poultry to approved rendering plants must be approved by an authorized representative of the Livestock Sanitary Board.

4. Composting. The design, construction, and use of compost units must be approved by an authorized representative of the Livestock Sanitary Board.

5. Digesters. Poultry digesters may be used if the following conditions are met:

a. The design, construction, location, and use of digesters must be approved by an authorized representative of the Livestock Sanitary Board.

b. The bacteria being used in the digester must be approved by an authorized representative of the Livestock Sanitary Board.

c. The digester must be maintained according to recommendations of an authorized representative of the Livestock Sanitary Board.

C. In the event of the death of more than 1 percent of broilers or 0.5 percent of pullets or breeders over 4 weeks of age on the same premises within a 24-hour period of time, the death of which is not known to be caused by a contagious or infectious disease, the dead poultry may be disposed of by on-site burial. The state veterinarian's office must be notified immediately by telephone or facsimile in the event of excessive mortality requiring on-site burial.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985), LR 17:874 (September, 1991), amended LR 18:1355 (December 1992), LR 20:550 (August, 1994), LR 23:

Maxwell Lea, Jr.
State Veterinarian

9705#044

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Alternative Livestock—Imported Exotic
Deer and Antelope, Elk, and Farm-Raised
White-Tailed Deer (LAC 7:XXI.11793-11798)

In accordance with the Administrative Procedure Act, specifically R.S. 49:953(B), and R.S. 3:3101, the

commissioner of Agriculture and Forestry finds that this emergency rule regulating the slaughter and sale of imported exotic deer and antelope, elk and farm-raised white-tailed deer for commercial purposes in the state of Louisiana is necessary to prevent imminent peril to the health, safety and welfare of the citizens of Louisiana.

Without regulations in place, diseased or contaminated animals may be brought into the state of Louisiana or slaughtered and sold as food to be consumed by Louisiana citizens. Louisiana is certified by the United States Department of Agriculture (USDA) as a tuberculosis- and brucellosis-free state. The introduction of any imported exotic deer and antelope, elk and farm-raised white-tailed deer infected with either of these diseases will subject Louisiana cattle and other livestock to infection. Any infection of cattle or other livestock will cause the owner of such livestock to lose the commercial value of such animals. In addition, introduction of these diseases into the state will jeopardize Louisiana's certifications from the USDA. The loss of the commercial value of infected livestock, as well as the loss of USDA certification, will cause a substantial adverse economic impact on the agricultural economy of this state.

For these reasons, the commissioner of Agriculture and Forestry has determined that this emergency rule is necessary in order to immediately regulate the raising, slaughtering and sale of imported exotic deer and antelope, elk and farm-raised white-tailed deer for commercial purposes in the state of Louisiana.

This emergency rule becomes effective April 22, 1997. It shall remain in effect 120 days or until the final rule becomes effective, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board

Subchapter K. Alternative Livestock—Imported Exotic Deer and Antelope, Elk, and Farm-Raised White-Tailed Deer

§11793. Scope

A. Statement of Purpose

1. The purpose of these Subchapter K Rules and Regulations is to protect the industry related to wild native and domesticated species against infringement by overpopulation and disease from non-native species of animal.

2. Additionally, these regulations augment and support the legislation authorizing the Louisiana Department of Agriculture and Forestry to administer and enforce the laws dealing with the production, raising, slaughtering, sale, and transfer of certain native and non-native wild species which are farm-raised.

B. Definitions

Alternative Livestock—farm-raised animal species and farm-raised avian species which are normally found in the wild in substantial populations.

Commerce/Commercial—the buying, selling, trading, or transferring ownership of a commodity from one person to another.

Elk—any animals of the species and genus *Cervus canadensis*.

Farm-Raised—any animal and avian species including but not limited to imported exotic deer and antelope, elk, and white-tailed deer which is bred, born, raised, and/or kept within a closed circumscribed fenced premise for the purpose of buying, selling, or trading in commerce. This definition does not include animal and avian species which are part of a zoo, game park or wildlife exhibit where the purpose of the same is the exhibition of animals.

Identify/Identification—the implantation of an electronic transponder, also known as a microchip, which has a unique alpha-numeric code which can be detected and displayed by an appropriate scanner, into the subcutaneous tissue at the base of the left ear of any imported exotic deer or antelope, elk, or farm-raised white-tailed deer.

Imported Exotic Deer and Antelope—any animal of the family *Cervidae*, including but not limited to red deer, seika deer and fallow deer, which are not indigenous to North America.

Livestock—cattle, sheep, swine, goats, horses, mules, burros, asses and alternative livestock of all ages including but not limited to ratites and *Cervidae* when maintained under farm-raised circumstances.

Quarantine—the secure and physical isolation of an animal or animals in a specified confined area to prevent the spread of a contagious disease.

White-Tailed Deer—any animal of the species and genus *Odocoileus virginianus*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§11794. Obligations of the Owner

A. Any person who operates a farm for the purpose of raising, slaughtering, selling, and/or trading of imported exotic deer and antelope, elk, or farm-raised white-tailed deer for commercial purposes shall obtain a license from the Louisiana Department of Agriculture and Forestry before engaging in such activity.

B. A person may apply for a license to operate a farm for the purpose of raising, slaughtering selling and/or trading of imported exotic deer, antelope, elk, or white-tailed deer for commercial purposes if said person is the owner of at least one pregnant female or one male and one female of the same species.

C. Each applicant for a license to operate a farm shall:

1. submit a written application. The written application shall contain the following:

- a. name of the applicant;
- b. mailing address of the applicant;
- c. telephone number of the applicant;
- d. physical location of the premise;
- e. the size of the premise;
- f. the specie(s) of animals to be kept on the premise
- g. the approximate number of animals to be kept on

the premise; and

h. a plan for recapture of any animals that escapes;

2. submit to an inspection of the premises by Louisiana Department of Agriculture and Forestry personnel to verify the following requirements:

- a. the premise is located in a rural area;
- b. adequate shelter and water is available for the number of animals to be located there;
- c. the area of the premise for elk and white-tailed deer is at least 5000 square feet for the first animal and 2500 square feet for each subsequent animal if the total area of the premise is less than five acres;
- d. the fences meet the following specifications:
 - i. minimum height of 7 feet;
 - ii. minimum gauge wire is 12½;
 - iii. the fencing material is chain link, woven wire, solid panel, or welded panel:
 - (a). welded wire fences are not acceptable unless approved by the Louisiana Department of Wildlife and Fisheries prior to the effective date of these regulations;
 - (b). any previously approved welded wire fences that are replaced must be replaced with a type listed in Paragraph 2.d.i - iii;

- e. premises have sufficient drainage to prevent extended periods of standing water;
- 3. pay a license fee of \$50.

D. License

- 1. A license shall be valid for one calendar year, from January 1 through December 31.
- 2. A license can be renewed each year upon written request for renewal and submission of a renewal fee of \$50 to the Louisiana Department of Agriculture and Forestry.
- 3. Written requests for renewal and renewal fees received after January 31 will be rejected and the license deemed expired as of December 31.

E. Records

- 1. Each licensee shall maintain records of all sales, trades, purchases, or transfers of any type for at least 24 months.
- 2. These records shall include:
 - a. the total number of animals, or the parts thereof, killed, sold, or transported;
 - b. the complete name and address of the person to whom the animals were sold or transported;
 - c. the permanent identification number of the animal; and
 - d. copies of any health certificates issued.
- 3. These records shall be made available to representatives of the Louisiana Department of Agriculture and Forestry upon request.

F. Sellers or transferors of alternative livestock shall furnish the purchaser or transferee with a bill of sale or letter of transfer as verification of farm-raised status.

G. All imported exotic deer and antelope, elk and farm-raised white-tailed deer in Louisiana shall be identified by means of an implanted electronic device (microchip). The microchip shall be implanted under the skin at the base of the left ear.

