

Emergency Rules

DECLARATION OF EMERGENCY

Department of Economic Development Office of Financial Institutions

Capital Companies Tax Credit Program (LAC 10:XV.305)

Under the authority of the Louisiana Administrative Procedure Act, LSA-R.S. 49:950 et seq., and particularly R.S. 49:953(B)(1) relative to emergency rulemaking, and in accordance with R.S. 51:1929 of the Capital Companies Tax Credit Program, R.S. 51:1921 et seq., the Acting Commissioner of Financial Institutions hereby intends to adopt an emergency rule, which amends the present Capital Companies Tax Credit Program rule by qualifying the ability of investors in a certified Louisiana capital company (CAPCO) to sell or otherwise transfer state income tax credits to third parties without first obtaining the prior written approval of the Commissioner of the Division of Administration, and that failure to do so would pose an imminent adverse effect upon the State treasury and thus imperil the public health, safety and welfare.

The Office of Financial Institutions ("Office") is statutorily charged with the certification and supervision of CAPCOs created pursuant to the Capital Companies Tax Credit Program. In view of this mandate, and as a result of the massive state income tax credits proposed to be transferred by investors in current CAPCOs to third parties during the most recent tax year, the result of which would negatively impact the State treasury, the Office concludes that modification of an investor's ability to sell or otherwise transfer such income tax credits is necessary and also ensures the effectuation of the intent of the Louisiana Legislature in enacting the Capital Companies Tax Credit Program.

I, Doris B. Gunn, in my capacity as Acting Commissioner of Financial Institutions for the State of Louisiana, do hereby order that as of the effective date of this Declaration of Emergency, no person may transfer any income tax credit earned after January 1, 1998 in conjunction with an investment in a certified Louisiana capital company, without first obtaining the written approval of the Commissioner of the Division of Administration at least thirty (30) days prior to the anticipated transfer or sale of such income tax credits. Further, the Commissioner of the Division of Administration shall not approve any transfer or sale of any income tax credits in an amount in excess of the funds budgeted for such purpose.

Therefore, in accordance with R.S. 49:953(B), the Office hereby adopts this Declaration of Emergency, the effective date of which is January 13, 1999 at 4:30 p.m.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

Part XV. Other Regulated Entities

Chapter 3. Capital Companies Tax Credit Program

§305. Income and Premium Tax Credits

A. ...

B. Income or premium tax credits may be sold or transferred, subject to the following conditions.

1. - 6. ...

7. No person may transfer or sell any income tax credit earned after January 1, 1998, without first obtaining the written approval of the Commissioner of the Division of Administration at least 30 days prior to the anticipated transfer or sale of any such income tax credits. The Commissioner of the Division of Administration shall not approve the transfer or sale of any income tax credits in excess of the funds budgeted for such purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1924, 1927, 1928 and 1929, and R.S. 22:1068(E).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended LR 12:664 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 16:762 (September 1990), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1132 (September 1997), amended LR 25:

Doris B. Gunn
Acting Commissioner

9902#047

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS) Out-of State High Schools (LAC 28:IV.1701)

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 January 12, 1999, 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 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and LASFAC on Behalf of Eligible Non-Louisiana High Schools

§1701. Eligibility of Graduates Based Upon the High School Attended

A.1 - A.3. ...

4. Out-of-State High Schools

a. all other public or non-public high schools located in one of the United States other than Louisiana, which have been approved by the state's chief state or territorial school officer listed in the Louisiana Department of Education Bulletin 1462, or by the public body which is that state's equivalent of Louisiana's Board of Elementary and Secondary Education, and those high schools located in foreign countries which have been authorized or approved by a Department in the Executive Branch of the United States government to teach the dependents of members of the U.S. Armed Forces stationed abroad;

i. graduates of out-of-state high schools are eligible to participate in the Rockefeller State Wildlife Scholarship and the State Student Incentive Grant Programs;

ii. graduates of out-of-state high schools who are Louisiana residents or the dependents of a Louisiana resident serving on active duty with the Armed Forces or who have a parent who is a Louisiana resident are eligible to participate in TOPS.

b. a school will be deemed to be approved by the appropriate state agency if that state agency certifies:

i. that the high school in question received funding from the state to cover all or a portion of the costs of instruction; and

ii. that the high school in question adopted and does adhere to state and federal non-discrimination policies and statutes.

* * *

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 24:642 (April 1998), amended LR 24:1911 (October 1998), LR 25:

Jack L. Guinn
Executive Director

9902#001

DECLARATION OF EMERGENCY

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Tuition Payment Program for Medical School Students
(LAC 28:IV.2301-2311, and 2313)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to implement rules for the Tuition Payment Program for Medical School Students (R.S. 17:3041.10-3041.15).

The emergency rules are necessary to allow the Louisiana Office of Student Financial Assistance and state educational institutions to administer this program. 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 January 12, 1999, 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 23. Tuition Payment Program for Medical School Students

§2301. General Provisions

A. Legislative Authority. The Tuition Payment Program for Medical School Students was created by Act 281, of the 1997 Regular Session of the Louisiana Legislature. This bill added R.S. 17:3041.10-3041.15.

B. Description, History and Purpose. The Tuition Payment Program for Medical School Students:

1. annually awards not more than four monetary loans to eligible students who commit to practice the profession of medicine as a primary care physician, as defined herein, for at least four consecutive years in a rural or poor community in Louisiana designated a "rural health shortage area" by the Louisiana Department of Health and Hospitals (hereinafter referred to as a "Designated Area"). When the individual receiving the award practices medicine in a Designated Area for four consecutive years as provided in these rules, the loans are forgiven in full;

2. was first funded for the 1998-99 award year;

3. was created to provide an incentive for Louisiana's medical school students to practice as primary care physicians in a Designated Area.

C. Award Amounts

1. Loans are made in an amount not to exceed the full tuition and room and board amount for students enrolled at one of the medical schools of Louisiana State University.

2. Recipients may receive a maximum of two years of funding.

3. Recipients may receive other financial awards in conjunction with the Tuition Payment Program for Medical School Students.

4. In the event the student's total aid exceeds the Cost of Attendance as defined in §301 of these rules, any federal loan aid included in the total aid package shall be reduced, then institutional and other aid in accordance with institutional practice, then the Tuition Payment for Medical School Students shall be reduced by the amount of any remaining over award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:

§2303. Establishing Eligibility

A. To establish eligibility, the student applicant must meet all of the following criteria:

1. be a U.S. Citizen and be registered with the Selective Service, if required, unless the institutional Financial Aid Officer determines that failure to register was not willful; and

2. be a resident of Louisiana, as defined in §301 of LAC 28:IV for at least two years prior to April 15 of the calendar year in which the award will be made;

3. submit the completed Free Application for Federal Student Aid (FAFSA) or Renewal FAFSA, whichever is applicable to the student, by April 15th of the calendar years in which an award is being sought (for those students applying for the 1998/1999 academic year, the deadline for filing the FAFSA is extended to March 1, 1999);

4. be enrolled and entering the third year of study at one of the LSU medical schools as a full-time student in a course of study leading to a doctorate degree in medicine with the intent to enter a residency program leading to a specialization in a primary care field. A "primary care field" shall include the following fields of medicine: family medicine, general internal medicine, general pediatrics, obstetrics/gynecology or a medical/pediatrics practice;

5. agree to the full time practice of the profession of medicine as a primary care physician in a Designated Area for at least four consecutive years after graduating from medical school and completing a residency program in a primary care field as defined in §2303.D, above;

6. complete and submit such other documentary evidence as may be required by LASFAC within the deadline specified;

7. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC;

8. not have a criminal conviction, except for misdemeanor traffic violations; and

9. agree that the award will be used exclusively for educational expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:

§2305. Application Process and Selection Criteria

A. The LSU Medical Center shall seek applications from medical students desiring to apply for a loan under this program and shall determine and report to the Commission, no later than the date specified by the Commission:

1. the academic standing of those applicants who meet the prerequisites of §2303.4 and 5. In determining the academic standing of applicants, the LSU Medical Center shall employ an evaluation system which is equitable to all applicants regardless of the medical school they attend; and

2. those applicants who have demonstrated an interest in primary care medicine through involvement in student activities which are supportive of the future practice of medicine as a primary care physician and which have been identified by the LSU Medical Center and approved by the administrator as meriting the award of extra points in the ranking of applicants.

