

Emergency Rules

DECLARATION OF EMERGENCY

Department of Economic Development Office of the Secretary

Port Development Program
(LAC 13:I:Chapter 80)

The Office of the Secretary of the Department of Economic Development is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority of Acts 1998, Number 29, Section 1 of the Regular Session of the Legislature. It is necessary to publish these rules because of a recognized immediate need to provide financial assistance to public port authorities in Louisiana for capital projects which improve or maintain waterborne commerce and intermodal port infrastructure in an effort to improve efficiency of the system and contribute to the location of new industry, or expansion and retention of existing industry and employment within the state.

Without these Emergency Rules, the public welfare may be harmed as a result of possible disruption in the efficiency of the public port authorities in Louisiana and create delays in awarding grants for economic development related infrastructure improvements under the provisions of the Port Development Program, inasmuch as such delays could result in the loss of industry and jobs.

The proposed Emergency Rules are intended to mitigate the disruptions described above.

Title 13

ECONOMIC DEVELOPMENT

Part I. Commerce and Industry

Subpart 3. Financial Incentives

Chapter 80. Port Development Program

§8001. Purpose and Scope

The purpose of the program is to provide financial assistance to public port authorities for capital projects which improve or maintain waterborne commerce and intermodal port infrastructure. Under this program, the Louisiana Department of Economic Development (DED) is authorized to accept and review applications from eligible port authorities for project assistance. Upon favorable evaluation and prioritization of individual projects by DED's review committee, recommendations may be made to the Secretary of Economic Development for funding qualified projects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8003. Definitions

Applicant—the sponsoring Louisiana port authority requesting financial assistance from DED under this program.

Award—funding approved under this program for eligible applicants.

Awardee—an applicant receiving an award under this program.

Capital Projects—include any port infrastructure development project, including land acquisition and attendant development costs.

Cash—any asset on the port's records used for the project.

DED—Louisiana Department of Economic Development.

In-Kind—any service, land or equipment donated to a port outside of its legal entity.

Intermodal Infrastructure Development—refers to the provision of highway, rail, water, or air access; and internal trans-loading or distribution facilities to property owned and maintained by a local port authority.

Program—the Port Development Program.

Project Priority List—a list of projects proposed by eligible applicants ranked for program funding by the Louisiana Department of Economic Development.

Secretary—the Secretary of the Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8005. Program Objective

The objectives of this program are to develop and sustain the Louisiana ports and the navigable waterways system, particularly those infrastructures that improve efficiency of the system and contribute to the location of new industry, or expansion and retention of existing industry and employment within the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8007. Eligibility

All Louisiana public port authorities are eligible to participate in the program. However, port projects that are eligible for funding under the Louisiana Port Construction and Development Priority Fund administered by the Louisiana Department of Transportation and Development will not be eligible for funding under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8009. Types of Projects

The types of projects funded under the program will include any type of port capital development projects, rehabilitation and maintenance, intermodal projects, land acquisition, site prep work and project feasibility studies that promote water transport and waterfront development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8011. Match

Each port authority will provide a match equal to at least 50 percent of the total cost of the project. The match may be furnished in cash or in-kind. No state funds can be used as matching funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8013. Application Procedure

A. Port authorities sponsoring projects are expected to provide complete and verifiable information on the proposed projects. The project information supplied should be accurate and documented in order for the Department to adequately assess the merits of the project and prepare a project priority list. The sponsoring port authority must submit an application on a form provided by the Department which will contain, but not be limited to the following:

- 1. a description of the proposed project including the nature and goals of the project, design and its major components. Justify the immediate need for the project;
- 2. indicate the total cost of the project. Also show the sources of funding and when they will be available;
- 3. provide construction, operation and maintenance plans, and a timetable for the project's completion;
- 4. any additional information the Secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8015. Submission of Applications

Applications must be submitted to the DED to be considered for funding. Two copies of the application with all attachments should be submitted to the Secretary of DED .

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8017. Criteria

A. Consideration will be given to projects which have completed preliminary planning work and ensure that the project is initiated within the funding year in which the project is approved.

B. Consideration will be given to project contribution to regional economic development.

C. Preference will be given to projects with high employment potential and payroll.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8019. Project Review Procedure

A. Submitted applications will be reviewed and evaluated by a DED review committee. The Committee will prepare a list of projects for funding, and if necessary, input may be required from the applicant, other divisions of the Department of Economic Development, and other state agencies as needed in order to:

- 1. evaluate the strategic importance of the project to the economic well-being of the state and local communities;
- 2. validate the information presented;

3. determine the overall feasibility of the port's plan.