H. All imported exotic deer and antelope, elk, and farm-raised white-tailed deer, prior to entering Louisiana, shall be permanently and individually identified by means of an implanted electronic device (microchip) which shall be:

- 1. listed on the Certificate of Veterinary Inspection; and
- 2. implanted under the skin at the base of the left ear.

I. Hunting

1. Any person who owns or leases a premise on which imported exotic deer and antelope, elk, and/or farm-raised white-tailed deer are located or any person who engages in business with said person where said animals are bought, sold, or traded in commerce by means of hunting shall abide by all laws, rules, and regulations of the Louisiana Department of Wildlife and Fisheries that pertain to hunting.

2. In the event that there are *Cervidae* species for which species the Louisiana Department of Wildlife and Fisheries has no applicable laws, rules or regulations pertaining to hunting then, in the event, the Louisiana Department of Agriculture and Forestry may establish rules for the hunting of those species.

J. Hunting Fee

1. Any person who owns or leases a premise on which imported exotic deer and antelope, elk, and/or farm-raised white-tailed deer are located or are to be located where said animals are or are to be bought, sold, or traded in commerce by means of hunting shall pay a fee of \$500 per white-tailed deer contained on said premise before any imported exotic deer and antelope, elk, or farm-raised white-tailed deer are introduced onto the premise.

2. The fee shall be paid to the Louisiana Department of Agriculture and Forestry and be forwarded to the Louisiana Department of Wildlife and Fisheries within 30 days of receipt.

3. The number of white-tailed deer for which compensation is due shall be determined by the population of white-tailed deer per acre as estimated by the Louisiana Department of Wildlife and Fisheries for the parish in which the premise is located.

K. All imported exotic deer and antelope, elk, and farm-raised white-tailed deer entering Louisiana must meet the general requirements of LAC 7:XXI.11705.

L. Import Requirements

1. All imported exotic deer and antelope, elk, and farm-raised white-tailed deer entering Louisiana shall be accompanied by a Certificate of Veterinary Inspection (health certificate) including an entry permit number which:

- a. is issued by the state veterinarian's office no more than 15 days before entry into Louisiana; and
- b. shall be included on the Certificate of Veterinary Inspection.

2. Imported exotic deer and antelope consigned directly to an approved slaughter establishment are exempt from §11794.L.

M. Brucellosis Testing

1. Prior to entering Louisiana all imported exotic deer and antelope, elk, and farm-raised white-tailed deer moving into Louisiana shall be tested for brucellosis in accordance with the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* when published by USDA, APHIS.

2. Until such time as the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* is published, all imported exotic deer and antelope, elk, and farm-raised white-tailed deer 6 months of age and older shall be tested negative for brucellosis within 30 days of entry into Louisiana unless they originate from a herd which has been officially declared as a certified brucellosis free herd by the state of origin.

N. Tuberculosis Testing. Prior to entering Louisiana all imported exotic deer and antelope, elk, and farm-raised white-tailed deer moving into Louisiana shall be tested for tuberculosis in accordance with the *Tuberculosis Eradication in Cervidae Uniform Methods and Rules* as published by USDA, APHIS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§11795. Prohibitions

A. No imported exotic deer or antelope, elk, or farm-raised white-tailed deer shall be released into the wild without written permission from both the Louisiana Department of Agriculture and Forestry and the Louisiana Department of Wildlife and Fisheries.

B. Alternative Livestock Meat

1. White-tailed deer meat shall not be bought, sold, traded, or moved in commerce in any way.

2. Elk meat shall not be bought, sold, traded, or moved in commerce without written approval from the Louisiana Department of Agriculture and Forestry.

3. Imported exotic deer and antelope meat shall be subject to and handled in accordance with state and federal meat inspection laws and regulations.

C. It is a violation of this regulation to sell, purchase or otherwise transfer any imported exotic deer and antelope, elk, or farm-raised white-tailed deer for any purpose other than immediate slaughter, unless said animal(s) originates from a herd which is not under quarantine for brucellosis and/or tuberculosis.

D. Failure to comply with any mandatory provisions of these Subchapter K Regulations or an order of quarantine is prohibited and each such act or omission shall constitute a violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§11796. Exceptions

A. Licensed Game Breeder

1. Any person holding a valid game breeders license issued by the Louisiana Department of Wildlife and Fisheries for the possession of imported exotic deer and antelope, elk, and/or farm-raised white-tailed deer at the time these Subchapter K Regulations become effective who makes written application for a license from the Louisiana Department of Agriculture and Forestry, as stated in §11794.C will have the initial license fee of \$50 waived if the application is made within the same calendar year as these regulations become effective.

2. This license shall be valid until the end of the calendar year in which it is issued at which time normal renewal procedures and fees will be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§11797. Other

A. The owner or leasee of any premise from which imported exotic deer or antelope, elk, or farm-raised white-tailed deer are bought, sold, or traded in commerce by means of hunting may apply to the Louisiana Department of Agriculture and Forestry for removal, by hunting, of additional white-tailed deer over and above the number allowed by hunting regulations if:

1. said owner or leasee participates in the Louisiana Department of Wildlife and Fisheries Deer Management Assistance Program; and

2. such application is accompanied by a favorable recommendation from a Louisiana Department of Wildlife and Fisheries biologist.

B. The additional removal of white-tailed deer shall be done during the regular hunting season established by Louisiana Department of Wildlife and Fisheries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

§11798. Enforcement and Penalties

A. Enforcement

1. Any imported exotic deer or antelope, elk or farm-raised white-tailed deer which has been exposed to brucellosis and/or tuberculosis shall be quarantined and tested for the diseases to which it has been exposed within 60 days of the date of the quarantine.

2. Authorized representatives of the Louisiana Department of Agriculture and Forestry may inspect all premises on which imported exotic deer and antelope, elk and farm-raised white-tailed deer are located for the purposes of issuing and/or reviewing licenses and to insure that fencing, space, and other premise conditions meet regulation standards.

3. Authorized representatives of the Louisiana Department of Agriculture and Forestry may inspect any records dealing with purchases sales or any transfer of ownership of imported exotic deer and antelope elk and farm-raised white-tailed deer. These records may be inspected during any reasonable hours.

4. Any exotic deer or antelope, elk or farm-raised white-tailed deer which escapes the premise on which it is located and is not captured within 96 hours of the escape may be captured by authorized representatives of the Louisiana Department of Agriculture and Forestry by whatever means deemed necessary by that agency.

B. Penalties

1. The penalty for a violation of Subchapter K, Alternative Livestock Rules and Regulations, shall be a fine of up to \$100 for each violation.

2. With regard to continuing violations, whether acts or omissions, each day a violation occurs or continues shall be a separate violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

Bob Odom
Commissioner

9705#005

DECLARATION OF EMERGENCY

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

Mentally Retarded/Developmentally Disabled Waiver

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted 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. 49:950 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 administers four Home and Community Based Services Waiver Programs. Participation in each home and community based services waiver is limited to a specific number of participants based on the approval of the waiver application by the Health Care Financing Administration. The bureau adopted an emergency rule, effective July 13, 1995, not to fill vacated slots in the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver Program except in certain specified circumstances (*Louisiana Register*, Volume 21, Number 7). Another emergency rule was adopted, effective October 10, 1995, that allowed vacated slots in the MR/DD waiver to be filled in accordance with the methodology utilized prior to July 13, 1995 except that the number of slots to be filled could not exceed the total number of filled slots as of September 1, 1995 (*Louisiana Register*, Volume 21, Number 10). The bureau has now determined that it is necessary to adopt regulations governing the MR/DD Waiver Program to:

1. terminate the previous restrictions placed on the assignment of vacated waiver slots;
2. establish methodology for the assignment of slots vacated by discharged waiver participants and the 342 previously unoccupied slots; and
3. clarify policies on admission and discharge criteria, mandatory reporting requirements and the effective date that Medicaid reimbursement for waiver services shall begin.

