

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Alternative Livestock—Imported Exotic Deer and Imported Exotic Antelope, Elk, and Farm-Raised White-Tailed Deer (LAC 7:XXI.1501-1523)

The commissioner of Agriculture and Forestry, on January 30, 1998, issued emergency rules regulating 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. The commissioner of Agriculture and Forestry has previously determined that there is an imminent peril to the health, safety, and welfare of the citizens of Louisiana and to the agricultural livestock industry in Louisiana, including the alternative livestock industry. The commissioner of Agriculture and Forestry determined that without effective 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; and the introduction of any imported exotic deer and antelope, elk, and farm-raised white-tailed deer infected with either of these diseases or other diseases will subject Louisiana cattle and other livestock, including alternative livestock, to infection.

The commissioner of Agriculture and Forestry further determined that any infection of cattle or other livestock will cause the owner of such livestock to lose the commercial value of such animals; and introduction of these diseases into the state would jeopardize Louisiana's certification from the USDA and the loss of the commercial value of livestock; and the effect on the agricultural livestock industry, including alternative livestock, would cause a substantial adverse economic impact on the agricultural economy of this state. The commissioner of Agriculture and Forestry adopted emergency regulations on January 30, 1998 addressing the emergency as stated above.

For the reasons stated, the commissioner of Agriculture and Forestry, in accordance with the Administrative Procedure Act, specifically R.S. 49:953(B), and R.S. 3:3101, hereby adopts the following amended emergency rules regulating 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. These emergency rules are effective January 30, 1998 and supersede, in their entirety, the

emergency regulations adopted on September 3, 1997. These rules shall remain in effect 120 days or until the final rules become effective, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 15. Alternative Livestock—Imported Exotic Deer and Imported Exotic Antelope, Elk, and Farm-Raised White-Tailed Deer

§1501. Statement of Authority and Purpose

The commissioner of Agriculture and Forestry heads and directs the Department of Agriculture and Forestry and exercises all functions of the state relating to the promotion, protection, and advancement of agriculture and forestry. The commissioner is authorized by law and does hereby adopt these rules and regulations for the purposes of promoting, protecting, and advancing agriculture and to implement the laws adopted by the legislature, including those in Part I of Chapter 19-A of Title 3 of the Revised Statutes, giving the commissioner the specific power to regulate farm-raised exotic animals, including imported exotic deer and imported exotic antelope, elk, and farm-raised white-tailed deer.

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 24:

§1503. Definitions

For purposes of these rules and regulations the following words and phrases shall have the meaning given herein:

Alternative Livestock—any imported exotic deer and imported exotic antelope, elk, and farm-raised white-tailed deer.

Commercial Purpose—the keeping, breeding, raising, containing, harvesting, killing, slaughtering, buying, selling, trading, or transferring ownership of alternative livestock, any alternative livestock carcass or part thereof, with the intent to receive money, goods, services, livestock or any other type of compensation in connection therewith.

Commissioner—The commissioner of Agriculture and Forestry.

Department—the Louisiana Department of Agriculture and Forestry.

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

Farm—any area of land or water, regardless of size, used to breed, raise, or keep farm-raised alternative livestock for a commercial purpose, including but not limited to, breeding farms or propagating preserves. This definition does not include areas of land or water which are part of a zoo, game park, or wildlife exhibit, where their primary purpose is the exhibition of alternative livestock or other animals.

Farm-Raised—any alternative livestock born, raised, or kept within a closed circumscribed fenced area for a commercial purpose. This definition does not include alternative livestock which are part of a zoo, game park, or wildlife exhibit, where their primary purpose is the exhibition of alternative livestock or other animals.

Farm-Raised White-Tailed Deer—any animal of species and genus *Odocoileus virginianus* which is bred, born, raised and/or kept within a closed circumscribed fenced area for the purpose of buying, selling, or trading in commerce. Farm-raised white-tailed deer does not include any white-tailed deer which is part of any zoo, game park, or wildlife exhibit, where their primary purpose of the same is the exhibition of white-tailed deer and/or other animals.

Harvesting—the attempt or act of shooting, wounding, or killing farm-raised alternative livestock within the enclosure system of a farm in a manner consistent with those techniques commonly referred to as hunting in Title 56 of the Louisiana Revised Statutes.

Imported Exotic Antelope—any animal of the family *Bovidae* which is not indigenous to North America, except animals of the tribes *Bovine* (cattle) and *Caprine* (sheep and goats).

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

LDWF—the Louisiana Department of Wildlife and Fisheries.

Person—any individual, corporation, partnership, or other legal entity.

Quarantine—the requirement, resulting from an order of the department or the State Veterinarian's Office, to secure and physically isolate an animal or animals in a specified confined area to prevent the spread of 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 24:

§1505. Issuance of Farm-Raising License; Renewals

A. Any person who keeps, breeds, raises, contains, harvests, kills, slaughters, buys, sells, trades, or transfers ownership of any type of farm-raised alternative livestock for commercial purposes shall obtain a farm-raising license from the department prior to engaging in such activity.

B. The department shall not issue any farm-raising license until the application for the farm-raising license and the information requested, including the required plan for the operation of the farm, is approved by the department and the proposed farm passes the department's and LDWF's inspection.

C. Any changes in any information submitted in the original application occurring during or after the application process shall be submitted in writing to the department. The department and LDWF must approve, in writing, any change or modification, which shall be in writing, in the written farm operation plan submitted with the original application, before such change or modification may go into effect.

D. A farm-raising license shall be valid for the period beginning with the date of issuance and ending the following June 30 or from July 1 of the year of renewal through the following June 30.

