

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences Structural Pest Control Commission

Restrictions on Application of Certain Pesticides (LAC 7:XXV.141)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and R.S. 3:3203(A), the Commissioner of Agriculture and Forestry is amending the following rules and regulations for the implementation of regulations governing the requirements of pest control operators making pre-treatment applications.

The amendment of these regulations is necessary in order that the Department may immediately replace regulations that were inadvertently left out of the *Louisiana Register* during a previous amendment to the regulations.

The Department of Agriculture and Forestry deems the continuation of these rules and regulations necessary to insure the safety of individuals that might come in contact with termiticides if an operator left a pre-treatment of a slab prior to completion of the job. It is necessary to provide the requirement that pest control operators must call certain information into the Department's closest District office prior to making a pre-treatment of a slab application. Without the notice and posting requirements there will be an imminent peril to the health, safety and welfare of individuals who would otherwise inadvertently come into contact with the termiticide.

These rules and regulations become effective upon the Commissioner's signature, and shall remain in effect 120 days or until these rules are adopted through the normal promulgation process, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§141. Minimum Specifications for Termite Control

Work

A. - D.3.c. ...

E. Pre-treatment of Slabs

1. Treat as required by label and labeling.
2. Within 12 months after initial treatment of the outside of the foundation, the perimeter wall will be trenched and treated as required by label and labeling. The licensee shall report the completion of the application to the outside of the foundation, to the Louisiana Department of Agriculture and Forestry on the Termite Perimeter application form. Rodding will be acceptable where trenching may damage flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches.

3. If, during the treatment of any area which will be beneath a slab foundation, the operator must leave the site for

any reason prior to the completion of the application as specified in E.1 above, the operator must prominently display a poster, to be furnished by the Louisiana Department of Agriculture and Forestry, which states that the treatment of the area under the slab is not complete.

4. All pre-treatment of slabs must be called in to the nearest Department of Agriculture and Forestry District Office during normal working hours prior to application of termiticides. The information provided will include an address, directions, and time of application of termiticides to the property. The phone call must be called to the District office a minimum of one hour of the time that the property is to be treated. All pest control operators must keep a log of all pre-treatment.

F. - J.8.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:958 (November 1989), LR 20:644 (June 1994), LR 21:931 (September 1995), LR 23:1285 (October 1997), LR 24:

Bob Odom
Commissioner

9809#005

DECLARATION OF EMERGENCY

Tuition Trust Authority Office of Student Financial Assistance

Student Tuition and Revenue Trust (START Saving)
Program—Higher Education Expenses
(LAC 28:VI.309)

The Louisiana Tuition Trust Authority (LATTA) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to revise the Student Tuition and Revenue Trust (START Saving) [R.S. 17:3091 et seq.] program rules.

The emergency rules are necessary because the significant cost of room and board and the requirement that those costs be "billed by the institution" places a significant disadvantage on those beneficiaries who live at home or off campus and is more restrictive than required by the Internal Revenue Code (IRC) §529. Failure to revise the START program rules in this way would have an adverse impact on the financial welfare of the affected students and on the financial condition of their families by denying the students the level of flexibility permitted by IRC §529 in their use of START program funds. The authority has, therefore, determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective August 22, 1998, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

Part VI. Student Financial Assistance—Higher Education Savings

Chapter 3. Education Savings Account

§309. Disbursement of Account Funds for Payment of Qualified Higher Education Expenses of a Beneficiary

* * *

E. Expenditure of Principal and Earnings

1. The balance of principal and earned interest in an education savings account may be expended as authorized by the beneficiary to pay his qualified higher education expenses.

* * *

F. Payments to Eligible Educational Institutions

* * *

4. Upon receipt of funds from an education savings account, the educational institution shall first apply funds against those qualified higher education expenses billed by the institution and then disburse any remaining balance of funds to the beneficiary for qualified higher education expenses not billed by the institution.

5. If a beneficiary withdraws from the educational institution or if there is otherwise a change in the beneficiary's student status which results in a refund of qualified higher education expenses which have been previously paid to the educational institution from an education savings account, then, subject to the laws governing the priority of refunds of federal and state aid, that portion of the qualified higher education expenses paid with funds from an education savings account shall be refunded by the educational institution directly to the LATTA for credit to the account of the beneficiary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:716 (June, 1997), amended LR 24:1272 (July, 1998), LR 24:

Jack L. Guinn
Executive Director

9809#001

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Board of Trustees of the State Employees Group
Benefits Program**

Plan Document—Impotency Drugs

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees

hereby invokes the Emergency Rule provisions of R.S. 49:953(B) to adopt amendments to the Plan Document of Benefits.

This rule shall become effective on September 29, 1998, and shall remain effective for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first.

The Board finds that it is necessary to amend the Plan Document to limit benefits for drugs prescribed for treatment of impotency. Failure to adopt this amendment on an emergency basis will result in a financial impact which will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which are crucial to the delivery of vital services to the citizens of the state. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Article 3, Section VIII, of the Plan Document by adding thereto a new subsection, designated as subsection PP, to read as follows:

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

* * *

PP. Drugs prescribed for Treatment of impotence, except when prescribed for males over the age of thirty, in a quantity not greater than five (5) per month, and provided that no benefits are payable for Yohimbine oral tablets, Papaverine and Phentolamine self-injectables, or any other drugs prescribed or dispensed for Treatment of impotence unless such Treatment is indicated in the approval of the drug by the Food and Drug Administration;

* * *

Jack W. Walker, Ph.D.
Chief Executive Officer

9809#056

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Board of Trustees of the State Employees Group
Benefits Program**

Special Enrollment—Retirees

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

The Board finds that it is necessary to amend the Plan Document to provide for special enrollment of retirees under certain circumstances in compliance with the Health Insurance Portability and Accountability Act of 1996 (U.S. Public Law 104-191), the rules and regulations promulgated pursuant thereto, and La. R.S. 22:250.1, et seq., in order to avoid sanctions or penalties.

Accordingly the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars.

Amendment Number 1

Amend Article 1, Section II, Subsection B, Paragraph 2, to read as follows:

2. Effective Date of Coverage. Retiree coverage will be effective on the first of the month following the date of retirement, provided the Employee and employer have agreed to make and are making the required contributions. *Retirees Shall Not Be Eligible for Coverage as Overdue Applicants.*

Amendment Number 2

Amend Article 1, Section II, Subsection E, to read as follows:

E. Special Enrollments

In accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and the regulations promulgated pursuant thereto, and La. R.S. 22:250.1, et seq., certain eligible persons for whom the option to enroll for coverage was previously declined, and who would otherwise be considered overdue applicants, may enroll under the following circumstances, terms, and conditions for special enrollments.

1. Loss of Other Coverage. Special enrollment will be permitted for employees or dependents for whom the option to enroll for coverage was previously declined because such employees or dependents had other coverage which has terminated due to:

a. loss of eligibility through separation, divorce, termination of employment, reduction in hours, or death of the plan participant; or

b. cessation of employer contributions for the other coverage, unless such employer contributions were ceased for cause or for failure of the individual participant; or

c. the employee or dependent having had COBRA continuation coverage under another plan, and the COBRA continuation coverage has been exhausted, as provided in HIPAA.

2. After Acquired Dependents. Special enrollment will be permitted for employees or dependents for whom the option to enroll for coverage was previously declined when the employee acquires a new dependent by marriage, birth, adoption, or placement for adoption.

3. Special enrollment application must be made within 30 days of the termination date of the prior coverage or the date the new dependent is acquired. Persons eligible for special enrollment for whom application is made more than 30 days after eligibility will be considered overdue applicants, subject to the provisions of Article 1, Section II, Subsection D above.

4. The effective date of coverage shall be:

a. for loss of other coverage or marriage, the first of the month following the date of the receipt by the State Employees Group Benefits Program of all required forms for enrollment;

b. for birth of a dependent, the date of birth;

c. for adoption, the date of adoption or placement for adoption;

5. The Program will require that all special enrollment applicants complete a Statement of Physical Condition form

and sign an acknowledgment of pre-existing condition form.

6. Medical expenses incurred during the first 12 months that coverage for the special enrollee is in force under this contract will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which medical advice, diagnosis, care, or treatment was recommended or received during the 6-month period immediately prior to the enrollment date. The provisions of this paragraph do not apply to pregnancy.

7. If the special enrollee was previously covered under a group health plan, health insurance coverage, Part A or B of Title XVII of the Social Security Act (Medicare), Title XIX of the Social Security Act (Medicaid) other than coverage consisting solely of benefits under section 1928 thereof, or other creditable coverage as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and the rules and regulations promulgated pursuant thereto, the duration of the prior coverage will be credited against the initial 12-month period used by the Program to exclude benefits for a pre-existing condition provided, however, that termination under the prior coverage occurred within 63 days of the date of coverage under the Program.

8. *Retirees Shall Not Be Eligible for Special Enrollment*, except under the following conditions:

a. retirement began on or after July 1, 1997;

b. the retiree can document that creditable coverage was in force at the time of the election not to participate or continue participation in the Program;

c. the retiree can demonstrate that creditable coverage was maintained continuously from the time of the election until the time of requesting special enrollment;

d. the retiree has exhausted all COBRA and/or other continuation rights and has made a formal request to enroll within thirty (30) days of the loss of other coverage; and

e. the retiree has lost eligibility to maintain other coverage through no fault of his/her own and has no other creditable coverage in effect.

These amendments shall become effective on September 1, 1998, and shall remain effective for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first.

Jack W. Walker, Ph.D.
Chief Executive Officer

9809#031

DECLARATION OF EMERGENCY

**Office of the Governor
Office of Elderly Affairs**

State Plan on Aging (LAC 4:VII.1317)

The Office of the Governor, Office of Elderly Affairs (GOEA) does hereby exercise the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), to adopt the rule set forth below, effective August 17, 1998. This emergency rule is necessary as Tensas Council on Aging voluntarily relinquishes its Area Agency on Aging designation.

This emergency rule is to designate Tensas parish as a Planning and Service Area (PSA) and to designate North Delta Regional Planning and Development District, Inc. as the Area Agency on Aging for Tensas PSA. This rule will ensure the elderly citizens of Tensas parish are provided with uninterrupted services, the absence of which could imperil their health and well being. This emergency rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

**Title 4
ADMINISTRATION
Part VII. Governor's Office**

Chapter 13. State Plan on Aging

§1317. Area Agencies on Aging

Area Agency on Aging	Planning and Service Area (Parishes Served)
Allen COA	Allen
Beauregard COA	Beauregard
Bienville COA	Bienville
Bossier COA	Bossier
Caddo COA	Caddo
CAJUN Area Agency on Aging (AAA)	Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, St. Mary, Vermilion
Caldwell COA	Caldwell
Cameron COA	Cameron
Capital Area Agency on Aging (AAA)	Ascension, Assumption, East Feliciana, Iberville, Pointe Coupee, St. Helena, Tangipahoa, Washington, West Baton Rouge, West Feliciana
CENLA Area Agency on Aging (AAA)	Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Winn
Claiborne COA	Claiborne
DeSoto COA	DeSoto
East Baton Rouge COA	East Baton Rouge
Jefferson COA	Jefferson
Jefferson Davis COA	Jefferson Davis
Governor's Office of Elderly Affairs	Calcasieu
Lafourche COA	Lafourche
Lincoln COA	Lincoln
Livingston COA	Livingston
Madison COA	Madison
Morehouse COA	Morehouse
Natchitoches COA	Natchitoches
North Delta Area Agency on Aging (AAA)	East Carroll, Franklin, Jackson, Richland, Tensas, Union

New Orleans COA	Orleans
Ouachita COA	Ouachita
Plaquemines COA	Plaquemines
Red River COA	Red River
Sabine COA	Sabine
St. Bernard COA	St. Bernard
St. Charles COA	St. Charles
St. James Area Agency on Aging (AAA)	St. James
St. John COA	St. John the Baptist
St. Tammany COA	St. Tammany
Terrebonne COA	Terrebonne
Vernon COA	Vernon
Webster COA	Webster
West Carroll COA	West Carroll

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:1317 (October 1993), repealed and promulgated LR 23:1146 (September 1997), amended LR 19:1317 (June 1998), amended LR 24:

Paul F. "Pete" Arceneaux, Jr.
Executive Director

9809#004

DECLARATION OF EMERGENCY

**Department of Natural Resources
Office of Conservation**

Pollution Control (LAC 43:XIX.129)

Pursuant to the power delegated under the laws of the state of Louisiana, and particularly Title 30 of the Revised Statutes of 1950, as amended, and in conformity with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) and (2), and 954(B)(2), as amended, the following emergency rule and reasons therefor are now adopted and promulgated by the Commissioner of Conservation as being necessary to protect the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally, by establishing a revised procedure for testing of Exploration and Production (E&P) waste prior to shipment to and acceptance by a commercial facility in the state of Louisiana and verification testing after receipt of such E&P waste at a commercial facility.

Need and Purpose

Certain oil and gas Exploration and Production waste (E&P waste) is exempt from the hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA). This exemption is based on findings from a 1987-1988

Environmental Protection Agency (EPA) study and other studies that determined this type of waste does not pose a significant health or environmental threat when properly managed. The EPA, in its regulatory determination, found that these wastes are adequately regulated under existing federal and state programs.

Existing Louisiana state regulations governing the operations of commercial E&P waste disposal facilities (Statewide Order No. 29-B) require only very limited testing of the waste received for treatment and disposal at each commercial facility. Such limited testing finds its basis in the above-mentioned national exemption for E&P waste recognized by the EPA. However, public concern warranted the Commissioner of Conservation to issue an Emergency Rule effective May 1, 1998 (May 1, 1998 Emergency Rule), the purpose of which was to gather technical data regarding the chemical and physical makeup of E&P waste disposed of at commercial E&P waste disposal facilities within the State of Louisiana. The May 1, 1998 Emergency Rule had an effective term of 120 days.

The May 1, 1998 Emergency Rule required comprehensive analytical testing of E&P waste at the site of generation together with verification testing at the commercial E&P waste disposal facility. During the 120 day term of the May 1, 1998 Emergency Rule, over 1,200 E&P waste testing batches were analyzed, with the analytical results being filed with the Office of Conservation.

However, technical experts under contract with the Office of Conservation have determined, among other reasons, that although most waste types are expected to yield sufficient data within the initial 120-day period to draw inferences as to average concentrations and statistical distribution of concentrations in these wastes, additional data will strengthen the validity of the inferred distributions. Therefore, the general provisions of the May 1, 1998 Emergency Rule will be continued for an additional period of approximately 30 days, as further outlined herein.