The eligibility criteria for the MR/DD Waiver Program shall remain unchanged. The total number of slots assigned shall not exceed the maximum number of slots approved by the Health Care Financing Administration. A previous emergency rule was published in the *Louisiana Register*, (Volume 22, Number 10) which continued the above provisions in force.

The following emergency rule is necessary to preserve the health and welfare of individuals on the MR/DD waiver waiting list by assuring them an opportunity to make application for Medicaid eligibility and waiver services.

Emergency Rule

Effective May 31, 1997, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following regulations governing the MR/DD Waiver Program to:

1. terminate the previous restrictions placed on the assignment of vacated waiver slots;
2. establish methodology for the assignment of slots;
3. clarify admission and discharge criteria, mandatory reporting requirements and the effective date that Medicaid reimbursement for waiver services shall begin.

The total number of slots assigned shall not exceed the maximum number of slots approved by the Health Care Financing Administration. The assignment of vacated and previously unoccupied waiver slots; admission and discharge criteria; mandatory reporting requirements and the effective date for Medicaid reimbursement for waiver services to begin shall be determined in accordance with the following guidelines.

Programmatic Allocation of Waiver Slots

The waiting list shall be used to protect the individual's right to be evaluated for waiver eligibility. The Office for Citizens with Developmental Disabilities (OCDD) shall notify the next individual on the waiting list in writing that a slot is available and that they are next in line to be evaluated for possible waiver slot assignment. A copy of the notification letter shall be forwarded to the regional Health Standards Office. The individual then chooses a case manager who will assist in the gathering of the documents needed for both the financial and medical certification eligibility process. If the individual is determined to be ineligible either financially or medically, that individual is notified in writing and a copy of the notice is forwarded to the regional OCDD office. The next person on the waiting list is notified as stated above and the process continues until an eligible person is encountered. A waiver slot is assigned to an individual when eligibility is established and the individual is certified. Utilizing these procedures, waiver slots shall be allocated to the targeted groups cited below as follows:

1. When a currently certified participant is discharged from the waiver, the vacated slot shall be available for allocation to the next person on the MR/DD Waiver waiting list who successfully completes the financial and medical certification eligibility process and is certified for the waiver.
2. A minimum of 40 slots shall continue to be available for allocation to foster children in the custody of the Office of

Community Services (OCS) who successfully complete the financial and medical certification eligibility process and are certified for the waiver. OCS is the parent for those children who have been placed in their custody by court order. OCS shall be responsible for assisting the individual to gather the documents needed in the eligibility determination process; preparing the comprehensive plan of care; and submitting the plan of care document to the Health Standards Section.

3. A maximum of 80 slots shall be available for allocation to the next 80 persons on the MR/DD Waiver waiting list who successfully complete the financial and medical certification eligibility process and are certified for the waiver.

4. A maximum of 160 slots shall be available for allocation to current residents of the Pinecrest Development Center who successfully complete the financial and medical certification eligibility process and are certified for the waiver.

5. A maximum of 78 slots shall be available for allocation to current residents of public community homes who successfully complete the financial and medical certification eligibility process and are certified for the waiver.

6. Waiver slots shall no longer be reserved for use as emergency slots nor shall emergency slots be assigned.

Waiver Admission Criteria

Admission to the MR/DD Waiver Program shall be determined in accordance with the following criteria:

1. initial and continued Medicaid eligibility as determined by the parish BHSF Office;
2. initial and continued eligibility for an ICF-MR level of care as determined by the BHSF Health Standards Office in consultation with the OCDD Office;
3. the plan of care must provide justification that the waiver services are appropriate, cost effective in the aggregate and represent the least restrictive treatment alternative for the individual; and
4. assurance that the health and safety of the individual can be maintained in the community with the provision of reasonable amounts of waiver services as determined by the BHSF Health Standards Office.

Waiver Discharge Criteria

Participants shall be discharged from the MR/DD Waiver Program if one of the following criteria is met:

1. loss of Medicaid eligibility as determined by the parish BHSF Office;
2. loss of eligibility for an ICF-MR level of care as determined by the BHSF Health Standards Office in consultation with the OCDD Office;
3. incarceration or placement under the jurisdiction of penal authorities, courts or state juvenile authorities;
4. change of residence to another state with the intent to become a resident of that state;
5. admission to an ICF-MR facility or nursing facility;
6. the health and welfare of the waiver participant cannot be assured in the community through the provision of reasonable amounts of waiver services as determined by the

BHSF Health Standards Office, i.e., the waiver participant presents a danger to himself or others;

7. failure to cooperate in either the eligibility determination process or the performance of the care plan; or

8. continuity of services is interrupted as a result of the participant not receiving waiver services during a period of 14 or more consecutive days. This does not include interruptions in services because of hospitalization.

Mandatory Reporting Requirements

Case managers and waiver service providers are obligated to report changes that could affect the waiver participant's eligibility, including but not limited to those changes cited in the discharge criteria, to either the parish BHSF Office or the BHSF Health Standards Office within five working days. In addition, case managers and waiver service providers are responsible for documenting the occurrence of incidents or accidents that affect the health, safety and/or well-being of the waiver participant and completing an incident report. The incident report shall be submitted to the BHSF Health Standards Office within five working days of the incident.

Reimbursement of Waiver Services

Medicaid reimbursement for the provision of waiver services shall become effective on the date that the plan of care is approved by BHSF Health Standards.

Bobby P. Jindal
Secretary

9705#051

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

Liquefied Petroleum Gas as a
Refrigerant (LAC 55:IX.183)

The Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt an emergency rule, effective April 24, 1997, for 120 days or until a final rule takes effect through the normal promulgation process, whichever occurs first.

Emergency rule action is necessary to avoid an imminent peril to the public health, safety or welfare by using, selling or distributing a refrigerant containing liquefied petroleum gas for use in mobile air conditioning systems. Failure to adopt the rule on an emergency basis can result in greater exposure to the public health, safety or welfare should a leak develop in a mobile air conditioning system, in which liquefied petroleum gas has been used as a refrigerant.

**Title 55
PUBLIC SAFETY**

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

**Subchapter J. Use of Liquefied Petroleum Gas
Limited**

**§183. Use of Liquefied Petroleum Gas as a Refrigerant
Prohibited**

No person, firm, or corporation shall use, sell, or distribute a refrigerant containing liquefied petroleum gas for use in mobile air conditioning systems. Mobile air conditioning system means mechanical vapor compression equipment which is used to cool the driver's or passengers' compartment of any motor vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Liquefied Petroleum Gas Commission, LR 23:

Charles M. Fuller
Director

9705#011

DECLARATION OF EMERGENCY

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

**Food Stamps—Disqualification of Certain
Recipients/Applicants (LAC 67:III.1988)**

The Department of Social Services, Office of Family Support has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Food Stamp Program, effective May 1, 1997. It is necessary to extend emergency rulemaking since the declaration of emergency of January 1, 1997 was effective for a maximum of 120 days, and will expire before the final rule takes effect.

Pursuant to Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, a change in Food Stamp policy will permanently disqualify an individual convicted of a felony involving the use of a controlled substance. This emergency rule is necessary to effect this mandated regulation and to avoid sanctions or penalties which could be imposed by delaying implementation.