B. From the list of applicants submitted by the LSU Medical Center, the Commission shall rank the applicants in order of merit and select no more than four individuals to receive the award in any one year (hereinafter "Recipient(s)"). The applicant's order of merit shall be determined by the academic standing of the applicant as reported by the LSU Medical Center and the extra points earned through student activities related to the practice of primary care medicine. The award shall be in the form of a loan to the Recipient as described in these rules.

§2307. Award Amount

A. The loan shall not exceed the full cost of tuition plus room and board, as those terms are defined herein, for two academic years.

B. The loan disbursement will be in two increments during each academic year based upon requests for disbursements submitted by the LSU Medical Schools which are consistent in timing with the normal payment of tuition by medical school students.

C. The loans for each of the two academic years are dependent upon sufficient appropriation by the State Legislature. Should the State Legislature fail to appropriate sufficient funds in each year to provide for the amount of the award agreed to by the Commission and student, the obligation to repay the loan will be remitted.

D. The cost of room and board included in an award under this section shall not exceed the cost allocated to room and board in the calculation of "cost of attendance" determined in accordance with 20 U.S.C. 10871l.

E. Tuition shall not exceed the fees, charges and other costs normally required to be paid by all medical students at the school attended.

F. The specific award amount for each loan shall be that amount stated in the agreement between the student and the Commission and shall not exceed the tuition and room and board charged at the school attended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:

§2309. Maintaining Eligibility

A. To continue receiving the Tuition Payment for Medical School Students, Recipients must meet all of the following criteria:

1. have received less than two years of funding under the Tuition Payment for Medical School Students;
2. be considered in good standing by the LSU Medical Center and continue to make satisfactory progress towards a medical degree in a primary care field;
3. continue to enroll each subsequent term as a full-time student, unless granted an exception for cause by LASFAC, in a course of study leading to a degree in medicine;
4. annually apply for federal and state student aid by completing the FAFSA or Renewal FAFSA, whichever is applicable to the student, by the state deadline;
5. have no criminal convictions, except for misdemeanor traffic violations; and
6. be in compliance with the terms of all other federal and state aid programs which the student may be receiving and which are administered by LASFAC.

B. Upon graduation from medical school, an award Recipient will be continued in a deferred payment status under the terms of the Tuition Payment Program for Medical Students Promissory Note ("Promissory Note") as long as the Recipient is enrolled in a residency program leading to a medical specialty in a primary care field. The Recipient shall notify LASFAC of the place and duration of the Recipient's residency program no later than the Recipient's date of graduation from medical school. The notice shall include an endorsement from the LSU Medical Center or its designee that the residency program is a program that will lead to the ability to practice as a primary care physician as defined herein. The LSU Medical Center shall make available to the Recipient a list of Designated Areas. The Recipient shall identify the Designated Area in which the Recipient intends to practice medicine and include this selection in the notice sent to LASFAC. By July 30 of each year after graduation from medical school, the Recipient shall notify LASFAC of the Recipient's current address and include in such notice an endorsement from an appropriate official of the residency program in which the Recipient is engaged that the Recipient is making satisfactory progress in the program. The Recipient shall notify LASFAC in writing of the completion of the residency program and the date the Recipient will initiate practice in a Designated Area. Each year thereafter, on the anniversary of the date the Recipient enters a primary care practice in a Designated Area, the Recipient shall send a written confirmation to LASFAC that the Recipient has practiced medicine during that year as required under the terms of the Promissory Note. The written confirmation shall be in the form of an affidavit executed before a notary public and shall be endorsed by the Louisiana Department of Health and Hospitals, affirming that the Recipient has practiced in a Designated Area. Failure of the Recipient to send any of the notices required under the terms of the Promissory Note in a timely manner shall cause the Recipient to be placed in a repayment status.

C. Students who fail to maintain eligibility for the second year of the loan will be placed in a repayment status within six

(6) months of their loss of eligibility, unless granted an exception for cause by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:

§2311. Completion of Promissory Note and Acceptance of Award

Prior to receiving an award, the Recipient must agree to the terms and conditions contained in and execute the Tuition Payment Program for Medical Students Promissory Note ("Promissory Note"). The Promissory Note obligates the Recipient to initiate a primary care practice in a Designated Area upon the completion of a primary care residency program. The Recipient shall complete the primary care residency program within four years of the date of graduation from medical school and shall initiate the full time practice of medicine as a primary care physician in a Designated Area within six (6) months from the date of completion of the residency program. The Designated Area in which the Recipient initiates practice shall be that area designated in the notice required by §2309.B, above, or such other Designated Area chosen by the Recipient, with the concurrence of LASFAC, upon completion of the residency program. The Promissory Note shall provide that if the area chosen in the notice provided for in §2309.B, above, is no longer an area designated a "rural health shortage area" by the Louisiana Department of Health and Hospitals at the time the Recipient finishes the residency program, it shall continue to be considered a Designated Area for purposes of discharge of the loan amount under these rules. The Recipient shall be deemed to be in a full time primary care practice if the Recipient performs direct patient care for an average of at least 36 hours per week in a normal annual work schedule. Should a Recipient fail to enter into the practice of medicine on a full time basis as a primary care physician within the time specified herein, the loan shall be placed in a repayment status and repaid together with all accrued interest and any collection costs incurred by the Commission, as specified in the Promissory Note.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:

§2313. Discharge of Obligation

A. The loan may be discharged by engaging in a full time primary care medical practice in a Designated Area for a period of four years, by monetary repayment or by cancellation.

B. Discharging the loan by entering into the full time practice as a primary care physician in a Designated Area is accomplished by:

1. completing a residency in a primary care field of medicine within four (4) years of the graduation from medical school; and
2. practice as a primary care physician on a full time basis for a period of at least four consecutive years in a Designated Area.

C. Recipients who fail to complete the medical practice requirements as specified in the Promissory Note shall be required to repay the entire loan obligation in accordance with subsection D, below.

D. Discharging the Promissory Note by Monetary Repayment. Recipients who elect not to discharge the obligation by practicing medicine as required in these rules and the Promissory Note and who are not eligible for discharge by cancellation must repay the loan principal plus accrued interest and any collection costs incurred according to the following terms and conditions:

1. interest shall accrue on the outstanding principal from the date of disbursement to the Recipient, at the rate determined by the Commission and reflected in the Promissory Note, not to exceed the maximum rate of interest which can be legally charged under Louisiana law for such loans. Annually, accrued interest shall be capitalized, meaning added to principal;

2. interest on each disbursement shall accrue from the date of disbursement until repaid, or fulfilled and shall be capitalized annually and at the time the Recipient enters repayment status.

