

Emergency Rules

DECLARATION OF EMERGENCY

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

Medicaid—Eligibility of Aliens

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following 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 adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) significantly changed Medicaid eligibility for individuals who are not citizens of the United States. Medicaid must be provided to eligible citizens or nationals, but certain noncitizens may be eligible to receive only treatment for an emergency medical condition. Effective January 1, 1997, the department promulgated an emergency rule which adopted the mandatory provisions of P.L. 104-193. This rule addressed only the citizenship requirement: every applicant for Medicaid under any classification addressed in this rule must meet all requirements for eligibility (*Louisiana Register*, Volume 23, Numbers 1, 4, and 9). Previous regulations for Medicaid eligibility of lawful Permanent Residents and aliens permanently residing in the United States under Color Of Law (PRUCOL) no longer apply and were replaced by the January 1997 rule.

Effective August 5, 1997, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 was amended by sections 5301-5306 and 5562-5563 of the Balanced Budget Act of 1997 as follows:

1. the eligibility period of refugees and asylees (includes those whose deportation has been withheld under section 243(h) of the Immigration and Nationality Act and Cuban or Haitian entrants) increased from five to seven years; and

2. the definition of *qualified alien* was expanded to include aliens granted status as Cuban or Haitian entrants.

All noncitizens are classified as *qualified aliens* or *nonqualified aliens*. *Nonqualified aliens* include both illegal and ineligible persons.

Definitions

Illegal Aliens—aliens who were never legally admitted to the United States for any period of time or were admitted for a limited period of time and did not leave the United States when their period of time expired. *Illegal aliens* are eligible only for emergency services if they meet all eligibility criteria other than citizenship.

Ineligible Aliens—aliens lawfully admitted to the United States but only for a temporary or specified period of time as legal nonimmigrants. The following categories of individuals are *ineligible aliens*:

1. foreign government representatives on official business and their families and servants;
2. visitors for business or pleasure, including exchange visitors;
3. aliens in travel status while traveling directly through the U.S.;
4. crewmen on shore leave;
5. treaty traders and investors and their families;
6. foreign students;
7. international organization representation and personnel and their families and servants;
8. temporary workers including agricultural contract workers; and
9. members of foreign press, radio, film, or other information media and their families.

Ineligible aliens are eligible only for emergency services if they meet all eligibility criteria other than citizenship.

Qualified Aliens—aliens who:

1. are lawful permanent residents;
2. are refugees, including Amerasian immigrants;
3. are asylees;
4. have had deportation withheld under section 243(h) of the Immigration and Nationality Act (INA);
5. are granted parole for at least one year by the Immigration and Naturalization Services (INS);
6. are granted conditional entry under immigration law in effect before April 1, 1980;
7. are granted status as a Cuban or Haitian entrant; or
8. are battered immigrants, who meet certain requirements.

Qualified aliens who are otherwise eligible for Medicaid, are eligible for regular Medicaid coverage.

Emergency Medical Services—services necessary for treatment of an emergency medical condition as follows. The alien has, after sudden onset, a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part. *Emergency Medical Services* do not include any organ transplant procedure or routine prenatal or postpartum care.

Mandatory Qualified Aliens—aliens who are:

1. *qualified aliens* who were in the United States prior to August 22, 1996, and are members of these groups:
 - a. lawful permanent residents to whom 40 qualifying quarters of Social Security can be credited;
 - b. refugees, including Amerasian immigrants, until seven years after the date of the alien's entry into the United States;
 - c. asylees until seven years after the grant of asylum;
 - d. aliens who have had deportation withheld under section 243(h) of the INA until seven years after the grant of withholding;

e. honorably discharged veterans who fulfill the minimum active-duty service requirements; aliens on active duty in the United States armed forces; the spouse or unmarried dependent child(ren) of such individuals; and the unremarried surviving spouse of a deceased honorably discharged veteran;

f. aliens granted status as Cuban or Haitian entrants until seven years after status granted.

2. *qualified aliens* entering the United States on or after August 22, 1996, who are members of the groups below:

a. refugees, including Amerasian immigrants, for seven years from date of entry;

b. asylees for seven years from date of entry;

c. aliens whose deportation has been withheld under section 243(h) of the INA for seven years from grant of withholding;

d. honorably discharged veterans who fulfill the minimum active-duty service requirements; aliens on active duty in the United States armed forces; the spouse or unmarried dependent child(ren) of such individuals; and the unremarried surviving spouse of a deceased honorably discharged veteran;

e. aliens with Cuban or Haitian entrance status until seven years from grant of status.

3. Native Americans born in Canada who have at least 50 percent Native American blood who enter and reside in the United States.

Optional Qualified Aliens—persons who meet the definition of *qualified aliens* but who are not *mandatory qualified aliens*. Effective December 21, 1997, the state elected to provide regular Medicaid coverage to *optional qualified aliens* who were in the United States prior to August 22, 1996.

Qualified aliens entering the United States on or after August 22, 1996 (those not described as *mandatory qualified aliens* above), are not eligible for Medicaid benefits for five years after entry into the United States. Such *qualified aliens* are eligible for emergency services only. Upon expiration of the five-year period, coverage for regular Medicaid services shall be considered if the *qualified alien* meets all eligibility criteria.

Effective December 21, 1997, the department adopted an emergency rule (*Louisiana Register*, Volume 23, Number 12) in order to avoid sanctions or penalties from the federal government arising from failure to adopt appropriate regulations related to amendments to the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104–193) contained in the Balanced Budget Act of 1997 (P.L. 105–33). The above provisions will remain in force as a result of this subsequent emergency rule.

Emergency Rule

Effective April 20, 1998 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of section 401 of the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) as amended by the Balanced Budget Act of 1997 (P.L. 105-33) regarding Medicaid eligibility for noncitizens.

The state elects to provide regular Medicaid coverage to *optional qualified aliens* who were in the United States prior to August 22, 1996, who meet all eligibility criteria.

Qualified aliens entering the United States on or after August 22, 1996 are not eligible for Medicaid for five years after entry into the United States. Such *qualified aliens* are eligible for emergency services only. Upon expiration of the five-year period, coverage for regular Medicaid services shall be considered if the *qualified alien* meets all eligibility criteria.

David W. Hood
Secretary

9804#057

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Board of Parole

Board Administration: Meetings, Decisions and Code of Ethics; Parole: Eligibility, Types, Conditions, Violations, Time Served and Suspension/Termination (LAC 22:XI.Chapters 1-19)

The Department of Public Safety and Corrections, Board of Parole has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), in order to implement and amend its rules and procedures. The Board of Parole hereby adopts the following emergency rule, effective May 1, 1998.

This emergency rule is necessary so that the Board of Parole will be in compliance with all state laws regarding parolees and sex offenders. These rules will insure that the Board of Parole will have published guidelines in place to regulate compliance with the required victim notification, public information and actions authorized by the Board of Parole.

Without such rules, the Board of Parole will continue to suffer from the misconception by the public that the Board of Parole is not operating in compliance with all state laws. Without such provisions in place, the Board of Parole will continue operating by its present rules and practices.

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

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part XI. Board of Parole

Chapter 1. Administration

§101. Authority

The Louisiana Board of Parole, hereinafter referred to as "the board," has the authority to release on parole any statutorily eligible inmate convicted of a felony and sentenced to the Louisiana Department of Public Safety and Corrections and to detain or revoke any parolee for violation of parole conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:113 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§103. Composition of the Board

A.1. The board shall be composed of seven members appointed by the governor, who shall designate one member as chairman and one member as vice-chairman.

2. All members shall serve at the pleasure of the governor and each appointment shall be confirmed by the Senate.

3. One member shall be appointed from a list of at least three names submitted by Victims and Citizens Against Crime, Inc.

4. Each member shall devote full time to the duties of the office and shall not engage in any other business or profession or hold any other public office.

B. The chairman of the board shall be the chief administrative officer for the board and shall be responsible for assuring that all meetings, hearings and administrative matters for the board are properly conducted in accordance with law and with these rules or executive order.

C. The vice-chairman of the board shall act in place of the chairman in his or her absence and shall be responsible for any other administrative duties as directed by the chairman or as provided by law or executive order. In the event that the vice-chairman is incapacitated or otherwise unable to perform his or her duties for any reason, the chairman shall perform such duties until the vice-chairman is able to resume performance of his or her duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:113, (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§105. Headquarters

A. The domicile of the board shall be in the parish of East Baton Rouge, City of Baton Rouge, Louisiana. The board's physical address is 504 Mayflower Street, Baton Rouge, LA 70802 and the mailing address is Box 94304, Baton Rouge, LA 70804.

B. Venue in any action in which an individual committed to the Department of Public Safety and Corrections contests any action of the board is East Baton Rouge Parish. Venue in a suit contesting the actions of the board shall be controlled by R.S. 15:571.15 and not the *Code of Criminal Procedure*, Title XXXI-A, Post Conviction Relief, or Title IX, Habeas Corpus, regardless of the captioned pleadings stating otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:113 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§107. Powers and Duties of the Board

A. to determine the time and conditions of release on parole of any eligible inmate who has been convicted of a felony and sentenced to the Louisiana Department of Public Safety and Corrections; the release date:

1. shall be fixed by the board; and
2. shall not be later than six months after the inmate's parole hearing or the most recent consideration of the case;

B. to determine and impose sanctions for violation of the conditions of parole;

C. to keep a record of its acts and to notify each institution of its decision relating to the persons who are or have been confined therein;

D. to transmit annually, on or before the first day of February, a report to the secretary of the Department of Public Safety and Corrections as set forth in R.S. 15:574.2(C)(4);

E. to apply to a district court to issue subpoenas, compel the attendance of witnesses, and the production of books, papers, and other documents pertinent to the subject of its inquiry; to take testimony under oath, either at a hearing or by deposition; and to pay all costs in connection with board hearings;

F. to consider all pertinent information necessary for parole consideration with respect to each inmate who is incarcerated in any adult penal or correctional institution in the state at least one month prior to the parole eligibility date, when possible, provided the file has been completed by the Department of Public Safety and Corrections, and thereafter at such other intervals as the board may determine; such information shall be the inmate's consolidated summary record and pre-parole report and shall include but not be limited to the following:

1. circumstances of the instant offense;
2. reports filed under Articles 875 and 876 of the Louisiana *Code of Criminal Procedure*;
3. detainers issued or outstanding;
4. previous social history and criminal record;
5. conduct, employment and attitude in prison;
6. participation in vocational training, adult education, literacy, or reading programs;
7. reports of physical and mental examinations which have been made;
8. residence plan; and
9. employment plan;

G. to adopt rules not inconsistent with law as the board deems necessary and proper with respect to the eligibility of inmates for parole and the conditions imposed upon inmates who are released on parole;

H. when requested, to notify the chief of police, sheriff and district attorney of the parish where the inmate will reside and where the conviction(s) occurred of the inmate's pending release; the notification:

1. shall be in writing; and
2. shall be issued at least seven days prior to the inmate's release;

I. to adopt rules and regulations to encourage voluntary participation by inmates committed to the Department of Public Safety and Corrections in vocational training, adult education, literacy, and reading programs, through programs established by the department pursuant to R.S. 15:828(B); the rules and regulations may include provisions for accelerated parole release time, in addition to the provisions of R.S. 15:574.4(A)(1), for inmates who are not otherwise ineligible, but no inmate shall receive more than 10 additional

days per month or 180 days total accelerated parole release time for program participation;

J. to sanction an inmate's disorderly, threatening, or insolent behavior, or use of insulting, abusive, or obscene language at a hearing or in written communications in connection with the inmate's parole application:

1. a decision to sanction the inmate may result in the immediate and unfavorable termination of the proceedings, and the inmate's right to make future application for parole may be suspended for not more than two years;

2. the applicant shall be informed of the sanction process and the possible consequences at the commencement of the proceedings.