**Title 67
SOCIAL SERVICES**

**Part III. Office of Family Support
Subpart 3. Food Stamps**

Chapter 19. Certification of Eligible Households

**Subchapter J. Determining Household Eligibility and
Benefit Levels**

§1988. Eligibility Disqualification of Certain Recipients

* * *

B. Effective January 1, 1997, an individual convicted under federal or state law of any offense which is classified as

a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance [as defined in Section 102(6) of the Controlled Substances Act 21 U.S.C. 802 (6)] shall be permanently disqualified from receiving food stamps. This shall not apply to convictions occurring on or before August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), LR 23:

Madlyn Bagneris
Secretary

9705#013

DECLARATION OF EMERGENCY

**Department of Treasury
Board of Trustees of the State Employees Group
Benefits Program**

Plan Document—Infertility Exclusion

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to adopt amendments to the Plan Document of Benefits.

This emergency rule shall become effective May 1, 1997, and shall remain effective for a maximum of 120 days or until promulgation of the final rule, whichever occurs first.

The board finds that it is necessary to amend the Plan Document to clarify provisions related to the exclusion of benefits for treatment of infertility. Failure to adopt these amendments on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which are crucial to the delivery of vital services to the citizens of the state. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Subsection S of Article 3, Section VIII, of the Plan Document to read as follows:

VIII. Exceptions and Exclusions for All Medical Benefits

No benefits are provided under this contract for:

* * *

S. Artificial organ implants, penile implants, transplantation of other than Homo sapiens (human) organs, and any expense for treatment, subsequent to initial diagnosis, of infertility and complications thereof, including, but not limited to, services, drugs, and procedures or devices to achieve fertility; in-vitro fertilization, low tubal transfer,

artificial insemination, intracytoplasmic sperm injection, embryo transfer, gamete transfer, zygote transfer, surrogate parenting, donor semen, donor eggs, and reversal of sterilization procedures;

James R. Plaisance
Executive Director

9705#012

7. nutritional or parenteral therapy;
8. vitamins and minerals; and
9. drugs available over the counter.

* * *

James R. Plaisance
Executive Director

9705#033

DECLARATION OF EMERGENCY

**Department of Treasury
Board of Trustees of the State Employees Group
Benefits Program**

**Plan Document—Prescription
Drug Exclusions and Limitations**

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to adopt amendments to the Plan Document of Benefits.

This emergency rule shall become effective on May 1, 1997, and shall remain effective for a maximum of 120 days or until promulgation of the final rule, whichever occurs first.

The board finds that it is necessary to amend the Plan Document to restrict benefits for amphetamines to diagnoses of Attention Deficit Disorder or Narcolepsy, and to exclude benefits for smoking deterrents. Failure to adopt these amendments on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which are crucial to the delivery of vital services to the citizens of the state. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Article 3, Section VIII, Subsection W to read as follows:

VIII. Exceptions and Exclusions for All Medical Benefits
No benefits are provided under this contract for:

* * *

W. The following drugs, medicines, and related services:

1. appetite suppressant drugs;
2. dietary supplements;
3. topical forms of Minoxidil;
4. Retin-A dispensed for covered persons over age 26;
5. amphetamines dispensed for diagnoses other than Attention Deficit Disorder or Narcolepsy;
6. nicotine, gum, patches, or other products, services, or programs intended to assist an individual to reduce or cease smoking or other use of tobacco products;

DECLARATION OF EMERGENCY

**Department of Treasury
Board of Trustees of the State Employees Group
Benefits Program**

**Plan Document—Prescription
Drug Exclusions and Limitations (Serostim)**

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to amend the Plan Document of Benefits.

This emergency rule is effective on May 17, 1997, and shall remain effective for a maximum of 120 days or until promulgation of the final rule, whichever occurs first.

The board finds that it is necessary to amend the Plan Document to restrict benefits for Serostim, a new recombinant human growth hormone, to treatment of AIDS wasting. Failure to amend these rules on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which are crucial to the delivery of vital services to the citizens of the state. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Article 3, Section VIII, Subsection W to read as follows:

VIII. Exceptions and Exclusions For All Medical Benefits
No benefits are provided under this contract for:

* * *

W. The following drugs, medicines, and related services:

1. appetite suppressant drugs;
2. dietary supplements;
3. topical forms of Minoxidil;
4. Retin-A dispensed for covered persons over age 26;
5. amphetamines dispensed for diagnoses other than Attention Deficit Disorder or Narcolepsy;
6. nicotine, gum, patches, or other products, services, or programs intended to assist an individual to reduce or cease smoking or other use of tobacco products;
7. nutritional or parenteral therapy;
8. vitamins and minerals;
9. drugs available over the counter; and

10. Serostim dispensed for any diagnoses or therapeutic purposes other than AIDS wasting;

James R. Plaisance
Executive Director

9705#032

DECLARATION OF EMERGENCY

Department of Treasury Board of Trustees of the State Employees' Retirement System

Election of Trustees (LAC 58:I.Chapters 3 and 5)

Pursuant to the authority granted by R.S. 11:515 vesting the Board of Trustees with the responsibility for administration of the Louisiana State Employees' Retirement System (LASERS) and granting the power to adopt and promulgate rules with respect thereto, the board of trustees and the executive director hereby invoke the emergency rule provisions of R.S. 49:953(B), amending the rules regarding the election of trustees.

The board finds it necessary to amend these rules to effect an orderly transition to new election procedures. Failure to adopt these emergency rules could impair the ability to elect representatives of employees and retirees of this state to the board of trustees. The rule becomes effective on May 8, 1997 and shall remain in effect 120 days or until adopted through the normal promulgation process, whichever comes first.

Title 58

RETIREMENT

Part I. Louisiana State Employees' Retirement System (LASERS)

Chapter 3. Election of Active Member Trustees

§301. General Schedule of Elections

A. Elections for active member trustees shall be held in years ending with an odd number. Three active member trustees shall be chosen in each election and shall serve a four-year term.

B. The schedule for elections shall be as follows.

1. second Tuesday in June: nominations shall be opened.

2. second Tuesday in July: nominations shall be closed. All nominating petitions must be received by the close of business (4:30 p.m. Central Daylight Savings Time).

3. Friday following second Tuesday in July: a drawing to determine candidate positions on a ballot shall be held.

4. second Friday in September: the final day that information on candidates and ballots may be mailed.

5. fourth Friday in October: all ballots or electronic votes must be received by the close of business (4:30 p.m. Central Standard Time).

6. Wednesday following fourth Friday in October: all ballots and electronic votes shall be tallied and verified.

7. regular November meeting: the board shall be presented with the certified ballot count, and if it is accepted, shall authorize publication of results.

8. regular December meeting: newly elected members receive orientation; oaths shall be taken prior to the following January meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:

§ 303. Election Rules

A. An active member candidate for a position on the board of trustees must be an active member of the system with at least 10 years of credited service (excluding any military service credit) as of the second Tuesday in July, the date on which nominations close. The board of trustees shall accept the name and Social Security number of every candidate nominated by petition of 25 or more active members of the system and shall place the name of such candidates on the ballot, provided each such candidate meets the requirements for trustee. The petitioning members' signatures must be accompanied by their Social Security numbers. The petition should contain all of the information which the candidate wishes to be included in the election brochure.

B. The three candidates who receive the most votes shall be declared successful candidates and presented to the board.

C. There shall be a drawing at 11 a.m. on the Friday following the second Tuesday in July, in the Retirement Systems Building, 8401 United Plaza Boulevard, Baton Rouge, LA, to determine the position each candidate shall have on the ballot or election brochure. All candidates may attend or send a representative to the drawing.

D. Ballots or election brochures shall be distributed or mailed by the second Friday in September. Every active contributing member appearing on the June monthly retirement reports shall receive a ballot or election brochure for voting. Participants in the DROP program shall vote in the active member's election and shall have ballots or election brochures mailed to their homes.

E. If electronic voting methods are utilized, members shall follow the instructions on the election brochure for registering their votes. Votes shall be confidential. Ballots or electronic votes received after the close of business on the fourth Friday in October (4:30 p.m. Central Standard Time) or postmarked after that date shall be rejected. Ballots must be returned to the address set forth in the instructions on the election brochure.

