

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Environmental Sciences Office of Agriculture and Environmental Sciences

Fixed Wing Aircraft; Standards for Commercial
Aerial Pesticide Application (LAC 7:XIII.145)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953 (B), and under the authority of R.S. 3:3203, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached rules and regulations for the application of an ultra low volume insecticide to be applied to cotton fields infested with boll weevils.

The application of the insecticide, in accordance with the current concentration regulations, has not been sufficient to control or eradicate the boll weevil. Failure to allow the concentrations in ultra low volume (ULV) malathion applications will allow the boll weevil the opportunity to destroy the cotton bolls during the early growing season, effectively destroying the cotton crop. The destruction of the cotton crop or a substantial portion of the cotton crop will cause irreparable harm to the economy of Northern Louisiana and to Louisiana Agricultural producers thereby creating an imminent peril to the health and safety of Louisiana citizens.

These emergency rules become effective on May 20, 1999 and will remain in effect for 120 days or until these rules are adopted through the normal promulgation process.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Pesticides

Chapter 1. Advisory Commission on Pesticides

Subchapter I. Regulations Governing Application of Pesticides

§145. Fixed Wing Aircraft; Standards for Commercial Aerial Pesticide Applications

A.1. - A.4. ...

5. Unless further restricted by other regulations or labeling, the chemicals listed in §143.K above shall be applied in a minimum of five gallons of total spray mix per acre. With the following exceptions:

a. insecticides applied in the Boll Weevil Eradication Program, which shall be applied in accordance with their labels, all other agriculture pesticides, unless further restricted by other regulations or labeling, shall be applied in a minimum of one gallon of total spray mix per acre;

b. malathion insecticide applied with the following conditions to control boll weevil in cotton.

i. The Commissioner hereby declares that prior to making any aerial application of ULV malathion to cotton, the aerial owner/operator must first register such intent by notifying the Division of Pesticides and Environmental

Programs ("DPEP") in writing. Upon notification, LDAF shall inspect the aircraft prior to any ULV applications.

ii. Spray shall be applied, handled, and stored in accordance with all conditions specified by State or Federal regulations, including the strict observance of any buffer zones that may be implied.

iii. Aerial applicators shall strictly comply with any and all restrictions or mitigative factors, in regard to sensitive areas, including occupied buildings (churches, schools, hospitals, and homes), lakes, reservoirs, farm ponds, parks, and recreation areas that may be identified by Commissioner, and such restriction and mitigation are to be strictly complied with and observed by said aerial applicators.

iv. Aerial applicators will adjust flight patterns, to the degree possible, to avoid or minimize flying over sensitive areas. This restriction does not apply to overflight between take-off and the commencement of spray operations, or overflight between termination of spray operations and landing.

v. Aerial applicators shall be alert to all conditions that could cause spray deposit outside field boundaries and use their good faith efforts, including adjustment or termination of operations, to avoid spray deposit outside field boundaries.

vi. There shall be no aerial spraying when wind velocity exceeds 10 m.p.h.

vii. Aerial applicators will terminate application if rainfall is imminent.

viii. Insecticide spray will not be applied in fields where people or animals are present. It is the applicator's responsibility to determine if people are present prior to initiating treatment.

ix. Spraying will not be conducted in fields where other aircraft are working.

x. All mixing, loading, and unloading will be in an area where an accidental spill can be contained and will not contaminate a stream or other body of water.

xi. All aerial applications of insecticide shall be at an altitude not to exceed five (5) feet above the cotton canopy. However, in fields that are not near sensitive areas, if infield obstructions make the five-foot aerial application height not feasible, then the aerial height may be extended to such height above the cotton canopy as is necessary to clear the obstruction safely.

xii. The aircraft tank and dispersal system must be completely drained and cleaned before loading. All hoses shall be in good condition and shall be of a chemical resistant type.

xiii. Insecticide tank(s) shall be leak-proof and spray booms of corrosion resistant materials, such as stainless steel, aluminum, or fiberglass. Sealants will be tested before use.