[See R.S. 15:574.2(A)(11)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:114 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§109. Restrictions on the Representation of Offenders

A. The following persons shall not represent any offender, directly or indirectly, before the board:

1. the executive counsel to the governor;
2. the executive secretary to the governor;
3. any member of the immediate staff of the governor;
4. any member of a law firm, law partnership, or law corporation of which a member, associate, or partner is the executive counsel to the governor, the executive secretary to the governor, or a member of the immediate staff of the governor.

B. If an executive counsel, executive secretary, or member of the immediate staff of the governor violates the provisions of this Section, such person shall forfeit the office or position held and all emoluments of the office or position. In addition, if a member of a law firm, partnership, or corporation of which such a person is a member, associate, or partner violates the provisions of this Section, the office or position held with the governor and all emoluments of said office shall be forfeited.

[See R.S. 15:572.7(A)(2)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:114 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§111. Communications Between Board Members

There shall be no informal, off-the-record communications regarding the merits or the substance of an offender's case between board members for the purpose of influencing a decision of the board outside of an official administrative meeting or public hearing. Any attempt by a board member to discuss cases in an effort to persuade another board member or members outside of an official administrative meeting or public hearing shall be documented as set forth in §113.D.1 - 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:115 (April 1976), amended by

the Department of Public Safety and Corrections, Board of Parole, LR 24:

§113. Communications With Board Members

A.1. No member of the board shall transmit any correspondence to, or otherwise confer with, a judge before whom a convicted offender is awaiting sentencing to request or recommend any action relating to the sentence to be imposed upon the offender.

2. The board shall notify the governor of its finding of a violation of this Section. However, no decision of the board shall be nullified or otherwise affected by the participation of a member who has violated this Section, except a decision that involves the offender on whose behalf the request or recommendation was made.

B. Notwithstanding the provisions of R.S. 15:574.12(A), or any other provision of law to the contrary, no person shall contact or communicate with the board or any of its members urging parole, or otherwise regarding any offender, except in an open hearing/meeting or by written letter addressed to the board.

1. Any written communication with the board regarding an offender as provided in this Section shall be deemed a public record and subject to public inspection as provided by R.S. 44:1 et seq.

2. Letters written by or on behalf of any victim of a crime committed by the offender, or any letter written in opposition to the inmate being placed on parole shall not be deemed a public record. However, this exception shall not apply to any written communication by an elected or appointed official.

C. Any member of the board improperly contacted by an individual shall immediately cease the inappropriate communication with the individual, notify the individual in writing, return receipt requested, accompanied by a copy of this rule, that such contact was illegal and inappropriate, and report the contact to the other board members.

1. Any person who persists in violating the provisions of this Section, after being informed of the inappropriate contact as provided in this Section, shall be reported to the appropriate district attorney for prosecution.

2. If convicted, the violator shall be fined not more than \$500 or imprisoned for not more than six months, or both.

D. A monthly contact sheet for oral communication will be kept by each board member, and any communication received by the board member with the intent to affect the outcome of any offender's case shall be entered on the form.

1. The form shall include the name of the individual making the contact, date and time of the contact, type of communication, name of offender, nature of the request and board member's action.

2. A copy of the monthly contact sheet shall be kept in a central registry at the board office and shall be subject to public inspection.

3. Copies of written communications shall be given to all board members.

E. Any public records' request directed to the board or its staff should be made in writing. The chairman or his or her designee and/or the board's attorney shall review and approve

or disapprove the request in accordance with R.S. 15:574.12 and R.S. 44:1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:115 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§115. Conflicts of Interest

A. Any member of the board who has a conflict of interest must recuse himself or herself from a matter pending before the board. A conflict of interest may include, but not be limited to the following:

1. the board member is a witness;
2. the board member has been employed as an attorney for the offender;
3. the attorney for the offender is the spouse of a board member or is related to a board member;
4. the offender is a relative of a board member;
5. the board member is biased, prejudiced, or interested in the case or its outcome, or biased or prejudiced toward or against the offender or the offender's attorney to the extent that he/she would be unable to fairly and impartially participate in the hearing.

B. If a board member fails to recuse himself or herself, any interested person may request in writing to the chairman of the board that a member be recused. This request should include detailed reasons why a member should be recused.

C. If the member fails to recuse himself or herself, the matter shall be referred to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:115 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§117. Rules and Procedures Manual

Each board member shall be issued a *Rules and Procedures Manual* and shall sign a statement to acknowledge receipt of the manual. Such statement shall include the board member's agreement to completely and thoroughly familiarize himself or herself with the information contained therein and to conduct himself at all times in a manner which will strictly adhere to the letter of the law, as well as the spirit and intent. The manual shall contain, but not be limited to, a copy of the following:

1. Louisiana Board of Parole Rules and Procedures;
2. *Code of Governmental Ethics*;
3. R.S. 42:1 et seq. (Public Policy for Open Meetings Law);
4. all department regulations and/or statutes with particular reference to the operations of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:115 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§119. Legislative Briefing

A. Ninety days prior to a legislative session, the chairman shall appoint a committee consisting of:

1. at least two board members,;
2. the board's legal counsel;
3. executive counsel to the governor; and/or
4. an alternate member if requested by the board, which may be the legislative liaison of the Department of Public Safety and Corrections.

B. The committee shall present its recommendations to the board and the board shall determine if any legislation should be recommended by the board.

C. Following each legislative session, if necessary, a meeting will be held to brief all board members concerning those legislative acts which affect the operations of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:116 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§121. Board Spokesperson

Only the chairman of the board or, in the absence of the chairman, the vice-chairman shall be authorized to speak on behalf of the entire board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:116 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§123. Authority of the Parole Board

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:116 (April 1976), repealed by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§125. Specific Conditions Under Which Parole is Granted

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:117 (April 1976), repealed by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§127. Suspension of Supervision Parole

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:118 (April 1976), repealed by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§129. Confidential Nature of Parole Files

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:118 (April 1976), repealed by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§131. Changes or Revisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.

15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:118 (April 1976), repealed by the Department of Public Safety and Corrections, Board of Parole, LR 24:

Chapter 3. Parole—Eligibility and Types

§301. General Information

A. The authority for determining parole eligibility dates, offender class, good time release dates and full term dates will be the official master prison record computed by the Louisiana Department of Public Safety and Corrections. The board will accept changes in the offender class and parole eligibility dates when recommended by the Division of Probation and Parole and verified by the records custodian.

B. No inmate may be paroled while there is pending against him any indictment or bill of information for any crimes suspected of having been committed by him while a prisoner.

C. Third and subsequent offenders, offenders sentenced to imprisonment without benefit of parole, and inmates serving a life sentence are not eligible for parole. Those inmates who have a parole eligibility date, but who may be ineligible for release, will be reviewed by a single-member as set forth in §513.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§303. Regular Parole

A. An inmate whose offense was committed prior to July 1, 1982, and who is not otherwise ineligible for parole, shall be eligible for parole consideration after serving one-third of the sentence imposed.

B. Except as otherwise provided by law, an inmate whose offense was committed on or after July 1, 1982, shall be eligible for parole consideration as follows:

1. first offenders are eligible after serving one-third of the sentence imposed;
2. second offenders are eligible after serving one-half of the sentence imposed.

C. An inmate convicted a first time for a *crime of violence* committed on or after January 1, 1997, and not otherwise ineligible for parole, shall serve at least 85 percent of the sentence imposed prior to parole consideration. In addition to the offenses enumerated in R.S. 14:2(13), a *crime of violence* is an offense that has, as an element, the use, attempted use or threatened use of physical force against the person or property of another, and that by its very nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense or an offense that involves the possession or use of a dangerous weapon. [See R.S. 14:2(13)]

D. Except for those inmates serving a life sentence and those inmates convicted of a *crime of violence* committed on or after January 1, 1997, an inmate who is 45 years of age who has served 20 years of a sentence of 30 years or more, is eligible for parole consideration.

E.1. Within three months prior to an inmate's parole eligibility date, all pertinent information will be compiled concerning the inmate's case, including but not limited to:

- a. the nature and circumstances of the offense;
- b. prison records;
- c. the pre-sentence investigation report;
- d. the pre-parole report including recommendations from the Division of Probation and Parole; and
- e. any other information (including correspondence), reports, or data as may be generated.

2. If appropriate, a public hearing shall be scheduled.

F. The board will not schedule a parole hearing or rehearing when there is less than 90 days between the parole eligibility date and the diminution of sentence/parole supervision release date, or when there is less than 90 days between the earliest possible hearing date and diminution of sentence/parole supervision release date. A hearing will not be held if the pre-parole report has not been received by the board from the Division of Probation and Parole or if the victim has not been notified prior to the scheduled public hearing.

G. In the event an inmate chooses to withdraw from parole consideration, he may reapply for a hearing in accordance with §705.

H. Parole hearings may be held during the month prior to the parole eligibility date.

I. No inmate who is the parent, stepparent, or has legal and physical custody of a child who is the victim, shall be released on parole unless the victim has received psychological counseling prior to the inmate's release if the inmate is returning to the residence or community in which the child resides. [See R.S. 15:574.4(H)(5)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§305. Impact Parole

A. A person otherwise eligible for parole, convicted of a nonviolent first felony offense or of a nonviolent second felony offense, but never having served time in a state prison, may be eligible for intensive parole supervision upon successful completion of intensive incarceration.

1. The intensive incarceration and parole supervision program shall be established and administered by the Department of Public Safety and Corrections.