E. Repayment Status

1. The Recipient will enter into a repayment status the first of the month following:

a. determination by LASFAC that the Recipient cannot discharge the loan by practicing medicine as required by these rules and the Promissory Note within the required time period; or

b. the date the Recipient notifies LASFAC that monetary repayment is desired; or

c. six months after LASFAC determines that the Recipient is no longer participating in a residency program in a primary care medical field or has otherwise failed to comply with the terms of the Promissory Note;

2. The amount to be repaid annually will be the greater of:

a. the amount necessary to amortize the loan principal together with capitalized and accruing interest within five (5) years; or

b. \$5,000 per year or the unpaid balance, whichever is less.

3. Recipients in repayment status may have their payments deferred in accordance with §2105.B, Deferment of Repayment Obligation.

4. During the period of time a Recipient is in a deferment status, a Recipient is not required to make payments and interest does not accrue.

5. The period of time for completion of repayment will be extended by a period of time equal to the length of time the Recipient is in deferment status.

D. Cancellation. The obligation to repay any remaining unpaid balance of the Promissory Note shall be canceled in the event either of the following occurs:

1. upon submission to LASFAC of a sworn affidavit from a qualified physician that the Recipient is precluded from gainful employment because of a complete and permanent medical disability or condition; or

2. upon submission to LASFAC of a death certificate or other evidence conclusive under state law, that the Recipient is deceased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:

Jack L. Guinn
Executive Director

9902#002

DECLARATION OF EMERGENCY

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

Diabetes Self-Management Program

Pursuant to the authority granted by R.S. 42:871(C) and 874(B)(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 February 20, 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 implement the provisions of Act Number 1439 of the 1997 Regular Session of the Louisiana Legislature (R.S. 22:215.18), regarding benefits for diabetes self management training. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Article 3, Section I, Subsection F, by adding a new paragraph, 36, to read as follows:

36. outpatient self-management training and education, including medical nutrition therapy, for the treatment of insulin-dependent diabetes, insulin-using diabetes, gestational diabetes, and non-insulin using diabetes, when such self-management training and education is provided by a licensed health care professional with demonstrated expertise in diabetes care and treatment who has completed an educational program required by the appropriate licensing board in compliance with the National Standards for Diabetes Self-Management Education Program as developed by the American Diabetes Association, and only as follows:

a. a one-time evaluation and training program for diabetes self management, conducted by the health care professional in compliance with the National Standards for Diabetes Self-Management Education Program as developed by the American Diabetes Association, upon certification by

the health care professional that the covered person has successfully completed the program, such benefits not to exceed \$500;

b. additional diabetes self-management training required because of a significant change in the covered person's symptoms or conditions, limited to benefits of \$100 per year and \$2,000 per lifetime;

* * *

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

9902#041

DECLARATION OF EMERGENCY

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

PPO/EPO—Provider Contracting Criteria

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, and in accordance with R.S. 40:2204(D), the Board of Trustees hereby invokes the Emergency Rule provisions of La. R.S. 49:953(B).

The Board finds that it is necessary to establish a process and implement criteria governing contracting with health care providers or groups of providers for participation in a preferred provider organization or other managed care arrangement. Failure to adopt this rule on an emergency basis will result in a financial impact adversely affecting the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state. Accordingly, the following Emergency Rule is effective January 19, 1999, and shall remain in effect for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first.

Criteria for Participation in a Preferred Provider Organization, Exclusive Provider Organization, or Other Managed Care Arrangement

I. Notice of Intent to Contract

Notice of intent to contract with health care providers, or with groups or organizations of health care providers, on behalf of the State Employees Group Benefits Program, for participation in a preferred provider organization, exclusive provider organization, or other managed care arrangement shall be given by publication in the official journal of the State of Louisiana or by direct solicitation setting forth the Program's intent to contract, describing the services sought, and providing a contact point for requesting a detailed explanation of the services sought and the criteria to be used in developing contracts.

II. Preferred Provider Organization (PPO) Criteria

The following criteria shall govern participation in the Program's Preferred Provider Organization (PPO).

A. The health care provider shall be appropriately licensed in accordance with the laws of the state where the services are to be rendered.

B. The health care provider shall accept the reimbursement schedule established by the Program.

C. The health care provider shall execute a PPO contract setting forth the Program's the terms and conditions.

III. Exclusive Provider Organization Criteria

In addition to the PPO criteria, following criteria shall govern participation in the Program's Exclusive Provider Organization (EPO).

A. Hospital Participation

1. In each regional service area established by the Program, at least one tertiary care hospital facility shall be selected for participation.

2. To be eligible for selection as a tertiary care hospital facility, the hospital shall provide the following services:

- a. general medical and surgical facilities (inpatient and outpatient);
- b. intensive and critical care units;
- c. emergency care facility;
- d. cardiovascular care unit;
- e. obstetrical care, unless the Program contracts directly with an obstetrical care hospital facility in the region;
- f. rehabilitation; and
- g. skilled nursing unit.

3. Selection will be based upon cost analysis (60 percent) and market acceptability for plan participants (40 percent).

4. The hospital shall agree to participate for a minimum term of one year, consistent with the Program's plan year.

5. Selected hospitals shall execute an EPO hospital contract setting forth the Program's terms and conditions.

B. Physician Network Participation

1. In each regional service area established by the Program, at least one physician network shall be selected for participation.

2. To be eligible for selection, a physician network shall have at least twenty (20) primary care physicians for each proposed region. Primary care physicians are licensed medical doctors practicing in the areas of family practice, general practice, internal medicine, pediatrics, and obstetrics/gynecology. A minimum of four (4) physicians must practice in each of the following categories:

- a. Family Practice, General Practice, or Internal Medicine;
- b. Pediatrics; and
- c. Obstetrics/Gynecology.

3. In addition to the primary care physician requirements, the physicians network in each proposed region shall include physicians practicing in the areas of Urology, General Surgery, Orthopedics, Radiology, Pathology, Anesthesiology, Otolaryngology, Neurology, Allergy, Gastroenterology, Ophthalmology and Dermatology. The

Program may relax or enlarge this requirement based upon its contracting experience with a particular specialty.

4. A primary care physician may not participate in more than one EPO network in each region.

5. All physicians in the network shall participate for a minimum term of one year, consistent with the Program's plan year, except for reasons of retirement from the practice of medicine or relocation of the physician's practice out of the region.

6. Selection will be based upon cost analysis (60 percent) and market acceptability for plan participants (40 percent).

7. Selected physician networks shall execute an EPO physician contract setting forth the Program's terms and conditions.

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

9902#007

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Veterinary Medicine

Consulting and Providing Legend and Certain Controlled Substances (Ketamine) (LAC 46:LXXXV.704)

The Board of Veterinary Medicine has adopted the following Emergency Rule, effective February 8, 1999, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B), and the Veterinary Practice Act, La. R.S. 37:1518 et seq., and it shall be in effect for the maximum period allowed by law.

To protect the public health and safety, the board has amended LAC 46:LXXXV.704.B to include ketamine as a controlled substance which an animal control agency may use for the sole purpose of animal capture and restraint, so long as a licensed veterinarian who possesses a state controlled dangerous substance license at the shelter location where the drugs will be stored and administered agrees to be responsible for the ketamine used. The emergency amendment further prescribes the conditions under which ketamine is used and stored by an animal control agency. This emergency rule will allow animal control agencies to perform their mission in a manner that will serve to protect the public from dangerous animals. Ketamine is a drug used to immobilize feral, diseased, and vicious animals. In the case of some animals, ketamine (sometimes in combination with non-controlled drugs) is the preferred drug for restraint or capture. The lack of access to ketamine may place animal control agency personnel at greater risk from dangerous animals.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§704. Consulting and Providing Legend and Certain Controlled Substances

A.1. - 5. ...