Statewide Order No. 29-B Emergency Rule herein enacted will provide requirements for continued E&P waste characterization and verification testing. After implementation of this Emergency Rule, Conservation will initiate rulemaking to promulgate new permanent regulations which will recognize and encourage new and innovative ways to manage E&P waste. Best management practices will be the measure of acceptability for both existing and emerging technologies. Analytical data generated during the effective term of the May 1, 1998 Emergency Rule, and the Emergency Rule enacted herein, along with best management practices, will be used to determine the limits for waste constituents received at commercial E&P waste disposal facilities.

Synopsis

1. Exploration and production waste will be tested for characterization.

As a key provision of the emergency rule, a waste profile must continue to be developed for each specific testing batch of E&P waste proposed for storage, treatment or disposal at a commercial facility in the state. Based on the results of the 1997 Office of Conservation sampling and testing program, as

well as staff expertise, four (4) different groups of analytical procedures were established, and incorporated into the May 1, 1998 Emergency Rule. Depending on the chemical complexity of a specific testing batch, applicable testing procedures will continue to be required by this Emergency Rule to establish the waste profile for each testing batch.

In order to not unnecessarily delay drilling operations utilizing closed mud systems with limited on-site storage systems, or in emergency situations, provisions have been made to allow documentation of testing procedures to be submitted to the receiving commercial facility within 30 days after setting of the surface casing. Such provision is reasonable because only native water base drilling muds are commonly used at the startup of drilling operations and prior to setting of surface casing. Additionally, alternate sampling and testing protocols consistent with emergency rule standards may be authorized by the Office of Conservation upon written request. For example, the taking of waste characterization samples at a commercial facility may be proposed as an alternative to taking such samples at the site of generation.

Produced water, produced formation fresh water and other E&P waste fluids are exempt from certain provisions of the testing requirements provided they are:

- 1) transported in enclosed tank trucks, barges, or other enclosed containers;
- 2) stored in enclosed tanks at a commercial facility; and
- 3) disposed by deepwell injection.

Such provision is reasonable because, provided the above conditions are met, exposure to the public and to the environment would be minimal.

2. Exploration and production waste will be transported with identification.

The rule primarily requires that each E&P waste shipping unit transported from the site of generation to a commercial facility will be accompanied by a copy of the waste profile (Form UIC-35) and an Oilfield Waste Shipping Control Ticket (UIC-28, Manifest) and presented to the facility operator before offloading. Timely filings of required laboratory reports will be made to the Office of Conservation.

3. Each load of E&P waste will be tested at a commercial facility.

Before offloading at a commercial E&P waste disposal facility and in order to verify that the waste qualifies for the E&P category, each E&P waste shipping unit shall be sampled for required parameters. Additionally, the presence and concentration of BTEX (benzene, toluene, ethyl benzene and xylene) compounds and hydrogen sulfide must be determined. Appropriate records of tests shall be kept at each commercial facility for review by the Office of Conservation.

Reasons

Recognizing the potential advantages of the ongoing testing program for the characterization of Exploration and Production (E&P) waste that is fully protective of public health and the environment, and recognizing the potential advantages of continuation of the testing program that adequately characterizes such waste as to its potentially toxic constituents, it has been determined that failure to continue such procedures in the form of an administrative rule may

lead to the existence of an imminent peril to the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally.

Protection of the public and our environment therefore requires the Commissioner of Conservation to take immediate steps to assure that adequate testing continues to be performed before E&P waste is treated or otherwise disposed of in a commercial facility. The emergency rule set forth hereinafter is now adopted by the Office of Conservation.

Effective Date and Duration

1. The effective date for this Emergency Rule shall be August 29, 1998.

2. The emergency Rule herein adopted as a part thereof, shall remain effective through September 30, 1998.

Signed at Baton Rouge, Louisiana, this 24th day of August, 1998.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 1. General Provisions

§129. Pollution Control

A. - B. ...

1. Definitions

* * *

Container—a pit, storage tank, process vessel, truck, barge or other receptacle used to store or transport E&P waste.

* * *

Drilling Waste—water base mud, oil-base mud or other drilling fluids and cuttings generated during the drilling of wells. These wastes are a subset of E&P waste.

* * *

Exploration and Production (E&P) Waste—as defined in §129.M.1.

* * *

NOW—Exploration and Production (E&P) waste.

* * *

Shipping Unit—an individual shipment of a portion or the entirety of an identified E&P waste testing batch to a commercial facility.

* * *

Testing Batch—an accumulation of an E&P waste type generated in association with exploration and production operations, or a mixture of such waste types, which is initially collected or temporarily retained at the site of generation in a container, quantified as follows.

i. Except for drilling waste, a testing batch is defined as E&P waste that is ready to be shipped offsite to a commercial facility. After the testing batch has been established and a sample has been taken, no additional waste may be added to the container(s) until all of its contents have been shipped to a commercial facility. If additional waste is added to the container(s) before all of its contents have been shipped, this shall constitute a new testing batch. Multiple containers may be used to store or ship a single testing batch from a single generation source (e.g., pit, tank, etc.) to a commercial facility.

ii. In the case of drilling waste, each type of mud system (water base, oil-base or other) together with cuttings and fluids associated with such system, shall constitute a separate testing batch. During drilling operations at a depth below the surface casing, the drilling waste generated for each mud system shall be sampled as a separate testing batch. Shipments of a portion of a drilling waste testing batch will not constitute formation of a separate testing batch.

iii. For production tank sludge and other process vessel waste, the container (tank, vessel, etc.) need not be taken out of service during sampling and analysis of the testing batch.

* * *

2. General Requirements

a. - m.iii. ...

n. Exploration and Production Waste Characterization Procedures

i. All E&P waste generated within or without the state of Louisiana including offshore Louisiana (both state and federal waters) and proposed to be transported to a commercial facility in the state of Louisiana must be sampled and analyzed in accordance with EPA protocols or Office of Conservation's approved procedures. For procedures B, C and D, E&P waste shall be tested by a laboratory not owned or operated by the generator of the waste.

ii. The following procedures are to be utilized as applicable (see table in §129.B.2.n.iii) to characterize each E&P testing batch:

Procedure A: color
specific gravity
turbidity - clear, cloudy, or muddy
viscosity - low, medium or high

Procedure B: oil and grease (percent by weight)
reactive sulfide (ppm)

Procedure C: Toxicity Characteristic Leaching Procedure (TCLP) for the following volatile organics:
Benzene
Ethyl benzene
Toluene
Xylene

Procedure D: Toxicity Characteristic Leaching Procedure (TCLP) for the following metals:
Arsenic
Barium
Cadmium
Chromium
Lead
Mercury
Selenium
Silver

iii. The following table indicates which testing procedures in §129.B.2.n.ii above are to be utilized to characterize E&P waste:

Waste Type/Description	Required Testing Procedures*
01 - Salt Water (produced brine or produced water)	A, B, C, and D
02 - Oil-base mud / cuttings	A, B, C and D
03 - Water base mud / cuttings	A, B and C
04 - Workover / completion fluids	A, B and C
05 - Production pit sludge	A, B, C and D
06 - Production tank sludge	A, B, C and D
07 - Produced sand / solids	A, B, C and D
08 - Produced formation fresh water	A, B, C and D
09 - Rainwater - ring levees/pits	A and B
10 - Washout water	A and B
11 - Washout pit water	A, B and C
12 - Gas plant processing waste	A, B, C and D
13 - BSandW waste from approved commercial salvage oil operators	A, B, C and D
14 - Pipeline test water and pipeline pig water	A, B, C and D
15 - E&P waste generated by permitted commercial facilities	A, B, C and D
16 - Crude oil spill clean-up waste	A, B and C
99 - Other approved E&P waste	A, B, C and D

* See testing exemptions for E&P wastes as provided in §129.B.2.n.v, vi, vii, viii and ix below.

iv. If a testing batch is composed of more than one type of E&P waste, the testing procedures applicable to all types of waste in the testing batch shall be utilized to characterize the waste.

v. An E&P waste testing batch containing no more than five barrels total volume is exempt from the testing requirements of §129.B.2.n.ii, Procedures B, C and D.

vi. Drilling fluids and cuttings generated during the drilling of surface casing hole are exempt from the testing requirements of §129.B.2.n.ii, Procedures A, B, C and D.

vii. Wash water and solids (E&P waste type 10) generated at a commercial facility by the cleaning of a container holding a residual amount (of no more than one barrel) of E&P waste is exempt from the testing requirements of §129.B.2.n.ii, Procedures A, B, C and D.

viii. E&P waste stored and transported in a barge from a transfer station to a commercial treatment facility is exempt from the testing requirements of §129.B.2.n.ii, Procedures A, B, C and D.

ix. Produced water, produced formation fresh water, and other E&P waste fluids are exempt from the testing requirements of §129.B.2.n.ii, Procedures A, B, C and D under the following conditions:

- (a). if transported by the generator or transporter in enclosed tank trucks, barges, or other enclosed containers; and
- (b). if stored in an enclosed container at a commercial facility; and
- (c). if disposed by deep well injection.

x. Except for the provisions of §129.B.2.n.v, vi, vii, viii and ix, E&P waste generated out-of-state, except offshore Louisiana (both state and federal waters), and transported to a Louisiana commercial facility for storage, treatment or disposal must be tested for the parameters required in Procedures A, B, C, and D above.

xi. Testing batch samples shall be taken at the site of generation, tested, and the testing results reported in the following manner.

(a). Upon identifying a testing batch, the E&P waste generator shall send a sample to the testing laboratory and initiate an E&P Waste Profile (Form UIC-35). For each new testing batch the generator must complete the top portion of the form (general information), indicate the waste type/description, and sign the form in the appropriate location.

(b). The generator shall perform test Procedure A for each testing batch and the results reported in the appropriate location on Form UIC-35.

(c). Data Submission

(i). Test Procedures B, C, and D shall be performed on each testing batch sample by the testing laboratory and a laboratory report provided to the generator and to the commercial facility operator within 30 days of the date of the first shipment of each testing batch. Upon receipt of the laboratory test data, the commercial facility shall enter such data on Form UIC-35.

(ii). The generator, commercial facility operator, or testing laboratory shall electronically submit the laboratory data for required E&P waste analyses to the Office of Conservation within 30 days of the first shipment of each testing batch. Such report shall be submitted to the Office of Conservation in ASCII comma delimited format either by electronic mail (E-mail via Internet) or on 3½-inch floppy disk. Generators of E&P waste must contact the Office of Conservation, Injection and Mining Division, if, for some reason, such electronic reporting cannot be made.

(d). The original completed or partially completed Form UIC-35 must accompany the first E&P waste shipping unit transported to a commercial facility and must be presented to the facility operator with the Exploration and Production (Oilfield) Waste Shipping Control Ticket (Form UIC-28) before offloading. Form UIC-35 does not need to accompany subsequent waste shipping units for the same testing batch.

xii. The generator or commercial facility operator shall identify each E&P waste testing batch and each E&P waste shipping unit as follows.

(a). Each testing batch shall be separately identified by using the manifest number (Manifest Number) of the first shipping unit transported to a commercial facility. This testing batch number shall be placed on the E&P Waste Profile in the appropriate location.

(b). The testing batch number shall also be placed on the Exploration and Production (Oilfield) Waste Shipping Control Ticket (Form UIC-28) in the top left corner (under the form number) on the manifest for each shipping unit.

(c). Each E&P waste shipping unit (of each testing batch) shall be identified on the Exploration and Production (Oilfield) Waste Shipping Control Ticket (Form UIC-28) in

the top left corner under the testing batch number by a sequential numbering system (e.g., 1, 2, 3, etc.). When the last E&P waste shipping unit of a specific testing batch is sent to the commercial facility, the word END shall be placed next to the load number (e.g., 5 END).

xiii. Alternate sampling and testing protocols consistent with the above standards may be authorized by the Office of Conservation upon written request by an operator or commercial facility. Written authorization must be received prior to initiating alternate sampling and testing protocols.

3. - 6.d.iii. ...

iv. For reactive sulfides, samples shall be analyzed according to SW 846, Chapter 7, Section 7.3.4 or latest revision by EPA.

v. TCLP samples shall be analyzed according to EPA document *Test Methods for Evaluating Solid Waste, S.W. 846*, Third Edition, Revised 12/96 or latest revision by EPA.

(a). For TCLP metals, samples are to be extracted according to SW 846 Method 1311, then digested according to SW 846 series 3000 or latest revision by EPA.

(b). Upon completion of the extraction and digestion phases, metals are to be analyzed according to SW 846 methodology series 6000 and/or 7000 or latest revision by EPA.

(c). TCLP organics identified in Procedure C are to be extracted according to SW 846 Method 1311 or latest revision by EPA. Analytes are to be analyzed according to SW 846 Method 8260 or latest revision by EPA.

vi. Except as herein provided otherwise, sampling and testing procedures should comply with Office of Conservation manual *Laboratory Procedures for Analysis of Nonhazardous Oilfield Waste* (latest revision).

6.e. - 9.c ...

C. - L ...

M. Off-Site Storage, Treatment and/or Disposal of E&P Waste Generated from Drilling and Production of Oil and Gas Wells

1. Definitions

* * *

Commercial Facility—a legally permitted waste storage, treatment and/or disposal facility which receives, treats, reclaims, stores, or disposes of exploration and production waste for a fee or other consideration, and shall include the term "transfer station."

* * *

Exploration and Production (E&P) Waste—drilling fluids, produced water, and other waste associated with the exploration, development, or production of crude oil or natural gas and which is not regulated by the provisions of the Louisiana Hazardous Waste Regulations and the Louisiana Solid Waste Regulations. Such wastes include, but are not limited to, the following:

i. salt water (produced brine or produced water), except for salt water whose intended and actual use is in drilling, workover or completion fluids or in enhanced mineral recovery operations;

ii. oil-base drilling mud and cuttings;

iii. water base drilling mud and cuttings;

iv. drilling, workover and completion fluids;

v. production pit sludges;

vi. production storage tank sludges;

vii. produced oily sands and solids;

viii. produced formation fresh water;

ix. rainwater from ring levees and pits at production and drilling facilities;

x. washout water generated from the cleaning of containers that transport E&P waste and are not contaminated by hazardous waste or material;

xi. washout pit water and solids from oilfield related carriers that are not permitted to haul hazardous waste or material;

xii. natural gas plant processing (E&P) waste which is or may be commingled with produced formation water;

xiii. waste from approved salvage oil operators who only receive oil (BS and W) from oil and gas leases;

xiv. pipeline test water which does not meet discharge limitations established by the appropriate state agency, or pipeline pig water, i.e., waste fluids generated from the cleaning of a pipeline;

xv. wastes from permitted commercial facilities;

xvi. crude oil spill clean-up waste;

xvii. salvageable crude oil;

xviii. other approved E&P waste.

* * *

Shipping Unit—as defined in §129.B.1.

Testing Batch—as defined in §129.B.1.

* * *

2. Offsite Storage, Treatment, and/or Disposal of Nonhazardous Oilfield Waste at Commercial Facilities (Note: Onsite disposal requirements are listed in §129.B).

a. - e.ii.(d). ...