E. A farm-raising license may be renewed each year by the department. A licensee shall submit a written request for renewal, the renewal fee, any proposed modification, which shall be in writing, of the written farm operation plan previously submitted to and approved by the department, and any proof requested by the department of compliance by the licensee with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, and any quarantine. If either the written request for renewal or the renewal fee is received by the department after July 31, the farm-raising license shall be deemed expired, *ipso facto*, retroactive to June 30.

F. In the event that the department determines that a farm does not meet the requirements of or was not complying with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine, the farm-raising license may not be renewed by the department.

G. The licensee may contest the department's decision not to renew a farm-raising license by filing a written request for an adjudicatory hearing with the department within 15 days from receipt of the notice of nonrenewal. Such a hearing is to be held in accordance with the provisions of the Administrative Procedure Act. Any such hearing shall be held within 30 days of the request, unless continued for good cause.

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 24:

§1507. Fees

A. Farm-Raising License Fees

1. The fee for a new farm-raising license shall be \$50.
2. The farm-raising license renewal fee shall be \$50.
3. The department shall waive the farm-raising license fee for any person who obtains a farm-raising license from this department, and who holds a valid game breeders license issued by LDWF for the possession of any alternative livestock at the time these rules and regulations become effective, and who submits a written application within the calendar year that these rules and regulations become effective.

4. The waiver granted in §1507.A.3 applies only to a new farm-raising license and shall not apply to any renewal of a farm-raising license issued by the department under these rules and regulations.

B. Harvesting Permit Fee

1. Each individual intending to harvest or kill any farm-raised alternative livestock at any farm licensed by the department shall obtain a harvesting permit from LDWF, before harvesting or killing any farm-raised alternative livestock, except as provided by §1507.B.3.

2. The fee due to the department for each harvesting permit shall be \$50, which fee shall be ministerially collected

by LDWF, who shall promptly remit the fee to the department, retaining one-half for administrative costs.

3. No licensee or those persons employed by or assisting such licensee harvesting farm-raised alternative livestock to be taken directly to a state- or federally-approved slaughter facility or capturing farm-raised alternative livestock to be sold or traded for breeding or stocking purposes shall be required to obtain a harvesting permit or pay a fee.

C. Farm-Raised Alternative Livestock Tag Fee

1. Each farm-raised alternative livestock harvested or killed shall have a farm-raised tag attached to the left ear or left antler of the carcass at the time of kill and the tag shall remain with the carcass at all times, except as provided in §1507.C.3.

2. The farm-raised alternative livestock tag shall be provided by the department at a cost of \$5 per tag.

3. No farm-raised tag shall be required for farm-raised alternative livestock which are to be taken directly to a state- or federally-approved slaughter facility or which are sold or traded alive for breeding or stocking purposes.

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 24:

§1509. Farm-Raising Licensing Requirements

A. Written Application. Each applicant for a farm-raising license shall submit a completed written application on a form supplied by the department. In addition to any other information that may be requested by the department, the applicant shall provide the following information:

1. name, physical address, mailing address and telephone number of the applicant and whether the applicant will own or lease the land. If the land is leased, then a copy of the lease shall be provided to the department;

2. the name under which the business will operate, the physical address, mailing address, and telephone number of the business, if different than the information provided in §1509.A.1;

3. the business structure, (sole proprietorship, partnership, corporation, limited liability company, joint venture, or otherwise);

4. the name of the person or persons in charge, position (e.g., owner, manager, etc.), residence address and phone number;

5. the physical location and size of the farm;

6. a topographical map of the farm if 50 acres or more;

7. the species of alternative livestock to be farm-raised;

8. the approximate number of animals to be farm-raised;

9. the complete plan for the operation of the farm including:

a. an enclosure system, including fencing the farm, indicating the location, size, nature and extent of the fencing material and of any right-of-way related to the farm property;

b. systematic inspection of the enclosure system, including the fence, maintenance, repair and replacement of the fence, keeping the fence and any clearance along either side of the fence clear, and verification to the department of compliance with this provision;

c. the capture of any farm-raised alternative livestock that may escape from or wild white-tailed deer that may enter the farm through a breach or opening in the enclosure system or fence;

d. removal of white-tailed deer from the farm prior to completion of the enclosure of the farm;

e. controlling farm-raised alternative livestock population;

f. identification by means of an electronic implant of all white-tailed deer born, bought, sold, traded or which otherwise become farm-raised white-tailed deer, which shall include the systematic capture of farm-raised white-tailed deer for implantation purposes;

g. the removal and disposal of all alternative livestock in the event that the farm ceases operation for any reason or upon revocation or nonrenewal of the farm-raising license, including a provision for written notice to the department prior to cessation of farming operation;

h. the type of farming operation records that will be kept;

10. a statement that the applicant shall abide by the requirements of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, and any quarantine;

11. a certified statement that all representations contained in the application, the farm operation plan and attachments are true and correct.

B. Farm Inspection. An applicant shall have the proposed farm physically inspected and approved by the department and LDWF before a farm-raising license may be issued by the department. To obtain department approval a proposed farm shall:

1. be located in a rural area of the state;

2. be securely enclosed by an enclosure system, including fencing, that meets the following specifications:

a. a minimum height, above the relevant ground, of 8 feet;

b. enclose an area of not less than 150 acres nor more than 2,500 acres unless good cause is shown by the applicant why an enclosure of a different size is not inconsistent with the intent of Part 1 of Chapter 19-A of Title 3 of the Revised Statutes;

c. a minimum gauge wire of 12½;

d. fencing material of chain link, woven wire, solid panel or welded panel or, if made with any other material, approved in writing by the department; however, welded wire fence shall not be used unless it was approved by LDWF and installed prior to April 22, 1997, but such welded wire fences, when replaced or partially replaced, shall be replaced by fencing required by these rules and regulations;

3. have drainage sufficient to leave a majority of the farm free from extended periods of standing water;

4. have adequate space; and, if the total enclosed area of the farm is less than 50 acres, allow at least 5,000 square feet for the first elk or farm-raised white-tailed deer placed on the farm and at least 2,500 square feet for each subsequent elk or farm-raised white-tailed deer;

5. have no condition which may cause noncompliance with or substantial difficulty in complying with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine;

6. not be subject to an objection for good cause related to wildlife, made in writing to the department by LDWF, which written objection shall follow within 10 working days of a physical inspection of the proposed farm made concurrently and jointly by the department and LDWF.