xiv. The tank(s) in each aircraft shall be installed so the tank(s) will empty in flight. Sight gauges or other means shall be provided to determine the quantity contained in each tank before reloading.

xv. A drain valve shall be provided at the lowest point of the spray system to facilitate the complete draining of the tanks and system while the aircraft is parked so any unused insecticide can be recovered.

xvi. A pump that will provide the required flow rate at not less than 40 pounds per square inch (psi) during spraying operation to assure uniform flow and proper functioning of the nozzles. Gear, centrifugal or other rotary types, will be acceptable on aircraft with a working speed above 150 miles per hour.

xvii. ULV spraying systems with a pumping capacity that exceeds the discharge calibration rate shall have the bypass flow return to the tank bottom in a manner that prevents aeration and/or foaming of the spray formulation. Pumps utilizing hydraulic drive or other variable speed drives are not required to have this bypass, provided the pump speed is set to provide only the required pressure and the system three-way valve is used for on/off control at full throw position. Any bypass normally used to circulate materials other than the ULV will be closed for ULV spraying.

xviii. Spray booms will be equipped with the quantity and type of spray nozzles specified by the BOLL WEEVIL ERADICATION PROGRAM. The outermost nozzles (left and right sides) shall be equal distance from the aircraft centerline and the distance between the two must not exceed three-fourths of the overall wing span measurement. For helicopters, the outermost nozzles must not exceed three-fourths of the rotorspan. For both fixed wing and helicopters, the program will accept the outermost nozzles between 60% and 75% of the wingspan/rotorspan. Longer spray booms are acceptable provided modifications are made to prevent the entrapment of air in the portion beyond the outermost nozzle. Fixed wing aircraft not equipped with a drop type spray boom may require drop nozzles in the center section that will position the spray tips into smoother air to deliver the desired droplet size and prevent spray from contacting the tail wheel assembly and horizontal stabilizer. Most helicopters will be required to position the center nozzles behind the fuselage and dropped into smooth air in order to achieve the desired droplet size.

xix. Nozzles, diaphragms, gaskets, etc. will be inspected regularly and replaced when there is evidence of wear, swelling, or other distortion in order to assure optimum pesticide flow and droplet size. Increasing pressure to compensate for restricted flow is unacceptable. A positive on/off system that will prevent dribble from the nozzles.

xx. A positive emergency shut-off valve between the tank and the pump, as close to the tank as possible. This valve shall be controllable from the cockpit and supplemented by check valves and flight crew training which will minimize inadvertent loss of insecticide due to broken lines or other spray system malfunction.

xxi. Bleed lines in any point that may trap air on the pressure side of the spraying system.

xxii. An operational pressure gauge with a minimum operating range of 0 to 60 psi and a maximum of 0 to 100 psi visible to the pilot for monitoring boom pressure.

xxiii. A 50-mesh in-line screen between the pump and the boom and nozzle screens as specified by the nozzle manufacturer.

xxiv. Aircraft equipped so nozzle direction can be changed from 45 degrees down and back to straight back when it is necessary to change droplet size.

xxv. All nozzles not in use must be removed and the openings plugged.

xxvi. Nozzle tips for all insecticides shall be made of stainless steel.

xxvii. Aircraft shall have an operational Differentially Corrected Global Positioning System (DGPS) and flight data logging software that will log and display the date and time of the entire flight from take-off to landing and differentiate between spray-on and spray-off.

xxviii. Aircraft shall have a DGPS with software designed for parallel offset in increments equal to the assigned swath width of the application aircraft. Differential correction may be provided by fixed towers, portable stations, satellite, Coast Guard, or other acceptable methods. However, the differential signal must cover the entire project area. In fringe areas from the generated signal, an approved repeater may be used. The system shall be sufficiently sensitive to provide immediate deviation indications and sufficiently accurate to keep the aircraft on the desired flight path with an error no greater than 3 feet. Systems that do not provide course deviation updates at one second intervals or less will not be accepted.