3. - 5.i ...

ii. Verification Testing Requirements

(a). Before offloading E&P waste at a commercial facility, each E&P waste shipping unit shall be sampled and analyzed by commercial facility personnel for the following:

(i). Procedure A in §129.B.2.n.ii above; and

(ii). pH, electrical conductivity (EC—mmhos/cm) and chloride (Cl) content; and

(iii). the presence and concentration of BTEX (benzene, toluene, ethyl benzene, and xylene) compounds using an organic vapor monitor or other procedures sufficient to identify and quantify BTEX; and

(iv). the presence and concentration of hydrogen sulfide (H₂S) using a portable gas monitor.

(b). The commercial facility operator shall enter the pH, electrical conductivity, chloride (Cl) content, BTEX and hydrogen sulfide measurements on the manifest (Form UIC-28) which accompanies each waste shipping unit.

(c). When the commercial facility operator receives an E&P Waste Profile (Form UIC-35) from the generator, he shall enter the results of test Procedure A (first shipping unit values for each testing batch) in the appropriate location.

(d). When the last shipping unit for an E&P waste testing batch has been received, the commercial facility

operator shall enter the maximum BTEX and hydrogen sulfide measurements (for all shipping units in the testing batch) on the E&P Waste Profile (Form UIC-35).

(e). The commercial facility operator shall submit each completed Form UIC-35 to the Office of Conservation within seven days of receipt of the last waste shipping unit of each testing batch. The Conservation copy of the manifest for each shipping unit that compose a complete testing batch must be attached to the Form UIC-35.

(f). Produced water, produced formation fresh water, and other E&P waste fluids are exempt from verification testing Procedure A, the organic vapor monitor measurement, and the H₂S measurement in §129.M.5.ii.(a) if the conditions of §129.B.2.n.ix are met.

(g). Records of these tests shall be kept on file at each commercial facility for a period of three years and be available for review by the Commissioner or his designated representative.

5.iii - S.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30.4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), promulgated by the Department of Natural Resources, Office of Conservation, LR 6:307 (July 1980), amended LR 8:79 (February 1982), LR 9:337 (May 1983), LR 10:210 (March 1984), LR 12:26 (January 1986), LR 16:855 (October 1990), LR 17:382 (April 1991), LR 24:

Summary

The emergency rule herein above adopted evidences the finding of the Commissioner of Conservation that failure to adopt the above rules may lead to an imminent risk to public health, safety and welfare, and that there is not time to provide adequate notice to interested parties. However, the Commissioner of Conservation notes again that a copy of the permanent Amendment to Statewide Order Number 29-B will be developed in the near future, with a public hearing to be held as per the requirements of the Administrative Procedure Act.

The Commissioner of Conservation concludes that the above emergency rule will better serve the purposes of the Office of Conservation as set forth in Title 30 of the Revised Statutes, and is consistent with legislative intent. The adoption of the above emergency rule meets all the requirements provided by Title 49 of the Louisiana Revised Statutes. The adoption of the above emergency rule is not intended to affect any other provisions, rules, orders, or regulations of the Office of Conservation, except to the extent specifically provided for in this emergency rule.

Within five days from date hereof, notice of the adoption of this emergency rule shall be given to all parties on the mailing list of the Office of Conservation by posting a copy of this emergency rule with reasons therefor to all such parties. This emergency rule with reasons therefor shall be published in full in the *Louisiana Register* as prescribed by law. Written notice has been given contemporaneously herewith notifying the governor of the state of Louisiana, the attorney general of the state of Louisiana, the speaker of the House of Representatives, the president of the Senate and the Office of

the State Register of the adoption of this emergency rule and reasons for adoption.

Philip N. Asprodites
Commissioner

9809#008

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Gaming Control Board

Land-Based Casino

(LAC 42:III.104, LAC 42:IX.2105, 2701, 2703, 2707, 2723, 2901-2917, 2921, 3301-3309, and 3319)

The Gaming Control Board hereby amends LAC 42:III.104, LAC 42:IX.2105, 2701, 2703, 2707, 2723, 2901, 2903, 2905, 2907, 2909, 2911, 2913, 2915, 2917, 2921, 3301, 3303, 3305, 3307, 3309 and 3319 as follows, in accordance with La. R.S. 27:15, 24 and La. R.S. 49:953.

In accordance with the provisions of La. R.S. 49:953(B), the Louisiana Gaming Control Board has determined that it is necessary to adopt emergency rule changes relative to delegation of authority to the Chairman, LAC 42:III.104 and deleting the term *Casino Operator Affiliate* as it appears in the administrative rules originally adopted by the Louisiana Economic Development and Gaming Corporation, LAC 42:IX.2101 et seq.

Adoption of these rule changes on an emergency basis is necessary to ensure that the rule changes are in effect at the time of the anticipated closing/effective date of the Plan of Reorganization of Harrah's Jazz Company currently targeted at the same time as the conclusion of the suitability process anticipated to be mid-October, 1998. Emergency adoption will prevent imminent peril to the public health, safety and welfare by: ensuring that the unsecured creditors of Harrah's Jazz Company are paid as expeditiously as possible, thereby preventing any harm to Louisiana businesses that further delay can cause; ensuring that the Louisiana Gaming Control Board and ultimately the State of Louisiana begins to receive \$273,000 a day as expeditiously as possible; ensuring that approximately 1,000 construction jobs and thousands of direct and indirect permanent jobs are created as expeditiously as possible, providing numerous benefits to the State and relieving State assistance programs for the unemployed; ensuring that the Louisiana tourism and convention markets can compete as soon as possible with the ever increasing competition from Mississippi; and ensuring that the fundamental public policy goals established in the Louisiana Economic Development and Gaming Corporation Act are accomplished, including enhancing general economic development and stimulating the overall economy of the New Orleans area.

The failure to adopt these rule changes on an emergency basis will delay and otherwise impair accomplishment of all of these important objectives threatening the welfare of the State, the City of New Orleans and the numerous constituencies involved in the bankruptcy proceedings.

LAC 42:III.104 is being amended to allow the Board to authorize the execution of the Casino Operating Contract and that, once authorized by resolution, the Chairman or his designated representative may execute the Contract.

This amendment is necessary to authorize the Chairman or his designee to execute the agreement and to facilitate an orderly closing of the complex bankruptcy case involving numerous parties, documents and geographic locations.

The land-based casino regulations are also being amended to remove references to the term *Casino Operator Affiliate* which was specifically designed and adopted to deal with the former three tier non-public ownership structure of the Casino Operator as a partnership. The term was intended to ensure that the partners could not transfer their non-public ownership interests in the Casino Operator without Board approval and that any transferee of the partnership interests obtained any required suitability findings.

The amendment is essential to deal with the new two-tier public ownership structure of the Casino Operator as it will allow the common stock of the Operator to trade freely on the public markets without each holder of the stock obtaining approval before buying or selling the stock. Without the amendment, the bankruptcy case cannot close as the public company structure with shares being traded on the public markets is fundamental to the Plan of Reorganization before the Bankruptcy Court.

The amendment does not restrict the power of the Board under LAC 42:IX.2701 to require a finding of suitability for any person, regardless of their holdings in the public holding company, that controls or influences the affairs of the Casino Operator or that raises an integrity or other issue necessitating a finding of suitability under the Louisiana Gaming Control Law issue.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 1. General Provisions

* * *

§104. Delegation to Chairman

A. - 2. ...

3. enter into the casino operating contract on behalf of the Louisiana Gaming Control Board, provided however that the casino operating contract shall be executed on behalf of the Louisiana Gaming Control Board by the chairman or a designated representative when the casino operating contract is approved by the Louisiana Gaming Control Board and the chairman or a designated representative is specifically ordered by board resolution to execute the casino operating contract on behalf of the Louisiana Gaming Control Board.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Gaming Control Board, LR 22:1140 (November 1996), amended LR 24:

Part IX. Land Based Casino

Chapter 21. General Provisions

* * *

§2105. Definitions, Words and Terms; Captions; Gender References

* * *

Approvals—those actions of the Casino Operator, Casino Manager, licensees or other persons found suitable, or transactions directly or indirectly involving such persons, which require Approval by the Corporation through the President or the Board, but which do not in themselves constitute licensing or a Finding of Suitability of any person involved, but the licensing or Finding of Suitability of the persons involved may, unless the Casino Act, these Regulations or the Corporation dictate otherwise, constitute Approval by the Corporation of the transaction in question.

Background Investigation—all efforts, whether prior to or subsequent to the filing of an application, designed to discover information about an applicant, Casino Operator, Casino Manager, licensee, registrant or other person found suitable and includes without time limitation, any additional or deferred efforts to fully develop the understanding of information which was provided or should have been provided or obtained during the application process. Examples of background investigation include, but are not limited to measures taken in connection with exploring information on applicants; procedures undertaken with respect to investigatory hearings, except for matters specifically disclosed in any hearing open to the public and orders, responses, and other documents relating thereto.

* * *

Casino Operator Affiliate—Repealed

Finder's Fees—any compensation in money in excess of the sum of \$10,000, or real or personal property with a real value in excess of the sum of \$10,000 which is paid or transferred to any person in consideration for the arranging or negotiation of an extension of credit to the Casino Operator, or an applicant for licensing, registration, Approval or Finding of Suitability if the proceeds of such extension of credit is intended to be used for any of the following purposes: the acquisition of an interest in the Official Gaming Establishment or Casino Operator; to finance the gaming operations of the Casino Operator. The term shall not include compensation to the person who extends the credit; normal and customary payments to employees of the person to whom the credit is extended if the arranging or negotiation of credit is part of their normal duties; normal and customary payments for bona fide professional services rendered by lawyers, accountants, engineers and appraisers, underwriters discounts paid to a member of the National Association of Securities Dealers, Inc.; fees paid to banking institutions in connection with procuring credit.

Finding of Suitability—any action required or allowed by the President, Board, Casino Act or these Regulations that require certain persons, directly or indirectly involved with the Casino Operator, Casino Manager, licensees or registrants to be found suitable to hold a gaming license so long as such involvement continues. A finding of suitability relates only to the specified involvement for which it is made. If the nature of the involvement changes from that which the applicant is found suitable, he may be required to submit himself to a determination by the Corporation of his suitability in the new capacity.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

Chapter 27. Required Licensing

Subpart A. Suitability of Casino Operator

§2701. Suitability of Casino Operator

A. The following persons shall demonstrate their suitability and qualification to the Board by clear and convincing evidence (as those terms are defined in the Casino Act and LAC 42:IX.2329 and 2331):

1. a Casino Operator;
2. all other persons, who either alone or in combination with others, have the ability to significantly and directly affect or influence the affairs of a Casino Operator or a Casino Managers;
3. a person with respect to whom a finding of suitability is necessary in order to insure that the policies of the Casino Act and the integrity of gaming operations are protected; and
4. any other person that the Board in its discretion, directs to demonstrate its suitability and qualifications.

B. For the purpose of §2701 any persons holding, owning or Controlling a direct or beneficial interest (this shall include any rights created in any counter-letter, option, convertible security or similar instrument) in the following persons shall be presumed to have the ability to significantly and directly influence or affect affairs of a Casino Operator or Casino Manager unless the presumption is rebutted by clear and convincing evidence:

1. any persons holding, owning or controlling a 5 percent or more equity interest or outstanding voting securities (including holdings in trust and whether as settlor, trustee or beneficiary) in a non-publicly traded Intermediary or Holding Company of the Casino Operator or the Casino Manager; and
2. any persons holding, owning or controlling a 10 percent or more equity interest or outstanding voting securities or rights in a publicly traded or any publicly traded Intermediary or Holding Company of a Casino Operator or a Casino Manager.

C. Notwithstanding the terms of §2701.B, the following persons shall not be automatically deemed to have the ability to significantly and directly influence the affairs of the persons or entities identified above requiring a Finding of Suitability:

1. a holder or owner of a Security or other interest that is convertible or exercisable into an equity or ownership interest in a publicly traded Public Traded Intermediary or Holding Company thereof prior to the time that the Security or other interest is converted or exercised. A holder or owner of a convertible interest shall seek the approval of the Corporation before exercising the conversion rights unless, after conversion such person will hold, own or control less than 10 percent of the total outstanding equity or ownership interests in the Intermediary or Holding Company thereof;

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§2703. Safe Harbor

A. If at any time the Corporation finds that a holder of a debt or equity interest in the Casino Operator or any of their respective Affiliates, that is required to be and remain suitable has failed to demonstrate suitability, the Corporation may, consistent with the Casino Act and the casino operating contract, take any action that the Corporation deems necessary to protect the public interest. Provided however if, a holder of a debt or equity interest in the Casino Operator or any of their respective Affiliates associated with the Casino Operator or Affiliates has failed to demonstrate suitability, the Corporation shall take no action to declare the Casino Operator or Affiliates, as the case may be, not Suitable based upon such finding, if the affected Casino Operator, or Affiliates takes immediate good-faith action (including the prosecution of all legal remedies) and complies with any order of the action (including the prosecution of all legal remedies) and complies with any order of the Corporation to cause such person failing to demonstrate suitability to dispose of such person's interest in the affected Casino Operator or Affiliates, and that pending such disposition such affected Casino Operator or Affiliates, from the date of notice from the Corporation of a finding of failure to demonstrate suitability, ensures that the person failing to demonstrate suitability:

1. does not receive dividends or interest on the securities of the Casino Operator or Affiliates;
2. does not exercise, directly or indirectly, including through a trustee or nominee, any rights conferred by the securities of the Casino Operator or Affiliates;
3. does not receive any remuneration from the Casino Operator or Affiliates;
4. does not receive any economic benefit from Casino Operator or Affiliates;
5. subject to the disposition requirements of §2703, does not continue in an ownership or economic interest in the Casino Operator or Affiliates or remain as a manager, officer, director, partner, employee, consultant or agent of the Casino Operator or Affiliates.

B. Nothing contained in §2703 shall prevent the Corporation from taking any action against the Casino Operator if the Casino Manager fails to be or remain suitable. Moreover, nothing contained in §2703 shall prevent the Corporation from taking regulatory action against the Casino Manager, Casino Operator or Affiliates as the case may be, if the Casino Operator, Casino Manager or Affiliates as the case may be:

1. had actual or constructive knowledge of the facts that are the basis of the Corporation regulatory action, and failed to take appropriate action; or
2. is so tainted by such person failing to demonstrate suitability so as to affect the suitability of the Casino Operator, the Casino Manager or Affiliates under the standards of the Casino Act or these Regulations; or
3. cannot meet the suitability standards contained in the Casino Act and these Regulations.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§2707. Loan Transactions

A. All loan transactions in excess of \$10,000,000 (ten-million dollars) in which the Casino Operator is a party, shall require the prior Approval of the Corporation, except those transactions permitted by Section 13.6 of the casino operating contract, provided the source of any funds is a suitable lender.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

Subpart D. Licensing of Vendors and Other Service or Property Providers

§2723. Required Licensure

A. The following shall, prior to conducting any business with the Casino Operator or Casino Manager, apply for and receive an appropriate license by demonstrating his suitability and qualifications in accordance with LAC 42:IX. 2329 and 2331:

1. all manufacturers, distributors and other providers or suppliers of Gaming Devices or Gaming Supplies;
2. all casino security services and repairers, and limousine services.