2. The duration of the intensive incarceration shall not be less than 180 calendar days.

3. The offender may be considered for participation in the program if all of the following considerations are met:

a. the offender is sentenced to be committed to the Department of Public Safety and Corrections to serve seven years or less;

b. the Department, through the Division of Probation and Parole within the Office of Adult Services, recommends to the sentencing court that the offender is particularly likely to respond affirmatively to participation in the program;

c. the court at sentencing recommends that the offender be considered for participation in the program;

d. the secretary of the department, or his designee, finds, after an evaluation, that the offender is particularly likely to respond affirmatively to participation in the program;

e. the offender voluntarily enrolls in the program after having been advised by the Department of Public Safety and

Corrections of the rules and regulations governing the participation in the program.

B. An offender who is otherwise eligible for intensive incarceration and intensive parole supervision, but who has not been recommended for participation in the intensive incarceration and intensive parole supervision program by the Division of Probation and Parole of the Office of Adult Services and the sentencing judge, may additionally be placed in the intensive incarceration and intensive parole supervision program if all of the following conditions are met:

1. the staff at the Adult Reception and Diagnostic Center, after a thorough evaluation, determines that the offender is suitable and appropriate for participation;
2. the warden at the Adult Reception and Diagnostic Center concurs with the staff recommendation;
3. the warden of the facility where the offender would be placed concurs with the recommendation of the staff and the warden of the Adult Reception and Diagnostic Center;
4. the offender meets other conditions set forth in R.S. 15:474.4.

C. The court may sentence an offender directly to the program if the court commits the offender to the Department of Public Safety and Corrections to serve seven years or less.

D.1. When an inmate completes intensive incarceration, the board shall review the case in a public hearing in accordance with §511 to determine whether the inmate should be released on intensive parole supervision or serve the remainder of his sentence as provided by law. Such review shall include:

- a. an evaluation of the inmate's performance while incarcerated;
- b. the likelihood of successful adjustment on parole; and
- c. other factors deemed relevant by the board.

2. The board may defer any final decision and reschedule the consideration for the next scheduled hearing at the Elayn Hunt Correctional Center.

E. When the inmate is released to intensive parole supervision by the board, the board shall require the inmate to comply with conditions of intensive parole supervision in accordance with R.S. 15:574.4(A)(2)(h), in addition to any other conditions of parole ordered by the board.

Note: See Department Regulation No. B-02-005 "Intensive Incarceration/Intensive Parole Supervision (IMPACT)-Adult and Alternative Correctional Treatment Program for Juveniles" for additional information concerning the IMPACT program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§307. Medical Parole

A. An inmate determined by the secretary of the Department of Public Safety and Corrections to be *permanently incapacitated* or *terminally ill* may be eligible for release consideration.

1. Upon referral by the Department of Public Safety and Corrections, the board may schedule the inmate for a hearing for medical parole consideration.
2. Inmates who are serving a sentence for first or second degree murder, who are awaiting execution, or who have a

contagious disease are not eligible.

B. *Permanently incapacitated inmate* means any inmate who, by reason of an existing physical or medical condition, is so permanently and irreversibly physically incapacitated that he does not constitute a danger to himself or to society.

C. *Terminally ill inmate* means any inmate who, because of an existing medical condition, is irreversibly terminally ill, and who by reason of the condition does not constitute a danger to himself or to society.

D. Public hearings for medical parole consideration will be held at a location convenient to the board and the inmate. The board may request that additional medical information be provided or that further medical examinations be conducted.

E. The authority to grant medical parole shall rest solely with the board.

1. The board shall not grant medical parole unless advised that the inmate is permanently disabled or incapacitated.

2. The board, if it grants medical parole, may establish any additional conditions of medical parole as it may deem necessary to monitor the inmate's physical condition and to assure that the inmate is not a danger to himself and society.

F. Parolee must sign a medical release form.

G. Supervision of an inmate released on medical parole shall consist of periodic medical evaluations at intervals to be determined by the board at the time of release.

1. An inmate released on medical parole may have his parole revoked if his medical condition improves to such a degree that he is no longer eligible for medical parole.

2. Medical parole may also be revoked for violation of any condition of parole as established by the board.

Note: See Department Regulation No. C-03-004 "Medical Parole" and R.S. 15:574.20 for additional information concerning medical parole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§309. Diminution of Sentence (Good Time/Parole Supervision Release)

An inmate whose offense was committed on or after July 1, 1982, and who is not otherwise ineligible for diminution of sentence, shall be released on his diminution of sentence/parole supervision release date as if on parole.

1. Each inmate released on diminution of sentence/parole supervision shall be subject to conditions of parole pursuant to R.S. 15:574.4(H) and Chapter 5 of these rules.

2. If an inmate violates a condition of his diminution of sentence/parole supervision release or other conditions imposed by the board, the board shall proceed in the same manner as in revocation matters pertaining to those granted regular parole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§311. Work Release

A. The board may recommend to the secretary of the Department of Public Safety and Corrections that an inmate

be placed on work release at any time that the inmate is within two years of discharge by diminution of sentence, diminution of sentence/parole supervision, or full term release date.

1. The inmate must not be serving a sentence for one of the enumerated offenses specified in R.S. 15:1111 or Department Regulation No. B-02-001 Assignment and Transfer of Inmates. In this case, he would only be eligible in the last six months of his term.

2. The board may elect to grant parole to an eligible inmate and then recommend to the secretary of the Department of Public Safety and Corrections that the inmate be placed in work release for six months; however, the actual parole release date fixed by the board must be within six months of the date of the hearing pursuant to R.S. 15:574.4(G).

B. Inmates who are serving a sentence for an enumerated offense as specified in R.S. 15:1111 or Department Regulation No. B-02-001 "Assignment and Transfer of Inmates," are eligible for work release only during the last six months of their term. Therefore, before the board recommends work release to the Secretary of the Department of Public Safety and Corrections for these inmates, the board must render a decision which grants parole on a specific date that is no more than six months from the date of the hearing. This formally establishes that the inmate is within the last six months of his term and validates the work release recommendation.

C. Pursuant to R.S. 15:574.7(B)(2)(b), parole violators may be committed to a work release facility by the board as a condition of parole in lieu of revocation. Such commitment may be for a period of time not to exceed six months, without benefit of good time, provided that such commitment does not extend the period of parole beyond the full parole term.

D. Except as provided in §311.C, all assignments to work release must be approved by the secretary of the Department of Public Safety and Corrections or his designee.

Note: See Department Regulation No. B-02-001 "Assignment and Transfer of Inmates" for additional information concerning the work release program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

Chapter 5. Meetings and Hearings of the Board of Parole

§501. Types of Meetings

All meetings and hearings of the board shall be open to the public. For the purpose of convenience and in order to differentiate between the different types of forums for conducting business, the following designation or title has been given, depending upon the nature of the matters or actions to be considered:

1. a *business meeting* is a meeting of the full board to discuss all general business matters as set forth in §507;

2. an *administrative meeting* is a meeting of randomly selected, three-member panels to consider administrative matters, as set forth in §509;

3. a *public hearing* is a meeting of randomly selected, three-member panels with offenders present, as set forth in §511.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§503. Selection of Three-Member Panels

A. The board shall operate in a minimum of three-member panels, except as otherwise provided in these rules.

B. The vice-chairman of the board shall randomly assign all three-member panels. Each panel shall appoint the chairperson of that three-member panel.

C. The random selection of panels shall be by institutional groupings and shall be done in such a manner as to result in the smallest probability of having a panel constituted by the same three members at the same prison for two consecutive months.

1. The random selection process will involve six "circuits" each month.

2. There will be one circuit of four prisons, two circuits of three prisons, and three circuits of two prisons.

3. The six circuits will be visited each month by six panels.

D. In the event that a board member requests a change in the composition of the panel, the reason for such request must be made in writing to the vice-chairman of the board for approval. This does not include emergencies, illness, etc. on the day of the hearings/meetings.

1. When an emergency request is made on the date of the hearing/meeting, the explanation for such emergency must be submitted in writing upon the panel member's return to work as promptly as practical.

2. There will be no substitutions of panel members except in cases of either illness or emergencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§505. General Procedures

A. The board will conduct its business meetings, administrative meetings, and public hearings in accordance with the provisions of R.S. 42:1 et seq. (Public Policy for Open Meetings Law) and *Robert's Rules of Order*.

1. At business meetings, detailed minutes indicating time of commencement, persons present (including visitors and witnesses), adoption of previous minutes, motions and seconds, and time of adjournment shall be kept.

2. The board's minutes of public hearings and administrative meetings shall include the following information as applicable:

a. name and Department of Corrections (DOC) number of the offender;

b. name of counsel representing the offender;

c. the vote of each member; and

d. the decision of the board.

B.1. The vote of each panel member shall be recorded by name and date on the vote sheet.

2. Only those members present shall vote; voting by proxy is prohibited.

3. No vote shall be taken while the panel is in executive session.

4. The panel shall not rescind the original vote without

conducting a new hearing, except as provided in §505.P, §513.A.1 - 3, and §711.

5. The original vote sheet shall remain in the inmate's DOC file and a copy shall be attached to the minutes and maintained in a separate locked file in the board office.

C. The chairperson of the panel shall appoint a member of each three-member panel, other than the chair, to review case records subsequent to voting to assure the accuracy of all documents.

D. A majority vote is required to continue or recess a meeting or hearing. Generally, the matter will be rescheduled for the next month, but may be rescheduled for an earlier date if deemed appropriate by the panel.

E. A panel may go into executive session to discuss each offender's case prior to a decision pursuant to the provisions of R.S. 42:6, 42:6.1 and 15:574.12. No vote shall be taken while the panel is in executive session.

F.1. The victim, spouse, or next of kin of a deceased victim shall be advised in writing no less than 30 days prior to the hearing date when the inmate is scheduled for a parole hearing.

2. The notice shall advise the victim, spouse, or next of kin of a deceased victim that:

- a. the hearing is open to the public;
- b. he or she may remain in the hearing room during the entire hearing (except during executive session); and
- c. he or she may speak to the panel prior to its making a decision in the case.

3. The board has delegated the responsibility for this notice to the Department of Public Safety and Corrections.

4. The written notice is not required when the victim, the spouse, or next of kin of a deceased victim, advises the board in writing that such notification is not desired.

5. Notification is not required when the victim cannot be located despite the exercise of due diligence.

6. For purposes of §505.F, a *victim* is defined as an individual, business entity, or corporation against whom a crime has been perpetrated.

G. Pursuant to R.S. 15:574.2(C)(12) the panel may exclude anyone from the hearing to protect the privacy of the victim or victims.

H. The board may extend invitations to individuals to observe board proceedings.

I. The board may direct questions to and/or request statements from anyone appearing before the board.

J. It is generally inappropriate for children under the age of 12 years, except when the child is a victim and chooses to appear, to be present during any public meeting or hearing of the board.