B. Telazol (Tiletamine HCL and Zolazepam HCL) and Ketamine (Ketamine HCL)

1. When an animal control agency which is operated by a state or local governmental agency or which is operated by any duly incorporated humane society which has a contract with a local governmental agency to perform animal control services on behalf of the local governmental agency seeks to administer the controlled substances Telazol (tiltamine HCL and zolazepam HCL) or Ketamine (ketamine HCL), to an animal for the sole purpose of animal capture and/or animal restraint, the animal control agency must have a staff or consulting veterinarian who is licensed to practice veterinary medicine by the Board of Veterinary Medicine, and who is registered with the Drug Enforcement Administration (DEA) and licensed by the state controlled dangerous substances program at the shelter location where the drugs will be stored and administered, who obtains and who is responsible for the Telazol (tiletamine HCL and zolazepam HCL) or Ketamine (ketamine HCL) used.

2. A storage and use plan for Telazol (tiletamine HCL and zolazepam HCL) and Ketamine (ketamine HCL) which meets or exceeds the requirements of all federal or state drug enforcement agencies (including storage of controlled substances in a securely locked, substantially constructed cabinet and the keeping of a perpetual inventory as required by LAC 48.Chapter 39) and the record keeping requirements of this Chapter shall be submitted to the Board of Veterinary Medicine for approval.

a. This usage plan shall include a requirement that each use of Telazol (tiletamine HCL and zolazepam HCL) and Ketamine (ketamine HCL) shall be documented for review by the licensed veterinarian responsible for the purchase and inventory of that drug.

b.i - vi. ...

c. This usage plan shall include a requirement that a review of each use of Telazol (tiletamine HCL and zolazepam HCL) and Ketamine (ketamine HCL) shall be made by the responsible veterinarian and that said veterinarian shall initial the usage log entries to indicate this review. A review of the usage plan shall be made at least quarterly and the quantities of the drug used and on hand shall be tallied and authenticated. Any variance shall be noted in the log and steps should be taken and documented to correct the problem.

d. This usage plan shall include a requirement that any removal of Telazol (tiletamine HCL and zolazepam HCL)

or Ketamine (ketamine HCL) from the securely locked, substantially constructed cabinet shall be in minimal amounts, shall be maintained in a locked container when not in use, and shall be documented in a manner to include, but not be limited to:

i. - iv. ...

C. ...

D. This Section does not pertain to any controlled substances listed in any DEA classification schedule or state of Louisiana classification schedule, except Telazol (tiletamine HCL and zolazepam HCL) and Ketamine (ketamine HCL). This Section specifically does not apply to sodium pentobarbital, which is regulated for animal control agency use in R.S. 37:1551-1558.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 20:666 (June 1994), amended LR 24:334 (February 1998), LR 25:

Charles B. Mann
Executive Director

9902#034

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodology— Large Public Non-State Rural Hospitals

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will adopt the following emergency rule in the Medical Assistance Program as authorized by LA. R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act, R.S. 49:953B(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule March 20, 1998 governing the disproportionate share payment methodologies for hospitals (*Louisiana Register*, Volume 24, Number 3). This rule was adopted pursuant to Act 19 of the 1998 Legislative Session and Act 1485 of the 1997 Legislative Session. Act 19 provides for different treatment of disproportionate share funds for uncompensated costs in small non-state operated local government hospitals and private rural hospitals with 60 beds or less. Act 1485 allows rural hospitals to meet less stringent criteria in order to receive the maximum disproportionate share funding available in accordance with the amounts appropriated by the Legislature and to the extent authorized by federal law. Therefore, the Department has determined that it is necessary to amend the March 20, 1998 rule by increasing the disproportionate share payment for large public non-state rural hospitals by allowing the qualifying hospitals to certify uncompensated care

expenditures as match and receive the equivalent of Federal Financial Participation (FFP) in the same manner as small public non-state rural hospitals. The provisions contained in the March 20, 1998 rule otherwise remain intact.

This action is necessary to secure enhanced federal funding and is in accordance with the Joint Legislative Budget Committee's directive of October 16, 1998 to change the disproportionate share payment methodology for large public non-state rural hospitals for state fiscal year 1999. It is estimated that the expenditure necessary to implement this rule will be \$6,779,745 in federal funds only for state fiscal year 1999. This rule will not require the expenditure of any additional state general funds.

Emergency Rule

Effective March 1, 1999, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the disproportionate share payment for large public non-state rural hospitals for state fiscal year 1999 only, by allowing these qualifying hospitals to certify uncompensated care expenditures as match and receive the equivalent of Federal Financial Participation (FFP) in the same manner as small public non-state rural hospitals. This payment will be in lieu of a lower payment that these hospitals would have otherwise received under the disproportionate share payment methodologies for other hospitals receiving disproportionate share payments contained in the March 20, 1998 rule. The provisions contained in the March 20, 1998 rule otherwise remain intact.

A large public non-state rural hospital is a hospital owned by a local government that is not included in Section III.A or B of the March 20, 1998 rule and meets the following criteria:

- (1) is located in a parish with a population of less than fifty thousand; or
- (2) is located in a municipality with a population of less than twenty thousand.

The designation large public non-state rural hospital includes distinct-part psychiatric units, but excludes long-term, rehabilitation, or free-standing psychiatric hospitals. Large public non-state rural hospitals must qualify as a disproportionate share hospital as indicated in Section II, entitled "Qualifying Criteria for a Disproportionate Share Hospital," of the March 1998 rule.

Disproportionate share payments for state fiscal year 1999 to each qualifying large public non-state rural hospital are equal to that hospital's pro rata share of uncompensated costs for all hospitals meeting these criteria for the cost reporting period ended during the period April 1, 1997 through March 31, 1998 multiplied by the amount set for this pool. If the cost reporting period is not a full period (twelve months), actual uncompensated cost data for the previous cost reporting period may be used on a pro rata basis to equate to a full year.

A pro rata decrease necessitated by the conditions specified in Section I.B of the March 20, 1998 rule for hospitals described in this section will be calculated using the ratio determined by dividing the qualifying hospital's uncompensated costs by the uncompensated costs for all large public non-state rural hospitals, then multiplying by the amount of disproportionate share payments calculated in

excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this public notice. The deadline for receipt of all written comments is February 21, 1999 by 4:30 p.m. A copy of this public notice is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

9902#052

DECLARATION OF EMERGENCY

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

Pharmacy Program—Erectile Dysfunction Drugs

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides coverage for prescription drugs for treatment of erectile dysfunction without limitation through the Pharmacy Program under the Medicaid Program. Effective October 7, 1998 the department determined it was necessary to limit the number of units of these drugs that are reimbursed under the Medicaid Program to six units per month (*Louisiana Register*, Volume 24, Number 10). This subsequent emergency rule is being adopted in order to continue the effort to prevent potential abuse of these prescription drugs.

Emergency Rule

Effective for dates of service on or after February 3, 1999, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will limit the number of units of prescription drugs for the treatment of erectile dysfunction that are reimbursable by the Medicaid Program to six units per month per patient. Units include tablets, injectable, intraurethral pellets and any other dosage form which may become available. In addition, the following provisions will govern the reimbursement for these drugs.

1. Prescriptions issued for the treatment of erectile dysfunction must be hand written and shall include a medically accepted indication.

2. An ICD-9 diagnosis code must be written on the hard copy of the prescription or attached to the prescription which is signed and dated by the prescriber.

3. Recipient specific diagnosis information from the prescriber via the facsimile is acceptable when signed and dated by the prescriber.

4. Acceptable ICD-9 diagnosis codes for these drugs include impotence of non-organic origin or impotence of organic origin.