B. Any person who furnishes services or property to the Casino Operator or Casino Manager under any arrangement pursuant to which the person receives payments based on earnings, profits or receipts from gaming operations, shall apply for and receive a license, by demonstrating his suitability and qualifications, in accordance with LAC 42:IX.2329 and 2331, prior to engaging in any such transaction or activity. The Casino Manager shall be deemed to have complied with §2723 if it has the requisite Approvals pursuant to Section 8.1 of the casino operating contract and otherwise complies with these Regulations.

C. Any person who is entitled to receive Finders Fees.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

Chapter 29. Transfers of Interest, Public Offerings and Other Financial Transactions Requiring Corporation Approval

§2901. Transfer of Interest, General

No person shall sell, assign, lease, grant, hypothecate, transfer, convey, purchase or acquire any interest of any sort whatsoever, or foreclose on a security interest in the Casino Operator or Casino Manager, or any portion thereof, or enter into or create a voting trust agreement or any agreement of any sort in connection with any licensed gaming operation or

any portion thereof, except in accordance with the Casino Act and these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§2903. Disclosure of Representative Capacity

No person shall transfer, assign, pledge, or otherwise dispose of, or convey in any manner whatsoever, any ownership interest in the Casino Operator or Casino Manager to any person acting as an agent, trustee or in any other representative capacity for or on behalf of another person without having first fully disclosed all facts pertaining to such transfer and representation to the Corporation. No person acting in such representative capacity shall hold or acquire any such interest or so invest or participate without having first fully disclosed all facts pertaining to such representation to the Corporation and having obtained written permission from the President.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§2905. Transfer of Interest Prior to Approval

The sale, assignment, transfer, pledge, alienation, disposition, public offering, acquisition or other transfer of any ownership interest of the Casino Operator, Casino Manager must receive prior Approval from the Corporation. Any sale, assignment, transfer, pledge, alienation, disposition, public offering, acquisition or other transfer of interest of the Casino Operator or Casino Manager that occurs without the prior Approval of the Corporation shall be void.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§2907. Transfer of Interest, Application

A. Unless otherwise provided in LAC 42:IX. 2909, any person or entity filing an application for transfer of any ownership interest in the Casino Operator or Casino Manager shall complete an application on a form prescribed by the Corporation which shall form the basis for the Corporation's investigation to determine the suitability of the transferee. All costs associated with the Corporation's investigation of the application for a transfer of interest shall be born by the individual or entity seeking the ownership interest. An application fee of \$300.00 shall be paid at the time of filing the application.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§2909. Transfer Among Licensees

If a person who is the owner of any interest of the Casino Operator or Casino Manager proposes to transfer ownership of said interest to another person who is also an owner of the Casino Operator or Casino Manager, the following shall apply:

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§2911. Transfer of Interest to Non-Licensee

A. No person who owns any direct ownership interest in the Casino Operator or Casino Manager shall in any manner whatsoever, transfer any part of the interest therein to any person, who is not then a licensee or otherwise has been found suitable by interest therein to any person, who is not then a licensee or otherwise has been found suitable by the Corporation. No such transfer shall be effectuated for any purpose until the proposed transferee has made application for and has obtained all licenses, or Findings of Suitability required by the Casino Act and these Regulations and until the transfer and application has been Approved by the Corporation.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§2913. Stock Restrictions

Unless otherwise Approved by the Corporation in advance, all ownership securities issued by the Casino Operator or Casino Manager shall bear on both sides of the certificate a statement of the restrictions containing the following inscription:

"The purported sale, assignment, transfer, pledge or other disposition of this security must receive the prior Approval of the Louisiana Economic Development and Gaming Corporation. The purported sale, assignment, transfer, pledge or other disposition, of any security or shares issued by the entity issuing this security is void unless Approved in advance by the Louisiana Economic Development and Gaming Corporation. If at any time an individual owner of any such security is determined to be disqualified under the Casino Act to continue as a licensee or suitable person, the issuing entity shall ensure that such person or persons may not receive any dividend or interest upon any such security, exercise, directly or indirectly through any trustee or nominee any voting right conferred by such security receive remuneration in any form from the Casino Operator or Casino Manager for services rendered or otherwise, receive any economic benefit from the Casino Operator or Casino Manager or function as a manager, officer, director, or partner thereof."

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§2915. Escrow Required

A. No money or other thing of value constituting any part of the consideration for the transfer of interest or acquisition of interest in the Casino Operator or Casino Manager shall be paid over, received or used until complete compliance has been had with all prerequisites set forth in the Casino Act and these Regulations for the consummation of the transaction.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§2917. Public Offerings

The Casino Operator or Casino Manager and any non-publicly traded Holding Company shall apply for prior Approval of any proposed public offering of any ownership interest therein, and shall comply with all conditions imposed by the Corporation.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§2921. Enforcement of a Security Interest

* * *

B. Notwithstanding any other provision of these Regulations, Approval is not required to enforce a security interest in a security issued by a Casino Operator, Casino Manager or Intermediary or Holding company thereof, if the gaming operation has ceased and the casino operating contract has been surrendered to the Board prior to the enforcement of such security interest.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

Chapter 33. Disciplinary Action

§3301. Violation of Law or Regulations

A. Violation of any provisions of the Casino Act or of these Regulations by a Casino Operator, Casino Manager, licensee, registrant, person found suitable or any agent or employee of such person shall be deemed contrary to the public health, safety, morals, good order and general welfare of the inhabitants of the State of Louisiana and grounds for suspension or revocation of a license or Finding of Suitability or imposition of a civil penalty in accordance with LAC 42:IX. 3319 of these Regulations. Acceptance of a license, registration, Approval or Finding of Suitability or renewal thereof by the person constitutes an agreement on the part of the person to be bound by all of these Regulations of the Corporation as the same are, or may hereafter be amended.

B. It is the responsibility of the person to keep himself informed of the content of all such Regulations and ignorance thereof will not excuse violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§3303. Investigations and Hearings

The corporation shall investigate alleged violations of the Casino Act and these Regulations by any Casino Operator, Casino Manager, licensee, registrant, person found suitable, or member of the public. The President shall conduct hearings in accordance with LAC 42:IX.2501 et seq. to determine whether there has been a violation of any provisions of the Casino Act or these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§3305. Methods of Operation

A. It is the policy of the Corporation to require that the Official Gaming Establishment be operated in a manner suitable to protect the public health, safety, morals, good order and general welfare of the inhabitants of the State of Louisiana.

B. Responsibility for the employment and maintenance of suitable methods of operation rests with the Casino Operator and Casino Manager and willful or persistent use of or toleration of methods of operation deemed unsuitable will constitute grounds for disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§3307. Grounds for Disciplinary Action Against the Casino Operator or Casino Manager

The Corporation deemed any activity on the part of the Casino Operator, Casino Manager and their agents or employees, what is inimicable to the public health, safety, morals, good order and general welfare of the people of the State of Louisiana, or that would reflect or tend to reflect discredit upon the State of Louisiana or the gaming industry, to be an unsuitable method of operation and shall constitute grounds for disciplinary action by the Corporation in accordance with the Casino Act and these Regulations. Without limiting the generality of the foregoing, the following acts or omissions may be determined to be unsuitable methods of operations:

* * *

19. except transfers of interest made pursuant to LAC:IX.2901 et seq., the sale or assignment of any gaming credit instrument by a Casino Operator, Casino Manager, licensee or person found suitable unless the sale is to a publicly traded or

other bonafide financial institution pursuant to a written contract, and the transaction and the terms of the transaction, including, but not limited to, the discount rate, are reported to the Corporation;

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§3309. Disciplinary Action Against Employees and Agents

The Corporation may take disciplinary action against any employee or agent of the Casino Operator or Casino Manager if the employee or agent has:

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§3319. President's Issuance of Orders

* * *

B. The President may require, prior to any disciplinary proceedings, that a corporate licensee, Casino Operator or Casino Manager place its securities in escrow under specified terms and conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

Hillary J. Crain
Chairman

9809#009

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of the State Fire Marshal

Amusement Ride Safety
(LAC 55:V.Chapter 25)

In accordance with the provisions of R.S. 49:953.B of the Administrative Procedure Act and R.S. 40:1484.3, relative to the authority of the State Fire Marshal to promulgate and enforce rules, relative to the regulation of Amusement Attractions and Rides, the State Fire Marshal hereby finds that an imminent peril to public safety may exist in that LAC 40:VII.Chapter 6 was amended by Act 130 in the Extraordinary Session of the Louisiana Legislature, 1998, taking effect on June 17, 1998. These amendments to the law require the immediate adoption of the following emergency rule.

**Title 55
PUBLIC SAFETY**

Part V. Fire Protection

Chapter 25. Amusement Attractions and Rides

§2501. Definition of Terms

Amusement Inspection—the official inspection by the Mechanical Safety Manager, or his designee, of a ride or device.

A.N.S.I.—the American National Standards Institute.

Approved—acceptable to the assistant secretary. Any product certified or classified, or labeled, or listed by a nationally recognized testing agency may be deemed to be acceptable, unless specifically banned by order of the assistant secretary.

A.S.T.M.—the American Society of Testing Materials.

Barrier—a physical obstruction designed and constructed to safely bring a kart to a full stop or guide the kart safely back on the track.

Child—a person 12 years of age and under.

Cone—a tapered cylinder used for marking the apex of the curves.

Containing Device—a strap, belt, bar, gate or other safety device designed to prevent accidental or inadvertent dislodgement of a passenger from a ride which does not actually provide physical support.

Course/Route/Defined Area—the designed path the kart will follow.

Existing Kart Tracks Kart—tracks in business prior to January 1, 1997.

Governor—a speed limiting device.

Guardian—a person 18 years of age and over.

Guardian Restriction—a condition placed on an amusement ride or attraction where a passenger must be accompanied on the ride by a guardian.

Guards—a device to protect the public from coming in contact with any rotating chains, belts, hot engines or muffler parts.

Helmet—a covering approved by the Department of Transportation (D.O.T.) to protect the head from impact and injury.

Kart—any mechanically powered vehicle, other than those regulated by the Consumer Products Safety Commission.

Kart Ride—shall include but not be limited to karts, kart track, refueling areas, spectator areas and other areas used in any manner of the kart operation.

MPH—the number of miles the kart may travel in one (1) hour.

New Construction—any new kart tracks which are constructed after January 1, 1997.

Pinching Hazard—any configuration of components that would pinch or entrap the fingers or toes of a child or adult.

Pit Area—the designated area where patrons are loaded and unloaded from karts.

Primary Structural Members—any part of the flume or pool structure that carries or retains any static loads or stress caused by water pressure or structure weight.

Puncture Hazard—any surface or protrusion that would puncture a child's or an adult's skin under casual contact.

Refueling Area—a location remote from any area accessible to the public where the karts are refueled.

Restraining Device—a safety belt, harness, or other device which offers actual physical support, or restraint to the patrons of a kart.

Ride Action—a term which shall be used to describe the movements and/or motions of an amusement ride or attraction which are generated for amusement purposes; and/or the bodily actions or reactions experienced by the passengers which are a result of the movement or motions. Bodily actions or reactions which are a result of the commission of an act or acts of malicious negligence and/or horseplay shall not be construed as resulting from the ride action.

Ride Operator—any person or persons actually engaged in or directly controlling an amusement ride or attraction.

Rope, Wire Rope and Cable—are interchangeable, but not interchangeable with the terms for fiber rope and manila rope.

Roll Bar—a metal frame designed to extend above the patron's head, support the weight of the kart and patron, and protect the patron should the kart overturn.

Safety Retainer—a secondary safety wire, rope, bar attachment or other device designed to prevent parts of an amusement ride or amusement attraction from becoming disengaged from the mechanism or from tipping or tilting in a manner to cause hazard to persons riding on, or in the vicinity of, an amusement ride or amusement attraction.

Safety Walls—that part of the water flume designed to keep a slider within the geometric confines of the flume.

Serious Injury—death or injury to a member of the public which requires immediate in-patient overnight hospitalization incurred during the operation of any amusement ride.

Splash Pool—a landing pool at the end of the flume from which bathers exit to the deck.

Splash Pool Decks—those areas surrounding a pool or flume which are specifically constructed or installed for use by sliders.

Stress—force per unit of area.

Track—the physical surface on which the kart operates.

Tread Contact Surface—foot contact surfaces of ladder, step, stair, or ramp.

Water Amusement Ride—an amusement ride or attraction which utilizes water as the primary entertainment medium, and moreover, the customer is either fully or partially immersed in water.

Water Flume—a sloped trough-like or tubular structure of varying slope and direction usually made of fiberglass or coated concrete which utilizes water as a lubricant and/or the method of regulating rider speed.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2503. Administration

A. The Office of the State Fire Marshal which administers the provisions of R.S. 40:1484.1 et seq. relating to the Amusement Ride Safety Law, is located at 5150 Florida Blvd., Baton Rouge, LA 70806.

B. The following Nationally recognized standards are adopted and used in the formulation and enforcing of these rules and regulations; should there arise a conflict between these standards and R.S. 40:1484.1 et seq. or the rules and regulations, the provisions of R.S. 40:1484.1 et seq. and/or the rules shall apply:

1. ASTM F698-94 Standard Specification for Physical Information to be Provided for Amusement Rides and Devices (approved July 15, 1994; published Sept. 1994);

2. ASTM F747-95 Standard Terminology Relating to Amusement Rides and Devices (approved April 15, 1995; published June 1995);

3. ASTM F770-93 Standard Practice for Operation Procedures for Amusement Rides and Devices (approved December 15, 1993; published February 1994);

4. ASTM F846-92 Standard Guide for Testing Performance of Amusement Rides and Devices (approved May 15, 1992; published July 1992);

5. ASTM F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (approved January 15, 1993; published March 1993);

6. ASTM F893-87 Standard Guide for Inspection of Amusement Rides and Devices (approved May 29, 1987, reapproved 1995; published July 1987);

7. ASTM F1159-94 Standard Practice for the Design and Manufacture of Amusement Rides and Devices (approved April 15, 1994; published June 1994);

8. ASTM F1193-95 Standard Practice for An Amusement Ride and Device Manufacturer Quality Assurance Program (approved January 15, 1995; published March 1995);

9. ASTM F1305-94 Standard Guide for the Classification of Amusement Ride and Device Related Injuries and Illnesses (approved April 15, 1994; published June 1994);

10. NFPA 101, Edition 1997, Life Safety Code; and

11. NFPA 70, Edition 1996, National Electrical Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2505. Inspections

A. Where only individual units of a ride, such as cars, seats, or other carriers are defective and not in compliance with R.S. 40:1484.1 et seq. and/or these rules, such units shall be taken out of service and clearly marked with a red tag reading *Out of Service*; provided, however, such defects do not jeopardize the safety of the entire ride.