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 24:

§1511. Grounds for Refusal to Issue or Renew a Farm-Raising License

The commissioner may refuse to issue or renew a farm-raising license for any of the following circumstances:

1. the applicant cannot demonstrate to the satisfaction of the commissioner a competency to operate an alternative livestock farm;

2. the applicant has failed to provide all of the information required in or with the farm-raising license or renewal application, or has provided false information to the department;

3. the applicant has previously refused to permit the department to inspect the farm or to inspect farm records; or the applicant has otherwise failed to comply with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine;

4. the department does not approve the farm operation plan;

5. the proposed farm does not pass the department's or LDWF's inspection;

6. the applicant has previously been found in violation of either Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine.

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 24:

§1513. Obligations of the Farm-Raising Licensee

A. Identification of Farm-Raised Alternative Livestock

1. All farm-raised white-tailed deer shall be identified by means of an electronic implant implanted as follows:

a. the electronic implant shall be implanted into the subcutaneous tissue at the base of the left ear or in either shoulder;

b. all farm-raised white-tailed deer being brought into Louisiana shall have the electronic implant implanted before entering this state and prior to being released on the farm;

c. farm-raised white-tailed deer born in this state shall have an electronic implant implanted the first time the farm-raised white-tailed deer is captured alive and before the farm-raised white-tailed deer leaves the farm;

d. all white-tailed deer shall be electronically implanted at the base of the left ear immediately upon harvest

whether or not such deer have already been implanted previously. This requirement for electronic implantation is in addition to any and all other requirements for electronic implantation contained in these regulations. This electronic implantation shall remain with the carcass at all times;

e. each electronic implant code shall be listed on the farm-raised white-tailed deer's health certificate and on the bill of sale or certificate of transfer.

2. All farm-raised alternative livestock other than farm-raised white-tailed deer shall be permanently and individually identified as follows:

a. by means of an electronic implant or by a permanent ear tattoo and ear tag;

b. the electronic implant shall be implanted into the subcutaneous tissue at the base of the left ear or in either shoulder;

c. prior to entering the state, alternative livestock, other than farm-raised white-tailed deer, shall be identified as required herein;

d. alternative livestock born in this state, other than farm-raised white-tailed deer, shall be identified, as required herein, the first time any such animal is captured alive and before any such animal leaves the farm;

e. the identification number or electronic implant code, and the location thereof shall be listed on the health certificate and the bill of sale or certificate of transfer.

3. Farm-raised alternative livestock, other than farm-raised white-tailed deer, that will be transported directly to a state- or federally-approved slaughter facility are exempt from this identification requirement.

4. Farm-raised alternative livestock placed on a farm prior to the effective date of these regulations, other than farm-raised white-tailed deer, are not required to be identified by a permanent ear tattoo and ear tag or electronic implant unless removed alive from the farm.

B. Record Keeping

1. Each licensee shall maintain records, for no less than 36 months, of all sales, deaths, kills, trades, purchases, or transfers of any farm-raised alternative livestock. The records shall include:

a. the total number of farm-raised alternative livestock, carcasses, or parts thereof, killed, sold, traded, purchased or transported;

b. the name and address of the person to whom each farm-raised alternative livestock, or any carcass or parts thereof, was sold, traded, delivered, presented or transported;

c. the electronic implant code or identification number of the farm-raised alternative livestock;

d. copies of any health certificates issued;

e. accurate records showing all inspections, maintenance, repairs and replacement to the enclosure system, including the fence; and such records shall include the dates and times of each, names of the persons performing services, the location of any breaches of the enclosure system, including the fence, and the nature and location of any repairs or replacements made to the fence;

f. records customarily kept in the normal course of conducting business and those records required by these rules and regulations.

2. Sellers, traders or transferors of farm-raised alternative livestock, any carcass or any part thereof, shall furnish the purchaser or transferee with a bill of sale or letter of transfer as verification of the farm-raised status.

3. The furnishing of any false information shall be a violation of these rules and regulations.

C. Enclosure System and Fence Inspection and Maintenance

1. Any licensee shall conduct or shall have conducted a visual ground inspection of the enclosure system, including the fence, along the entire perimeter of the fenced area of the farm no less than weekly. An inspection shall be conducted immediately after any major storm or occurrence of any other force of nature that would cause a reasonable person to be concerned about the integrity of the enclosure system, including the fence.

2. Any licensee shall maintain the enclosure system, including the fence, in good repair at all times. Good repair means that farm-raised alternative livestock are not able to leave and wild white-tailed deer are not able to enter through the enclosure system, including the fence, or otherwise.

3. Any licensee who discovers a breach or opening in the enclosure system or fence that would allow farm-raised alternative livestock to leave from or wild white-tailed deer to enter into the enclosed area shall notify the department and LDWF, orally and in writing, of the breach or opening; and the department shall notify LDWF within 12 hours.

4. In the event of such a breach or opening the licensee shall immediately close the breach or opening and make all reasonable efforts to determine if farm-raised alternative livestock left from or wild white-tailed deer entered into the area enclosed by the fence.

D. Other Obligations of the Farm Licensee

1. A licensee shall remove white-tailed deer from the farm prior to completion of the fencing and enclosure system of the farm. Removal of the white-tailed deer shall be accomplished to the satisfaction of the department and LDWF pursuant to these regulations.