K. The number of people supporting or opposing the granting of parole, including victims and/or family members of victims will be limited only by space and security considerations.

L. The victim or victim's family shall have the right to make a written or oral statement as to the impact of the crime. The victim or the victim's family, a victim advocacy group, and the district attorney or his representative may also appear before the panel by means of telephone communication from the office of the local district attorney.

M. An inmate can apply for a rehearing six months from release from lockdown, if the inmate was placed in lockdown for disciplinary reasons.

N. The vice chairman shall be responsible for schedules of administrative meetings and public hearings.

1. Such schedules may be changed, only upon prior notice, provided that such changes are made in a timely manner in order to notify all concerned.

2. Such meetings may be rescheduled without notice due to inclement weather, or any other emergency or unforeseen situation.

O. The vice-chairman of the board or his or her designee shall develop a duty calendar and shall designate one board member as the daily duty officer.

1. The duty officer shall be available and present to act on behalf of the board concerning both routine office and administrative matters as authorized by these rules.

2. If the duty officer must substitute for another member at a hearing or is absent for any other reason, he or she need not be replaced by another duty officer.

P. Upon notification by the secretary of the Department of Public Safety and Corrections that an inmate has violated the terms of work release granted under §311 or has engaged in misconduct prior to the inmate's release, the board may rescind its decision to grant parole. In such cases, the inmate shall promptly receive another parole hearing.

Q. The board shall cause a complete record to be kept of every inmate released on parole. Such records shall be organized in accordance with the most modern methods of filing and indexing so that there always will be immediate availability of complete information about such inmate.

R. In case of video conferencing, the family, friends, and attorney of the inmate shall be at the location of the inmate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§507. Business Meetings

A. The full board shall meet once each quarter when called by the chairman of the board. Additional meetings may be called as needed by either the chairman of the board or a majority vote of the board.

B. The agenda for business meetings of the board may include, but shall not be limited to, the following topics:

1. board rules;
2. personnel matters;
3. litigation; and
4. any other matters the board deems necessary.

C. Business meetings should be tape recorded and copies of the taped and/or written minutes shall be available upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§509. Administrative Meetings

A. The vice-chairman shall schedule administrative meetings. A copy of the schedule shall be available for public inspection at the board office.

B. The panel may consider the following actions:

1. to add or remove conditions relative to parolees;
2. to consider rehearing requests; and
3. to consider those matters referred by a member from single-member action (see §513); the member who makes such a referral may not serve on the panel.

C. A unanimous vote will be necessary in order to grant the actions stated in §509.B.1 - 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§511. Public Hearings

A. The vice-chairman shall schedule public hearings. A copy of the schedule shall be available for public inspection at the board office.

B.1 The panel may consider the following actions with the offender present:

- a. parole;
- b. revocation; and
- c. recommendations for work release.

2. In the case of IMPACT parole, the offender need not be present unless requested by the panel.

C.1. A unanimous vote is required to grant parole or to recommend work release regardless of the number of board members at the parole hearing.

2. Once the panel votes to grant or deny parole at a particular hearing, the vote may not be rescinded at that hearing.

3. If a member of a panel moves that a particular condition of parole be considered and determined prior to the vote to grant or deny parole, that issue shall be determined prior to the vote on parole.

D. Otherwise, following a vote granting parole, the panel shall consider whether to impose special conditions of release. All special conditions of release, including special conditions of diminution of sentence/parole supervision release, shall be approved by a unanimous vote of the panel.

E. A majority vote is required to revoke parole.

F. An inmate docketed for a public hearing may be represented by counsel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§513. Single-Member Action

A.1. A single board member may act upon the following matters which have been reviewed and recommended by the Division of Probation and Parole:

- a. Activity Reports (see §1103); and
- b. Violation Reports (see §1109).

2. A single board member may also review the file of those inmates who have a parole eligibility date but who are ineligible for release, including inmates whose parole eligibility hearing date falls within 90 days of the inmate's release on diminution of sentence/parole supervision.

3. The duty officer may rescind parole as provided in §505.P, pending another parole hearing.

B. Written documentation must be placed in the offender's file in the event the board member fails to follow a recommendation of the Division of Probation and Parole. In

such case, the matter shall be automatically scheduled for consideration by a three-member panel at the next available administrative meeting date.

C. Under no circumstances should a board member sign a blank form concerning single-member action matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

Chapter 7. Parole Decisions

§701. Policy Statement

It shall be the policy of the board to consider the following guidelines in determining whether to grant or deny parole.

1. Nature and Circumstances of the Crime

a. The board will evaluate and consider the circumstances of the crime based upon the official version of the offense, as well as the victim's and offender's versions of the offense, to determine, if possible, whether the particular conditions that contributed to the commission of the crime are likely to reoccur.

b. The board shall also consider the seriousness of the offense, the offender's role in the offense and the degree of his involvement, whether the offender was the instigator of the crime, and whether the crime was premeditated.

c. Particular consideration will be given to those cases which involved the use of a weapon and/or caused injury to the victim.

2. Prior Criminal Record

a. The board will evaluate and consider any available prior adult and/or juvenile records and the number and seriousness of prior convictions including the length of time between any prior convictions and the commitment of the instant offense to determine the seriousness of the offender's prior criminal history.

b. A pattern of continuous encounters with law enforcement may evidence the likelihood that the offender will not succeed on parole.

c. The board may also consider whether the instant offense was committed while the offender was on probation or parole, and the offender's response to prior community supervision, if any.

3. Character, Social Background, and Emotional and Physical Condition

a. The board will evaluate and consider information pertaining to the offender's work record, level of education, occupational skills, and evidence of emotional stability.

b. A history of chronic drug and alcohol abuse may evidence the likelihood that the offender will not succeed on parole.

4. Institutional Adjustment

a. The board will evaluate and consider information concerning the offender's attitude while incarcerated, including the offender's participation in available programs and his overall compliance with institutional regulations.

b. Obedience to institutional rules may evidence that the offender will comply with parole conditions, while a disciplinary record consisting of major and/or minor infractions may be viewed negatively.

c. A decidedly poor disciplinary record will weigh heavily against the offender.

d. Offenders assigned to working cellblock or disciplinary detention/extended lockdown or otherwise assigned to cellblock areas for disciplinary reasons would generally not be considered a good risk.

5. Police, Judicial and Community Attitudes Toward the Offender

a. The board will evaluate and consider information concerning the offender from the community and public officials who are acquainted with the case.

b. This factor is given greater weight because the probability that an offender will succeed on parole is greatly diminished if he will return to a community which has expressed hostility toward him and is lacking support for him.

c. Evidence of official and/or community support may increase the likelihood of parole.

6. Parole Plan

a. The board will evaluate and consider the strength of the offender's social ties, including whether he has a supportive family, resources available to him in the community, and employment opportunities.

b. The board will place emphasis on the appropriateness of the parole plan; therefore, it is important for the offender to have secure employment plans and a stable living arrangement available upon parole.

c. Lack of an acceptable parole plan may decrease the likelihood of parole.

7. Self Help Programs. The board will evaluate and consider an offender's participation in recovery groups such as Alcoholics Anonymous and Narcotics Anonymous, as well as educational and vocational programs. Such participation is considered beneficial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§703. Result of Decision to Grant or Deny Parole

A. The board's decision to grant or deny parole will be made and disclosed to the inmate at the time of the parole hearing and he will be furnished with a copy of the Parole Decision Form. The Parole Decision Form shall also be made available to the administration at the facility housing the inmate.

1. The original Parole Decision Form will be placed in the inmate's DOC record and will serve as the authority for the Certificate of Parole to be prepared.

2. The certificate will then be forwarded to the Division of Probation and Parole District Office where the inmate will be supervised while on parole.

B. No physical release from custody shall be authorized by the granting of a parole eligibility date that extends beyond six months from the date of the hearing; nor shall release be authorized until all notice requirements, if any, have been timely made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§705. Reapplication for Parole Hearing

A. An inmate must utilize a Reapplication for Parole Form in order to apply for a parole rehearing, when available.

B. The reapplication form may be submitted by the inmate and/or his attorney.

C. Reapplication for a parole hearing will be allowed only under the following conditions.

1. An inmate convicted of a nonviolent crime, except as otherwise restricted, may apply six months after the original denial, and if denied on reapplication, every six months thereafter.

2. Except as provided in §705.C.3, an inmate convicted of a *crime of violence* as enumerated in R.S. 14:2 or as set forth by the court at the time of sentencing, and/or a crime against persons as enumerated in R.S. 14:29-47, may apply one year after the original denial, and if denied on reapplication, every two years thereafter.

3. An inmate convicted of a sex offense as defined in §903, of first or second degree murder (if commuted to a fixed term of years and otherwise eligible for parole), or of manslaughter may reapply two years after the original denial, and if denied on reapplication, every two years thereafter.

4. A parole eligible inmate who was previously released on parole or diminution of sentence/parole supervision and who was revoked for any reason, may reapply one year after the revocation. If denied on reapplication, the offender may reapply every year thereafter, excluding inmates convicted of a sex offense, or first or second degree murder (if commuted to a fixed term of years and otherwise eligible for parole) or of manslaughter, who may reapply as set forth in §705.C.3.

5. Even if otherwise eligible in accordance with this Section, an inmate who is permanently assigned to maximum custody status for disciplinary adjustment reasons will be ineligible to make reapplication until he has been released from such status for a minimum of six months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§707. Parole Plans

A. In-State Parole

1. The board will not issue a Certificate of Parole to anyone granted parole until the residence plan has been approved by the Division of Probation and Parole. The board has authority to waive employment plans for a specified amount of time. These plans should be given to the classification officer at the correctional facility at the pre-parole interview or mailed directly to the board four months prior to the parole eligibility date.

2. A parole hearing may be held as docketed without approved residence or employment plans. Parole may be granted at the hearing, subject to the plans being approved through the Division of Probation and Parole. Approved employment plans may enhance the possibility for a favorable parole decision.

B. Out-of-State Parole

1. Out-of-state parole plans may be considered when the state in question issues a written statement expressing its willingness to accept the parolee under specific residential and employment conditions. Release will be deferred until such approval is received by the board.

2. Before any parolee can be considered for a plan of supervision in another state, the offender shall sign an

Application for Interstate Compact Services Agreement to Return (waiver of extradition).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§709. Parole to Detainer

When the board determines that it would be in the best interest of the public and the inmate, parole may be granted subject to any outstanding detainers or notices that are held by local authorities. Once the parolee is released from the detaining authority, he must report to the Division of Probation and Parole District Office where he will be supervised while on parole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§711. Parole Contingent on Completion of Substance Abuse Program

When the board determines that it would be in the best interest of the public and the inmate, the board may require successful completion of a board-approved drug rehabilitation program as a prerequisite to release on parole. The board may specify which programs are board-approved.