B. The assistant secretary or his designee, upon presenting credentials to the ride owner/operator, is authorized without prior notice to inspect and investigate at reasonable times, and within reasonable limits and manner, any area where amusement rides or amusement attractions are assembled or are in use.

1. Inspections shall include, but are not limited to, a review of necessary documents, observation of and/or examination of the ride assembly or set up.

2. Inspection of the ride shall include, as a minimum, foundation, blocking, fuel containers, mechanical and electrical condition and safe operation of the ride.

3. Amusement rides/attractions shall be operated in accordance with the manufacturer recommended restrictions and limitations, such as, but not limited to height, weight, age or passenger placement. In the event the manufacturer has not provided such recommended restrictions, such restrictions and limitations must be established by the operator and shall be submitted to the assistant secretary for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2507. Prohibited Use

A. The assistant secretary shall order in writing, a cessation of operation of an amusement ride or attraction, if it has been determined after inspection to be hazardous or unsafe. Operation shall not be resumed until such conditions are corrected to the satisfaction of the assistant secretary.

B. No person shall use or permit to be used, an amusement ride or attraction which is not properly assembled or which is defective or unsafe in any of its parts, components, controls, or safety equipment.

C. During a lightning storm, a period of tornado alert or warning, or fire, or when violence, riot, or other civil disturbance occurs or threatens an amusement ride or attraction, or in an area adjacent thereto, passengers shall be unloaded or evacuated from the ride and the ride shall be shut down and secured immediately. Operation shall not resume until the situation has returned to a normal, safe operating condition.

D. An amusement ride or attraction which is exposed to wind or storm with lightning or wind gust above that recommended by the manufacturer, shall not be operated except to release or discharge occupants.

E. If the inspector finds that an amusement ride or attraction presents an imminent danger, to life, injury, mechanical/electrical failure, he will attach to such ride a Cessation Order tag and the amusement ride or attraction shall not be used until the ride is made safe to the satisfaction of the assistant secretary and the tag has been removed by the assistant secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2509. Medical and First Aid

A. The operator shall ensure the availability of medical aid. In the absence of an infirmary, clinic, or hospital used for the treatment of an injured person, within a ten mile radius of the amusement rides and attractions, the operator shall ensure that a person or persons shall be trained to render first aid. First aid supplies recommended by the American Red Cross' *Anatomy of a First Aid Kit* obtainable from the Office of the State Fire Marshal or the local Red Cross office, shall be readily available.

1. The operator shall have conspicuously posted at the park, carnival, fair or festival office, the telephone numbers and locations for physician, hospital, ambulance service and local fire department to be called in the event of an emergency.

2. The operator shall within twenty four (24) hours of knowledge of the event, report to the assistant secretary any amusement ride or attraction incident which results in serious injury.

3. This report shall describe the nature of the incident, name and address of the affected individual, and a description of the injury, as well as the name and location of the facility where the individual was treated.

4. An incident associated with an amusement ride or attraction which immediately result in a fatal injury shall be reported to the assistant secretary in person or by phone within twelve (12) hours.

5. After determination and consultation with the operator, the assistant secretary may require the scene of such incident to be secured and not disturbed to any greater extent than necessary for the removal of the deceased or injured person or persons. If the ride is removed from service by the assistant secretary an immediate investigation shall be completed and the ride shall not be released for repair and operation until after a complete investigation has been made by the assistant secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2511. Inspection Fee and Permit

A. A copy of the Certificate of Inspection issued by the assistant secretary shall be continuously displayed on the ride when the ride is in use. The permit shall be encased in such a manner as to be protected from weather conditions. Duplicates of such permits shall be issued by the assistant secretary for a fee of \$7.50 per each permit.

B. The operator of an amusement ride or attraction shall notify the assistant secretary when ownership is transferred to another. In such case, the new operator shall obtain a new permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2512. Operation of Amusement Rides or Attractions

A. The ride operator shall be at least 16 years of age.

B. The operator of an amusement ride or attractions, exclusive of water amusement rides and karts, shall operate the amusement ride or attraction in compliance with the standards adopted in Section 2503.B of these rules, or the equivalence thereof as submitted to and approved by the assistant secretary.

C. The operator shall refuse a passenger seeking admission to an amusement ride or attraction if the passenger cannot meet a guardian or height restriction if the ride is subject to such a restriction. Legible signs to this effect shall be posted in full view of the public seeking admission to rides.

D. The operator of an amusement ride or attraction shall deny entry to any person, if in the opinion of the operator the entry may cause above normal exposure to risk of discomfort or injury to the person who desires to enter, or if in the opinion of the operator the entry may jeopardize the safety of other patrons or employees.

E. A suitable number of non-combustible trash collection containers shall be provided in and around amusement rides. Excessive accumulations of trash or refuse shall be promptly removed.

F. All parts of amusement ride and temporary structures used by passengers or customers shall be maintained in a clean condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2513. Maintenance and Inspection Records

A. The operator shall retain, for a period of twelve (12) calendar months, maintenance and inspection records for each amusement ride in accordance with the following ASTM Standards listed in Section 2503.B, F770-93, F853-93, F893-87.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2515. Rebuilt and Modified Amusement Rides/Attractions

A. If an amusement ride is materially rebuilt or modified, the operator shall notify the assistant secretary and submit for approval documentation equivalent to that required in ASTM Standard F1159-94 Standard Practice for the Design and Manufacture of Amusement Rides and Devices (approved April 15, 1994; published June 1994) on work that was done.

B. The ride shall be reidentified, by the operator, by a different name or identification number or both.

C. The ride shall be subject to all other provisions of all applicable rules, regulations and statutes as if it were a new ride not previously used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2517. Assembly and Disassembly

The operator of an amusement ride shall comply with the construction manual, or the equivalency thereof as determined by the assistant secretary, for the assembly and disassembly of the ride. The construction manual, the construction manual, or the equivalency thereof as determined by the assistant secretary, shall be kept with the amusement ride attraction and shall be available for use by the assistant secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2519. Brakes and Stops

A. On an amusement ride or amusement attraction where coasting renders the operation dangerous, either during the period while the ride or attraction is being loaded or unloaded or in the case of power failure or other unforeseeable situation a method of braking shall be provided.

B. If cars or other components of an amusement ride or amusement attraction may collide in such a way as to cause injuries upon failure of normal controls, emergency brakes sufficient to prevent these collisions shall be provided in

accordance with the manufacturer's design, or the equivalency thereof as determined by the assistant secretary.

C. On amusement rides or amusement attractions which make use of inclined tracks, automatic anti-rollback devices shall be installed to prevent backward movement of the passenger carrying units in case of failure of the propelling mechanism.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2521. Internal Combustion Engines

A. Internal combustion engines for amusement rides or attractions shall be capable of handling the assigned load.

B. Where fuel tanks of internal combustion engines for amusement rides are not of adequate capacity to permit uninterrupted operation during normal operating hours, the amusement ride shall be closed down and unloaded or evacuated during the refueling procedure. The fuel supply shall not be replenished while the engine is running.

C. Where an internal combustion engine for an amusement ride or attraction is operated in an enclosed area, the exhaust fumes shall be discharged to outside the enclosed area, as required by NFPA 70, National Electrical Code, 1996 Edition.

D. Internal combustion engines for amusement rides or attraction shall be located to permit proper maintenance and shall be protected by guards, fencing or enclosure in accordance with NFPA 70, National Electrical Code, 1996 Edition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2523. Wire Rope

A. Wire rope on amusement rides or attractions shall be thoroughly examined weekly. Wire rope found to be damaged shall be replaced with new rope of proper design and capacity as per the manufacturer's data tag or as approved by the assistant secretary. Any of the following conditions shall be cause for rope replacement:

1. in running ropes, six randomly distributed broken wires in one rope lay or three broken wires in one strand of one rope lay;

2. in pendants or standing ropes, evidence of more than one broken wire in one rope lay;

3. abrasion, scrubbing or peening causing loss of more than 1/3 of the original diameter of the outside diameter of the outside individual wires;

4. corrosion;

5. kinking, crushing, birdcaging, or other damage resulting in distortion of the rope structure;

6. heat damage;

7. reduction from normal diameter of more than 3/64 inch for diameters up to and including 3/4 inch, 1/16 inch for diameters 7/8 inch to 1 1/8 inches, 3/32 inch for diameters 1-1/4 inch to 1 1/2 inches;

8. birdcaging or other distortion resulting in some members of the rope structure carrying more load than others;
or

9. noticeable rusting or development of broken wires in the vicinity of attachments. When this condition is localized in an operational rope, it may be eliminated by making a new attachment.

B. Wire ropes used to support, suspend, bear or control forces and weights involved in the movement and utilization of tubs, cars, chairs, seats, gondolas, other carriers, the sweeps, or other supporting members of an amusement ride or attraction shall not be lengthened or repaired by splicing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2525. Hydraulic Systems

A. Hydraulic systems and other related equipment used in connection with amusement rides or attractions shall be free of leaks and maintained to ensure safe operation at all times.

B. An amusement ride or attraction which depends upon hydraulic pressure to maintain safe operation shall be provided with a positive means of preventing loss in hydraulic pressure that could result in injury to passengers.

C. Hydraulic lines shall be guarded so that sudden leaks or breakage will not endanger the passengers or the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2527. Pressure Vessels, i.e., Vacuum Tanks

A. Air compressor tanks, storage tanks and appurtenances used in connection with amusement ride or attractions shall be designed and constructed in accordance with Section VIII of the ASME Code Edition and Addendum mandatory at time of construction; and shall also be equipped and maintained to ensure safe operation.

B. Air compressor tanks and other receivers used in connection with air compressors shall comply with the Rules of the National Board Inspection Code, 1995 Edition, 1996 Addendum, and the 1997 Addendum.

C. Air compressor tanks and other air receivers used in connection with air compressors shall be inspected operationally at least once a year and internally when considered necessary by a National Board Commissioned inspector, registered with the State of Louisiana to conduct these inspections and a record of each inspection shall be kept.

D. Air compressor tanks and other air receivers used in connection with air compressors shall have the maximum allowable working pressure conspicuously marked thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2529. Protection Against Moving Parts

A. The interior and exterior parts of all amusement rides or attractions with which a passenger may come in contact shall be smooth and rounded, free from sharp, rough or splintered edges and corners, with no protruding studs, bolts, screws, or other projections which might cause injury.

B. Interior parts of passenger carrying apparatus upon which a passenger may be forcibly thrown by the action of the ride or attraction shall be adequately padded.

C. Amusement rides or attractions which are self-powered and which are operated by a passenger shall have the driving mechanism guarded and the guard secured in place as to prevent passengers from gaining access to the driving mechanism.

D. Handholds, bars, footrest and other equipment as may be necessary for safe entrance and exit to and from amusement rides or attractions shall be provided and maintained in a safe condition. Such equipment shall be of sufficient strength to support the passengers.

E. Restraining, containing or cushioning devices or a combination of these shall comply with this subsection and be provided and used on all amusement rides where:

1. centrifugal and other forces mechanical malfunction could unseat or dislodge a passenger; or
2. inadvertent movement of a passenger could cause injury to the passenger or any other passenger; or
3. the speed of the ride presents a hazard to a passenger.

F. Restraining, containing or cushioning devices shall be designed, constructed, installed and maintained so as to provide safe support for passengers.

G. Anchorage for the restraining, containing or cushioning devices shall have a strength at least equal to the strength of such devices.

H. All passengers restraints, cushioning or containing devices shall be provided and maintained in accordance with the manufacturers designs and recommendations and shall not be modified without the approval of the manufacturer and the assistant secretary.

I. All exposed mechanical parts shall have guards installed to prevent possible personal contact while in operation. Any safeguarding means shall not be used that would cause injury.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2531. Electrical Equipment

A. The National Electrical Code, NFPA Number 70, 1996, is hereby adopted as the standard for application in the enforcement of the provisions of R.S. 40:1484.1, et seq. This document may be purchased from the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

B. All electrical wiring and equipment used for amusement rides or attractions or for lighting shall be installed and maintained in accordance with the National Electrical Code, NFPA Number 70, 1996.

1. The outlets of electrical power lines carrying more than 120 volts shall be clearly marked to show their voltage.

2. All electrical transformer substations shall be properly enclosed and proper warning signs shall be posted.

3. Electrical wiring and equipment located outdoors shall be of such quality and construction or protection that exposure to weather will not interfere with its normal operation.

4. Elevated power lines crossing access or other roads within the proximity of an amusement ride or attraction shall be so suspended as to provide a vertical clearance of at least fifteen feet from the road surface or three feet above any vehicle used within the grounds of a carnival or amusement

park, whichever is greater. A horizontal clearance of at least three feet shall be provided on each side of the normal passage space of vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2533. Temporary Wiring

A. If temporary wiring is used it shall be in compliance with the applicable section of the National Electrical Code, NFPA Number 70, 1996.

B. Temporary electrical power and lighting installations shall be permitted during the period of construction and remodeling of buildings, structures, equipment or similar activities.

C. Temporary electrical power and lighting installations shall be permitted for a period not to exceed 90 days.

D. All lamps for general illumination shall be protected from accidental contact or breakage. Protection shall be provided by elevation of at least 7 feet from normal working surface or by a suitable fixture or lampholder with a guard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2535. Grounding

All grounding shall comply with Article 525 of the National Electrical Code, NFPA Number 70, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2537. Construction

A. All amusement rides or attractions shall meet the requirements of the ASTM Standard for the Design and Manufacture of Amusement Rides (F1159-94) and the NFPA Life Safety Code 101, 1997 Edition.

B. Water ride data plates shall contain a location number of the ride or flume and the maximum dispatch time interval.

C. The ride operator shall maintain all of the information as required by the following ASTM Standards; F698-94 Standard Specification for Physical Information to be Provided for Amusement Rides and Devices (July 1994), F770-93 Standard Practice for Operation Procedures for Amusement Rides and Devices (December 1993) and F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (January 1993) and make it available to the assistant secretary, upon request. If this information is not available it shall be developed by the owner/operator and submitted to the assistant secretary for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2539. Means of Access and Egress

A. Safe and adequate means of access and egress from amusement rides or attractions shall be provided as required by NFPA Life Safety Code 101, 1997 Edition and the ASTM Standard F1159-94 Standard Practice for the Design and Manufacture of Amusement Rides and Devices (April 1994).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2541. Walkways and Ramps

A. Walkways and ramps shall be erected with a slope not greater than one in ten except that when nonslip surfaces are provided, the grade may be increased to a maximum of one in eight.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2543. Fire Prevention

A. All buildings over one story in height shall be constructed or protected in accordance with NFPA 101-Chapter 8, 1997 Edition.