B. After evaluation the review committee will submit a list of projects recommended to be eligible for funding to the Secretary of the Department of Economic development.

C. The Secretary of DED will have the final authority in funding any recommended project under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8021. Funding

In the event the fund falls below \$5 million, the projects will be limited to \$1 million each. However, in 1998 as available funds are limited, a port may be allocated up to 50 percent of the appropriated funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8023. Conditions for Disbursement of Funds

Grant award funds will be available to each port on a reimbursement basis following submission of required documentation to DED. Only funds spent on the project after the Secretary's approval will be considered eligible for reimbursement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

Kevin P. Reilly, Sr.
Secretary

9901#044

DECLARATION OF EMERGENCY

**Department of Economic Development
Racing Commission**

Apprentice's Contract
(LAC 46:XLI.705)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following emergency rule effective December 18, 1998, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to amend this rule to shorten an apprentice jockey's apprentice period from 3 to 2 years, which will be consistent with other racing jurisdictions.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLI. Horseracing Occupations

Chapter 7. Jockeys and Apprentice Jockeys

§705. Apprentice's Contract

- A. ...
- B. An apprentice shall start with 5 pounds allowance. He

shall continue this allowance for one year from the date of his fifth winner, after which, if he has not ridden 40 winners in the year following the date of his fifth winner, he shall continue the allowance for a period not to exceed two years from the date of his fifth winner or until he has ridden 40 winners, whichever occurs first.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148, R.S. 4:150 and R.S. 4:151.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, amended by the Department of Commerce, Racing Commission, LR 2:431 (December 1976), LR 3:27 (January 1977), repromulgated LR 4:276 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 17:588 (June 1991), LR 25:

Paul D. Burgess
Executive Director

9901#012

DECLARATION OF EMERGENCY

Department of Economic Development Racing Commission

Displaying Daily Double Rule
(LAC 35:XIII.10521)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following emergency rule effective December 18, 1998, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to amend this rule to allow racing associations to display the full daily double rule in the betting area as opposed to printing it in their daily racing program, which is consistent with other wagering rules.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 105. Daily Double

§10521. Displaying Daily Double Rule

This rule shall be prominently displayed throughout the betting area of each track conducting the daily double and printed copies of this rule shall be distributed by the track to patrons upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 11:616 (June 1985), amended by the Department of Economic Development, Racing Commission, LR 25:

Paul D. Burgess
Executive Director

9901#010

DECLARATION OF EMERGENCY

Department of Economic Development Racing Commission

Horse in Racing Condition
(LAC 46:XLI.313)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following emergency rule amendment effective December 18, 1998, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever occurs first.

The Louisiana State Racing Commission finds it necessary to amend this rule to allow for horses to race without horseshoes under special circumstances as permitted by the stewards.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLI. Horseracing Occupations

Chapter 3. Trainer

§313. Horse in Racing Condition

A. A trainer shall not enter or start a horse which is not in serviceably sound racing condition, has been tracheatubed or has been nerved.

B. However, horses which have had a posterior digital (heel nerve) neurectomy or cryosurgical intervention in the areas reserved for posterior digital neurectomies performed on one or more feet, may be permitted to race.

C. All horses which have undergone either of the above procedures shall be so designated on the foal certificate and be certified by the practicing veterinarian.

D. All horses which have undergone either of the above procedures prior to the adoption of this rule must also be certified, and it is the responsibility of the trainer to see that either of such procedures will be carried on the foal certificate.

E. All nerved horses, high or low, and all horses having had a cryosurgical intervention, as aforesaid, must be published on the bulletin board in the racing secretary's office.

F. Any horse which is high nerved shall not be permitted to enter in a race.

G. Except as provided herein, a trainer shall not enter or start a horse which has been "nerve blocked" or treated with, or been given any drug internally, externally or by hypodermic injection, except as permitted by LAC 35:I.1501 et seq.

H. Nor shall a trainer enter or start a horse which is blind or whose vision is seriously impaired in both eyes, is on a steward's, veterinarian's, starter's or disqualified list or is permanently barred from racing in any jurisdiction.