1. In no event, however, may the physical release from custody on parole extend beyond six months from the hearing date.

2. If the inmate has not successfully completed the program in six months from the hearing date, the board shall rescind or reconsider his parole and schedule a subsequent hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§713. Parole Supervision

Field supervision of parolees will be the responsibility of the Department of Public Safety and Corrections, Division of Probation and Parole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

Chapter 9. Conditions of Parole

§901. Certificate of Parole

A. The Certificate of Parole will not become operative until specific conditions of release have been acknowledged and agreed to in writing by the inmate.

1. The inmate shall be advised orally and in writing of the conditions of parole prior to his release from incarceration.

2. The conditions of parole shall include, but not be limited to, those conditions contained in the Certificate of Parole, as approved by the board and the Division of Probation and Parole pursuant to the provisions of R.S. 15:574.4(H). (See the Certificate of Parole in the Rules and Procedures Manual.)

B. Special conditions of parole, in addition to those required by R.S. 15:574.4(H), may be imposed and may include one or more of the following:

1. attendance at AA/NA meetings (the board may specify the number of meetings to attend weekly);
2. mental health evaluation and treatment;
3. substance abuse evaluation and treatment;
4. payment of restitution for a direct pecuniary loss other than damage to or loss of property;
5. payment of fines and/or costs of court;
6. prohibited contact with the victim(s);
7. prohibited contact with co-defendant(s);
8. required GED, vo-tech or other educational plan;
9. compliance with treatment plan as ordered in the Substance Abuse Discharge Summary;
10. any other special conditions the board may deem appropriate.

C. The board shall impose special conditions of parole as set forth below.

1. When the victim's loss consists of damage to or loss of property, payment of restitution, either in a lump sum amount or in monthly installments based on the offender's earning capacity and assets. If the victim has been paid for such damage to or loss of property with monies from the Crime Victims Reparations Fund, the board shall order the parolee to make payments as reimbursement to the fund in the same amount as was paid from the fund to the victim. The Department of Public Safety and Corrections shall verify that prior payment has not been made by the parolee.

2. If the offender has not paid and is liable for any costs of court or costs of the prosecution or proceeding in which he was convicted or any fine imposed as a part of his sentence, the board shall require the payment of such costs or fine, either in a lump sum or according to a schedule of payments established by the board and based upon the offender's ability to pay.

3.a. If the offender does not have a high school degree or its equivalent, the board shall require the offender to enroll in and attend an adult education or reading program until he obtains a GED, or until he completes such educational programs required by the board, and has attained a sixth grade reading level, or until his term of parole expires, whichever occurs first. All costs shall be paid by the offender.

b. If it is determined that there are no adult education or reading programs in the parish in which the offender will be residing, or that the offender is unable to afford such a program, or attendance would create an undue hardship, this condition may be suspended.

c. The provisions of §901 shall not apply to those offenders who are mentally, physically, or by reason of age, infirmity, dyslexia, or other such learning disorders, unable to participate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§903. Sex Offenders; General

A. The term *sex offender* shall refer to an inmate/parolee who has been convicted for the commission or attempted commission of any of the following offenses, or the equivalent, if committed in another jurisdiction:

1. aggravated rape, forcible rape, simple rape;

2. sexual battery, aggravated sexual battery, oral sexual battery, aggravated oral sexual battery;
3. intentional exposure of AIDS virus;
4. bigamy, abetting in bigamy;
5. incest, aggravated incest;
6. carnal knowledge of a juvenile, indecent behavior with a juvenile, pornography involving a juvenile, molestation of a juvenile;
7. crime against nature, aggravated crime against nature; or
8. contributing to the delinquency of juveniles by the performance of any sexual immoral act.

B. No sex offender whose offense involved a minor child shall be eligible for parole unless, as a condition of parole, the offender is prohibited from engaging in any business or volunteer work activity which provides goods, services, instruction, or care to and requires the offender to engage in a significant amount of direct contact with minor children.

C. No sex offender shall be eligible for parole unless, as a condition of parole, the offender is prohibited from engaging in any unsupervised business or volunteer activity which provides goods, services, instruction, or care to minor children and/or requires the offender to engage in a significant amount of direct contact with potential victims who are minor children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§905. Notification and Registration

A.1. In addition to any other notification requirement imposed by law, any sex offender residing in this state must notify, within 15 days of being released on parole, or within 30 days of establishing residence in Louisiana, the sheriff's office in the parish in which he will reside, and the police department in the area in which he will reside (if the population of the parish in which he will reside is in excess of 450,000) of his:

- a. name;
- b. address;
- c. place of employment;
- d. crime for which he was convicted and the date and place of such conviction;
- e. any alias used by him; and
- f. Social Security number.

2. In addition, a sex offender changing his residence must send written notice to the above referenced agencies within 10 days of the change in an address.

B. In addition to any other notification requirement imposed by law, sex offenders shall be required to provide, within 30 days of placement in probation or release on parole (if returning to a previously established residence) or 21 days of placement in probation or released on parole (when setting up a new residence):

1. the crime for which he was convicted; and
2. his name and address:
 - a. to all persons residing within a three square block area, or a one square mile area if in a rural area;
 - b. to the heads of all public, parochial and private schools in the area in which he will reside; and

c. to the lessor, landlord, or owner of the residence or property on which he will reside.

C.1. In addition to any other notification requirement imposed by law, a sex offender shall publish notice of his name, address and crime for which he was convicted and paroled, on two separate days in the official journal of the governing authority of the parish where the sex offender will reside and in a newspaper which meets the requirements of R.S. 43:140(3) for qualification as an official journal and has a larger or smaller circulation in the parish than the official journal.

2. If the offender will reside in St. Tammany Parish, the board may, in lieu of the above, order the offender to publish notice in a specified newspaper which meets the qualification as an official journal and has a larger circulation than the official journal of St. Tammany Parish. Notice shall be published without cost to the state.

D.1. In addition to any other notification requirement imposed by law, the Department of Public Safety and Corrections shall send written notice at least 10 days prior to parole, community placement or work release placement, to the chief of police of the city and the sheriff of the parish in which a sex offender will reside or be placed for work release.

2. If requested in writing, the board shall also send notice to:

- a. the victim of the crime, or if the victim is under 16 years of age, to the parents, tutor or legal guardian of the child;
- b. any witnesses who testified against the sex offender; or
- c. any person specified in writing by the prosecuting attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§907. Additional Notification and Registration Requirements if Victim is Under Age 18

A. In addition to any other notification requirement imposed by law, within three days of its decision to release a sex offender whose victim was under 18 years of age at the time of the commission of the offense, the board shall mail notice by registered or certified letter to the victim or the victim's parent or guardian if they were not present at the parole hearing, unless the victim or relative has signed a written waiver of notification, with a statement indicating:

1. that the sex offender will be released on parole;
2. the date the sex offender will be released; and
3. the address where the sex offender will reside.

B. In addition to any other notification requirement imposed by law, the sex offender shall make written notification to:

1. the superintendent of public, private and parochial schools;
2. the superintendent of parks and recreation districts; and
3. the official journal or other newspaper accompanied by two recent photographs or clear black and white photocopies of the offender's photograph. The photograph shall have been taken after the offender's release.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§909. Special Conditions

In addition to the requirements and conditions as set forth in this Chapter, all sex offenders shall be subject to any special conditions as required by the board including, but not limited to signs, handbills, bumper stickers, or clothing labeled to that effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§911. Release of Information

A.1. The board is authorized to release to the public the following information regarding sex offenders:

- a. name and address;
- b. crime of conviction and date of conviction;
- c. date of release on parole or diminution of sentence;
- d. most recent photograph available; and
- e. any other information that may be necessary and relevant for public protection.

2. Verbal requests for such information are acceptable.

3. The chairman of the board or his or her designee may require a written request before releasing any information.

4. The board cannot release any information regarding victims or witnesses of sex crimes to the sex offender or the general public.

B.1. In addition to any other information authorized to be released, the board may, pursuant to R.S. 15:546, release information concerning any inmate under the jurisdiction of the board who is convicted of any sex offense or criminal offense against a victim who is a minor, or who has been determined to be a sexually violent predator. The board may disseminate information regarding an offender's criminal convictions without restriction.

2. Other information regarding an offender's criminal history records, including nonconviction history may only be released subject to the restrictions outlined in R.S. 15:548. Unless the request is made by a representative of a criminal justice agency or a juvenile justice agency, such information shall, under normal circumstances, be released only pursuant to a written request.

3. The board shall be immune from liability for the release of information concerning any sex offender, sexually violent predator, or child predator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

Chapter 11. Violations of Parole

§1101. Types

A. New Felony Conviction—Statutory

1. Parole will be automatically revoked when a parolee is convicted and sentenced in Louisiana for a new felony and the appeal process has been exhausted. Prior to documented proof that the appeal process has been exhausted, the board may revoke a parolee for technical violations at a public hearing.

2. A parolee who is convicted of a new felony in another state, or of a misdemeanor which if committed in this state would be a felony, shall have his parole revoked.

a. Upon his release, he shall be returned to the state of Louisiana to begin serving the remainder of his original sentence.

b. If a prerevocation hearing is conducted in the state in which the new offense is committed a final revocation hearing in Louisiana is not required.

c. If a prerevocation hearing is not conducted in the state in which the new conviction was obtained, when returned to Louisiana the parolee should appear before the board for identification purposes and for notification of the automatic revocation.

B. Technical Violations

1. Technical violations include any violations of the conditions of parole which are not felony convictions. Engaging in conduct constituting a felony or misdemeanor offense, even if not adjudicated, may be considered a technical violation for revocation purposes.

2. When a parolee has been detained in jail by the Division of Probation and Parole, a prerevocation on-site hearing will be scheduled as soon as possible. Subsequent to the prerevocation hearing, bond may be permitted, but only with authorization of the board.

C. Absconders

1. A parolee may be considered to have absconded supervision if he absents himself from his approved place of residence without permission from the Division of Probation and Parole.

2. When apprehended, absconders will be immediately returned to the custody of the Department of Public Safety and Corrections for a revocation hearing.

a. Absconders will not be entitled to a prerevocation hearing.

b. Extradition or waiver of extradition shall be considered as probable cause for absconders apprehended out-of-state.

c. Upon return to the department, a parole revocation questionnaire shall be completed and forwarded to the board. (See Louisiana Board of Parole—Parole Revocation Questionnaire in the Rules and Procedures Manual.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§1103. Activity Report

A. The Division of Probation and Parole shall notify the board within five days of an offender's initial violation utilizing an Activity Report. Such report shall give a brief summary of the circumstances of the violation and shall include a recommendation for action based upon the facts of the case and the seriousness of the violation.