B. All buildings located within 20 feet of lot lines or within 20 feet of other buildings on the same lot, shall be of protected noncombustible or protected masonry enclosed construction or better.

C. Fabrics constituting part of an amusement ride or attraction shall be flame resistant to meet the provisions of NFPA 101, Chapter 8, 1997 Edition.

E. Approved fire extinguishers in accordance with NFPA 10, 1994 Edition shall be provided at the following locations to secure reasonable and adequate protection from fire hazards:

1. at or near all operating gasoline or diesel engines;
2. at or near all amusement ride or attraction stands, excluding water flumes; and
3. at each food handling booth where cooking is done.

F. Flammable waste such as oily rags and other flammable materials shall be placed in covered metal containers which shall be kept in easily accessible locations. Such containers shall not be kept at or near exits.

G. Gasoline and other flammable liquids and flammable gases when stored shall be kept in reasonably cool and ventilated places. Such liquids shall be in containers as prescribed by NFPA 30, 1996, Chapter 4. Smoking and the carrying of lighted cigars, cigarettes, or pipes is prohibited within 50 feet of any area where such liquids or gases are stored, or are transferred from one container to another. Signage shall be posted stating *No Smoking*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2545. Water Flumes, Structural Design

A. Structural Design. The flumes' structural design and materials shall be in accordance with ASTM Standard F1159-94 Practice for the Design and Manufacture of Amusement Rides and Devices (April, 1994). The flumes and pools shall be watertight and their surfaces shall be smooth and easy to clean.

B. All stairways used as part of a slide shall be constructed to meet the requirements of NFPA 101, 1997 Edition.

E. Visitor and Spectator Areas: The space used by visitors and spectators shall be distinctly and absolutely separated from those spaces used by sliders. Visitors and spectators in street

clothes may be allowed within the perimeter enclosure if they are confined to an area separated from the space the sliders use.

F. Typical Posted User Safety Warnings for Slide Operational Use:

1. no running, standing, kneeling, rotating, tumbling, or stopping in flumes or tunnels;
2. no diving from flume at any time;
3. never use this slide when under the influence of alcohol or drugs;
4. only one person at a time. Obey instructions of top pool supervisor and lifeguard at all times;
5. never form chains unless authorized by slide manager or by posted instructions;
6. keep hands inside the flume;
7. leave the landing pool promptly after exiting from slide; and
8. keep all glasses, bottles and food away from pools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2547. Pumps

A. Pumps and motors shall be provided to circulate the water in the splash pool and slide.

B. Pump units shall be accessible for inspection and service in accordance with NFPA 70, 1996 Edition.

C. All motors shall have thermal overload protection in accordance with NFPA 70, 1996 Edition..

D. The motor frame shall be properly grounded, in accordance with the NFPA 70, 1996 Edition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2549. Water Quality

A. Water quality shall be maintained to meet the requirements of the Louisiana Department of Health and Hospitals and the requirements of ASTM Standard F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (January, 1993).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2551. Electrical Safety and Lighting

A. The National Electrical Code, 1996 Edition, as published by the National Fire Protection Association, shall be used for the wiring and grounding of all electrical equipment associated with a flume and for the grounding of all metallic appurtenances.

B. Whenever flumes are operated after dark, artificial lighting shall be provided in upper and lower pool and deck areas, walkways, stairways, and flumes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2553. Operation, Water Flumes

A. The manufacturer or the general contractor of the flume shall provide the operator with a detailed written operational

manual, or guide, for all phases of operations and normal maintenance of each component of the system as per ASTM Standards F770-93 Standard Practice for Operation Procedures for Amusement Rides and Devices (December, 1993) and F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (January, 1993)

B. The guide shall be kept in a secure area and made available to each employee or inspector as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2555. Responsibility of Flume Operators

A. Flume operators shall meet the requirements of ASTM Standard F770-93 Standard Practice for Operation Procedures for Amusement Rides and Devices (December, 1993) and F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (January, 1993).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2557. Emergency Procedures

A. A written plan for emergencies shall be carefully devised and kept up-to-date. All employees shall be trained and drilled periodically in the execution of the plan.

B. The emergency plan shall encompass crowd control and safe evacuation, drownings, electrical shock, heat prostration, fractures, poisonings, cuts and burns, neck and back or spinal injuries and exposure to chlorine gas. Each of these situations is addressed in the latest American National Red Cross handbook on first aid, a copy of which shall be on hand at the same location as the emergency plan, the first-aid kit, and the emergency telephone numbers.

C. Each Water Flume location shall have available the following first-aid supplies:

1. first-aid kit, a standard 24-unit kit stocked and readily accessible for use;
2. a stretcher and blankets;
3. a standard plywood backboard or other acceptable splint, made to the specification of the American National Red Cross, for persons with back and neck injuries; and
4. an area or room shall be set aside for the emergency care of casualties.

D. All water flume locations shall have posted by the phones a list of current emergency numbers, to include the nearest available ambulance service, hospital, rescue squad, police assistant secretaries, and fire department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2559. Go-Kart Rules and Regulations

A. Kart Design

1. The speed of each kart shall be limited or governed to not exceed the following: The maximum adult track speed shall not exceed 25 mph and kiddie track speed shall not exceed 10 mph. Speeds other than defined will require approval from the assistant secretary.

2. Whenever the design of a kart enables the readjustment of the governor speed, the means of adjustment shall not be accessible to the patron of the kart.

3. The seat, backrest, seat belts, and leg area of every kart shall be designed to retain the patron inside the kart in the event of a collision or overturn.

4. Karts shall be fitted with a shoulder harness and/or belt restraint system as required by the kart manufacturer and acceptable to the assistant secretary.

5. Karts shall be provided with sufficient guards to prevent anyone from coming in contact with the drive chains, belts, hot mufflers, engines or rotating parts.

6. Karts shall have bumpers, wheels and body parts that are comparable to that installed by the original manufacturer.

7. Kart wheels shall be enclosed, guarded or operated so the wheels of a kart cannot interlock with or ride over the wheels of another kart.

8. The kart steering wheel, hub and all exposed components shall be padded or helmets and face shields worn to minimize the risk of injury to any patron in the event of a collision or overturn.

9. The kart fuel tank shall be designed and mounted to prevent it from damage or leaking in the event of a collision or overturn.

10. Headrests or roll bars on a kart shall extend above the patron's head and be capable of supporting the weight of the kart and patron as required by the manufacturer. In the event the manufacturer fails to recommend or address this area the karts shall be equipped with roll bars acceptable to the assistant secretary.

11. Karts shall be provided with impact absorbing bumpers, or energy absorption body parts.

12. Karts shall have sufficient muffler systems installed to prevent any noise levels which will interfere with the track operations, adjacent businesses, residential areas or damage the hearing of employees or patrons.

13. The brake and throttle controls on a kart shall be clearly identified. The brake and throttle controls shall be foot operated and return automatically to a non-operational position when released.

14. Karts shall be individually identified either by numbers, alpha characters or other markings acceptable to the assistant secretary.

B. Track Design

1. The design of the kart track shall be consistent with the kart manufacturers' recommendations. In the absence of any manufacturers' recommendations, the track design shall comply with the current industry standards acceptable to the assistant secretary.

2. Cones may be used on tracks as a warning device and to notify the patron of upcoming changes in the track conditions and are used for the following specific reasons:

- a. to notify drivers of impending course changes;
- b. to outline the track and mark key points such as the apex of the turns; and
- c. as a warning device to notify the drivers of the severity of upcoming turns by the location and number of cones prior to the turn;

- d. cone placement:
 - i. on the inside corners; one (1) cone to alert the driver and locate the apex;
 - ii. on the outside corner; two (2) cones to identify minor course changes;
 - iii. three (3) cones to identify course changes which requires a slower speed to safely negotiate the turn; and
 - iv. four (4) and five (5) cones to identify areas where both slower speed and applied braking will be necessary to safely complete the course.
- e. once the proper cone locations have been located for the track, these locations shall be marked with high visibility paint under the proper location of the cone. This will alert racing attendants to the correct location of the cones when they are displaced.
- 3. The track shall have a hard smooth surface.
- 4. The track shall provide road grip sufficient to enable the kart to be driven safely at maximum speed and shall be free of ruts, holes, bumps, water, oil, dirt, or other debris.
- 5. Track surface and design not covered by manufacturers' recommendations or in the absence of such recommendations must be approved by the assistant secretary.
- 6. The width of the track must be a minimum of sixteen (16) feet and maximum of twenty-five (25) feet. The turns on an oval track must be a minimum of five (5) feet wider than the straight away. The minimum radius of the turns is fifteen (15) feet.
- 7. The track shall have signs that indicate one direction of travel and no U-turns permitted. These signs shall be posted at various locations around the track perimeter. Signs, signal lights and other safety equipment shall be maintained in operational condition at all times when open to the public.
- 8. The track shall have no intersecting course configurations. Pit entrances and exits are allowed.
- 9. The shoulder shall be level with the track and marked with cones. White or yellow lines at least four inches in width shall be used to mark all inside and outside edges of the kart track except where barriers are provided along the inside and outside edges of the kart track.
- 10. Barriers shall be designed to prevent a kart from overturning or running over or under the barrier and designed to bring a kart safely to a full stop or guide the kart safely back onto the track.
 - a. Barriers shall be placed:
 - i. between tracks or sections of tracks within thirty (30) feet of each other and constructed of materials that will not readily ignite;
 - ii. between the track and obstructions or hazards located with thirty (30) feet from the track;
 - iii. along all non-access and non-egress edges of the pit area; and
 - iv. between the track and any area accessible to spectators.
- 11. Fencing shall be at least forty-eight (48) inches in height. The fence and gates shall be designed so a four (4) inch sphere cannot pass through any opening. Fencing shall be located around every kart track.
- 12. Pit area for loading and unloading must be separated from the track by a fence or barrier. The pit area must be the

same surface as the track and have separate entrance and exit lanes.

13. Electrical installations must comply with the National Electrical Code (NFPA-70, 1997 Edition) and include lighting for night operation, if operations are conducted after dark.

14. Proposals for construction of new kart tracks in the State of Louisiana shall be submitted to the Office of the State Fire Marshal, Mechanical Safety Section and other appropriate agencies before beginning construction. The following information shall accompany any application or proposal and shall include but not be limited to:

- a. One (1) copy of site plans and all accompanying documentation.

- b. A copy of all required local, parish or state permits such as but not limited to business license, electrical, building, or plumbing permits. When all inspections are completed by local, parish or state agencies one (1) copy of the completed inspection report shall be sent to the Louisiana State Fire Marshals Office, Mechanical Safety Section for enclosure in the facility's permanent file. Any alterations or modifications shall be approved prior to beginning work as required for new construction.

15. Fire Protection

- a. Kart tracks shall be equipped with ABC dry chemical fire extinguishers with a minimum of five (5) pounds capacity as provided for in National Fire Protection Association-10. Standard for Portable Fire Extinguishers, 1997 Edition Chapter 1.

- b. A fire extinguisher shall be readily accessible from all areas of the track and one fire extinguisher shall be kept in the pit and refueling area. The fire extinguisher location shall be prominently marked, easily accessible and approximately thirty-six (36) inches above the ground.

16. Refueling Area

- a. Karts shall be refueled in a designated location remote from any area accessible to the public. Fuel storage and transfer cans must meet the requirements of NFPA 30, 1997 Edition. Any fuel spillage must be promptly cleaned and prevented from running onto the track or any area accessible to the public. Warning signs must be prominently displayed stating that smoking is prohibited in the refueling area.

- b. All kart motors shall be turned off during refueling.

17. Track Operation

- a. Karts may only be operated by patrons within height limits set by the manufacturer. If no height limit is set by the manufacturer, patrons shall be at least fifty-two (52) inches tall and have a leg length that can reach the brake and throttle controls from the patron's seat in order to drive an adult kart.

- b. Only patrons less than fifty-two (52) inches in height with a leg length sufficient to reach the brake and throttle controls from the patron's seat shall be permitted to operate a kiddie kart.

- c. Adult karts and kiddie karts shall not be operated on the same track at the same time.

- d. No kart shall be operated during a lightening storm, a period of tornado warning, fire, riot or other civil disturbance in the area of the track or in an adjacent area. If any of these events occur while the track is in operation, patrons shall be

unloaded and evacuated from the ride and the ride shut down until normal, safe operational conditions are established.

e. Kart tracks shall be monitored during operation either directly by attendants, or indirectly by electronic visual and audio means acceptable to the assistant secretary.

f. A kart losing oil or fuel shall immediately be removed from the kart track. All karts must be stopped immediately and the track cleaned prior to restarting.

g. When the kart manufacturer recommends, or they are deemed necessary by the assistant secretary, the use of helmets must be provided for all patrons to use. Helmets, if used, must fit the patron's head correctly. All helmets must be cleaned with disinfectant twice daily.

h. Karts designed for single or multiple riders shall use a shoulder harness and/or belt restraint system as required by the kart manufacturer. When deemed necessary for additional protection of kart patrons the assistant secretary may require the addition and use of a shoulder harness or belt restraint system on all karts.

i. Patron's loose clothing and hair longer than shoulder length must be secured prior to operating any kart. Fully enclosed shoes must be worn by kart patrons at all times during operation of a kart.

j. Patrons are prohibited from smoking during kart operation.

k. Track attendants shall not allow patrons to leave their karts either in the pit or on the track unless assisted by track or pit attendants.

l. The kart track operator shall post a conspicuous warning sign at the entrance to the kart track. The sign shall be at least two (2) feet by two (2) feet in sharply contrasting colors and shall contain the following warning:

Persons with the Following Conditions Are Prohibited from this Ride:

1. *heart conditions;*
2. *back or neck ailments; or*
3. *pregnancy.*

n. The kart track operator must have a sign posted at the ticket window or track entrance and in the pit area that conveys, at a minimum, the following rules and regulations.

i. The patron height limit specified by the manufacturer, or no less than fifty-two (52) inches for adult karts and no more than fifty-two (52) inches for kiddie karts.

ii. Keep both hands on the wheel and both feet in the kart at all times. Do not get out of the kart unless track attendant is present.

iii. All loose clothing and hair longer than shoulder length must be secured. Fully enclosed shoes must be worn by kart patrons at all times during operation of kart.

iv. No smoking in kart or pit area.

v. Persons under the influence of intoxicants will not be allowed to operate karts.

vi. The use of private karts or vehicles will be prohibited on kart track when they are open to the public.

C. Record Retention and Inspection

1. Daily inspections must be made on all karts prior to operation. Inspections shall include but not be limited to: tires, padding, steering wheel, frame welds, spindles, axles, seat or

shoulder belts, roll bars, gasoline tank condition, brake and gas pedal operation, and other parts as recommended by the kart manufacturer or the assistant secretary.