I. Additionally, a trainer shall not enter or start a horse which is not properly plated except where permission to start

without shoes is obtained from the stewards prior to entry. However, once a horse has started without shoes, it must race unshod for the balance of the meet, unless otherwise approved by the stewards. In any emergency situation the stewards shall have sole discretion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:150.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, amended by the Department of Commerce, Racing Commission, LR 2:430 (December 1976), LR 3:26 (January 1977), repromulgated LR 4:275 (August 1978), amended LR 5:325 (October 1979), LR 25:

Paul D. Burgess
Executive Director

9901#011

DECLARATION OF EMERGENCY

Department of Economic Development Racing Commission

Paint Horse Racing
(LAC 35:I.Chapter 10)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following emergency rule (chapter of rules) effective December 18, 1998, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever occurs first.

The Louisiana State Racing Commission finds it necessary to adopt this rule (chapter of rules) to provide for the authorization of racing paint horses in the state of Louisiana. Chapter 10, Paint Horse Racing, of Title 35, Part I of the Rules of Racing contains §1001 through §1009.

Title 35

HORSE RACING

Part I. General Provisions

Chapter 10. Paint Horse Racing

§1001. Applicable Rules

The rules of the commission shall govern Paint horse racing wherever they are applicable. When not applicable, the stewards may enforce the rules of the American Paint Horse Association, provided they are consistent with the rules of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

§1003. Cases not Covered

Cases not covered by American Paint Horse Association rules shall be decided by the stewards with the advice and consent of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

§1005. Jurisdiction

The jurisdiction of a licensed Paint horse race meeting shall be vested solely with the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

§1007. Official Registry

The American Paint Horse Association shall be recognized as the sole official registry for Paint horses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

§1009. Races with Other Breeds

Races between Paint horses and other horse breeds are prohibited unless special permission is granted by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

Paul D. Burgess
Executive Director

9901#009

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS)—
Higher Education Scholarship and Grant Programs
(LAC 28:IV.301, 503, 703, 705)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), to amend rules of the Tuition Opportunity Program for Students, R.S. 17:3042.1 and R.S. 17:3048.1.

The emergency rules are necessary to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission 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 December 8, 1998, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs

Chapter 3. Definitions

§301. Definitions

* * *

Cumulative High School Grade Point Average—the final

cumulative high school grade point average calculated on a 4.00 scale for all courses attempted. Effective beginning with graduates in academic year 2000-2001, the Cumulative High School Grade Point Average shall be calculated by using only the course grades achieved for those courses included in the core curriculum and recorded on the official transcript reported to the Louisiana Department of Education. For those high schools that utilize other than a 4.00 scale, all grade values must be converted to a 4.00 scale utilizing the following formula:

$$\frac{\text{Quality Points Awarded for the Course}}{\text{Maximum Points Possible for the Course}} \cdot \frac{X (\text{Converted Quality Points})}{4.00 (\text{Maximum Scale})}$$

$$\frac{3.00}{5.00} \cdot \frac{X}{4.00}$$

By cross multiplying,

$$5X = 12; X = 2.40$$

Quality points = Credit for course multiplied by the value assigned to the letter grade.

* * *

Louisiana Resident—

a. any independent student or any dependent student with at least one parent or legal guardian who has resided in the state for a minimum of 24 consecutive months immediately preceding a certain date or the date of a specified event that is further defined by the programs found in Part IV of these rules, or some other period of residency which is required to qualify the person for a specific program administered by the LASFAC. To qualify for a program under Part IV of these rules, in addition to the certification of residency found on the application form, the administering agency may require an independent student applicant or the parent(s) or legal guardian of a dependent student applicant to show proof of residency. Residency may be established by completion of a standard affidavit developed by the administering agency. Such affidavits must be completed in their entirety by the independent student applicant or by at least one parent or legal guardian of the dependent student applicant and be sworn to and notarized by a licensed notary public. Further, the affiant shall be required to submit records in support of the affidavit to include the following records and such other records as may be required by the administering agency:

- i. if registered to vote, a Louisiana voters registration card; and
 - ii. if licensed to drive a motor vehicle, a Louisiana driver's license; and
 - iii. if owning a motor vehicle located in Louisiana, a Louisiana registration for that vehicle; and
 - iv. if earning a reportable income, a Louisiana tax return.
- b. any member of the Armed Forces on active duty whose official military personnel or pay records show that the member claims Louisiana as his home of record and who has filed a Louisiana tax return for the most recent two years in compliance with a.iv, above.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 25:

Chapter 5. Application; Application Deadlines and Proof of Compliance

§503. Application Deadlines

* * *

B. Final Deadline. The final deadline for receipt of a student's initial application for state aid is July 1st of the high school academic year (which includes the Fall, Spring and Summer sessions) in which a student graduates. To renew an award in subsequent years, annual applications must be received by the July 1st deadline. Any student submitting an application for state aid after the Final Deadline will be ineligible for the requested aid. An application for renewal of an award in a subsequent year received after the July 1 deadline will not be processed, and the student will not be eligible for an award in that year. For example, for a student graduating in the 1998-1999 high school academic year, the student must submit an application (the Free Application for Federal Student Aid) to be received by the federal processor by July 1, 1999 and must submit an application to be received by the July 1st deadline for every year thereafter in which the student desires to renew the award.

* * *

Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity; Performance and Honors Awards

§703. Establishing Eligibility

A. - 4.f. ...

g. all students must apply for an award by July 1st of the high school academic year (which includes the Fall, Spring and Summer sessions) in which they graduate to establish their initial qualification for an award. For a student entitled to defer acceptance of an award under section 703.A.4.b. or d., that student must apply by July 1st of the high school academic year in which the student graduates and must also apply by July 1st prior to the academic year in which the student intends to first accept the award, and every year of eligibility thereafter.

5.a. ...

i. at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work constituting a core curriculum as follows:

Course	Units
English I	1
English II	1
English III	1
English IV	1
Algebra I (one unit) or Applied Algebra 1A and 1B (two units)	1
Algebra II	1
Geometry, Trigonometry, Calculus or Comparable Advanced Math	1
Biology I	1

- 1 Chemistry I
- 1 Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II or Physics, Physics II or Physics for Technology
- 1 American History
- 1 World History, World Culture, Western Civilization or World Geography
- 1 Civics and Free Enterprise (one unit combined) or Civics (one unit, nonpublic)
- 1 Fine Arts Survey; (or substitute two units Performance courses in Music, Dance and/or Theater; or two units of Studio Art or Visual Art; or one elective from among the other subjects listed in this core curriculum)
- 2 In the Same Foreign Language (one unit or credit for three or more hours of college foreign language for students graduating from high school during the 1996-97 and 1997-98 school years).
- ½ Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; (or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum)

ii. - F. ...

G.1. A student who enters a college or university under an early admissions program prior to high school graduation will be eligible for an appropriate award under the following conditions:

a. - d. ...

2. A student who graduates from high school in less than four years or who enters a college or university early admissions program prior to graduation from high school shall be considered a First-Time Freshman, as defined in §703, not earlier than the first semester following the academic year in which the student would have normally graduated had he or she not graduated early or entered an early admissions program. A student who graduates high school in less than four years or enters an early admissions program will remain eligible for a TOPS award until the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student normally would have graduated.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25:

§705. Maintaining Eligibility

* * *

C. In the event the administering agency determines that an ineligible student has received an award as the result of an administrative error or erroneous information provided by the student or the student's parent(s) or legal guardian or incorrect certification from the student's high school, the student's eligibility for the award shall be terminated and no further awards shall be made to the ineligible student. If an ineligible student has received an award due to an administrative error or incorrect certification, the administering agency will not

pursue recoupment from the student of funds that were awarded. If an erroneous award has been made and the administering agency determines that the award was made based upon incorrect information submitted by the student or the student's parent(s) or legal guardian, the administering agency may seek reimbursement from the student, the student's parent(s) or legal guardian, and if it is further determined that the award was made due to an intentional misrepresentation by the student, the student's parent(s) or legal guardian, then the administering agency shall refer the case to the Attorney General for investigation and prosecution. If a student or the student's parent(s) or legal guardian is suspected of having intentionally misrepresented the facts which were provided to the administering agency and used by it to determine the eligibility of the student for the program and the administering agency has referred the case to the Attorney General for investigation, then the student shall remain ineligible for future award consideration pending an outcome of said investigation which is favorable to the student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:

Jack L. Guinn
Executive Director

9901#021

DECLARATION OF EMERGENCY

**Office of the Governor
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(B)(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 R.S. 49:953(B) to adopt amendments to the Plan Document of Benefits.