2. A licensee shall control the population of farm-raised alternative livestock on the farm.

3. A licensee shall make all efforts that a reasonable licensee would make to capture any farm-raised alternative livestock that escapes from the fenced area of the farm and to remove wild white-tailed deer that enters the fenced area of the farm.

4. A licensee shall, in writing, notify the department at least 10 days prior to placing any alternative livestock on the farm if such alternative livestock was not listed on the original application or on any modification previously approved, in writing, by the department. The department shall promptly notify LDWF following receipt of licensee's notice.

5. A licensee, upon cessation of operations or upon revocation or nonrenewal of the farm-raising license, shall remove and dispose of all farm-raised alternative livestock on the farm in accordance with the farm operation plan submitted to and approved by the department, or in accordance with specific written instructions issued by the department in the event that circumstances warrant removal and disposal of the

farm-raised alternative livestock to be made in a manner different from the farm operation plan.

6. A licensee shall be responsible for ensuring that any individual who harvests or kills any farm-raised alternative livestock on the licensee's farm does so in accordance with these rules and regulations.

7. A licensee shall harvest or kill farm-raised alternative livestock in accordance with these rules and regulations.

8. A licensee shall provide that all farm-raised alternative livestock have the necessary health certificates and that the farm-raised alternative livestock meet all applicable health requirements.

9. A licensee shall allow authorized representatives of the department and authorized representatives of LDWF to inspect the farm at any time; and all books and records at any reasonable time.

10. A licensee shall comply with all provisions of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, and any quarantine.

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 24:

§1515. Health Certificates and Health Requirements

A. Prior to entering Louisiana, all alternative livestock, except those being transported directly to a state- or federally-approved slaughter facility, shall:

1. meet the general health requirements promulgated at LAC 7:XXI.107.

2. have an entry permit number issued by the State Veterinarian's Office no more than 15 days before entry into Louisiana which entry number shall be included on the certificate of veterinary inspection;

3. have written proof of a negative test for brucellosis in accordance with the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* as and when published by the United States Department of Agriculture, Animal and Plant Health Inspection Service. Until such time as the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* are published, all alternative livestock 6 months of age and older entering Louisiana, except those being transported directly to a state- or federally-approved slaughter facility, shall be tested negative for brucellosis within 30 days prior to entry into Louisiana, and written proof thereof shall be provided, unless the alternative livestock originate from a herd which has been officially declared a certified brucellosis-free herd by the state of origin.

4. have written proof of a negative test for tuberculosis in accordance with the *Tuberculosis Eradication in Cervidae Uniform Methods and Rules* as published by the United States Department of Agriculture, Animal and Plant Health Inspection Service.

B. Prior to any person importing any alternative livestock into Louisiana, LDWF shall be provided by the department a copy of the entry permits or other applicable documents which describe the alternative livestock by species, sex, age and place of origin.

C. Any alternative livestock which has been exposed to brucellosis 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. The quarantine shall remain in effect until removed, in writing, by the State Veterinarian's Office.

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 24:

§1517. Harvesting or Killing of Farm-Raised Alternative Livestock

A. Farm-raised white-tailed deer shall be harvested by killing only from one-half hour before sunrise to one-half hour after sunset during the period of October 1 through January 31 of the following year, as established by the Louisiana Wildlife and Fisheries Commission. Licensees may also harvest at will at any other time from one-half hour before sunrise to one-half hour after sunset upon 48 hours notice to and written approval of the department. Upon receipt of any such notice, the department shall, no later than 24 hours before the harvest, notify LDWF.

B. Except for farm-raised white-tailed deer, farm-raised alternative livestock may be harvested or killed at any time from one-half hour before sunrise to one-half hour after sunset unless the commissioner provides otherwise in accordance with the provisions of §1517.C.

C. The commissioner and Louisiana Wildlife and Fisheries Commission may establish, by written order, other dates and conditions for the harvesting or killing of farm-raised alternative livestock as the commissioner deems necessary to carry out the purposes of Part I of Chapter 19-A of Title 3 of the Revised Statutes. Such orders shall be issued by the commissioner in January of each year or as soon thereafter as is practical and published in the January issue of the *Louisiana Register* or in the first available issue after any such order is issued.

D. Prior to harvesting or killing farm-raised alternative livestock, any person, except as provided by §1507.B.3 of these regulations, shall first apply for and obtain a harvesting permit to do so from LDWF by submitting an application on a form supplied by the department.

1. Any harvesting permit issued by LDWF shall be valid only for the time periods stated on the face of the permit.

2. LDWF may ministerially issue a harvesting permit upon written application by any individual or by any farm licensee making application on behalf of the individual and upon receipt of the harvesting permit fee.

3. The applicant shall not be subject to any existing court or administrative order denying the applicant's right to harvest.

E. Except as provided by §1507.C.3 of these regulations, any farm-raised alternative livestock harvested or killed shall have a farm-raised tag attached to the left ear or left antler of the carcass at the time of the kill, and the tag shall remain with the carcass at all times.

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 24:

§1519. Prohibitions

A. No farm-raised alternative livestock shall be released into the wild without express written permission from both the department and LDWF.

B. Farm-raised white-tailed deer meat or farm-raised white-tailed deer parts of any kind shall not be bought, sold, traded, or moved in commerce in any way.

C. Farm-raised alternative livestock sold for slaughter, except farm-raised white-tailed deer, the sale of which is prohibited, shall be handled in accordance with state and federal meat inspection laws and regulations.

D. It is a violation of these regulations to sell, purchase, trade, transport, or otherwise transfer any farm-raised alternative livestock for any purpose other than immediate slaughter at a state- or federally-approved slaughter facility if such farm-raised alternative livestock originates from a herd which is under quarantine for brucellosis or tuberculosis.