F. All valid ballots shall be tallied on Wednesday following the fourth Friday in October. Envelopes, valid ballots and electronic information displaying individual votes shall be destroyed after the results of the election have been promulgated by the board of trustees.

G. Ties affecting elected positions shall be decided by a coin toss held by the executive director in the presence of the candidates affected or the representative they designate.

H. The executive director shall submit a written report of the election results to the board of trustees no later than the regular November meeting of the board of trustees.

I. Upon receipt of the results of the election, the board of trustees shall promulgate the election and notify the successful candidates of their election and the secretary of state timely, so as to allow the candidates sufficient time to take and file the oath of office with the secretary of state within the time specified by law.

J. Active members cannot solicit employees of LASERS to participate in their campaigns, and LASERS' employees cannot participate, or give assistance to any member who is running for election or reelection to the board. Active member candidates shall not solicit or have contact with any vendor or employee of a vendor who is providing LASERS with products or services related to elections of the LASERS Board of Trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:

§ 305. Vacancies; Special Elections

A. The board shall appoint a member to fill any active member vacancy created on the board. The appointee shall possess the necessary qualifications under R.S. 11:511 for the active member position, and shall be the member who garnered the next-highest vote in the previous election, if that member is willing to serve and the appointment does not violate law or these regulations.

B. The appointment shall be valid only until January 1 of the year following the next election.

C. When the unexpired term for the vacancy is greater than two years, a special election shall be held to fill the vacancy simultaneous with the election ordinarily held in odd number years. The ballot for the special election may be the same as that used in the regular election. Candidates for four-year terms may not also be candidates to complete unexpired terms.

D. The deadlines and procedures for special elections shall be identical to those for elections normally held in years ending with odd numbers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511, R.S. 11:512 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:

Chapter 5. Election of Retired Member Trustees

§ 501. General Schedule of Elections

A. Beginning in 1995 and continuing thereafter every four years, two retired member trustees shall be chosen in an election and shall serve a four-year term. Beginning in 1997 and continuing thereafter every four years, a single retired trustee shall be chosen in an election and shall serve a four-year term.

B. The schedule for elections shall be as follows:

1. second Tuesday in June: nominations shall be opened.

2. second Tuesday in July: nominations shall be closed. All nominating petitions must be received by the close of business (4:30 p.m.).

3. Friday following second Tuesday in July: a drawing to determine candidate positions on a ballot shall be held.

4. second Friday in September: the final day that information on candidates and ballots may be mailed.

5. fourth Friday in October: all ballots or electronic votes must be received by the close of business (4:30 p.m. Central Standard Time).

6. Wednesday following fourth Friday in October: all ballots and electronic votes shall be tallied and verified.

7. regular November meeting: the board shall accept the certified ballot count and shall authorize publication of results.

8. regular December meeting: newly elected members receive orientation; oaths shall be taken prior to the following January meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:

§ 503. Election Rules

A. A candidate for a position of retired member trustee on the board of trustees must be a retired member of the system who has been on retired status (not including retired status under the Deferred Retirement Option Plan) for at least two years by the date on which nominations close. The board of trustees shall accept the name and Social Security number of every candidate nominated by petition of 25 or more retired members of the system and shall place the name of such candidates on the ballot, provided each such candidate meets the requirements for trustee. The petitioning retired members' signatures must be accompanied by their Social Security numbers. All nominations for the board of trustees election must be in the office of the retirement system no later than the second Tuesday in July, close of business (4:30 p.m. Central Daylight Savings Time).

B. For purposes of this Chapter, the term "retired member" shall not include any person still employed by the state but treated as retired under the Deferred Retirement Option Plan.

C. There shall be a drawing on the Friday following the second Tuesday in July at 11 a.m. Central Daylight Savings Time in the Retirement Systems Building, 8401 United Plaza Boulevard, Baton Rouge, LA to determine the position each candidate shall have on the ballot or election brochure. All candidates may attend or send a representative to the drawing.

D. Ballots or election brochures shall be distributed to each retired member by the second Friday in September. Every retiree member appearing on the June retiree master list shall receive a ballot or election brochure for voting.

E. Each retiree may vote for two candidates during the election when two retiree members are up for election, but may only vote for one candidate during the election where only one retiree member is up for election. Those envelopes received as postmarked or date-stamped shall be placed in a ballot file for counting. If electronic voting methods are utilized, members shall follow the instructions on the election brochure for registering their votes.

F. Ballots or electronic votes received after the close of business on the fourth Friday in October (4:30 p.m. Central Standard Time) or postmarked after that date shall be rejected.

Ballots must be returned to the address set forth in the instructions on the election brochure.

G. All valid ballots or electronic votes shall be tallied on the Wednesday following the fourth Friday in October. Envelopes and valid ballots shall be destroyed after the results of the election have been promulgated by the board of trustees.

H. Tie votes shall be decided by a coin toss held by the executive director in the presence of the candidates affected or the representative they designate.

I. The executive director shall submit a written report of the election results to the board of trustees no later than the regular November meeting of the board of trustees.

J. Upon receipt of the results of the election, the board of trustees shall promulgate the election and notify the successful candidates of their election and also notify the secretary of state in order that the candidates may take their oath of office and file it with the secretary of state within the time specified by law.

K. Retiree candidates cannot solicit employees of LASERS to participate in their campaigns, and LASERS' employees cannot participate, or give assistance to any retiree candidate who is running for election or reelection to the board. Retiree candidates shall not solicit or have contact with any vendor or employee of a vendor who is providing LASERS with products or services related to elections of the LASERS Board of Trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:

§ 507. Vacancies; Special Elections

A. The executive board of the retired state employees association shall appoint a member to fill any retired member vacancy created on the board. The appointee shall possess the necessary qualifications under R.S. 11:511 for the retired member position.

B. The appointment shall be valid only until January 1 of the year following the next election.

C. When the unexpired term for the vacancy is greater than two years, a special election shall be held to fill the vacancy simultaneous with the election ordinarily held in odd number years. The ballot for the special election may be the same as that used in the regular election.

D. The deadlines and procedures for special elections shall be identical to those for elections normally held in years ending with odd numbers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511, R.S. 11:512 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:

James O. Wood
Executive Director

9705#042

DECLARATION OF EMERGENCY

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

Freshwater Mussel Harvest (LAC 76:VII.161)

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, and R.S. 56:450, which allows the secretary to promulgate rules and regulations for the harvest of freshwater mussels, the secretary of the Department of Wildlife and Fisheries hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule. This emergency rule shall be effective 12:01 a.m., May 20, 1997, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

The secretary promulgates the emergency rule to allow resident buyers to import mussel shells of species and sizes legal in Louisiana, in order to compete with the national shell industry. The emergency rule will help alleviate financial hardships of mussel harvesters who must currently harvest and sell freshwater mussels on the same day. The provisions of the emergency rule will allow harvesters to store sacked and tagged mussels in a cold storage facility for up to a five-day period prior to sale. The emergency rule also reduces daily notification requirements if the harvester remains in one location on a weekly basis.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing

§161. Freshwater Mussel Harvest

*** * ***

D. Species for Harvest

1. Only the following taxa may be legally harvested:

washboard	<i>Magaloniaias nervosa</i>
pimpleback	<i>Quadrula spp.</i>
three ridge	<i>Amblema plicata</i>
bleufer	<i>Potamilus (Proptera) purpuratus</i>
Asian clam	<i>Corbicula fluminea</i>

2. Only specimens equal to or larger than the following minimum sizes shall be harvested:

washboard	4 inches
three ridge and bleufer	3 inches
pimpleback	2 3/4 inches
Asian clam	no size limit

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

- a. name;
- b. harvester permit number;
- c. date harvested;
- d. harvest location;
- e. confirmation number.