B.1. The Activity Report will normally be used to recommend the following:

- a. issuance of an arrest warrant;
- b. issuance of a reprimand (usually not in custody);
- c. removal of a detainer to allow bond;
- d. suspension of supervision;

- e. unsatisfactory termination of parole;
- f. addition or deletion of special parole conditions;
- g. recalling a warrant.

2. The Activity Report may also be used to advise the board of an offender's actions for informational purposes which require no action by the board.

C. Upon receipt of the Activity Report, the case will be placed on the single-member action docket for a decision utilizing the Parole Board Action/Parole Violators form.

D. After the case has been acted upon, a decision notice will be forwarded to the Probation and Parole District Office where the parolee is assigned for supervision. The notice will be delivered to the parolee and a copy retained in the district office case record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§1105. Prerevocation Hearing for Detained Parole Violators

A. The purpose of the prerevocation hearing is to determine if there is probable cause that the parolee has violated the conditions of his parole.

1. A finding of probable cause may support the continued detention of the parolee pending a final revocation hearing.

2. The *prerevocation hearing* is a preliminary due process administrative hearing which is conducted by a hearing officer designated from the Probation and Parole District Office. The hearing officer will have no direct prior knowledge of the parolee and the circumstances surrounding the allegations.

3. The allegations and findings presented in the preliminary hearing documents will be the foundation for revocation or other specified action.

B.1. The U.S. Supreme Court has stated that parolees detained for violations of the conditions of parole be afforded a prerevocation hearing; however, certain absconders and offenders convicted of new offenses may not be entitled to a prerevocation hearing.

2. The U.S. Supreme Court requires that the prerevocation hearing be conducted within a reasonable time following detention and in the locale or vicinity close to where the alleged violation occurred so that the offender has access to both favorable and adverse witnesses.

C.1. Prior to the prerevocation hearing, written notification will be furnished to the parolee advising him of:

- a. the charges pending against him;
- b. his rights at the hearing; and
- c. the date, time, and place of the hearing.

2. The parolee may request deferral of the prerevocation hearing pending disposition of felony charges.

D.1. The parolee may retain an attorney, or, if eligible, be represented by appointed counsel.

2. Documentary evidence and oral testimony may be taken from all participants present at the hearing, including witnesses and the parolee's friends and family.

3. At the conclusion of the hearing, the hearing officer will issue a ruling as to probable cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§1107. Findings

A. The hearing officer will issue a finding of probable cause or no probable cause.

1. If no probable cause is found, the hearing officer shall order the parole violation detainer to be lifted and the alleged violator released from custody.

2. If probable cause is found, the Division of Probation and Parole will make one of the following recommendations to the board:

- a. that the parole violator be detained;
- b. that the parole violator be allowed to make bond, if new charges are pending, while awaiting a final decision from the board;
- c. that the parole violator remain incarcerated, without bond, pending disposition of the charge;
- d. that the parole violator be reprimanded and continued under parole supervision.

3. If probable cause is found, the parole revocation questionnaire will be completed and forwarded to the board. (See the Louisiana Board of Parole-Parole Revocation Questionnaire in the Rules and Procedures Manual.)

B. A copy of the finding will be given to the parolee and a copy forwarded to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§1109. Violation Report

A.1. The Violation Report is used to:

- a. formally advise the board of a parolee's current violations;
- b. summarize his conduct on supervision to date; and
- c. make recommendations to the board for action on the violations of parole conditions.

2. The action requested may be of an interim nature or for final disposition.

B. The Violation Report will normally be used to recommend the following:

- 1. automatic revocation;
- 2. hold pending disposition of charges;
- 3. revocation of parole;
- 4. allow bond pending disposition of charges;
- 5. impose special conditions of parole;
- 6. reprimand; and
- 7. unsatisfactory termination of parole.

C. The Division of Probation and Parole will prepare the Violation Report within five working days following receipt of the prerevocation decision from the hearing officer or five working days from the date the parolee waived or deferred the prerevocation hearing. The report, along with the prerevocation hearing forms and other documents, shall be forwarded to the board.

D. Upon receipt of the Violation Report and other documentation, the case will be placed on the single-member action docket utilizing the Parole Board Action/Parole Violators form.

E. After the case has been acted upon, a decision notice will be forwarded to the Probation and Parole District Office where the parolee is assigned for supervision. The notice will be delivered to the parolee and a copy retained in the district office case record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§1111. Scheduling Parolees for Revocation Hearing

A. An offender ordered returned for consideration of final revocation will be scheduled for a public hearing.

B. The offender's detention location will determine the facility in which the revocation hearing will take place.

C. An Order/Letter of Return-Notice of Revocation Hearing and Transportation Request will be forwarded to the Division of Probation and Parole District Office assigned supervision of the offender. That office will deliver the:

1. Order to the parolee (thereby advising him of the charges pending against him, his rights at the hearing, and the date, time, and place of the hearing); and

2. Transportation Request to the local jail administrator having custody of the parolee. Generally, the local jail administrator will transport the parolee to the facility for the revocation hearing on the day of the hearing when such transportation is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§1113. Revocation Hearing

A. The purpose of the final revocation hearing is to determine if one or more conditions of parole have been violated by the offender, and if such violation(s) are serious enough to warrant reincarceration of the offender to serve the balance of his sentence.

B. The revocation hearing is a public hearing and shall be conducted as outlined in Chapter 3 of these rules.

C.1. The parolee:

- a. must be present for the hearing;
- b. may be represented by an attorney; and
- c. may normally have one witness testify on his behalf.

2. For good cause shown, the panel may permit the parolee to present additional witnesses. Reliable documentary evidence is admissible at the hearing.

D. A copy of the Violation Report with attachments and the Order/Letter of Return-Notice of Revocation Hearing will be provided to each panel member prior to the hearing, along with any other pertinent documents which may be submitted to the panel prior to or at the hearing.

E.1. The chairman of the panel, or his designee, shall:

- a. ensure the identification of the parolee; and
- b. obtain an acknowledgment that the parolee understands his rights related to the hearing.

2. The alleged violations will be read and the parolee will be asked to respond to each with "guilty" or "not guilty."

F.1. The parolee will be encouraged to speak for himself and to make a statement on his own behalf.

2. The parolee's attorney may speak on his behalf and/or advise him at any time throughout the hearing.

3. The district attorney or his or her representative may speak on behalf of the prosecution.

4. The board may request oral testimony from all participants present who have specific knowledge of the revocation violation(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§1115. Decision of the Panel

A. The panel may make one of the following decisions:

1. revocation of parole;
2. reprimand and restore to parole supervision with or without special conditions imposed;
3. unsatisfactory termination of parole if full term date of parole supervision has passed; or
4. work release for up to six months in lieu of revocation [see R.S. 15:574:7(B)(2)(b)].

B.1. The panel may elect to vote to continue or recess the hearing until certain testimony which was not available at the prerevocation hearing can be heard or further evidence can be verified and presented.

2. The panel may also vote to recess and defer a decision until the outcome of pending charges. In this case, the parolee may be allowed to make bond on pending charges if so ordered by the panel. The board may then render a decision after receipt of additional evidence or after the disposition of the pending charge(s).

C.1. At the conclusion of the hearing, the panel will advise the offender orally of its decision and he will be furnished with a copy of the Parole Revocation Decision form.

2. A copy of each Parole Revocation Decision form will also be forwarded to the Probation and Parole District Office assigned supervision of the offender.

3. At the end of each month, a copy of all revocation dockets reflecting the results of the hearings will be forwarded to all Probation and Parole District Offices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§1117. Automatic Revocation for New Felony Conviction

A final revocation hearing will not be held if the parolee has been convicted of a new felony while on parole, except as stipulated in §1101.A. The board may, however, have the offender appear before them for identification purposes only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

Chapter 13. Time Served

§1301. Time Must be Served if Revoked

A.1. An offender returned to incarceration for a parole violation that does not include a new sentence for a felony offense will be returned to serve the remainder of the original sentence as of the date of his release on parole, subject to applicable commutation statutes or good time credits.

2. A parolee, who has been revoked for violating the terms of parole granted by the board, shall forfeit all good time earned on that portion of the sentence served prior to the granting of parole.

B. An offender returned to incarceration as a parole violator who has received a new sentence for a felony offense while on parole shall serve the remainder of the original sentence as of the date of his release on parole, subject to applicable commutation statutes or good time credits. The new sentence shall be served consecutively to the previous sentence unless a concurrent term of imprisonment is expressly directed by the court.

C. The board accepts the official master prison record as issued by the Louisiana Department of Public Safety and Corrections in determining when sentences are concurrent or consecutive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

Chapter 15. Parole Suspension and Termination

§1501. Suspension of Supervised Parole

A. After a minimum of two years supervised parole and upon the recommendation of the Division of Probation and Parole, the board may determine that a parolee merits unsupervised parole and may suspend a parolee's supervision.

B. A parolee may be subject to revocation for parole violations committed prior to the expiration of his full term discharge date. The parolee may be returned to maximum supervision any time prior to the expiration of his full term discharge date if the Division of Probation and Parole makes a report showing that such supervision is in the interest of either the public or the parolee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§1503. Termination of Parole

When a parolee has completed his sentence, he will be given a Certificate of Discharge from the Department of Public Safety and Corrections. The board cannot terminate parole prior to the parolee's full term discharge date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

Chapter 17. Grievance Procedure

§1701. Right to File a Grievance

A. Any person may file a grievance under this procedure. However, no offender or parolee shall have the right to file a grievance against the board or board members for the decisions enumerated in R.S. 15:574.11.

B. A grievance must be based upon a violation of the Louisiana Board of Parole Rules and Procedures, Department of Public Safety and Corrections Regulations, or the Louisiana Revised Statutes.

C. A person against whom a grievance is filed is entitled to be represented by counsel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§1703. Complaint Process

A. All grievances must be made in writing and submitted to the chairman of the board. Upon receipt, the chairman shall review the grievance and, if appropriate, forward it to the proper agency or authority for further action.

B. If the grievance relates to the board, or a member of the board, or the department staff assigned to the board, the chairman or his or her designee will investigate to determine if it has a basis in fact.

1. If the complaint is determined to have a basis in fact, the chairman will attempt to resolve the grievance.

2. If the chairman is unable to resolve the grievance, it shall be referred to a Grievance Committee. The committee shall consist of:

a. the chairman of the board;

b. the vice chairman (unless the chairman or vice chairman is the subject of the grievance); and

c. any other person or persons jointly selected by the chairman and vice chairman.