E. Failure to comply with any provision of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine is prohibited and each act or omission or each day of a continuing violation shall constitute 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 24:

§1521. Enforcement

A. The department's and LDWF's authorized representatives may, at any time, enter and inspect all farms on which farm-raised alternative livestock are located for the purposes of issuing, renewing, or reviewing farm-raising licenses and to insure compliance with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine.

B. Authorized representatives of the department and LDWF may inspect, during any reasonable hours, any records regarding or relating to any farm-raised alternative livestock.

C. Farm-raised alternative livestock which escape from the enclosure system of the farm, if not captured by a licensee within 96 hours of the escape, may be captured by authorized representatives of the department or by any law enforcement agency by whatever means deemed necessary by that agency.

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 24:

§1523. Penalties

A. The commissioner may suspend or revoke the farm-raising license of any licensee and the harvesting permit issued to any person found guilty of violating Part I of Chapter 19-A of Title 3 of the Revised Statutes, those portions

of Title 56 of the Revised Statutes related to wildlife, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine.

B. The commissioner may, in addition to suspending or revoking any farm-raising license or harvesting permit, impose upon any person charged with violating any provisions of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine, a fine for up to \$100 per violation for each violation of which such person is found guilty.

C. These civil penalties may be assessed only by a ruling of the commissioner based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

D. Any person or licensee subject to an order or decision made pursuant to these regulations may request and receive an adjudicatory hearing before the department to be held in accordance with the Administrative Procedure Act by making written application for same to the department within 15 days of issuance of such order or decision.

E. The commissioner may seek a restraining order, injunctive relief or other relief in a proper court of law to restrain violations of or to compel compliance with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine or to enforce any order or ruling made by him in an adjudicatory proceeding.

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 24:

Bob Odom
Commissioner

9802#012

DECLARATION OF EMERGENCY

Office of the Governor Office of Rural Development

Projects, Funding, and Application
Process (LAC 4:VII.1901-1903)

The Office of the Governor, Office of Rural Development has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), to adopt the following emergency rule in the projects and funding of this office under the authority of the Rural Development Law, R.S. 3:311 et seq. This emergency rule, effective February 10, 1998, shall remain in effect for a period of 120 days or until a final rule is promulgated, whichever occurs first.

Emergency rulemaking is necessary in order to permit the office to continue all its legal operations, including funding emergency requests for the health, safety and welfare of citizens in rural areas and to allow time for public hearings and legislative approval of the administrative procedures being

initiated. Notice is given that rulemaking procedures have been initiated to adopt LAC 4:VII.1901-1903.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 19. Rural Development

§1901. Projects or Activities

A. The Office of Rural Development (ORD) provides financial assistance to local units of government throughout the state mitigating the effects of natural and economic emergencies and funding units of local government projects essential to community well-being.

B. Municipalities with populations of less than 35,000 and parishes with populations of less than 100,000 inhabitants will be considered rural for the purposes of this program.

C. The ORD applies the following guidelines to any project or activity funded.

1. All projects or activities funded must be related to rural development revitalization of a rural area, as defined in R.S. 3:313.

2. All funds shall be used to mitigate the rapid deterioration or assist the improvement of rural health, education, agribusiness, transportation, public facilities, tourism, infrastructure, or other defined purposes essential to the socioeconomic well-being and quality of life of Louisiana's rural areas.

3. Projects or activities should further enhance community services and broaden rural employment opportunities whenever possible.

4. Projects or activities should further the provisions of the Rural Development Law, R.S. 3:311-323.

5. At the start of each fiscal year, the executive director shall determine the equal funding level for all eligible parishes, which includes villages, towns and cities within each parish as well as the parish government, based on the total amount budgeted as aid to local governments for rural development grants. The ORD shall make awards to all parishes throughout the year up to that equal funding level.

6. In cases where the eligibility of the parish is limited (parishes more than 100,000 in population with eligible unincorporated areas or eligible municipalities), the parish shall be funded to the maximum of those eligible levels so long as the amount does not exceed the amount to which rural parishes are eligible.

7. Parish governments may request funding for projects that serve a parish-wide area or an unincorporated area within the parish. In cases where a parish's application is for funding a project that is not parish-wide in scope and is designed to benefit an incorporated area within the parish, the governing body of the parish must submit a resolution of support for the project stating that determination.

8. Municipal governments (villages, towns, cities) may not exceed the total funding level as outlined in the ORD application guidelines for rural development grant funds for any fiscal year by having a parish government submit an application to fund a project within the corporate limits of a village, town or city, unless the project is a service that extends beyond the corporate limits and serves an adjoining portion of the parish or unless the project is in response to an emergency

officially declared as defined by state law (R.S. 38:2211 et seq.).

9. Grants approved by the ORD are expected to be completed within one year from the date of signing of the letter of commitment by the executive director of ORD. Extensions will be limited to two on each grant and an extension must be approved in writing by the executive director of ORD.

10. Rural development funds are not intended for salary only projects or ongoing salaried positions.

11. All invoices submitted for reimbursement must be in original form and marked by vendor to identify the invoice as expenses related to the approved ORD grant using the grant number furnished by ORD at the time of issuing the approved letter of commitment.

12. There shall not be awarded to any Local Governmental Agency (LGA), municipal or parish, an additional grant if a previous grant to that LGA is still open past a period of 24 months.

13. Changes or amendments to an application must be in writing and must be approved by the executive director in writing. If the change in an application is so great that it goes from one category to another, the request must include a new abstract and a new budget and must be accompanied by a new resolution of support from the LGA's governing body.