5. No reimbursement for therapeutic duplication of drugs, early refills, or duplicate drug therapy within the therapeutic class of drugs used to treat erectile dysfunction is allowed.

David W. Hood
Secretary

9902#054

DECLARATION OF EMERGENCY

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

Standards for Payment for Adult Day Health Care (ADHC) Services (LAC 50:II.10905 and 10907)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts the following emergency rule in the Medicaid Program as authorized by R.S. 46:153. This emergency rule is adopted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals is responsible for licensing adult day health care centers as authorized by Public Act 705 of the 1984 Louisiana Legislative Session. Current licensing standards for providers of Adult Day Health Care Centers require:

1) enrolled Title XIX Adult Day Health Care Centers shall be licensed by the Department of Health and Hospitals, Division of Licensing and Certification;

2) a provider agreement must be executed wherein the applicant agrees to comply with the Standards for Payment for Adult Day Health Care Centers; and

3) an applicant for enrollment shall have completed two years as a Louisiana licensed health care provider.

Copies of applicable licenses must be provided to the Division of Medical Assistance (*Louisiana Register*, Vol. 14, Number 11).

The Department has determined that it is necessary to amend the standards for participation for Adult Day Health Care Centers by deleting the requirement for the completion of two years as a Louisiana licensed healthcare provider as a condition for licensure. In addition, the Department has created the Division of Home and Community Based Services Waivers (DHCBSW) to be responsible for the operation and management of the Home and Community Based Services Waiver as well as Case Management Services Programs. The DHCBSW shall be included in the list of definitions applicable to adult day health care centers.

This action is necessary to enhance statewide access to services and to avoid possible federal sanctions for lack of statewide access. It is anticipated that implementation of this emergency rule will result in an increase in revenues of \$600 for each new adult day health care license issued.

Emergency Rule

Effective February 21, 1999 the Department of Health and Hospitals, Bureau of Health Services Financing amends §10905 entitled Definitions and §10907 entitled Licensure as follows:

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Medical Assistance Program

Subpart 3. Standards for Payment

Chapter 109. Standards for Payment—Adult Day

Health Care Services

§10905. Definitions

* * *

DHCBSW—Division of Home and Community-Based Services Waivers of the Bureau of Health Services Financing.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:623 (June 1985), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended LR 25:

§10907. Licensure

A. Enrolled Title XIX Adult Day Health Care Centers shall be licensed by the Department of Health and Hospitals.

B. A Provider Agreement must be executed wherein the applicant agrees to comply with the Standards for Payment for Adult Day Health Care Centers.

C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:623 (June 1985), amended by the Department of Health and Hospitals, Office of the Secretary, LR 14:793 (November 1988), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1150 (September 1997), amended LR 25:

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

David W. Hood
Secretary

9902#051

DECLARATION OF EMERGENCY

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

Targeted Case Management Services

The Department of Health and Hospitals, Bureau of Health Services Financing adopts the following emergency rule under the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a rule in June of 1997 governing the provision of case management services to targeted populations and certain home and community based services waiver groups (*Louisiana Register*, Vol. 23, Number 6). This rule addressed programmatic requirements including general provisions, standards for provider participation, standards for payment, consumer eligibility and reimbursement methodology.

The Department has subsequently determined it is necessary to restructure targeted case management services under the Medicaid Program in order to enhance the quality of services and assure statewide access to services. Section 4118(i) of the "Omnibus Budget Reconciliation Act of 1987" permits the State to limit the case managers available with respect to case management services for eligible individuals with developmental disabilities or chronic mental illness in order to ensure that the case managers are capable of ensuring that such individuals receive needed services. Therefore, the Department has decided to limit the number of case management agencies who may be enrolled to provide services to recipients in the Mentally Retarded/ Developmentally Disabled (MR/DD) Waiver Program by means of a selective contract. The participation of case management agencies providing service to other targeted and waiver populations will also be limited contingent on the approval of a 1915(b)(4) waiver by the Health Care Financing Administration (HCFA). In addition, all case management agencies shall be required to incorporate personal outcome measures in the development of comprehensive plans of care and to implement procedures for self-evaluation of the agency.

This action is necessary to avoid possible federal sanctions for non-compliance with our corrective action plan for Home and Community Based Services Waiver Program. It is anticipated that the implementation of this emergency rule will be cost neutral.

Emergency Rule

Effective March 1, 1999, the Department of Health and Hospitals, Bureau of Health Services Financing repeals the

June 20, 1997 rule and adopts the following rule governing the provision of case management services to targeted population groups and certain home and community based services waiver groups. The number of case management agencies who may be enrolled to provide services to recipients in the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver Program shall be limited to those agencies who have been awarded a contract by the Department. The participation of case management agencies providing service to other targeted and waiver populations will also be limited contingent on the approval of a 1915(b)(4) waiver by the Health Care Financing Administration (HCFA). In addition, all case management agencies shall be required to incorporate personal measures in the development of comprehensive plans of care and to implement procedures for self-evaluation of the agency. All case management agencies must comply with the policies contained in this rule and the Medicaid Case Management Services Provider Manual issued March 1, 1999 and all subsequent changes.

I. General Provisions

A. Case Management Agency Responsibilities

Case Management is defined as services provided to individuals to assist them in gaining access to the full range of needed services including medical, social, educational, and other support services. The department utilizes a broker model of case management in which recipients are referred to other agencies for the specific services they need. These services are determined by professional assessment of the recipient's needs and are provided in accordance with a written comprehensive plan of care which includes measurable person centered outcomes. All Medicaid enrolled case management agencies are required to perform the following core elements of case management services.

1. **Case Management Intake.** The purpose of intake is to serve as an entry point for case management services and gather baseline information to determine the recipient's need, appropriateness, eligibility and desire for case management.

2. **Case Management Assessment.** Assessment is the process of gathering and integrating formal and informal information regarding a recipient's goals, strengths, and needs to assist in the development of a person centered comprehensive plan of care. The purpose of the assessment is to establish a contract between the case manager and recipient and the assessment shall be performed in the recipient's home.

3. **Comprehensive Plan of Care Development.** The comprehensive plan of care (CPOC) is a written plan based upon assessment data (which may be multi disciplinary), observations and other sources of information which reflect the recipient's needs, capacities and priorities. The purpose of the CPOC is to identify the services required and resources available to meet these needs.

a. The CPOC must be developed through a collaborative process involving the recipient, family, case manager, other support systems, appropriate professionals and service providers. It shall be developed in the presence of the recipient; therefore, it cannot be completed prior to a meeting with the recipient. The recipient, family, case manager, support system and appropriate professional personnel must be

directly involved and agree to assume specific functions and responsibilities.

b. The CPOC must be completed and submitted for approval within 35 calendar days of the referral for case management services.

4. **Case Management Linkage.** Linkage is the arranging of services agreed upon with the recipient and identified in the CPOC. Upon the request of the recipient or responsible party attempts must be made to meet service needs with informal resources as much as possible.

5. **Case Management Follow-Up/Monitoring.** Follow-up/monitoring is the mechanism used by the case manager to assure the appropriateness of the CPOC. The purpose of follow-up/monitoring contacts is to determine if the services are being delivered as planned; are effective and adequate to meet the recipient's needs; and whether the recipient is satisfied with the services. Through follow-up/monitoring activity, the case manager not only determines the effectiveness of the CPOC in meeting the recipient's needs, but identifies when changes in the recipient's status necessitate a revision in the CPOC.

6. **Case Management Reassessment.** Reassessment is the process by which the baseline assessment is reviewed and information is gathered for evaluating and revising the overall CPOC. At least every six months, a complete review of the CPOC must be performed to assure that goals and services are appropriate to the recipient's needs as identified in the assessment/reassessment process. A reassessment is also required when a major change occurs in the status of the recipient and/or his family.