4. The mussel harvester may store mussels harvested at the end of each day in a cold storage facility prior to selling, provided the sacked mussels are properly tagged. Mussels shall not be stored longer than five days or after official sunset on Friday of each week.

5. The zebra mussel (*Dreissena polymorpha*), an introduced nuisance aquatic species, has the potential to severely clog industrial and public water intakes, deplete nutrients and consume huge amounts of dissolved oxygen in state water bodies, and potentially decimate endemic freshwater mussel populations. Therefore, the Department of Wildlife and Fisheries strongly encourages actions to prevent the spread of zebra mussels.

G. Reporting

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

H. Special Restrictions

5. Mussel shells (opened without meat) may be imported into Louisiana by properly licensed and permitted mussel buyers when accompanied by the appropriate licenses or permits, bills of lading, and proof of legality in the state of origin. The bill of lading shall include species of mussels contained in the shipment, pounds of mussels by species, the origin of the shipment, the destination of the shipment and the consignee and consignor. The buyer importing mussel shells into Louisiana must notify the Enforcement Division (toll-free 1-800-442-2511) within 24 hours prior to shipment with bill

of lading information, date and time of shipment, and route to be taken to the point of destination.

6. All mussels possessed under provisions of Subsection H.5 of this Section must be of legal size and species open to harvest in Louisiana.

7. Except under the provisions of Subsection H.5 and 6 of this Section, no mussels harvested from waters outside of Louisiana may be sold in Louisiana.

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

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

James H. Jenkins, Jr.
Secretary

9705#020

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Black Bass—John K. Kelly-Grand
Bayou Reservoir (LAC 76:VII.149)

The Wildlife and Fisheries Commission does hereby exercise emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 49:967(D), and pursuant to its authority under R.S. 56:6(25)(a), 325(C), and 326.3, adopts an emergency rule as set forth below. This emergency rule is necessary because the current black bass regulations on John K. Kelly-Grand Bayou Reservoir will expire on May 31, 1997. Department biologists needed to collect Spring 1997 fisheries data before submitting a management proposal to the commission.

This declaration of emergency shall become effective June 1, 1997 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing §149. Black Bass Regulations-Daily Take and Size Limits

B. In addition, the commission establishes special size and daily take regulations for black bass on the following water bodies:

2. Lake Bartholomew (Morehouse and Ouachita Parishes), Black Bayou Lake (Bossier Parish), Chicot Lake (Evangeline Parish), Cross Lake (Caddo Parish), John K. Kelly-Grand Bayou Reservoir (Red River Parish), Lake Rodemacher (Rapides Parish) and Vernon Lake (Vernon Parish):

a. Size Limit: 14 inch - 17 inch slot. A 14 - 17 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 14 inches and 17 inches, both measurements inclusive;

b. Daily Take: eight fish of which no more than four fish may exceed 17 inches maximum total length*;

c. Possession limit:

i. On water—same as daily take;

ii. Off water—twice the daily take.

*Maximum total length—the distance in a straight line from the tip of the snout to the most posterior point of the depressed caudal fin as measured with mouth closed on a flat surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), 325 (C), 326.3

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:364 (June 1988), amended LR 17:278 (March 1991), repromulgated LR 17:488 (May 1991), amended LR 17:1122 (November 1991), LR 20:796 (July 1994), LR 23:

Daniel J. Babin
Chairman

9705#015

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Nonresident Duck Stamp Fee Increase (LAC 76:V.317)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under authority of R.S. 56:6(28), the Wildlife and Fisheries Commission hereby increases the fee for the nonresident duck stamp. This increase will be effective for nonresident duck stamps sold beginning with the 1997-98 license year. This action is being taken to allow the department to order stamps for the 1997-98 license year with these fees duly noted and available by July 1, 1997.

This declaration of emergency shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 3. Wild Birds

§317. Nonresident Duck Stamp Fee Increase

Beginning in the 1997-98 license year, the fee for purchasing a nonresident duck stamp will be increased from

\$7.50 to \$13.50. This change will remain in effect until additional changes are warranted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(28).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 23:

Daniel J. Babin
Chairman

9705#016

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Spring Inshore Shrimp Season—1997

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 and shall have the authority to open or close outside waters, the Wildlife and Fisheries Commission does hereby set the 1997 Spring Inshore Shrimp Season to open as follows:

Zone 1, that portion of Louisiana's inshore waters from the Mississippi State Line to the eastern shore of South Pass of the Mississippi River, to open at 6 a.m., May 19, 1997; 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, to open at 6 a.m., May 19, 1997; 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, to open at 6 a.m., May 26, 1997.

The commission also hereby grants to the secretary of the Department of Wildlife and Fisheries the authority to close any zone or portion of the state's waters to protect small white shrimp if biological and technical data indicates the need to do so, or enforcement problems develop.

Daniel J. Babin
Chairman

9705#014

Rules

RULE

Department of Agriculture and Forestry Office of Forestry

Forest Management Fees (LAC 7:XXXIX.20701)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Agriculture and Forestry, Office of Forestry hereby amends LAC 7:XXXIX.20701, Forest Management Fees. The department published a notice of intent to amend these rules in the December 20, 1996 *Louisiana Register* (Volume 22, Page 1245). The amended rules hereby have an effective date of May 20, 1997.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 207. Forest Landowner Assistance

§20701. Management Service Fees

The Department of Agriculture and Forestry, Office of Forestry, shall, under the direction of the state forester, provide private landowners with assistance in the management of their forestlands.

A. Basic Services. Performed on an as-requested basis in all Office of Forestry Districts.

1. Prescribed Burning Services

- | | |
|--|---|
| a. Reforestation (cutover areas) | \$10/acre plus \$60/hour for fireline establishment.
Minimum \$100 |
| b. Afforestation (pasture, etc.) | \$7/acre. Minimum \$100 |
| c. Helicopter Assisted Burns | \$5/acre plus \$60/hour for fireline establishment.
Minimum \$100 |
| d. Other Prescribed Burns (fuel reduction, hardwood control, wildlife habitat, etc.) | \$7/acre. Minimum 100 |
| e. Fireline Plowing Only | \$60/hour. Minimum \$100 |

2. Timber Marking

\$15/acre

B. Special Services. Performed when approved on a case-by-case basis.

- | | |
|--------------------|-----------|
| 1. Tree Planting* | \$42/acre |
| 2. Direct Seeding* | \$ 5/acre |
| 3. Tractor Work | \$60/hour |

*Seedlings or seed not included.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, LR 8:419 (August 1982), amended by the Department of Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 11:1178 (December 1985), LR 19:1414 (November 1993), LR 23:553 (May 1997).

Bob Odom
Commissioner

9705#045

RULE

Department of Agriculture and Forestry Office of Forestry

Indian Creek Recreation Area User Fees (LAC 7:XXXIX.20501)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Agriculture and Forestry, Office of Forestry hereby amends LAC 7:XXXIX.20501, Indian Creek Recreation Area, Usage Fees. The department published a notice of intent to amend these rules in the December 20, 1996 *Louisiana Register* (Volume 22, Page 1246). The amended rules have an effective date of May 20, 1997.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 205. Indian Creek Recreation Area

§20501. Usage Fees

The Department of Agriculture and Forestry, Office of Forestry, hereby announces the following usage fee revisions:

- | | |
|--|---|
| A. Entrance Fees (Day Use) | \$3/per vehicle with up to six occupants. Additional \$.50 per person for additional occupants. |
| B. Regular Campsite | \$12/day |
| C. Pull-through Campsite | \$16/day |
| D. Primitive Campsite | \$7/day |
| E. Pavilion Rental | \$35/day |
| F. Boat Launch | \$3/per boat |
| G. 30-day Off-season Rate for Regular Campsite (Oct. - Feb. only) | \$180/month |
| H. 30-day Off-season Rate for Pull-through Campsite (Oct. - Feb. only) | \$240/month |

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1476 [renumbered R.S. 3:4276] and R.S. 3:4274.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 6:734 (December 1980), amended LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 17:476 (May 1991), LR 23:553 (May 1997).