14. Multi-parish regional projects are not intended to be funded by ORD funds, however, if each parish in a region agrees to fund a project that meets the criteria of the ORD grants, with the agreement of its local governing authority and the legislative delegation of that region, the total amount of the regional grant shall be prorated to each parish in that region. The prorated amount shall come out of the total allocated to each participating parish for that fiscal year.

15. A regional project may be funded, provided the legislature appropriates funding for a named regional project above the general appropriation for the ORD. *Regional* is defined as more than one municipality collaborating on a project parish-wide or more than one parish.

D. The director of the ORD shall develop an application procedure satisfying the purposes, intentions, and the implications of regulatory provisions contained in the Rural Development Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:311 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Rural Development, LR 24:

§1903. Application Process

A. Rural development applications are available from the Office of Rural Development to all who request them. All requests for information may be submitted via mail to the Office of Rural Development, Box 94004, Baton Rouge, LA 70804-9004.

B. Municipalities, parish governments, school boards, other units of government, and special districts are eligible to apply for rural development funds. All applicants must be authorized by law to perform governmental functions and be provided governmental body support, and must be subject to state audit.

C. Current population figures are used to determine the eligibility for funding of municipalities based on appropriations by the legislature. The funding is outlined in the ORD application guidelines for rural development grant funds.

D. Funds from this program cannot be used to pay consulting fees charged to a unit of government for the preparation of the application, for administrative costs by agents of the project sponsor or any third party, or for previously created debt.

E. Grant recipients are required to maintain an audit trail verifying that all funds received under this program were used to fulfill the criteria for funding.

F. Payment shall be made to the Local Governmental Agency which is the project sponsor upon production of invoices and approval of the LGA's request for payment by ORD, according to the agreed terms of a signed and executed letter of commitment.

G. Project funds shall be spent only for the project as described in the grant application designate by the same number as the project award. Changes in the project description and extension of the agreed time for completion must be made in writing, subject to the approval of ORD.

H. Use of grant funds for any project other than that described in the grant application or amended application, or in violation of any terms of the application or letter of commitment/agreement, will be grounds for ORD to terminate the agreement and revoke the funds for the project.

I. All invoices related to the project are the responsibility of the LGA project sponsor, and must be submitted to and approved by ORD before the funds will be released to the LGA, which remains responsible for payment to its vendors in the project.

J. The LGA as project sponsor will agree to hold harmless the State of Louisiana, Office of the Governor, and Office of Rural Development as a term and condition of the letter of commitment/agreement.

K. ORD will de-obligate funds from any unexpended amount, whether by failure to start a project in the agreed upon time frame in the letter of commitment or by unexpended funds in an officially closed project, and from revoked grant awards.

L. Failure of the LGA project sponsor to abide by any article of the local agency assurances section of the grant application or of the letter of commitment/agreement, including state audit procedures, federal and state laws, state ethical rules and policy guidelines of the ORD, shall result in revocation of the grant award and the responsibility of the LGA project sponsor to repay project funds released to it by ORD up to the full amount of the grant award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:311 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Rural Development, LR 24:

Larry Kinlaw
Executive Director

9802#049

DECLARATION OF EMERGENCY

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

Home Health Program—Surety Bond

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B), and shall be in effect for the maximum period of 120 days allowed under the Administrative Procedure Act, or until adoption of the rule, whichever occurs first.

Section 4724 of the Balanced Budget Act of 1997 was enacted August 5, 1997 to deal with a variety of issues designed to eliminate waste, fraud, and abuse in the Medicare and Medicaid Programs. One of these provisions established a requirement that home health agencies provide surety bonds of at least \$50,000 in order to participate in the Medicaid Program. This surety bond is in addition to the similar bond required for participation in the Medicare Program. Section 4724 amends section 1903(i) of the Social Security Act by adding a new paragraph (18). These surety bonds are required to ensure the recovery of overpayments, civil money penalties or assessments.

The Health Care Financing Administration, the federal agency responsible for oversight of the Medicaid Program, published a final rule with comment period on January 5, 1998 to implement the statutory requirement of that law. The rule affects the Medicaid regulations at 42 CFR 441 by creating a new section 42 CFR 441.16 and moving the previous 441.16 to 441.17.

These regulations require that all home health agencies (except government-operated agencies that have no uncollected overpayments in the preceding five years) provide a surety bond with an effective date of January 1, 1998, covering a specific period to the department by February 27, 1998. Home health agencies that have not provided an acceptable surety bond by that date will have their Medicaid payments suspended effective February 28, 1998.

Surety bonds must name the Louisiana Department of Health and Hospitals as obligee. For currently enrolled home health agencies, the amount of the bond is the greater of \$50,000 or 15 percent of the amount listed on the IRS Miscellaneous Income Form (1099) for the most recent year. Home health agencies that incurred overpayments in excess of either of these amounts in the previous fiscal year shall provide surety bonds in the amount of the previous year's overpayment.

Purchasers of existing home health agencies are required to obtain a new surety bond effective the date of the change in ownership. The new owner shall purchase a surety bond in the same amount as the one held by the previous owner.

Home health agencies seeking to enroll as Medicaid providers for the first time will be required to provide a surety bond in the amount of \$50,000.

Government-operated agencies that lose their waiver (exempt status) of this requirement must obtain and provide verification of a surety bond in the appropriate amount within 60 days of the date on which they lose exempt status.

The department will accept surety bonds issued by companies authorized by the United States Department of Treasury. A list of these companies can be found at website address www.fms.treas.gov/c570.html.

The home health agencies will be required to submit the original surety bond and a letter signed by an officer of the company stating the following:

- 1) that the bond has been secured;
- 2) the coverage period; and
- 3) the amount of the bond.

The department will mail a letter to each home health agency notifying it of the amount of the surety bond required for their company and steps to be followed.