7. **Case Management Transition/Closure.** Discharge from a case management agency must occur when the recipient no longer requires services, desires to terminate services, becomes ineligible for services, or chooses to transfer to another case management agency. The closure process must ease the transition to other services or care systems. The agency may not retaliate in any way against the recipient for terminating services or transferring to another agency for case management services.

8. **Maintenance of Records.** All agency records must be maintained in an accessible, standardized order and format at the DHH enrolled office site. The agency must have sufficient space, facilities and supplies to ensure effective record keeping.

a. Administrative and recipient records must be maintained in a manner to ensure confidentiality and security against loss, tampering, destruction or unauthorized use.

b. The case management agency must retain its records for the longer of the following time frames:

(1). five years from the date of the last payment; or

(2). until the records are audited and all audit questions are answered.

c. Agency records must be available for review by the appropriate state and federal personnel at all reasonable times.

B. Recipient Freedom of Choice

Selection of Case Management Agency. Recipients have the right to select the provider of their case management services from among those available agencies enrolled for participation. Recipients must be linked to a case management

agency for a six month period before they can transfer to another agency. Recipients who fail to initially select a provider will be automatically assigned to an agency. They may choose another available provider within 30 days of the automatic assignment.

II. Standards of Participation

A. In order to participate as a case management services provider in the Medicaid Program, an agency must comply with licensure and certification requirements, provider enrollment requirements, and the specific terms of individual contractual agreements.

B. Provider Enrollment Requirements

A separate PE-50 and Disclosure of Ownership form shall be submitted to the Bureau for each targeted or waiver population and DHH designated region that the agency plans to serve, as well as for each office site it plans to operate. The agency shall provide services only in the parishes of the DHH administrative region for which approval has been granted. The following enrollment requirements are applicable to all case management agencies, regardless of the targeted or waiver group served. Failure to comply with these requirements may result in sanctions and/or recoupment:

1. demonstrate direct experience in successfully serving the target population and demonstrated knowledge of available community services and methods for accessing them including the following:

a. maintain a current file of community resources available to the target population and have established linkages with those resources;

b. demonstrate knowledge of the eligibility requirements and application procedures for federal, state, and local government assistance programs which are applicable to the target population served;

c. employ a sufficient number of case manager and supervisory staff to comply with the staff coverage, staffing qualifications and maximum caseload size requirements described in section III. A, B, and D;

2. demonstrate administrative capacity and financial resources to provide all core elements of case management services and ensure effective service delivery in accordance with DHH licensing and programmatic requirements;

3. submit cost reports in compliance with BHSF guidelines and have no outstanding or unresolved audit disclaimer with BHSF;

4. assure that all agency staff is employed in accordance with Internal Revenue Service (IRS) and Department of Labor regulations. The sub-contracting of individual case managers and/or supervisors is prohibited. However, those agencies who have been awarded Medicaid contracts for case management services may sub-contract with another licensed case management agency for case manager and/or supervisory staff if prior approval has been obtained from the Department;

5. assure that all new staff satisfactorily completes an orientation and training program in the first 90 days of employment. All case managers must attend all training mandated by the Department. Each case manager and supervisor must satisfactorily complete case management related training annually to meet the minimum training requirements;

6. implement and maintain an on-going quality assurance plan and self-evaluation plan approved by the department to determine program compliance and effectiveness;

7. document and maintain recipient records in accordance with federal and state regulations governing confidentiality and licensing requirements;

8. assure the recipient's right to elect to receive or terminate case management services (except for recipients in the MR/DD or Elderly and Disabled Adult Waiver Programs). Assure that each recipient has freedom of choice in the selection of a case management agency, a qualified case manager, or other service providers and the right to change providers or case managers;

9. assure that the agency and case managers will not provide case management and Medicaid reimbursed direct services to the same recipient(s) unless there is a separate board of directors;

10. with the recipient's permission, agree to maintain regular contact, share relevant information and coordinate medical services with the recipient's attending physician;

11. demonstrate the capacity to participate in the department's electronic data gathering system(s). All requirements for data submittal must be followed and participation is required for all enrolled case management agencies. The software is the property of the department;

12. complete management reports as described in the manual.

C. Agencies serving certain specific target groups must meet the following additional enrollment requirements.

1. Case management agencies serving high risk pregnant women must also demonstrate successful experience with the coordination and/or delivery of services for pregnant women; have a working relationship with a local obstetrical provider and acute care hospital that provides deliveries for 24-hour medical consultation; and have a multi disciplinary team which consists, at a minimum, of the following professionals: a physician, primary nurse associate or certified nurse manager, registered nurse, social worker, and nutritionist. The team members must meet the licensure and perinatal experience requirements applicable for services to high-risk pregnant women; and

2. case managers serving HIV-infected individuals must also satisfactorily complete a one-day training approved by the department's HIV Program Office.

III. Standards for Payment

In order to be reimbursed by the Medicaid Program, an enrolled provider of targeted or waiver case management service must comply with all of the requirements listed below.

A. Staff Coverage

1. Case management agencies must maintain sufficient staff to serve recipients within the mandated caseload size of thirty-five (35) with a supervisor to staff ratio of no more than eight case managers per supervisor. All case managers must be employed by the agency at least 40 hours per week and work at least 50 percent of the time during normal business hours (8 a.m. to 5 p.m., Monday through Friday). Case management supervisors must be full time employees and must be continuously available to case managers by telephone or

beeper at all other times when not on site when case management services are being provided. All exceptions to the maximum caseload size or full time employment of staff requirements must be prior authorized by the Bureau. The agency must have a written policy to ensure service coverage for all recipients during the normal absences of case managers and supervisors or prior to the filling of vacated staff positions.

2. The agency must maintain a toll-free telephone number to ensure that recipients have access to case management services 24 hours a day, seven days a week. Recipients must be able to reach an actual person in case of an emergency, not a recording.

B. Staff Qualifications

Each Medicaid-enrolled agency must have the appropriate knowledge and skills in hiring case management staff to ensure that all staff providing case management services meet the following qualifications, skills and training requirements prior to assuming any caseload responsibilities.

1. Education and Experience for Case Managers

All case managers must meet one of the following minimum education and experience qualifications.

a. a bachelor's degree in a human-service-related field such as psychology, education, rehabilitation counseling, or counseling from an accredited college or university and one year of paid experience in a human-service-related field providing direct services or case management services; or

b. a licensed registered nurse with one year of paid experience as a registered nurse in public health or a human-service-related field providing direct services or case management services; or

c. a bachelor's or master's degree in social work from a social work program accredited by the Council on Social Work Education.

The above-referenced minimum qualifications for case managers are applicable for all targeted and waiver groups. Thirty hours of graduate level course credit in a human-service-related field may be substituted for the one year of required paid experience.

In addition, case managers serving High-Risk Pregnant Women must demonstrate knowledge about perinatal care and either meet one of the qualifications cited above or the following qualification:

d. a registered dietician with one year of paid experience in providing nutrition services to pregnant women.