C. If the Grievance Committee is unable to resolve the grievance, the matter will be forwarded together with any supporting documentation to the governor's executive counsel for resolution. Supporting documentation shall include the following information:

1. a reference to the relevant statute, rules, regulations and/or code of ethics, etc.;

2. a written summary of the attempts made to resolve the complaint; and

3. any other pertinent documentation.

D.1. In the event the grievance is against the chairman of the board, the complaint shall be submitted directly to the vice chairman. In this instance, the chairman will recuse himself or herself and shall not appoint a designee to the committee.

2. If the grievance is against the vice chairman, the vice chairman shall recuse himself or herself and shall not appoint a designee to the committee.

3. The remaining member of the Grievance Committee shall select a member of the board to serve in place of the recused member.

4. If the complaint is against a board member, that member shall not be selected to serve on the Grievance Committee.

E. The decision of the chairman, the Grievance Committee, or the executive counsel, whichever may apply, is final and not subject to appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§1705. Resolution of Grievance

A. A written response to the grievance shall be mailed to the complaining party.

B. If it is determined that a board member has violated the Louisiana Board of Parole Rules and Procedures, Department of Public Safety and Corrections Regulations, or the Louisiana Revised Statutes, a letter shall be issued notifying the board member of the violation and a copy forwarded to the governor for disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

Chapter 19. Board of Parole Code of Ethics

§1901. General

A. All board members are governed by the *Code of Governmental Ethics* (R.S. 42:15 et seq.), as well as this Code of Ethics (LAC 22:XI.Chapter 19).

B. Since board members are in a position of public trust, they are not to engage in any activities, either privately or officially, where a conflict of interest may exist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§1902. Prohibitions

A. Board members are prohibited from accepting or giving gifts, gratuities or rewards for doing any service or thing pertaining to the duties expected in the performance of their jobs.

B. Board members are prohibited from using their positions to influence other decision-makers in the criminal justice system.

C. Board members are prohibited from allowing political influence to color their decisions.

D. The *Code of Governmental Ethics* prohibits board members from "serving two masters" (conflict of interest). Board members shall devote themselves full time to the duties of their office and shall not engage in any other business or profession or hold any other public office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

§1903. Integrity

A. Operational weaknesses and failure to achieve satisfactory performances are serious matters, but compromising integrity to achieve or report satisfactory performance is infinitely more serious.

B. Board members must set a good example at every opportunity. Their actions and direction should leave no avenue for doubt that they have completely and honestly performed their duties.

C. Board members must eliminate any appearance of impropriety, no matter how minor, toward violations or compromises of integrity. To achieve and maintain their objective, it is absolutely essential that board members be continuously conscious of their personal responsibility to practice integrity as they conduct their daily activities.

D. From time to time, infractions of integrity may be uncovered. There is no excuse for such infractions and they will not be condoned. Personal integrity must be complete and above reproach. If and when detected, infractions shall be reported to the appropriate authorities, and those responsible should be dealt with, in the most severe manner possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:

Fred Y. Clark
Chairman

9804#060

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Support Enforcement—Distribution (LAC 67:III.2514)

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 Support Enforcement Services (SES), the child support enforcement program, effective April 2, 1998. It is necessary to extend emergency rulemaking since the emergency rule of December 3, 1997 was effective for a maximum of 120 days and will expire before the final rule takes effect.

Public Law 105-33, the Balanced Budget Act of 1997, signed into law on August 5, 1997, amended §457 of Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which governs the distribution of support collected under Title IV-D of the Social Security Act. The Department of Health and Human Services, Administration for Children and Families, issued Action Transmittal OCSE-AT-97-17 on October 21, 1997 directing states to take immediate action. Failure to implement the change in distribution would subject the state of Louisiana to sanctions since the state must pay the federal share of assigned support collected.

Additionally, P.L. 104-193, as clarified by the Action Transmittal, mandated that state tax intercepts be distributed as all other collections, so the words "and/or state tax" are being deleted from LAC 67:III.2514.B.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter D. Collection and Distribution of Support Payments

§2514. Distribution of Child Support Collections

A. Effective December 3, 1997, the agency will distribute child support collections in the following manner:

1. In cases in which the Applicant/Recipient (AR) currently receives Family Independence Temporary Assistance Program (FITAP) benefits, collections received in a month will be retained by the state to reimburse previous and current assistance amounts. If the collection amount exceeds the amount of reimbursed grant, the excess will be refunded to the AR up to the current arrearage amount.

2. - 4. ...

B. There are general exceptions to distribution. Any collections received through intercept programs or income assignments are subject to refund to the noncustodial parent based on federal and state laws and regulations. Effective December 3, 1997, amounts collected through IRS intercepts will be applied to arrears in this order:

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:304 (March 1997), amended LR 24:

Madlyn B. Bagneris
Secretary

9804#074

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Apprentice Fisherman License (LAC 76:VII.409)

The Wildlife and Fisheries Commission does hereby exercise the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 56:303.8 adopts the rule set forth below. This emergency rule is necessary to implement the provisions of R.S. 56:303.8 enacted by Act 1413 of the 1997 Regular Session of the Louisiana Legislature. This Act became effective on July 15, 1997 and it is necessary to promulgate this rule as a declaration of emergency in order to expedite the mandate of this Act.

This declaration of emergency is effective May 7, 1998 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 4. License and License Fees

§409. Apprentice Fisherman License

A. Definitions

Apprentice—a real person who engages in the taking of finfish for a period of two years only with and aboard the vessel of a validly-licensed commercial fisherman who also holds a valid and appropriate permit/license issued by the department and who is engaged in the commercial taking of saltwater finfish by approved methods.

B. Application

1. At the time of application for an apprentice license, the applicant must provide a notarized affidavit, signed by both the applicant and the mentor, providing the Social Security Number, name, address and commercial fisherman's license number of his mentor and stating the intent to participate in the apprenticeship program.

2. The cost for the apprentice license shall be one half the cost of a commercial fisherman's license.

C. Seasons. A person who holds an apprentice license shall be aboard the vessel with and in the presence of his mentor while engaged in the taking of finfish under this "special apprentice license." The apprentice license shall authorize, under the same conditions as the regular license or permit, the commercial taking of saltwater finfish by the apprentice while in the presence of his mentor during the period for which it is valid. The special apprentice license shall be valid from January 1 through December 31. An apprentice license must be purchased prior to January 31 to qualify for one full year as an apprentice for the following license year.

D. Eligibility

1. Having held a valid apprentice license for two full years may substitute for the requirement of having held a gill net gear license in two of the years 1993, 1994 and 1995 when applying for a spotted seatrout permit, mullet permit, or rod and reel license. In addition to providing all commercial license application information, the applicant shall be required to show that he derived more than 50 percent of his earned income from the legal capture and sale of seafood species for the two years in which he held the apprentice license. Proof of such income shall be provided by the apprentice using one of the methods listed in the appropriate permit or license section that has been approved by the commission.

2. In addition to all other requirements, any applicant applying for a rod and reel license must provide a signed copy of his/her state income tax return for the years in which an apprentice license was held, or a notarized affidavit certifying that he/she was not required to file a state tax return.

3. The Socioeconomic Section of the Department of Wildlife and Fisheries, Office of Management and Finance, will review the submitted tax return information and determine if applicant meets the income eligibility requirement.

E. General Provision. Any person who previously held a commercial fisherman's license, or who has been convicted of a class three or greater violation, shall not be eligible to purchase an apprentice license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:303.8.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:

Thomas H. Gattle, Jr.
Chairman

9804#028

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Commercial Fisherman's Assistance Program (LAC 76:XVII.101)

The Wildlife and Fisheries Commission and the Department of Wildlife and Fisheries are exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B). Promulgation of this rule as a declaration of

emergency is necessary to expedite the provisions of Act 1413 of the 1997 Regular Session of the Legislature which established October 1, 1998 as the deadline for making applications for assistance under this program.

This declaration of emergency is effective April 2, 1998 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 XVII. Commercial Fisherman's Assistance Program

Chapter 1. Proof of Income

§101. Criteria for Establishing Proof of Income and Procedures

A. The eligibility of applicants for economic assistance under R.S. 56:13.1, Commercial Fisherman's Assistance Program, shall be determined in accordance with the following criteria:

1. the applicant shall have purchased a saltwater gill net license in at least two of the years 1993, 1994, and 1995; and
2. the applicant shall have derived more than 50 percent of his earned income from the legal capture and sale of seafood species in at least two of the years 1993, 1994, and 1995; and
3. the applicant shall have suffered a loss of income due to the enactment of the Louisiana Marine Resources Conservation Act of 1995; and
4. applicant must have been a bona fide resident of Louisiana on June 30, 1995 and must provide proof of such as defined under R.S. 56:8(12)(a); and
5. the applicant must have submitted his/her application not later than October 1, 1998.

B. Proof of such income for any of the years 1993, 1994, and 1995 shall be provided by the applicant using any of the methods listed below.

1. Method 1. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return including all attachments (e.g., Schedule C of federal form 1040, form W-2, etc.), which has been certified by the Internal Revenue Service (IRS).

2. Method 2. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return including all attachments (e.g., Schedule C of federal form 1040, form W-2, etc.), which has been filed and stamped received at a local IRS office accompanied with a signed cover letter acknowledging receipt by the IRS.

3. Method 3. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a signed copy of his federal tax return including all attachments (e.g., Schedule C of federal form 1040, form W-2, etc.), along with IRS stamped transcripts and IRS signed cover letter. Transcripts are available at local IRS offices.

C. The Socioeconomic Section of the Department of Wildlife and Fisheries, Office of Management and Finance will review the submitted tax return information and determine applicant's income eligibility as defined by R.S.

56:13.1.B(1). Proof of loss of income by the applicant shall be provided in the form of federal tax returns as specified in §101.B and determined by using the method below.

1. Proof of income loss will be determined by comparing the applicant's average earned income from the legal capture and sale of seafood species for two of the years 1993, 1994, and 1995 and the earned income for tax years 1996 or 1997 as reported on their federal income tax returns. Proof of such income shall be provided by the applicant using any of the methods listed in §101.B.

2. The criteria for providing economic assistance shall be determined by the Department of Wildlife and Fisheries, and shall be based on an individual's loss of income due to the enactment of the Louisiana Marine Resources Conservation Act of 1995.

D. Applicants who receive economic assistance under the Commercial Fisherman's Assistance Program (R.S. 56:13.1) shall be disqualified from receiving any mullet license permit pursuant to R.S. 56:333.