2. Weekly, monthly and annual inspections shall be performed as recommended by the kart manufacturer or the assistant secretary.

3. A track operation manual shall be written in the English language and available for review by the assistant secretary.

4. The kart track shall have and demonstrate an emergency plan for evacuation of patrons and employees in the event of an emergency. This shall include but not be limited to: fires, kart collisions, dangerous weather, obstructions on the track, handling intoxicated patrons and emergency first aid.

5. The kart track shall maintain records of all required inspections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

Lieutenant Colonel Ronald B. Jones
Acting Undersecretary

9809#037

DECLARATION OF EMERGENCY

Department of Transportation and Development Highways/Engineering

Wireless Telecommunications Permit
(LAC 70:III.Chapter 23)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 48:381.2, the secretary of the Department of Transportation and Development declares that an emergency action is necessary in order to implement the provisions of the following rule entitled "DOTD Wireless Telecommunications Permit". The immediate implementation of the rule will enable communications providers to utilize highway rights-of-way in order to erect wireless facilities as soon as possible.

This emergency rule is effective upon publication and shall remain in effect for a maximum of 120 days. A Notice of Intent is being published simultaneously with this rule.

Title 70

TRANSPORTATION

Part III. Highways/Engineering

Chapter 23. DOTD Wireless Telecommunications Permit

§2301. Purpose

In accordance with the provisions R.S. 48:381.2, the Chief Engineer of the Department of Transportation and Development, or his designee, may issue nonexclusive permits, on a competitively neutral and nondiscriminatory basis for use of public rights-of-way to utility operators for the purpose of installation of wireless telecommunications equipment and facilities within highway rights-of-way.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of

§2303. General Conditions and Standards

A. Any facilities placed within the highway right-of-way shall be placed in accordance with existing Federal, State, or local laws and the standards of the Department. Environmental clearances may also be necessary and are the responsibility of the permit applicant.

B. All facilities, after having been erected, shall at all times be subject to inspection and the Department may require such changes, additions, repairs, relocations and removal as may at anytime be considered necessary to permit the relocation, reconstruction, widening and maintaining of the highway and to provide proper and safe protection to life and property on or adjacent to the highway, or in the interest of safety to traffic on the highway. The cost of making such changes, additions, repairs and relocations shall be borne by the permit applicant, and all cost of the work to be accomplished under this permit shall be borne by the permit applicant.

C. The proposed facilities, their operation or maintenance shall not unreasonably interfere with the facilities or the operation or maintenance of the facilities of other persons, firms or corporations previously issued permits for use and occupancy of the highway right-of-way, and the proposed facilities shall not be dangerous to persons or property using or occupying the highway or using facilities constructed under previously granted permits of use and occupancy.

D. It is the duty of the applicant to determine the existence and location of all facilities within the highway right-of-way by reviewing Departmental records for previous permits in the applicable area.

E. Installations within the highway right-of-way shall be in accordance with applicable provisions contained in the following: AASHTO Guide for Accommodating Utilities within Highway Right of Way, Code of Federal Regulations 23 (CFR 23), National Electrical Safety Code C2, 1996 Federal Telecommunications Act. Those facilities not included in the above mentioned documents shall be in accordance with accepted practice. Where standards of the Department exceed those of the above cited codes, the standards of the Department shall apply. The Department reserves the right to modify its policies as may be required if conditions warrant.

F. Data relative to the proposed location, relocation and design of fixtures or appurtenances as may be required by the Department shall be furnished to the Department by the applicant free of cost. The permit applicant shall make any and all changes or additions necessary to make the proposed facilities satisfactory to the Department.

G. Cutting and trimming of trees, shrubs, etc., shall be in accordance with the Department's EDSM IV.2.1.6 and Vegetation Manual, as revised.

H. The applicant agrees to defend, indemnify, and hold harmless the Department and its duly appointed agents and employees from and against any and all claims, suits, liabilities, losses, damages, costs or expenses, including attorneys' fees sustained by reason of the exercise of their permit, whether or not the same may have been caused by the negligence of the Department, its agents or employees,

provided, however, that the provisions of this last clause (whether or not the same may have been caused by the negligence of the Department, its agents or employees) shall not apply to any personal injury or property damage caused by the sole negligence of the Department, its agents or employees, unless such sole negligence shall consist or shall have consisted entirely and only of negligence in the granting of a permit.

I. The permit applicant agrees to provide proof of liability insurance sufficient to indemnify the Department from claims resulting from accidents associated with the use of the applicable permit. The applicant and its insurer shall notify the Department in writing at least thirty (30) days prior to cancellation of the insurance or prior to any other changes affecting the insurance coverage.

J. The applicant is the owner of the facility for which a permit is requested and is responsible for maintenance of the facility. Any permit granted by the Department is granted only insofar as the Department possesses the power and right to grant the same.

K. Any permit granted by the Department is subject to revocation at any time.

L. Signing for warning and protection of traffic in instances where workmen, equipment or materials are in close proximity to the roadway surfacing, shall be in accordance with requirements contained in the Department's Manual on Uniform Traffic Control Devices. No vehicles, equipment and/or materials shall operate from, or be parked, stored or stock-piled on any highway, median, or in an area extending from the outer edge of the shoulder of the highway on one side to the outer edge of the shoulder of the highway on the opposite side.

M. All provisions and standards contained herein relative to the installation of utilities shall apply to future operation, service and maintenance of utilities.

N. Drainage in highway side and cross ditches must be maintained at all times. The entire highway right-of-way affected by work under a permit must be restored to its preexisting condition, and shall be approved by the Department's Right-of-Way Permits Engineer.

O. Any non-metallic or non-conductive underground facility must be installed with a non-corrosive metallic wire or tape placed directly over and on the center of the facility for its entire length within highway right-of-way. Wire or tape must be connected to all facilities.

P. Prior to performing any excavations, the applicant is required to call Louisiana One-Call. If installing any underground facilities, such as cable or conduits, the applicant must be a member of Louisiana One-Call.

Q. A copy of the permit applicant's FCC license and registration number shall be submitted with the permit application. For towers in excess of 200 feet in height, a copy of FAA approval shall also be submitted to DOTD. All registration numbers shall be posted on the tower.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 24:

§2305. Specific Standards for Installation and Operation of Wireless Telecommunication Tower Facilities

A. All materials and workmanship shall conform to the requirements of the applicable industry codes and to Department specifications.

B. All safety precautions for the protection of the traveling public shall be observed. Delays to traffic will be minimized to the maximum extent possible during construction of wireless telecommunication facilities. Acceptable delays will be determined and approved by the DOTD Permit Engineer. Thereafter, no traffic delays are permissible. These precautions shall be in force and effect not only during the construction phase of the installation, but shall also be in force and effect at all times that maintenance is required. (See Manual on Uniform Traffic Control Devices-MUTCD.)

C. There shall be no unsupported, aerial installation of horizontal or longitudinal overhead power lines, wireless transmission lines, or other overhead wire lines, except within the confines of the wireless operator's facility as described herein.

1. Coaxial transmission lines, tower light power cables, and other wires or cables necessary for the proper and safe operation of the telecommunication facility required to crossover from the operator's equipment pad, shelter, or other means of communications equipment housing, to the vertical tower structure, shall be supported along their entire horizontal length by a structural cable trough and shall not exceed twenty-five (25) feet in length.

2. Electrical utility lines, wireline telephone lines, and other utility services transmitted via wireline shall be installed underground in accordance with the National Electrical Code, and the department's specifications.

3. It is the responsibility of the wireless facility operator to negotiate with owners of preexisting utilities in order to have the preexisting lines relocated to accommodate these new installations.

4. Joint use agreements and existing permits and servitudes will be taken into consideration in determining areas for installations.

D. All excavations within the limits of the right-of-way shall be backfilled and tamped in six inch layers to the density of the adjacent undisturbed soil. Where sod is removed or destroyed, it shall be replaced within one week. Where existing soil material is, at the discretion of the Department, unsuitable for backfill, select material shall be furnished in lieu thereof, and the existing material shall be disposed of by approved methods.

E. Where total clearing and grubbing is required by the telecommunication facility operator, the operator is authorized to retain all cleared timber and shall be responsible for removing all cleared timber from the right-of-way. The operator must follow-up with submittal of a landscape plan which may include an erosion control seeding plan approved by DOTD.

F. Installations through drainage structures are strictly prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 24:

§2307. Preferred Areas of Installation of Wireless Communications Tower Facilities in Order of Preference

- A. Rest areas and stationary weigh stations.
- B. Power poles and light standards.
- C. On longitudinal elevated structures.
- D. Co-located on DOTD-owned communications tower facilities.

E. Inside interchange loops and adjacent on/off ramps.
AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 24:

§2309. Fees

A. The following fees shall apply to wireless telecommunications installations placed within State highway rights-of-way.

Type of Tower	High Demand	Medium Demand	Low Demand
Self-Supporting Tower/Antenna	Fee-\$30,000	Fee-\$15,000	Fee-\$10,000
Monopole/Antenna	Fee-\$21,000	Fee-\$12,500	Fee-\$7,500
Small Attachments to Existing Utility/Light Poles	Fee-\$6,000	Fee-\$5,000	Fee-\$4,000
Attachment on DOTD Tower	Fee-\$50,000	Fee-\$30,000	Fee-\$15,000
Video Cameras	Supply feed to DOTD	Supply feed to DOTD	Supply feed to DOTD

B. The Department of Transportation and Development, Office of Utility Permits shall have on hand during business hours maps which specify the sections of the state which are designated as "High Demand", "Medium Demand", and "Low Demand".

C. All permit fees must be paid to the Department by check or money order. The Department will not accept cash.

D. All permits will be in force and effect for a period of one year, but may be renewed for the same fee each year for a maximum of 10 years.

E. The Department may waive fees in exchange for shared resources.

F. The Department may waive fees for its agents, i.e. those permit applicants who erect facilities, attachments or cameras on behalf of the Department in order to conduct Departmental work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 24:

§2311. Types of Towers Permitted

A. In rest areas, weigh stations, maintenance units, and other large tracts of property:

1. 350 ft. (maximum) self supporting lattice type towers;
 2. 195 ft. (maximum) monopole tower;
 3. lighted monopole tower replacement of light standard;
 4. existing communication tower.
- B. Other acceptable areas:
1. 195 ft. (maximum) monopole tower;
 2. lighted monopole tower replacement of light standard;
 3. elevated structure;
 4. 350 ft. (maximum) self supporting lattice type towers;
 5. existing communication tower.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 24:

§2313. Co-Location

A. DOTD communications equipment shall be allowed to co-locate on wireless facility towers, at no cost to DOTD, provided that the tower's structural capacity is adequate to safely support such additional use; the existing space on the tower is at the height DOTD desires; and no technical factors exist which would prohibit such a co-location.

B. Wireless facility operators, in certain instances, may be permitted to strengthen DOTD-owned towers, at the sole cost of the wireless facility operator, to provide additional structural capacity to other users. Ownership of the new tower and responsibility for maintaining the tower shall be negotiated prior to issuance of the permit, and shall be stated on the front of the permit. Applicant shall submit a structural analysis with the permit application.

C. Each wireless facility operator which co-locates on existing wireless telecommunication facilities operating within DOTD rights-of-way shall be subject to the same conditions and requirements which apply to the owner of the tower. The co-locator shall meet all Departmental standards and policies and shall access the facility only after receiving prior written permission from the Department.

D. When co-locating on an existing wireless telecommunication facility, each installation must be permitted separately by the co-locating facility owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 24:

§2315. Attachments to Existing Bridge Structures

A. No authorized attachment to an existing structure shall cause technical interference with any equipment on the facility.

B. Plans will be submitted to the Bridge Design Engineer and the Structures and Facilities Maintenance Engineer for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 24:

§2317. Access Requirements

A. Repairs under the roadway will not be allowed if such repairs necessitate open cutting the highway. If a problem occurs with a line crossing, the applicant must install a new crossing. The applicant must bear 100 percent of the cost.

B. Prior to the start of construction of wireless telecommunication facilities, the District Permit Office shall be contacted and notified of the required construction time to complete the wireless facility. The Permit Engineer may provide the operator with a specific authorized duration for access to the construction site.

C. Facilities requiring less than 6 accesses per year.

1. Access to the telecommunication facilities located adjacent to controlled access highways shall be first from the land side, second from the interchange (longitudinally) and third from the highway (to be approved in each instance). This shall not apply to those facilities with pre-existing access, such as rest areas, weigh stations or District Offices.

D. The applicant shall contact the DOTD District Permit Office and obtain approval for each time that the facility must be accessed, including routine maintenance and meter reading, as well as any other access. For non-emergency accesses, the applicant shall give at least 2 days notice, and no more than 10 days notice. The applicant shall give as much notice as possible for emergency access; and shall inform the DOTD District Permit Office after the fact when it is not possible to give advanced notice.

E. Facilities requiring 6 or more accesses per year.

1. Access to the facility shall meet all standard driveway requirements. Access to facilities located adjacent to controlled access highways shall be from the land side. This shall not apply to those facilities with pre-existing access, such as rest areas, weigh stations or District Offices.

2. The applicant shall contact the DOTD District Permit Office and obtain approval for any change in the structure or configuration of the facility. Approval from DOTD is not required for routine maintenance or minor changes to the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 24:

§2319. Security Requirements

A. Fences, parking, and other security measures may be permitted in accordance with other DOTD standards.

B. Traffic barriers and/or crash mitigation structures shall be installed as deemed necessary by the Permit Engineer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 24:

Frank M. Denton
Secretary

9809#052

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Duck, Coot, and Goose Seasons—1998-99

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

The hunting seasons for Ducks, Coots and Geese during the 1998-99 hunting season shall be as follows:

DUCKS AND COOTS

West Zone: November 7—November 29
December 12—January 17

East Zone: November 14—December 6
December 12—January 17

Catahoula Lake Zone: November 14—December 6
December 12—January 17

Youth Waterfowl Day—December 5 in West Zone
January 23 in East Zone

Daily Bag Limits—The daily bag limit on ducks is 6 and may include no more than 4 mallards (no more than 2 of which may be females), 3 mottled ducks, 1 black duck, 2 wood ducks, 1 pintail, 1 canvasback, and 2 redheads. Daily bag limit on coots is 15.

Mergansers—The daily bag limit for mergansers is 5, only 1 of which may be a hooded merganser. Merganser limits are in addition to the daily bag limit for ducks.

Possession Limit—The possession limit on ducks, coots and mergansers is twice the daily bag limit.