xxix. A course deviation indicator (CDI) or a course deviation light bar (also CDI) must be installed on the aircraft and in a location that will allow the pilot to view the indicator with direct or peripheral vision without looking down. The CDI must be capable of pilot selected adjustments for course deviation indication with the first indication at 3 feet or less.

xxx. The DGPS must display to the pilot a warning when differential correction is lost, the current swath number, and cross-track error. The swath advance may be set manually or automatically. If automatic is selected, the pilot must be able to override the advance mode to allow respraying of single or multiple swaths.

xxxi. The DGPS must be equipped with a software for flight data logging that has a system memory capable of storing a minimum of 3 hours of continuous flight log data with the logging rate set at one second intervals. The DGPS shall automatically select and log spray on/off at one second intervals while ferry and turnaround time can be two second intervals. The full logging record will include position, time, date, altitude, speed in M.P.H., cross-track error, spray on/off, aircraft number, pilot, job name or number, and differential correction status. The flight data log software shall be compatible with DOS compatible PC computers, dot matrix, laser, or ink jet printers and plotters. The system must compensate for the lag in logging spray on/off. The system will display spray on/off at the field boundary without a sawtooth effect. Must be capable to end log files, rename, and start a new log in flight.

xxxii. The software must generate the map of the entire flight within a reasonable time. Systems that require five minutes or more to generate the map for a three hour flight on a PC (minimum a 386 microprocessor with 4 MB of memory) will not be accepted. When viewed on the monitor or the printed hard copy, the flight path will clearly differentiate between spray on and off. The software must be capable of replaying the entire flight in slow motion and stop and restart the replay at any point during the flight. Must be able to zoom to any portion of the flight for viewing in greater detail and print the entire flight or the zoomed-in portion. Must have a measure feature that will measure distance in feet between swaths or any portion of the screen. Must be able to determine the exact latitude/longitude at any point on the monitor.

xxxiii. Flight information software provided by the applicator must have the capability to interface with MapInfo (version 3.0 or 4.0). The interface process must be "user friendly", as personnel will be responsible to operate the system in order to access the information.

xxxiv. Application of ULV malathion shall be at an application rate of 12 oz. per acre with no dilutions or tank mixes.

xxxv. Applications of ULV malathion shall not be made prior to May 20.

xxxvi. Applications of ULV malathion shall be restricted to seven (7) day intervals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 21:927 (September 1995), LR 25:

Bob Odom
Commissioner

9905#023

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Loan Guarantee Fund

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend its fee schedule.

The emergency rules are necessary to allow the Louisiana Office of Student Financial Assistance to provide reduced rates to students on educational loans made under the Federal Family Education Loan Program (FFELP) effective in time for the summer and fall semesters. A delay in promulgating rules would have an adverse impact on Louisiana citizens and students who rely on the FFELP to pursue their postsecondary education. LASFAC has, therefore, determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of Louisiana citizens who seek financial assistance for their postsecondary education.

This declaration of emergency is effective April 27, 1999, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its fee schedule, as follows:

Loans Guaranteed Before May 5, 1999	1 percent of loan principal
Loans Guaranteed on or after May 5, 1999	No Fee

Jack L. Guinn
Executive Director

9905#014

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Examiners of Nursing Facility Administrators

Registration of Licenses and Certificates (LAC 46:XLIX.1103)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators is amending the rules pertaining to annual registration and registration fees. The effective date of this rule shall be June 1, 1999 and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first. Additionally, this rule will be effective if and when R.S. 37:2501(7), 2502, 2503(B), 2505(A) and (B), 2509(A)(4), 2510(A)(3), (B), (C), and (D) and 2511(A) and (B) are amended and reenacted by the 1999 Louisiana Legislature, and if and when R.S. 37:2504(F) is enacted by the 1999 Louisiana Legislature.