Bob Odom
Commissioner

9705#046

RULE

Department of Economic Development Economic Development Corporation

BIDCO Investment and Co-Investment Program (LAC 19:X.Chapter 1)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Economic Development Corporation Act, R.S. 51:2312(C), the Department of Economic Development amends the following rules and regulations for the BIDCO Investment and Co-Investment Program.

Title 19

CORPORATIONS AND BUSINESS

Part X. Economic Development Corporation

Subpart 1. BIDCO Investment Program

Chapter 1. BIDCO Investment and Co-Investment Program

§103. Definitions

A. - D. ...

E. A *Specialty BIDCO* shall be defined in accordance with the Office of Financial Institution's BIDCO policy.

F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 23:554 (May 1997).

§105. LEDC Application Process

A. - B. ...

1. Applications will be processed in the order in which they are received.

2. - 5. ...

C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 23:554 (May 1997).

§109. Amount of Investment

A. Co-Investment

1. If a nonspecialty BIDCO can show private cash capital contributions or commitments, as defined in §103, of at least \$1,000,000, LEDC may co-invest \$1 for each \$2 for each LEDC approved project submitted to it by the BIDCO. The LEDC investment will participate pro-rata with the BIDCO share of the investment. The LEDC investment will not exceed 33 percent of any project nor will LEDC funding

exceed \$1 for each \$2 of other BIDCO capital committed. On each project submitted for review, an application fee of \$250 is required.

2. If a specialty BIDCO can show private cash capital contributions or commitments, as defined in §103, of at least \$250,000, LEDC may co-invest \$1 for each \$1 for each LEDC approved project submitted to it by the BIDCO. The LEDC investment will participate pro-rata with the BIDCO share of the investment. The LEDC investment will not exceed 50 percent of any project nor will LEDC funding exceed \$1 for each \$1 of other BIDCO capital committed. On each project submitted for review, an application fee of \$250 is required.

B. Match Investment

1. If a nonspecialty BIDCO can show private cash capital contributions or commitments, as defined in §103, of \$2,000,000, exclusive of any previous investments by LEDC, the BIDCO may request a matching equity capital contribution from LEDC. Each request should be accompanied by a \$500 application fee. If the BIDCO is considered an acceptable risk, based upon LEDC review of its credentials, performance, and business plan, or some combination thereof, LEDC may make a matching cash contribution on the basis of \$1 for each \$2 of the BIDCO capital not to exceed \$2,500,000, reduced for any previous LEDC capital contributions. LEDC will base its matching equity capital contribution on the amount of non-LEDC capital as calculated in accordance with §103(D). Thereafter it will participate in all future BIDCO investments on a pro-rata basis with all other BIDCO funds. Any BIDCO which has received a LEDC match investment is ineligible to present portfolio projects to LEDC for assistance through any of LEDC's other programs.

2. If a specialty BIDCO can show private cash capital contributions or commitments, as defined in §103, of \$250,000, exclusive of any previous investments by LEDC, the BIDCO may request a matching equity capital contribution from LEDC. Each request should be accompanied by a \$500 application fee. If the BIDCO is considered an acceptable risk, based upon LEDC review of its credentials, performance, and business plan, or some combination thereof, LEDC may make a matching cash contribution on the basis of \$1 for each \$1 of the BIDCO capital not to exceed \$2,500,000, reduced for any previous LEDC capital contributions. LEDC will base its matching equity capital contribution on the amount of non-LEDC capital as calculated in accordance with §103(D). Thereafter it will participate in all future BIDCO investments on a pro-rata basis with all other BIDCO funds. Any BIDCO which has received a LEDC match investment is ineligible to present portfolio projects to LEDC for assistance through any of LEDC's other programs.

(Editor's Note: Existing Subsections E. and F. are renumbered 3. and 4., respectively.)

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 23:554 (May 1997).

§111. Terms of Investments

A. ...

B. LEDC will have the right to appropriate representation on and control of the BIDCO's management and governance as negotiated with the BIDCO. This may include, but not be limited to, board seat(s); veto authority or supermajority requirements for key management and financial decisions; board visitation rights.

C.1. LEDC's stock may be repurchased by the BIDCO or, secondarily, by its private-capital stockholders at the end of the fifth year or each subsequent annual operating period for a discounted amount of LEDC's then-current book value or market value, whichever is higher, subject to LEDC's concurrence on the valuation methodology and the achievement of BIDCO performance objectives specified at the time of LEDC's investment. The BIDCO or its private-capital investors can experience an appreciation in their investment commensurate with the amount of discount granted by LEDC in the sale of its stock back to the BIDCO or its shareholders. The discount at the end of the five years or annually thereafter, is:

	DISCOUNT	LEDC RECEIVES
End of 5 Years	25%	75%
6th Year	20%	80%
7th Year	15%	85%
8th Year	10%	90%
9th Year and Beyond	5%	95%

2. This scenario provides greater incentives for the BIDCO/shareholders to repurchase LEDC's interest earlier than later, but retains incentive for the buy-out beyond the ninth year. See Exhibit 1 for an example of the buy-out scenarios. This provision is not applicable to nonprofit BIDCO's.

D. LEDC may negotiate additional operating requirements with individual applicant BIDCO's on a case-by-case basis, as needed to safeguard the quality of LEDC's investment or to promote achievement of the objectives of the program or LEDC. Such requirements may include, but not be limited to, a put (sell) option to liquidate LEDC's investment in the BIDCO.

E. All agreements will be executed by duly authorized persons outlining the details of the transaction.

F. LEDC's funding under its commitment will be made on a quarterly basis subject to verification of non-LEDC funds received by the BIDCO.

G. Capital match investments in a nonprofit BIDCO will be in the form of a debenture with terms and rates to be negotiated consistent with the BIDCO's business plan and LEDC's investment objectives and polices.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 23:555 (May 1997).

§113. Application Requirements

To apply for LEDC financing, A BIDCO shall submit to LEDC evidence of its OFI approval or preliminary approval. The applicant must desirably submit to LEDC information in the sequence outlined below. The Applicant may provide other information which it believes relevant. LEDC may request further information beyond what is specified below.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 23:555 (May 1997).

Brett Crawford
Executive Director

9705#073

RULE

**Department of Economic Development
Economic Development Corporation**

Micro Loan Program (LAC 19:VII.Chapter 75)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Economic Development Corporation Act, R.S. 51:2312(C), the Department of Economic Development, Economic Development Corporation adopts the following rules and regulations for the Micro Loan Program.

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart 9. Micro Loan Program

Chapter 75. Loan Policies

§7501. Purpose

A. The Louisiana Economic Development Corporation (LEDC) wishes to stimulate the flow of private capital, long-term loans, and other financial assistance for the sound financing of the development, expansion, and retention of small business concerns in Louisiana as a means of providing high levels of employment, income growth, and expanded economic opportunities, especially to disadvantaged persons and within distressed and rural areas.

B. The corporation will consider sound loans so long as resources permit. The board of the corporation recognizes that guaranteeing, participating, or lending money carries certain risks and is willing to undertake reasonable exposure.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:555 (May 1997).

§7503. Definitions

Disabled Person's Business Enterprise—a small business concern which is at least 51 percent owned and controlled by a disabled person as defined by the federal Americans With Disabilities Act of 1990.

Economically Disadvantaged Business—a Louisiana business certified as economically disadvantaged by the Department of Economic Development's Division of Economically Disadvantaged Business Development.

Micro Loans—those loans ranging in size from \$5,000 to \$50,000.