The surety bond must comply with all applicable federal laws and regulations pertaining to surety bonds and with all applicable state laws and rules pertaining to letters of credit, surety bonds, or combination thereof contained in the Medical Assistance Program Integrity Law, R.S. 46:437.1 et seq., and applicable rules pertaining thereto.

This action is necessary to comply with the statutory requirement of Section 4724(g) of the Balanced Budget Act of 1997 and avoid possible penalties or sanctions from the federal government. It is anticipated that implementation of this rule is cost neutral.

Emergency Rule

Effective February 3, 1998, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of Section 4724(g) of the Balanced Budget Act of 1997. This provision requires that, as a condition of participation in the Medicaid Program, a surety bond must be obtained by each home health agency listing the Department of Health and Hospitals as the obligee.

A surety bond amount shall be the greater of the following:

- 1) \$50,000;
- 2) 15 percent of Medicaid payments for the most recent calendar year as reflected on the IRS Miscellaneous Income Form (1099); or
- 3) the amount of incurred overpayments in the previous fiscal year.

The home health agency must provide verification of compliance with this requirement. Acceptable verification consists of the original surety bond and a letter signed by an officer of the surety bond company stating that the bond has been secured, the coverage period, and the amount of the bond.

The department will accept surety bonds issued by companies authorized by the United States Department of Treasury. A list of these companies can be found on the Internet website of the Department of Treasury.

Home health agencies that have not provided an acceptable surety bond by February 28, 1998 will have their Medicaid payments suspended effective February 28, 1998.

The surety bond must comply with all applicable federal laws and regulations pertaining to surety bonds and with all applicable state laws and rules pertaining to letters of credit, surety bonds, or combination thereof contained in the Medical Assistance Program Integrity Law, R.S. 46:437.1 et seq., and applicable rules pertaining thereto.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this emergency rule.

Bobby P. Jindal
Secretary

9802#016

DECLARATION OF EMERGENCY

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

Medically Needy Program Service Coverage Restrictions

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B).

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted an emergency rule to terminate the Title XIX Medically Needy Program as an eligibility category under the Medicaid Program effective July 1, 1996 (*Louisiana Register*, Volume 22, Number 6). This action was taken to avoid a budget deficit in the Medicaid Program due to the lack of sufficient funds required to match the federal financial participation required under Title XIX of the Social Security Act. A subsequent emergency rule was adopted in compliance with Executive Order MJF 96-17 to establish a state-funded Medically Needy Program with limitations (*Louisiana Register*, Volume 22, Number 7).

The department adopted an emergency rule to reinstate the Title XIX Medically Needy Program effective July 1, 1997 (*Louisiana Register*, Volume 23, Number 7). The department has subsequently determined it is necessary to amend the July 1, 1997 emergency rule to place restrictions in service coverage under the reinstated Title XIX Medically Needy Program. The eligibility criteria under the reinstated Title XIX Medically Needy Program shall remain the same as the eligibility criteria utilized in the Title XIX Medically Needy Program prior to July 1, 1996. Service coverage under the reinstated Title XIX Medically Needy Program shall be restricted to:

- 1) inpatient and outpatient hospital services;
- 2) Intermediate Care Facility for the Mentally Retarded (ICF/MR) services;

- 3) Intermediate Care and Skilled Nursing Facility (ICF and SNF) services;
- 4) physician services, medical/surgical services by a dentist;
- 5) nurse midwife services;
- 6) Certified Registered Nurse Anesthetist (CRNA) services, anesthesiologist;
- 7) lab and x-ray services;
- 8) prescription drugs;
- 9) EPSDT (KIDMED) screening services;
- 10) rural health clinic services;
- 11) hemodialysis clinic services;
- 12) ambulatory surgery clinic services;
- 13) prenatal clinic services;
- 14) Federally Qualified Health Center (FQHC) services;
- 15) family planning services;
- 16) durable medical equipment;
- 17) rehabilitation services (PT, OT, ST);
- 18) nurse practitioner;
- 19) medical transportation services (emergency and nonemergency);
- 20) home health services for individuals needing skilled nursing services;
- 21) chiropractic services;
- 22) optometry services;
- 23) podiatry services;
- 24) audiology services; and
- 25) radiation therapy.

The following services shall not be covered under the Title XIX Medically Needy Program:

- 1) dental services or dentures;
- 2) alcohol and substance abuse clinic/services;
- 3) mental health clinic services;
- 4) home- and community-based waiver services;
- 5) home health (nurse aid and physical therapy);
- 6) case management services;
- 7) mental health rehabilitation services;
- 8) psychiatric inpatient services for individuals under 22 years of age;
- 9) Sexually Transmitted Diseases (STD) services; and
- 10) tuberculosis clinic services.

All other components of the Title XIX Medically Needy Program shall be reinstated in accordance with the federal requirements as stated in the *Code of Federal Regulations*.

The department has decided to adopt an emergency rule to declare the provisions of the July 1, 1997 emergency rule in force.

Emergency Rule

Effective February 26, 1998 and after, the department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes the following service coverage restrictions in the reinstated Title XIX Medically Needy Program:

Covered Services

- 1) inpatient and outpatient hospital services;
- 2) Intermediate Care Facility for the Mentally Retarded (ICF/MR) services;
- 3) Intermediate Care and Skilled Nursing Facility (ICF and SNF) services;

- 4) physician services, medical/surgical services by a dentist;
- 5) nurse midwife services;
- 6) Certified Registered Nurse Anesthetist (CRNA) services, anesthesiologist;
- 7) lab and x-ray services;
- 8) prescription drugs;
- 9) EPSDT (KIDMED) screening services;
- 10) rural health clinic services;
- 11) hemodialysis clinic services;
- 12) ambulatory surgery clinic services;
- 13) prenatal clinic services;
- 14) Federally Qualified Health Center (FQHC) services;
- 15) family planning services;
- 16) durable medical equipment;
- 17) rehabilitation services (PT, OT, ST);
- 18) nurse practitioner;
- 19) medical transportation services (emergency and nonemergency);
- 20) home health services for individuals needing skilled nursing services;
- 21) chiropractic services;
- 22) optometry services;
- 23) podiatry services;
- 24) audiology services; and
- 25) radiation therapy.