This rule shall become effective on January 27, 1999, 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

9901#043

DECLARATION OF EMERGENCY

**Department of Public Safety and Corrections
Corrections Services**

**Penalty Schedule—Disciplinary Report
(LAC 22:I.359)**

In accordance with the provisions of La. R.S. 49:953, the Louisiana Department of Public Safety and Corrections, Corrections Services, hereby determines that adoption of an emergency rule change relative to the Disciplinary Rules and Procedures for Adult Inmates, LAC 22:I.341 et seq. is necessary and that for the following reasons failure to adopt the rule change on an emergency basis will result in imminent peril to the public health, safety and welfare.

The Disciplinary Rules and Procedures for Adult Inmates were adopted by the Louisiana Department of Public Safety and Corrections, Corrections Services, and published in the *Louisiana Register* and became effective February 15, 1993. (LAC 22:I.341, et seq.) It is the responsibility of the Secretary of the Louisiana Department of Public Safety and Corrections, Corrections Services, to prescribe rules and regulations for the maintenance of good order and discipline in the facilities and institutions under the jurisdiction of the Department, which rules and regulations shall include procedures for dealing with violations thereof. The Disciplinary Rules and Procedures for Adult Inmates provide for loss of good time by an adult inmate for violation of the rules and regulations. In the case of a Schedule A violation, the offender may lose good time up to a maximum of one-half of the amount earned by the inmate for one month, and in the case of a Schedule B violation, the offender may lose good time up to a maximum of the amount earned by the inmate for one month. The Louisiana Legislature has authorized the Department to impose a forfeiture of good time up to a maximum of one hundred and eighty days for violations of the rules and procedures. [La. R.S. 15:571.4(B)(4)(amended by

Louisiana Acts 1995, Number 980, effective August 15, 1995).]

The First Circuit Court of Appeals in the matter of *Terry Rivera, Sr. v. State of Louisiana, et al*, Number 98 CA 0507, decided December 28, 1998 (consolidated with *Joseph Romero v. La. Department of Public Safety and Corrections, et al*, Number 98 CA 0508), held that the Department could not enforce any disciplinary penalty of loss of good time in excess of the amounts provided for in the current rules notwithstanding the statutory authority granted the Department pursuant to La. R.S. 15:571.4(B)(4). The Department, to insure the maintenance of good order and discipline, must have the authority to impose penalties for violations of the rules and procedures to the full extent of the law. Disciplinary hearings within the facilities and institutions of the Department are numerous and ongoing and decisions rendered by such institutions that may be contrary to the holding of *Rivera* may be subject to legal challenge, which is detrimental to the good order and discipline of the Department. To revert to previously authorized limits of forfeiture of good time (which are significantly less than that currently authorized by statute) would result in the release of inmates from prison earlier than would otherwise be the case, resulting in potential risk to the public safety.

For the foregoing reasons, the Louisiana Department of Public Safety and Corrections, Corrections Services has determined that adoption of the emergency rule change is necessary and hereby adopts this emergency rule change effective January 4, 1999. This emergency rule shall remain in effect for a period of 120 days or until the final rule change is promulgated, whichever occurs first.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 3. Adult and Juvenile Services

**§359. Penalty Schedule. Disciplinary Report (Heard by
Disciplinary Board)**

- A.1.a. - d. ...
- e. forfeiture of good time up to a maximum of 30 days;
- f. - h. ...
- 2.a. - e. ...
- f. forfeiture of good time up to a maximum of 180 days;

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonald*, 94 S.Ct.2963 (1974), *Ralph v. Dees*, C/A/ 81-94, USDC (Md.La.), *Terry Rivera, Sr. v. State of Louisiana, et al*, Number 98CA0507, (12/28/98) consolidated with *Joseph Romero v. Louisiana Department of Public Safety and Corrections, et al*, Number 98CA0508.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), amended LR 19:653 (May 1993), LR 25:

Richard L. Stalder
Secretary

9901#045

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Gaming Control Board

Delegation; Definitions; Licensing;
Transfers; Disciplinary Action

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

(Editor's Note: Chapters 21-43 were originally promulgated in *The Advocate* on March 14, 1995. Copies of the full text of these rules can be obtained from the Attorney General's Gaming Division, 339 Florida Boulevard, Suite 500, Baton Rouge, LA 70801.)

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.

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 25:

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 25:

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 25:

§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 25:

§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 25:

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 25:

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 25:

§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 25:

§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 25:

§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 25:

§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 25:

§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 25:

§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 25:

§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 25:

§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 25:

§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 25:

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 25:

§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 25:

§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 25:

§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 25:

§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 25:

§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 25:

These emergency rule changes were adopted by the Louisiana Gaming Control Board on December 15, 1998 and shall continue in effect until January 20, 1999.