2. Education and Experience for Case Management Supervisors

All case management supervisors hired or promoted must meet one of the following education and experience requirements. Supervisors of case managers for High-Risk Pregnant Women must demonstrate knowledge about perinatal care in addition to meeting one of these qualifications:

a. a master's degree in social work, psychology, nursing, counseling, rehabilitation counseling, education (with special education certification), occupational therapy, speech therapy or physical therapy from an accredited college or university and two years of paid post-master's degree experience in a human-service related field providing direct

services or case management services. One year of this experience must be in providing direct services to the target population served; or

b. a bachelor's degree in social work from a social work program accredited by the Council on Social Work Education and three years of paid post-bachelor degree experience in a human-service related field providing direct services or case management services. One year of this experience must be in providing direct services to the target population served; or

c. a licensed registered nurse with three years of paid post-licensure experience as a registered nurse in public health or a human service-related field providing direct services or case management services. Two years of this experience must be in providing direct services to the target population served; or

d. a bachelor's degree in a human-service-related field such as psychology, education, rehabilitation counseling, or counseling from an accredited college or university and four years of paid post-bachelor degree experience in a human service related field providing direct services or case management services. Two years of this experience must be in providing direct services to the target population served.

The above minimum qualifications for case management supervisors are applicable for all targeted and waiver groups. Thirty hours of graduate level course credit in a human-service-related field may be substituted for one year of the required paid experience.

3. Training

Training for case managers and supervisors must be provided or arranged for by the case management agency at its own expense.

a. Training for New Staff. A minimum of sixteen (16) hours of orientation must be provided to all staff, volunteers, and students within one week of employment. A minimum of eight hours of the orientation training must address the target population including, but not limited to, specific service needs, available resources and other topics. In addition to the required 16 hours of orientation, all new employees who have no documentation of previous training must receive a minimum of 16 hours of training during the first 90 calendar days of employment related to the target population and the skills and techniques needed to provide case management to that population.

b. Annual Training. Case managers and supervisors must satisfactorily complete a minimum of forty (40) hours of case-management related training annually which may include updates on subjects covered in orientation and initial training. The 16 hours of orientation training required for new employees are not included in the annual training requirement of at least 40 hours.

C. Supervisory Responsibilities

Each case management supervisor shall be responsible for assessing staff performance, reviewing individual cases, providing feedback, and assisting staff to develop problem solving skills using two or more of the following methods:

1. individual, face-to-face sessions with staff;

2. group face-to-face sessions with all case management staff; or

3. sessions in which the supervisor accompanies a case manager to meet with recipients.

IV. Reimbursement

The reimbursement methodology for optional targeted and waiver case management services is a fixed monthly rate for the provision of the core elements of case management services as described in Section I.A. The primary objective of case management is the attainment of the personal outcomes identified in the recipient's comprehensive plan of care.

In addition to the provision of the core elements, a minimum of one home visit per quarter is required for all recipients of optional targeted and waiver case management services. The agency shall ensure that more frequent home visits are performed if indicated in the recipient's CPOC. The purpose of the home visit is to assess the effectiveness of support strategies and to assist the individual to address problems, maximize opportunities and/or revise support strategies or personal outcomes, if it is determined necessary.

The case management agency shall also be responsible for monitoring service providers quarterly through telephone monitoring, on-site visits and review of the service providers' records. The agency must also ensure that the service provider is given a copy of the recipient's most current CPOC and any subsequent updates.

A technical amendment (Public Law 100-617) in 1988 specifies that the Medicaid Program is not required to pay for case management services that are furnished to consumers without charge. This is in keeping with Medicaid's longstanding position as the payer of last resort. With the statutory exceptions of case management services included in Individualized Education Programs (IEP'S) or Individualized Family Service Plans (IFSP's) and services furnished through Title V public health agencies, payment for case management services cannot be made when another third party payer is liable, nor may payments be made for services for which no payment liability is incurred.

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

David W. Hood
Secretary

9902#049

DECLARATION OF EMERGENCY

Department of Natural Resources Office of Conservation

Pollution Control—Statewide Order No. 29-B
(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 Louisiana Administrative Procedure Act, Title 49, Sections 953(B)(1) and (2), 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 continuing a procedure for testing E&P waste after receipt at a commercial facility and identifying acceptable storage, treatment and disposal methods for certain E&P wastes at commercial facilities.

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 Number 29-B) require only very limited testing of the waste received for storage, 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 a first 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 permitted commercial E&P waste disposal facilities within the State of Louisiana. The May 1, 1998 Emergency Rule had an effective term of 120 days. However, technical experts under contract with the Office of Conservation determined during the term of the May 1, 1998 Emergency Rule that sampling and testing should be extended for an additional 30 days for the purpose of receiving additional data in order to strengthen the validity of the inferred concentration distributions within the various E&P waste types. Therefore, a second Emergency Rule was issued on August 29, 1998, and effective through September 30, 1998.

The second Emergency Rule required continued 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 terms of the first and second Emergency Rules, approximately 1,800 E&P waste testing batches were analyzed, with the raw data results being filed with the Office of Conservation. Technical experts under contract with the Office of Conservation, together with staff of the Office of Conservation, determined that the number of raw data sets of E&P waste types, along with other published analytical results of E&P waste testing, provided adequate numbers of validated test results of the various generic E&P waste types to reach statistically valid

conclusions regarding the overall chemical and physical composition of each type of E&P waste.

Therefore, continued testing of E&P waste at the site of generation was unnecessarily redundant, and was discontinued. The third Emergency Rule adopted on October 1, 1998 required continued testing of each E&P waste shipment at the commercial disposal facility according to procedures described in Section D. Such continued testing was required to assure that E&P waste shipments received for disposal at commercial facilities were consistent with evolving E&P waste profiles.

The fourth Emergency Rule adopted herein provides requirements for continued testing of all E&P waste shipments received for disposal at commercial E&P waste disposal facilities, as well as identifying acceptable methods of storage, treatment and disposal of certain E&P waste types at such commercial facilities. Concurrent with implementation of this Emergency Rule, the Office of Conservation will continue development of the permanent rule for the management and disposal of E&P waste at commercial facilities within the State of Louisiana. Best E&P waste management practices, based on established E&P waste profiles, will be incorporated into the permanent rule. Such permanent rule will also address specific storage, treatment and disposal options for the various categories of E&P waste.

Synopsis

1. E&P Waste Will Be Transported with Identification

Each load of E&P waste transported from the site of generation to a commercial facility for disposal will be accompanied by an Oilfield Waste Shipping Control Ticket (Form UIC-28) and presented to the operator before offloading. Copies of completed Form UIC-28 are required to be timely filed with the Office of Conservation.

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. Each Load of E&P Waste Will Be Tested at 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 load of E&P waste 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.

3. Identification of Acceptable Storage, Treatment and Disposal Methods (Options) for E&P Waste

It is required that all offsite storage, treatment and disposal methods for E&P waste utilize approved technologies that are protective of public health and the environment. This

fourth Emergency Rule recognizes and requires that injection in Class II wells, after storage in a closed system, shall be utilized for Waste Types 01 and 14. The remainder of the E&P waste types are currently under study to confirm acceptable storage, treatment and disposal methods. Any additional acceptable storage, treatment and disposal methods will be promulgated in the near future.