GEESE: LIGHT GEESE (SNOW AND BLUE)

STATEWIDE SEASON: November 7—February 21

Daily bag limit (snow and blue) 20

Possession limit (snow and blue) none

WHITE-FRONTED (SPECKLE BELLIES)

November 7—November 29
December 12—January 27

Daily bag limit (speckle bellies) 2

Possession limit (speckle bellies) 4

During the Canada Goose Season (January 19—January 27), the daily bag limit for Canada and white-fronted geese is 2, of which not more than 1 can be a Canada goose. Possession limit is twice the daily bag limit.

CANADA GEESE: CLOSED IN THE AREA DESCRIBED BELOW

January 19—January 27

During the Canada Goose Season (January 19—January 27) the daily bag limit for Canada and white-fronted geese is 2, of which not more than 1 can be a Canada goose. Possession limit is twice the daily bag limit.

The Canada Goose Season will be open statewide except for a portion of southwest Louisiana. The closed area is described as follows:

Beginning at the Texas State Line, proceeding east along Highway 82 to the Calcasieu Ship Channel, then north along the Calcasieu Ship Channel to its junction with the Intracoastal Canal, then east along the Intracoastal Canal to its juncture with LA Highway 82, then south along LA Highway 82 to its juncture with Parish Road 3147, then south and east along Parish Road 3147 to Freshwater Bayou Canal, then south to the Gulf of Mexico, then west along the shoreline of the Gulf of Mexico to the Texas State Line, then north to the point of beginning at LA Highway 82. Open waters of Lake Mermentau and the Mermentau River from the Highway 14 bridge southward will also be closed to Canada Goose hunting.

A special permit shall be required to participate in the Canada Goose Season. A permit is required of everyone, regardless of age, and a non-refundable \$5 administrative fee will be charged. This permit may be obtained from any District Office.

Return of harvest information requested on permit is mandatory. Failure to submit this information to the Department by February 15, 1999 will result in the hunter not being allowed to participate in the Canada Goose Season the following year.

Shooting Hours: one-half hour before sunrise to sunset.

The Department will also have a lottery duck hunt on the South Farm Complex of the Sherburne WMA. Details of the lottery will be available from any regional office. In addition to the lottery hunt, no hunting will be allowed on this portion of the WMA from November 1, 1998 through January 24, 1999 except for the youth waterfowl hunt. Additionally, access to the South Farm will be limited during this period. This action is necessary because access to this property was acquired by the U.S. Army Corps of Engineers after final ratification of the 1998-99 Resident Hunting Pamphlet. Lottery hunts and restricting access will provide the Department the ability to manage hunters and minimize disturbance of wintering waterfowl. This provides both optimum habitat conditions for migratory birds and appropriate levels of public use during the waterfowl hunting season.

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

The aforementioned season dates, bag limits and shooting hours will become effective November 1, 1998 and extend through sunset on March 20, 1999.

Thomas M. Gattle, Jr.
Chairman

9809#029

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Fur Harvest Season—1998-99

In accordance with the provisions of R.S. 56:259(A) which authorizes the Wildlife and Fisheries Commission to set the open season for the taking of nongame quadrupeds and allows the Commission to extend, curtail or prohibit trapping in any area of the state each year, and in accordance with 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 set seasons, the Wildlife and Fisheries Commission does hereby set the 1998-99 fur harvest season, statewide from November 20, 1998 through March 20, 1999. The Wildlife and Fisheries Commission does hereby also authorize the Secretary of the Department of Wildlife and Fisheries to extend or shorten the adopted season.

Thomas M. Gattle, Jr.
Chairman

9809#028

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

King Mackerel Commercial Closure

The king mackerel fishery in the Gulf of Mexico is cooperatively managed by the Wildlife and Fisheries Commission, the Department of Wildlife and Fisheries (LDWF), and the National Marine Fisheries Service (NMFS) with advice from the Gulf of Mexico Fishery Management Council (Gulf Council). Regulations promulgated by NMFS are applicable in waters of the Exclusive Economic Zone (EEZ) of the U.S., which in Louisiana is generally three miles offshore. Rules were recently established by NMFS to close the commercial harvest seasons for king mackerel in the EEZ off of Louisiana, and NMFS and the Gulf Council requested that consistent regulations be established in Louisiana waters. NMFS typically requests consistent regulations in order to enhance the effectiveness and enforceability of regulations for EEZ waters.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, the Wildlife and Fisheries Commission hereby sets the following seasons for commercial harvest of king mackerel in Louisiana state waters:

The season for the commercial fishery for king mackerel in Louisiana state waters will close at 12:01 a.m., September 7, 1998; the season shall remain closed until 12:01 a.m. on July 1, 1999.

The Commission also grants authority to the Secretary of the Department of Wildlife and Fisheries to open an additional commercial king mackerel season in Louisiana state waters if he is informed by the Regional Director of the National Marine Fisheries Service (NMFS) that the season dates for the commercial harvest of king mackerel in the federal waters of the western Gulf of Mexico as set out herein have been modified, and that the Regional Director of NMFS requests that the season be modified in Louisiana state waters and to close such season when he is informed that the commercial king mackerel quota for the western Gulf of Mexico has been filled, or is projected to be filled.

Nothing herein shall preclude the legal harvest of king mackerel by legally licensed recreational fishermen. Effective with any closure, no person shall commercially harvest, transport, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell king mackerel. Effective with the closure, no person shall possess king mackerel in excess of a daily bag limit, provided however, that fish in excess of the daily bag limit which were legally taken prior to the closure may be purchased, possessed, transported, and sold by a licensed wholesale/retail dealer if appropriate records in accordance with R.S. 56:306.4 are properly maintained, and those other than wholesale/retail dealers may purchase such fish in excess of the daily bag limit from wholesale/retail dealers for their own use or for sale by a restaurant as prepared fish.

Thomas M. Gattle, Jr.
Chairman

9809#024

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational Red Snapper Closure

The red snapper fishery in the Gulf of Mexico is cooperatively managed by the Department of Wildlife and Fisheries (LDWF), the Wildlife and Fisheries Commission (LWFC) and the National Marine Fisheries Service (NMFS) with advice from the Gulf of Mexico Fishery Management Council (Gulf Council). Regulations promulgated by NMFS are applicable in waters of the Exclusive Economic Zone (EEZ) of the U.S., which in Louisiana is generally three miles offshore. Rules were recently established by NMFS to close recreational harvest season in the EEZ off of Louisiana effective 12:01 a.m., September 30, 1998 through December 31, 1998 by reducing the bag limit to zero, and NMFS requested that consistent regulations be established in Louisiana waters. NMFS typically requests consistent

regulations in order to enhance the effectiveness and enforceability of regulations for EEZ waters.

In order to enact regulations in a timely manner so as to have compatible regulations in place in Louisiana waters for the 1998 recreational red snapper season, it is necessary that emergency rules be enacted.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish season, and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish; the Wildlife and Fisheries Commission hereby closes the recreational harvest of red snapper in Louisiana state waters for the 1998 season as follows:

The season for the recreational fishery for red snapper in Louisiana state waters will close at 12:01 a.m., September 30, 1998 and remain closed through December 31, 1998 by reducing the bag limit to zero for that time period.

Thomas M. Gattle, Jr.
Chairman

9809#027

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Shark Permit

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(10), 56:326(E)(2), 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 the commercial fishery for sharks in Federal waters off of Louisiana. Practices reported to presently occur in this fishery are contrary to sound conservation of the species, and to proper utilization of the fishery resource. Rules for Louisiana State waters are being promulgated through the Administrative Procedure Act. Some aspects of present practices require more expeditious action than is available through this procedure. Commercial license renewals are distributed beginning in November, and thus action prior to that time provides for more expeditious service by the Department to those people who require renewal of shark permits. High volume commercial trips, exceeding federally allowed limits, are presently occurring. Placing compatible trip limits in state waters will allow more effective enforcement of existing Federal limits. The practice of "finning", as described in this rule, has become more prevalent in some parts of the fishery, resulting in less utilization of the potential resource, and a loss of valuable scientific information on the species that are harvested in the fishery. It is therefore in the best interest of the state, and

appropriate that these regulations be enacted expeditiously, thereby requiring emergency action.

This emergency rule shall be effective at 12:01 a.m., September 14, 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.

Sharks and Sawfishes Daily Take and Possession Limit, Quotas and Special Permit Requirements

A. Permits

1. In addition to all other licenses and permits required by law, a valid original "Shark Permit" shall be annually required for persons commercially taking shark from Louisiana waters and for persons selling, exchanging, or bartering sharks to Louisiana Wholesale/Retail dealers; the valid original permit shall be in immediate possession of the permittee while engaged in fishing for or possessing shark. Each "Shark Permit" holder shall on or before the tenth of each month submit an information return to the Department on forms provided or approved for this purpose, including the number and weight of each species of shark taken commercially from Louisiana waters during each trip of the preceding month, and the commercial dealers to whom these were sold. Monthly reports shall be filed, even if catch or effort is zero.

2. All persons who do not possess a "Shark Permit" issued by the Department of Wildlife and Fisheries, and, if applicable, a Federal Shark Permit issued by the National Marine Fisheries Service, are limited to a possession limit. All persons who do not possess a Louisiana "Shark Permit" and, if applicable, a permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks, shall not sell, barter, trade, exchange or attempt to sell, barter, trade or exchange any sharks, or possess any sharks in excess of a possession limit. Sharks taken incidental to menhaden fishing, that are retained on the vessel as part of the harvest, shall be retained and sold only as a mixed part of the total harvest, and shall not be retained, held, or sold, purchased, bartered, traded, or exchanged separately. Sharks retained as a result of menhaden fishing shall not exceed legal bycatch allowances for menhaden fishing as provided for in R.S. 56:324.

3. Legally licensed Louisiana Wholesale/retail seafood dealers, retail seafood dealers, restaurants, and retail grocers are not required to hold a "Shark Permit" in order to purchase, possess, exchange, barter and sell any quantities of sharks, so long as they maintain records as required by R.S. 56:306.4 and 56:306.5.

B. Trip and Possession Limits

1. A possession limit consists of two Atlantic sharpnose sharks and two sharks of any other species unless a valid original Louisiana "Shark Permit", and, if applicable, a federal shark permit, issued in the name of the commercial fisherman is in possession.

2. A person that has been issued or possesses a federal shark permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks shall not possess on any trip, or land from any trip, or sell, Large Coastal Species in excess of 4,000 pounds per vessel, dressed weight.

3. Persons possessing a Louisiana "Shark Permit" shall not possess on any trip, or land from any trip, or sell, Large Coastal Species in excess of 4,000 pounds per vessel, dressed weight.

4. Large Coastal Species of sharks are composed of: Great Hammerhead, Scalloped Hammerhead, Smooth Hammerhead, Nurse shark, Bignose shark, Blacktip shark, Bull shark, Caribbean reef shark, Dusky shark, Galapagos shark, Lemon shark, Narrowtooth shark, Night shark, Sandbar shark, Silky shark, Spinner shark, Tiger shark.

C. Fins

1. The practice of "finning", that is, removing only the fins and returning the remainder of the shark to the sea, is prohibited in Louisiana waters.

2. Shark fins that are possessed aboard or offloaded from a fishing vessel must not exceed 5 percent of the weight of the shark carcasses. All fins must be weighed in conjunction with the weighing of the carcasses at the vessel's first point of landing and such weights of the fins landed must be recorded on dealer records in compliance with R.S. 56:306.5. Fins from shark harvested by a vessel that are disproportionate to the weight of the carcasses landed shall not be sold, purchased, traded, or bartered or attempted to be sold, purchased, traded, or bartered.

3. Shark fins may not be possessed aboard a fishing vessel after the vessel's first point of landing.

Thomas M. Gattle, Jr.
Chairman

9809#26

DECLARATION OF EMERGENCY

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

Supplemented Hunting Preserves

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under authority of 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 adopts the following Emergency Rule.

This Declaration of Emergency is necessary to implement portions of the written stipulations entered into on August 10, 1998, in the matter entitled *Jenkins et al. v. Odom et al.*, Number 449244, 19th Judicial District Court, and further to provide for regulation of hunting of white-tailed deer and exotics on Supplemented Hunting Preserves. This Declaration of Emergency will govern the regulation of hunting on Supplemented Hunting Preserves until the ratification of permanent rules.

Supplemented Hunting Preserves: Hunting Seasons and Deer Management Assistance Program Participation

A. Definitions

Exotics—for purposes of this rule means any animal of the family Bovidae (except the Tribe Bovini [cattle]) or Cervidae

which is not indigenous to Louisiana and which is confined on a Supplemented Hunting Preserve. Exotics shall include, but are not limited to, fallow deer, red deer, elk, sika deer, axis deer, and black buck antelope.

Hunting—in its different tenses and for purposes of this rule means to take or attempt to take, in accordance with R.S. 56:8.

Same as Outside—for purposes of this rule means hunting on a Supplemented Hunting Preserve 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 (LWFC).

Supplemented Hunting Preserve—for purposes of this rule means any enclosure for which a current Farm-Raising License has been issued by the Department of Agriculture and Forestry (LDAF) with concurrence of the Department of Wildlife and Fisheries (LDWF) and is authorized in writing by the LDAF and LDWF to permit hunting.

White-Tailed Deer—for purposes of this rule means any animal of the species *Odocoileus virginianus* which is confined on a Supplemented Hunting Preserve.

B. Hunting Seasons

1. White-Tailed Deer: All hunting seasons for farm-raised white-tailed deer are still hunt only.

a. Archery: October 1, 1998-January 31, 1999, either-sex.

b. Modern Firearms: November 1-December 6, 1998; December 21-23, 1998; and December 26, 1998-January 31, 1999.

c. Either-sex deer may be taken November 1-3, December 21-23, and December 26-30, otherwise, all modern firearm dates are bucks only. (Either-sex deer may also be taken in accordance with provisions of the Deer Management Assistance Program).

d. Muzzleloader: December 7-December 20, 1998, either-sex.

2. Exotics: year round.

C. Methods of Take

1. 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 centerfire; or muzzleloading 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. 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 Licenses

1. White-Tailed Deer: same as outside.

2. Exotics: no person shall hunt any exotic without possessing a valid basic and big game hunting license.

G. Tagging. White-Tailed Deer and Exotics: Each animal 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 LDAF. The tag shall remain with the carcass at all times.

H. Deer Management Assistance Program. Supplemented Hunting Preserves containing at least 300 acres will be eligible to participate in the Deer Management Assistance Program for the 1998-99 hunting season.

I. Additional Restrictions. Except as otherwise specified herein, all of the provisions of Title 56 of the Louisiana

Revised Statutes and the LWFC rules pertaining to the hunting and possession of white-tailed deer shall apply to white-tailed deer and exotics located on Supplemented Hunting Preserves.

J. Effective Date. This Declaration of Emergency shall become effective on October 31, 1998, and supplant any prior Declaration of Emergency pertaining to hunting of farm-raised deer and exotics.

Thomas M. Gattle, Jr.
Chairman

9809#023