Hillary J. Crain
Chairman

9901#017

DECLARATION OF EMERGENCY

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

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

The Department of Social Services, Office of Family Support, has exercised the emergency provision [R.S. 49:953(B)] of the Administrative Procedure Act, to amend LAC 67:III.2514 pertaining to Support Enforcement Services, the child support enforcement program effective January 30, 1999. It is necessary to extend the original emergency rule of October 2, 1998 since it is effective for a maximum of 120 days and will expire before the final rule takes effect.

Pursuant to Public Law 104-193 (the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), Public Law 105-33 (the Balanced Budget Act of 1997) and Office of Child Support Enforcement Action Transmittal 98-24, Support Enforcement Services will change the order in which collection of past-due support is distributed beginning October 2, 1998. Former recipients of Aid to Families with Dependent Children and/or Family Independence Temporary Assistance Program benefits will receive arrearages owed to the family before reimbursements to the state and federal governments are made. These reimbursements are for the cash assistance received by the recipients.

An emergency rule is necessary to avoid federal sanctions or penalties which could be imposed if implementation is delayed since the agency chose the October 1, 1998 distribution option provided by P.L. 105-33.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter D. Collection and Distribution of Support Payments

§2514. Distribution of Child Support Collections

A. Effective October 2, 1998 the agency will distribute child support collections in the following manner:

1. ...

2. In cases in which the AR previously received AFDC or FITAP, and there are amounts owed to the state, collections received through any means other than IRS intercepts will be distributed as follows:

a. the AR shall receive an amount equal to the court-ordered monthly obligation and any arrears owed to the AR that accrued in a non-assistance period;

b. amounts owed to the state;

c. any arrears that accrued during assistance that exceed the unreimbursed grant will be paid to the AR.

3. - 4. ...

5. In cases in which the AR previously received AFDC or FITAP, and there are amounts owed to the state, collections received through IRS intercepts will be distributed as follows:

a. amounts owed to the state; and

b. amounts owed to the AR.

B. Any collections received through income assignments are subject to refund to the noncustodial parent based on federal and state laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 105-33, and OCSE-AT-98-24.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:304 (March 1997), amended LR 24:703 (April 1998), LR 25:

Madlyn B. Bagneris
Secretary

9901#039

DECLARATION OF EMERGENCY

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

1998 Fall Inshore Shrimp Season Closure

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 49:967, and in accordance with R.S. 56:497A(9), which allows the Louisiana Wildlife and Fisheries Commission to delegate authority to the Secretary of the Department to set seasons, and in accordance with the resolution adopted by the Louisiana Wildlife and Fisheries Commission at its August 1998 meeting, which granted authority to the Secretary of the Department to change the closing date of the 1998 Fall Inshore

Shrimp Season, notice is hereby given that the Secretary of the Department of Wildlife and Fisheries declares:

1. The 1998 fall inshore shrimp season will close statewide at sunset on December 21, 1998, except for that portion of Zone 1 extending north of the south shore of the Mississippi River Gulf Outlet, including Lake Pontchartrain and Lake Borgne, which shall close at 6:00 a.m., Monday, January 11, 1999.

2. Additionally, Breton and Chandeleur Sounds, as described in R.S. 56:495.1.A.(2), shall remain open until 6:00 a.m., March 31, 1999.

James H. Jenkins, Jr.
Secretary

9901#016

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

1999 Recreational Red Snapper Season

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the Secretary of the Department by the Commission in its resolution of December 3, 1998 setting the 1999 recreational red snapper seasons in Louisiana state waters, to set the opening date for the recreational red snapper season when he is informed that the opening date for the recreational red snapper season for Federal waters of the Gulf of Mexico has been set by the National Marine Fisheries Service (NMFS), the Secretary of the Department of Wildlife and Fisheries hereby declares:

Effective 12:01 a.m., January 1, 1999, the recreational fishery for red snapper in Louisiana waters will open. All rules and regulations for the legal recreational take and possession of red snapper shall apply during this open season.

The Secretary has been notified by NMFS that the recreational red snapper season in Federal waters will be opened on that date. Opening the season in State waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of this species in the long term.

James H. Jenkins, Jr.
Secretary

9901#015

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., January 11, 1999 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 Limits, 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

9901#048