Small Business Concerns—as defined by SBA for purposes of size eligibility as set forth by 13 CFR 121.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:555 (May 1997).

§7505. Application Process

A. Applicant is required to first contact a financial lending institution that is willing to entertain such a loan with the prospect of additional credit support provided by a LEDC guarantee or a participation and complete the application process. An applicant may also apply to LEDC directly for loan consideration, provided it is based upon documented eligibility as established as follows. Only after rejection by at least two lending institutions for participation on the basis of either a loan participation or a loan guarantee shall an applicant be eligible to be considered for a direct loan by LEDC. Such applications may be forwarded directly to LEDC.

B. Information submitted to LEDC with the application representing the applicant's business plan, financial position, financial projections, personal financial statements and background checks will be kept confidential to the extent allowed under the Public Records Law, R.S. 44:1 et seq. Confidential information in the files of LEDC and its accounts acquired in the course of duty will be used solely by and for LEDC.

C. Submission and Review Policy

1. A completed Louisiana Economic Development Corporation application form along with information identified by LEDC as appropriate must be submitted to LEDC. Applications will be processed, with decisions confirmed promptly.

2. Economically disadvantaged businesses applying for assistance under that provision will have to submit certification from the Division of Economically Disadvantaged Business Development Office of the Department of Economic Development along with the request for financial assistance.

3. Businesses applying for consideration under the Disabled Persons provision shall submit adequate information to support the disabled status.

4. LEDC staff will review the applications for completeness and submit only complete packages for analysis. Any applications not receiving approval in the initial analysis process shall be individually reviewed and exceptions to underwriting criteria noted. The LEDC staff will report to the screening committee monthly those applications approved, and those not recommended for approval with reasons.

5. Loans guaranteed or participated in by LEDC must qualify under LEDC pre-approved underwriting criteria using standardized LEDC documentation. The originating bank is responsible for all loan closing documentation. Closing will

occur only after a site visit by an LEDC staff member or designated representative.

6. Direct loans by LEDC must qualify under LEDC pre-approved underwriting criteria, or be approved by the board of directors as an exception to such criteria. Such loans will be closed by LEDC or its designated agents using standardized LEDC documentation.

7. Only those applicants and/or their designated representatives asked to be present by the LEDC staff need to be present for the screening committee.

8. The board of directors will review the results of all applications processed and screened. Loans recommended for approval by the LEDC staff as exceptions to standard underwriting criteria will be presented to the screening committee of the board for approval. Loans approved under standard underwriting procedures requiring direct LEDC funding, LEDC guarantees or participation shall be approved by LEDC in accordance with established policies and procedures.

9. The applicant will be notified promptly from date accepted for processing by mail of the outcome of the application.

10. A LEDC commitment letter, standard guaranty or participation agreement will be mailed to the bank promptly after approval by the LEDC staff applying standardized evaluation processes.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:556 (May 1997).

§7507. Eligibility

A. Small business concerns as defined by SBA for purposes of size eligibility as set forth by 13 CFR 121.

B. Small businesses whose owner(s) or principal stockholder(s) shall be a resident of Louisiana and the business is domiciled in Louisiana with preference given to certified economically disadvantaged businesses or businesses owned by disabled persons.

C. Funding request for all but the following may be considered:

1. restaurants, except for regional or national franchises;
2. bars;
3. any project established for the principal purpose of dispensing alcoholic beverages;
4. any establishment which has gaming or gambling as its principal business;
5. any establishment which has consumer or commercial financing as its business;
6. funding for the acquisition, renovation, or alteration of a building or property for the principal purpose of real estate speculation;
7. funding for the principal purpose of refinancing existing debt in excess of 10 percent of the total requested loan amount;
8. funding for the purpose of buying out any stockholder or equity holder by another stockholder or equity holder in a business;
9. funding for the purpose of establishing a park, theme park, amusement park, or camping facility.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:556 (May 1997).

§7509. General Loan Provisions

A. The Louisiana Economic Development Corporation will be guided by the following general principles in making loans:

1. The corporation shall not knowingly approve any loan guarantee, loan participation or loan if the applicant has presently pending or outstanding any claim or liability relating to failure or inability to pay promissory notes or other evidence of indebtedness including state or federal taxes, or bankruptcy proceeding; nor shall the corporation approve any loan or guarantee if the applicant has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

2. The terms or conditions imposed and made part of any loan or loan guarantee authorized by vote of the corporation board shall not be amended or altered by any member of the board or employee of the Department of Economic Development except by subsequent vote of approval by the board at the next meeting of the board in open session with full explanation for such action.

3. The corporation shall not subordinate its position.

B. Interest Rates

1. On all loan guarantees the interest rate is to be negotiated between the borrower and the bank but may not exceed four percentage points above New York prime as published in the Wall Street Journal at either a fixed or variable rate.

2. On all participation loans the interest rate to LEDC shall be determined by utilizing the rate for a U.S. Government Treasury Security for the time period that coincides with the term of the participation and adding 1 percent.

3. On all direct loans by LEDC the interest rate to LEDC shall be negotiated at a rate commensurate with the loan risk for either variable or fixed rate loans.

C. Collateral

1. Collateral to loan ratio will be no less than 1:1, except for direct loans where the ratio will be 1.2:1.

2. Collateral position shall be negotiated but will be no less than a sole second position.

3. Collateral Value Determination

a. The appraiser must be certified by recognized organization in area of collateral.

b. The appraisal cannot be over 90 days old.

c. The percentage of value considered shall be consistent with the underwriting criteria established by the LEDC Board from time to time.

4. Acceptable collateral may include, but not be limited to, the following:

a. fixed assets—real estate, buildings, fixtures;

b. equipment, machinery, inventory;

c. personal guaranties are open for negotiation, if used, there must be signed and dated personal financial statements;

d. accounts receivable with supporting aging

schedule, except for direct loans where accounts receivable are ineligible;

5. unacceptable collateral may include but not be limited to the following:

a. stock in applicant company and/or related companies;

b. personal items.

D. Equity

1. Will be no less than 10 percent of the loan amount for a start-up operation, acquisition, or expansion.

2. Equity is defined to be:

a. cash;

b. paid in capital;

c. paid in surplus and retained earnings;

d. partnership capital and retained earnings.

3. No research, development expense or intangibles will be considered equity.

E. Amount

1. For small businesses the corporation's guarantee shall be no greater than 80 percent of a loan.

2. For certified economically disadvantaged businesses or businesses owned by disabled persons, the guarantee shall be no greater than 90 percent of a loan.

3. The corporation's participation in loans shall be no greater than 50 percent, but in no case shall it exceed \$25,000.

F. Terms. Terms may be negotiated with the bank but in no case shall the terms exceed five years.

G. Fees. LEDC will charge a minimum guarantee fee of 1 percent of the guarantee amount.

H. Use of Funds

1. Purchase of fixed assets, including buildings that will be occupied by the applicant to the extent of at least 51 percent.

2. Purchase of equipment, machinery, or inventory.

3. Line of credit for accounts receivable or inventory.

4. Debt restructure may be considered by LEDC but will not be considered when the debt:

a. exceeds 10 percent of total loan; and/or

b. pays off a creditor or creditors who are inadequately secured; and/or

c. provides funds to pay off debt to principals of the business; and/or

d. provides funds to pay off family members.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:557 (May 1997).

§7511. General Agreement Provisions

A. Guaranty Agreement

1. Originating bank or LEDC agent responsible for proper administration and monitoring of loan and proper liquidation of collateral in case of default.

2. The loan shall not be sold, assigned, participated out, or otherwise transferred without prior written consent of the LEDC Board.

3. If liquidation through foreclosure occurs, the bank sells collateral and handles legal proceedings.

4. There will be a reduction of the guarantee:

a. in proportion to the principal reduction of the