Reasons

Recognizing the potential advantages of a testing program that is fully protective of public health and the environment and that adequately characterizes such waste as to its potentially toxic constituents, and by the identification of acceptable storage, treatment and disposal methods for certain types of E&P waste, it has been determined that failure to establish such procedures and requirements 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 is performed and acceptable storage, treatment and disposal methods for certain types of E&P waste are employed at commercial facilities. The Emergency Rule, Amendment to Statewide Order Number 29-B (Emergency Rule) set forth hereinafter, is now adopted by the Office of Conservation.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation - General Operations

Subpart 1. Statewide Order Number 29-B

Chapter 1. General Provisions

§129. Pollution Control

A. - 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:

WASTE TYPE	WASTE DESCRIPTION
01	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
02	oil-base drilling mud and cuttings

03	water-base drilling mud and cuttings
04	workover and completion fluids
05	production pit sludges
06	production storage tank sludges
07	produced oily sands and solids
08	produced formation fresh water
09	rainwater from ring levees and pits at production and drilling facilities
10	washout water generated from the cleaning of containers that transport E&P waste and are not contaminated by hazardous waste or material
11	washout pit water and solids from oilfield related carriers that are not permitted to haul hazardous waste or material
12	natural gas plant processing (E&P) waste which is or may be commingled with produced formation water
13	waste from approved salvage oil operators who only receive oil (BS&W) from oil and gas leases
14	pipeline test water which does not meet discharge limitations established by the appropriate state agency, or pipeline pigging waste, i.e., waste fluids/solids generated from the cleaning of a pipeline
15	wastes from permitted commercial facilities
16	crude oil spill clean-up waste
50	salvageable hydrocarbons
99	other approved E&P waste

NOW—exploration and production waste

* * *

M.2. - M.5.i.i. ...

ii. Testing Requirements

(a). Before offloading E&P waste at a commercial facility, including a transfer station, each load of E&P waste shall be sampled and analyzed by commercial facility personnel for the following:

(i). color, turbidity, (clear, cloudy or muddy) and viscosity low, medium, or high); 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;

(iv). the sample temperature (degrees Fahrenheit) representing actual testing conditions of the sample obtained for BTEX analysis by methodology that will assure sufficient accuracy; and

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

(b). The commercial facility operator shall enter the color, turbidity, viscosity, the pH, electrical conductivity, chloride (Cl) content, BTEX, BTEX sample temperature and

hydrogen sulfide measurements on the manifest (Form UIC-28) which accompanies each load of E&P waste.

(c). Produced water, produced formation fresh water, and other E&P waste fluids are exempt from organic vapor monitoring measurement (BTEX), and the H₂S measurement in (a) above if the following conditions are met:

(i). if transported by the generator or transporter in enclosed tank trucks, barges, or other enclosed containers; and

(ii). if stored in an enclosed container at a commercial facility; and

(iii). if disposed by deep well injection.

(d). 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. Copies of completed Form UIC-28 shall be filed with the Office of Conservation as provided in 129.M.6.d.

M.5.i.iii. - M.5.l. ...

m. It is required that all offsite storage, treatment and disposal methods for E&P waste utilize approved technologies that are protective of public health and the environment. The following chart includes acceptable and required storage, treatment and disposal methods for each type of E&P waste disposed of at commercial facilities within the State of Louisiana:

WASTE TYPE	REQUIRED STORAGE, TREATMENT AND DISPOSAL METHOD(S)
01	Injection in Class II well utilizing a closed system
02	(reserved)
03	(reserved)
04	(reserved)
05	(reserved)
06	(reserved)
07	(reserved)
08	(reserved)
09	(reserved)
10	(reserved)
11	(reserved)
12	(reserved)
13	(reserved)
14	Pipeline test water - Injection in Class II well utilizing a closed system Pipeline pigging waste - (reserved)
15	(reserved)
16	(reserved)
50	Commercial salvage oil facility
99	(reserved)

Summary

The Emergency Rule hereinabove 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 of the citizens of Louisiana, 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 immediate 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 State Register of the adoption of this Emergency Rule and reasons for adoption.

F. Effective Date and Duration

1. The effective date for this emergency rule shall be January 29, 1999.

2. The Emergency Rule herein adopted as a part thereof, shall remain effective for a period of not less than 120 days hereafter, or until the adoption of the final version of an Amendment to Statewide Order Number 29-B as noted herein, whichever occurs first.

Signed at Baton Rouge, Louisiana, this 28th day of January, 1999.

Philip N. Asproditis
Commissioner of Conservation

9902#053

DECLARATION OF EMERGENCY

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

Food Stamps—Alien Eligibility (LAC 67:III.1994)

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.1994 pertaining to the Food Stamp Program effective March 1, 1999.

Pursuant to Public Law 105-185, the Agricultural Research, Extension, and Education Reform Act of 1998, changes were required regarding the eligibility of certain non-citizens for food stamp benefits. The law extended the eligibility period for certain groups of aliens from five to seven years and made additional groups of aliens eligible for food stamp benefits. Amendments to the *United States Code* mandated by the law were effective November 1, 1998; an emergency rule was necessary to avoid federal sanctions or penalties which could be imposed if implementation is delayed. This declaration is necessary to extend the original emergency rule of November 1, 1998 since it is effective for a maximum of 120 days and will expire before the final rule takes effect. (Note: the related Notice of Intent published at LR 24:2032 was superseded by the Notice of Intent published at LR 25:180.)

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter K. Action on Households with Special Circumstances

§1994. Alien Eligibility

A. Effective November 1, 1998, only the following non-citizens are eligible for benefits for a period not to exceed seven years after they obtain designated alien status:

1. - 4. ...

5. Amerasian immigrants admitted pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988 (as contained in §101(e) of P.L. 100-202 and amended by the 9th proviso under migration and refugee assistance in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, P.L. 100-461, as amended);

B.1. - 3. ...

4. effective November 1, 1998, individuals who were lawfully residing in the United States on August 22, 1996 and are receiving benefits or assistance for blindness or disability as defined in §3(r) of the Food Stamp Act of 1997;

5. effective November 1, 1998, individuals who were lawfully residing in the United States on August 22, 1996 and were 65 years of age or older;

6. effective November 1, 1998, individuals who were lawfully residing in the United States on August 22, 1996 and are under 18 years of age;

C.1. - 4. ...

D. effective November 1, 1998, individuals who are lawfully residing in the United States and were members of a Hmong or Highland Laotians tribe at the time the tribe rendered assistance to the United States personnel by taking part in a military rescue operation during the Vietnam era beginning August 5, 1964 and ending May 7, 1975 (as defined in §101 of Title 38, United States Code); the spouse or an unmarried, dependent child of such an individual; or the unremarried surviving spouse of such an individual who is deceased;

E. effective November 1, 1998, individuals who are American Indian born in Canada to whom the provisions of §289 of the Immigration and Nationality Act apply or who is a member of an Indian tribe as defined in §4(e) of the Indian Self-Determination and Education Assistance Act.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 104-208, P.L. 105-33 and P.L. 105-185.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), amended LR 24:354 (February 1998), LR 25:

Madlyn B. Bagneris
Secretary

9902#055

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Bay Junop Oyster Season

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 967, and under the authority of R.S. 56:433 and R.S. 56:434, notice is hereby given that the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby declare:

that the Bay Junop Oyster Seed Reservation will remain open for oyster harvest until one-half hour after sunset on May 15, 1999.

Bill A. Busbice, Jr.
Chairman

9902#026

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Offshore Shrimp Season Closure

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close the State's offshore waters to shrimping, the Wildlife and Fisheries Commission hereby orders a closure to shrimping in that portion of the State's Territorial Waters, south of the Inside/Outside Shrimp Line as described in R.S. 56:495, from the Atchafalaya River Ship Channel at Eugene Island as delineated by the River Channel buoy line to the eastern shore of Freshwater Bayou. This closure is effective at 6:01 a.m., Monday, February 8, 1999.

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

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

Bill A. Busbice, Jr.
Chairman

9902#025

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.*, No. 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, 1999-January 31, 2000, either-sex.

b. Modern Firearms: November 1-December 6, 1999; December 21 - 23, 1999; and December 26, 1999-January 31, 2000.

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, 1999, 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 may be eligible to participate in the Deer Management Assistance Program (DMAP) in accordance with the DMAP rules.

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 February 28, 1999, and supplant any prior Declaration of Emergency pertaining to hunting of farm-raised deer and exotics.

Bill A. Busbice, Jr.
Chairman

9902#024