Noncovered Services

- 1) dental services or dentures;
- 2) alcohol and substance abuse clinic/services;
- 3) mental health clinic services;
- 4) home- and community-based waiver services;
- 5) home health (nurse aid and physical therapy);
- 6) case management services;
- 7) mental health rehabilitation services;
- 8) psychiatric inpatient services for individuals under 22 years of age;
- 9) Sexually Transmitted Diseases (STD) services; and
- 10) Tuberculosis (TB) Clinic services.

All other components of the Title XIX Medically Needy Program shall be in accordance with federal requirements as stated in the *Code of Federal Regulations*.

Bobby P. Jindal
Secretary

9802#047

DECLARATION OF EMERGENCY

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

Medicare Part B Buy-In

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with

the provisions of the Administrative Procedure Act, R.S. 49:953(B) and shall be in effect for the maximum period allowed under the Administrative Procedure Act, or until adoption of the rule, whichever occurs first.

Section 4732 of the Balanced Budget Act of 1997 requires the Medicaid Program to establish a mechanism for payment of Medicare Part B premiums for two new mandatory eligibility groups of low-income Medicare beneficiaries, called Qualifying Individuals (QIs). This provision amends section 1902(a)(10)(E) of the Social Security Act concerning Medicare cost-sharing for Qualified Medicare Beneficiaries (QMBs) and Specified Low-Income Medicare Beneficiaries (SLMBs). It also amends section 1905(b) of the Act concerning the Federal Medical Assistance Percentage (FMAP), by incorporating reference to and establishing a new section 1933, for Qualifying Individuals (QIs). Qualified Medicare Beneficiaries (QMBs) are individuals entitled to Part A of Medicare, whose income does not exceed 100 percent of the federal poverty level, and whose resources do not exceed twice the Supplemental Security Income (SSI) limit. Specified Low-Income Medicare beneficiaries (SLMBs) are individuals entitled to Part A of Medicare, whose income is above 100 percent, but does not exceed 120 percent of the federal poverty level, and whose resources do not exceed twice the SSI limit. Medicaid eligibility for these groups is limited to payment of Medicare Part B premiums.

Qualifying Individuals are individuals who would be QMBs but for the fact that their income exceeds the income levels established for QMBs and SLMBs. This means that QIs must be entitled to Medicare hospital insurance under Part A and have resources that do not exceed twice the maximum amount established for Supplemental Security Income (SSI) eligibility. Unlike QMBs and SLMBs, who may be determined eligible for Medicaid benefits in addition to their QMB/SLMB benefit, QIs cannot be otherwise eligible for medical assistance under the state plan.

Individuals in the first group of QIs (QI-1s) are eligible if their incomes are above 120 percent of the federal poverty line, but less than 135 percent. The Medicaid benefit for QI-1s consists of payment of the full Medicare Part B premium.

Individuals in the second group of QIs (QI-2s) are eligible if their incomes are at least 135 percent of the federal poverty line, but less than 175 percent. The Medicaid benefit for this group consists only of the portion of the Medicare Part B premium that is attributable to the shift of cost for some home health benefits from Part A to Part B, which raised the Part B premium. Payment for the Medicare premiums described are provided by 100 percent federal funds, which are provided as a capped annual grant. The number of QIs certified is limited by availability of these funds.

This action is necessary to comply with the mandatory requirement of Section 4732 of the Balanced Budget Act of 1997. It is anticipated that implementation of this emergency rule will be cost neutral.

Emergency Rule

Effective February 9, 1998, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of Section 4732 of the Balanced Budget Act of 1997 governing the payment of

Medicare Part B premiums for Qualifying Individuals. These provisions are effective for premiums payable beginning January 1, 1998 and ending with December 31, 2002. A capped allocation is available for each of the five years, beginning January 1998, for payment of premiums for the following two mandatory groups.

1) *Qualified Individuals-1 (QI-1s)*—individuals who are entitled to Part A of Medicare, with income above 120 percent, but less than 135 percent of the federal poverty level. In addition, their resources cannot exceed twice the SSI limit and they cannot otherwise be eligible for Medicaid. Eligibility for Medicaid benefits is limited to full payment of Medicare Part B premiums. The amount of the capped allocation limits the number of eligible individuals.

2) *Qualified Individuals-2 (QI-2s)*—individuals who are entitled to Part A of Medicare, with income at least 135 percent, but less than 175 percent of the federal poverty level. In addition, their resources cannot exceed twice the SSI limit and they cannot otherwise be eligible for Medicaid. Eligibility for Medicaid benefits is limited to partial payment of Medicare Part B premiums. The amount of the capped allocation limits the number of eligible individuals.

Once an individual is selected to receive assistance in a calendar month, he is entitled to receive assistance for the remainder of the calendar year, as long as the individual continues to meet QI criteria. However, the fact that an individual receives assistance at any time during the year does not necessarily entitle the individual to continued assistance for any succeeding year. For calendar years after 1998, the state shall give preference to individuals who were QIs, QMBs, SLMBs, or Qualified Disabled and Working Individuals (QDWIs) in the last month of the previous year and who continue to be or become QIs. Selection of QIs shall be on a first-come, first-served basis (in the order in which they apply).

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

Bobby P. Jindal
Secretary

9802#051