E. The Department of Labor will provide to the Department of Wildlife and Fisheries Licensing Section a quarterly status report containing the name, address, social security number, type of training with beginning date and estimated ending date, the anticipated cost and actual cost as incurred, for each fisherman receiving economic assistance under the Commercial Fisherman's Assistance Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:13.1.D.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:235 (March 1996), amended LR 24:

Thomas M. Gattle, Jr.
Chairman

9804#031

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Hunting Seasons—Farm-Raised White-Tailed Deer and Exotics (LAC 76:XIX.109)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under authority of the Louisiana Constitution, Article IX, Section 7, R.S. 36:601 et seq., R.S. 56:115, R.S. 56:171 et seq., and R.S. 56:651 et seq., the Wildlife and Fisheries Commission hereby adopts the following emergency rule.

A declaration of emergency is necessary to allow for regulation of hunting of farm-raised white-tailed deer and exotics until permanent rules take effect. Permanent rules are being developed. This declaration of emergency will provide continuous regulation of farm-raised white-tailed deer and exotic hunting until the ratification of permanent rules.

This emergency rule will supplant any prior declaration of emergency adopted by the Wildlife and Fisheries Commission

pertaining to hunting of farm-raised deer and exotics that is in effect on April 2, 1998, the effective date of this declaration of emergency.

Title 76
WILDLIFE AND FISHERIES
Part XIX. Hunting

Chapter 1. Resident Game Hunting Seasons

§109. Farm-Raised White-Tailed Deer and Exotics

A. Definitions

Exotics—any animal of the family *Bovidae* (except the Tribe *Bovini* [cattle]) or *Cervidae* which is not indigenous to Louisiana and which is introduced and kept within an enclosure for which a current Farm-Raising License has been issued by the Department of Agriculture and Forestry. Exotics shall include, but are not limited to, fallow deer, red deer, elk, sika deer, axis deer, and black buck antelope.

Farm-Raised White-Tailed Deer—any animal of the species *Odocoileus virginianus* which is introduced and kept within an enclosure for which a current Farm-Raising License has been issued by the Department of Agriculture and Forestry.

Same as Outside—hunting within an enclosure must conform to applicable statutes and rules governing hunting and deer hunting, as provided for in Title 56 of the Louisiana Revised Statutes and as established annually by the Wildlife and Fisheries Commission for the specific geographic area in which the enclosure is located.

B. Hunting Seasons

1. Farm-Raised White-tailed Deer: Same as outside, except still hunt only during all segments.

2. Exotics: Year round.

3. A Farm-Raising licensee may kill farm-raised white-tailed deer within the enclosure for which he is licensed at any time during daylight hours after proper notice is given as required by the Department of Agriculture and Forestry Alternative Livestock Rules.

C. Methods of Take

1. Farm-Raised White-Tailed Deer: Same as outside.

2. Exotics: Exotics may be taken with longbow (including compound bow) and arrow; shotguns not larger than 10 gauge, loaded with buckshot or rifled slug; handguns and rifles no smaller than .22 caliber center fire; or muzzle loading rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, using black powder or an approved substitute only, and using ball or bullet projectile, including sabot bullets only.

D. Shooting Hours

1. Farm-Raised White-Tailed Deer: Same as outside.

2. Exotics: One-half hour before sunrise to one-half hour after sunset.

E. Bag Limit

1. Farm-Raised White-Tailed Deer: Same as outside.

2. Exotics: No limit.

F. Hunting Permit and Licenses

1. Farm-Raised White-Tailed Deer: Same as outside.

2. Exotics: No person shall take or attempt to take any exotic without possessing an Exotic Hunting Permit issued by the Department of Wildlife and Fisheries. An administrative

fee of \$50 shall be assessed for each Exotic Hunting Permit. Permits are valid only on the deer farm indicated on the face of the permit. Permits shall be issued on a fiscal year basis beginning July 1 of each calendar year and shall expire on June 30 of the following calendar year.

G. Tagging

1. Farm-Raised White-Tailed Deer: Same as outside.

2. Exotics: Each exotic shall be tagged in the left ear or left antler immediately upon being killed and before being moved from the site of the kill with a tag provided by the Department of Agriculture and Forestry. The tag shall remain with the carcass at all times.

H. Additional Restrictions. Except as otherwise specified herein, all of the provisions of Title 56 of the Louisiana Revised Statutes and the Wildlife and Fisheries Commission rules pertaining to the hunting and possession of white-tailed deer shall apply to farm-raised white-tailed deer and exotics.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 36:601, R.S. 56:115, R.S. 56:171 et seq., and R.S. 56:651 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:

Thomas M. Gattle, Jr.
Chairman

9804#030

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Offshore Shrimp Closure

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act, which allow 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 have the authority to open or close the state's offshore waters to shrimping, the Wildlife and Fisheries Commission hereby orders a closure to shrimping in that portion of the state's Territorial Waters, south of the Inside/Outside Shrimp Line as described in R.S. 56:495, from the Atchafalaya River Ship Channel at Eugene Island as delineated by the River Channel buoy line to the eastern shore of Freshwater Bayou. This closure is effective at 6:01 a.m., Monday, April 6, 1998.

R.S. 56:498 provides that the minimum legal count on white shrimp is 100 (whole shrimp) count per pound after the third Monday in December. Current biological sampling conducted by the Department of Wildlife and Fisheries has indicated that white shrimp in this portion of the state's outside waters do not average 100 count minimum legal size or larger and are present in significant numbers. This action is being taken to protect these small white shrimp and allow them the opportunity to grow to a more valuable size.

The Wildlife and Fisheries Commission authorizes the secretary of the Department of Wildlife and Fisheries to close to shrimping, if necessary to protect small white shrimp, any

part of the remaining Territorial Waters, if biological and technical data indicates the need to do so, and to reopen any area closed to shrimping when the closure is no longer necessary; and hereby authorizes the secretary of the Department of Wildlife and Fisheries to open special seasons for the harvest of white shrimp in any portion of the state's inshore waters where such a season would not detrimentally impact small brown shrimp.

Thomas M. Gattle, Jr.
Chairman

9804#029

DECLARATION OF EMERGENCY

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

**Reef Fish Daily Take and
Size Limits (LAC 76:VII.335)**

The Wildlife and Fisheries Commission does hereby exercise the emergency provision 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), 56:326.1 and 56:326.3 adopts the rule set forth below. This emergency rule is necessary to expedite the enforceability and effectiveness of federal regulations on commercial reef fish fisheries for red snapper and greater amberjack, which became effective December 30, 1997, and require action before February 1, 1998 and March 1, 1998 respectively. It is therefore in the best interest of the state, and appropriate that these regulations be enacted concurrently, thereby requiring emergency action.

This emergency rule is effective May 7, 1998 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 3. Saltwater Sport and Commercial Fishery

**§335. Daily Take, Possession and Size Limits Set by
Commission, Reef Fish**

* * *

E. All persons who do not possess a "Class 1" or "Class 2" red snapper license issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources are limited to the recreational bag limit for red snapper. Those persons possessing a "Class 2" red snapper license issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources are limited to a daily take and possession limit of 200 pounds of red snapper per vessel.

F. Those persons possessing a "Class 1" red snapper license issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico

Reef Fish resources are limited to a daily take and possession limit of 2,000 pounds of red snapper per vessel.

* * *

J. The season for the commercial harvest of greater amberjack shall be closed during the months of March through May of each year. Possession of greater amberjack in excess of the daily bag limit while on the water is prohibited during the closed season. Any greater amberjack harvested during the closed season shall not be purchased, sold, traded, bartered or exchanged or attempted to be purchased, sold, traded, bartered or exchanged. The provisions of §335.J apply to fish taken within or without Louisiana's territorial waters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:326.1 and 326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:

Thomas M. Gattle, Jr.
Chairman

9804#027

DECLARATION OF EMERGENCY

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

Trapping Season Extension—1997-98

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency provisions to extend seasons; and R.S. 56:259(A), which allows the commission to extend trapping in any area of the state each year; and under the authority of a declaration of emergency adopted by the commission on September 4, 1997, which gives the secretary of the Department of Wildlife and Fisheries authority to extend or shorten the trapping season, the secretary does hereby extend the 1997/1998 trapping season until official sunset on March 31, 1998.

James H. Jenkins, Jr.
Secretary

9804#007

DECLARATION OF EMERGENCY

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

White-Tailed Deer Importation (LAC 76:V.117)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under authority of the Louisiana Constitution, Article IX,

Section 7, R.S. 56:6(10), (13) and (15), R.S. 56:20 and R.S. 56:171 et seq., the Wildlife and Fisheries Commission hereby adopts the following emergency rule.

A declaration of emergency is necessary to regulate the importation of white-tailed deer into Louisiana past the April 2, 1998 expiration of the current declaration of emergency. Permanent rules regulating importation have been developed. These new rules and this declaration of emergency will allow regulated importation of white-tailed deer in a manner which will allow monitoring and tracking of imports and will minimize threats of disease introduction into Louisiana. This declaration of emergency will provide for regulated importation until the permanent rule is adopted.

This emergency rule shall become effective on April 2, 1998, and shall remain effective for a maximum of 120 days or until promulgation of the final rule, whichever occurs first.

This emergency rule will supplant any prior declaration of emergency adopted by the Wildlife and Fisheries Commission pertaining to importation of white-tailed deer in effect on April 2, 1998, the effective date of this declaration of emergency.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§117. White-Tailed Deer Importation

A. Definitions

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

B. Permits. No person shall import, or cause to be imported, white-tailed deer into the state of Louisiana without first notifying the Department of Agriculture and Forestry and obtaining a current permit number. The permit number shall be included on the certificate of veterinary inspection and shall accompany the shipment of white-tailed deer. The permit number and certificate of veterinary inspection shall be made available to Department of Wildlife and Fisheries personnel upon request.

C. Import Restrictions

1. No person shall import or cause to be imported any white-tailed deer from the states of California, Colorado, Connecticut, Delaware, Michigan, New Jersey, New York, Pennsylvania, Rhode Island, South Dakota, or Wyoming. This shall include any white-tailed deer that have been confined within these states, or have been in direct contact with deer of any species from these states, within 180 days of entry into Louisiana.

2. No person shall import or cause to be imported any white-tailed deer without written proof of a negative test for tuberculosis in accordance with the *Tuberculosis Eradication in Cervidae Uniform Methods and Rules*, as published by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service.

3. No person shall import, or cause to be imported, white-tailed deer without written proof of a negative test for brucellosis in accordance with the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* once published by the U.S. 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 white-tailed deer 6 months of age and older entering Louisiana shall be tested negative for brucellosis within 30 days prior to entry into Louisiana, and written proof thereof shall be provided, unless the white-tailed deer originate from a herd which has been officially declared a certified brucellosis-free herd by the state of origin.

4. No person shall import, or cause to be imported, any white-tailed deer for release into the wild or into any enclosure not specifically licensed for the possession of white-tailed deer.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:6(10), (13) and (15), R.S. 56:20 and R.S. 56:171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:

Thomas M. Gattle, Jr.
Chairman

9804#034