The board finds it necessary to amend this rule to provide for annual registration periods and new registration fees in order to ensure continued protection of public health and continued compliance with Federal rules and regulations regarding Medicaid/Medicare.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLIX. Board of Examiners of Nursing Facility Administrators

Chapter 11. Licenses

§1103. Registration of Licenses and Certificates

A.1. Every person who holds a valid license as a nursing home administrator issued by the board shall immediately upon issuance thereof be deemed registered with the board and issued a certificate of registration. Thereafter, such individual shall annually apply to the board for a new certificate of registration and report any facts required by the board on forms provided for such purpose.

A.2. - 3. ...

B.1. Upon making an application for a new certificate of registration such licensee shall pay an annual registration fee of \$245 and, at the same time, shall submit evidence satisfactory to the board that, during the annual period

immediately preceding such application for registration, they have attended a continuing education program or course of study as provided in Chapter 9 of these rules and regulations. A copy of the certificate(s) of attendance for 15 hours of approved continuing education shall be attached to the biennial re-registration application.

2. A licensed nursing home administrator no longer practicing in Louisiana may place his license in an inactive status. He shall continue to register his license annually but is exempt from continuing education requirements. Should a licensee wish to reactivate their license they shall undergo 60 days of on-site re-orientation under supervision of a board-approved preceptor, unless such person has been actively practicing in another state and meets Louisiana continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 9:461 (July 1983), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators LR 18:181 (February 1992), amended LR 25:

Kemp Wright
Executive Director

9905#043

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Regulation 33 Medicare Supplement Insurance Minimum Standards (LAC 37:XIII.Chapter 5)

(Editor's Note: Pursuant to a hearing held on April 6, 1999, these are revisions made to the opening paragraphs of Emergency Regulation 33, which appeared on page 408 of the March 20, 1999 *Louisiana Register*.)

On March 1, 1999, the Louisiana Department of Insurance adopted an Emergency Rule as provided for under LRS 49:953(B) for implementation of mandatory federal requirements. The Emergency Rule implements the mandatory provisions of 42 CFR Parts 400, 403, 410, 417, and 422 as amended by the Balanced Budget Act of 1997. Under the mandatory federal statute, states that do not implement the requirements by April 29, 1999 will face sanctions from the federal government.

The federal regulations that implement the federal statute were not finalized until February of this year, and clarifying instructions and clarifying information from the Health Care Financing Administration continues to be received regarding state requirements. Consequently, additional changes in the notice of intent to adopt a permanent regulation could be required to assure full federal compliance.

Without this emergency declaration, the state would face loss of its federal certification to administer Medicare Supplemental Insurance and be required to become recertified by the Health Care Financing Administration. This sanction would have the effect of delaying approval of

any new supplemental insurance products as well as changes to existing products in the market place. Recertification shall not take place until implementing regulations have been adopted and the state demonstrates full federal compliance. This would have the effect of leaving Medicare Supplemental Insurance market unregulated for a period of six to twelve months.

In addition to the specific sanctions resulting from non-implementation of the mandatory federal requirements, suspension of regulatory activities in the Medicare Supplemental Insurance market would have a significant impact on consumers and companies in the market for a protracted period of time. For the above foregoing reasons, it is paramount that this emergency regulation be adopted.

Copies of this Emergency Rule may be obtained at the Office of the State Register, 1051 North Third Street, Baton Rouge, La. and the Department of Insurance, 950 North Fifth Street, Baton Rouge, La.

James H. "Jim" Brown
Commissioner

9905#007

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Correction Services

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

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

This emergency rule was originally published in the January 20, 1999 edition of the *Louisiana Register* and was effective January 4, 1999. The Louisiana Department of Public Safety and Corrections, Corrections Services published its notice of intent in February of 1999 and will adopt its final rule effective May 20, 1999. In order to assure that there is no disruption in the imposition of disciplinary penalties, it is necessary to adopt this emergency rule.

Further, the Disciplinary Rules and Procedures for Adult Inmates were adopted by the Louisiana Department of Public Safety and Corrections, Corrections Services, and published in the *Louisiana Register* and became effective February 15, 1993. (LAC 22:I.341, et seq.) It is the responsibility of the Secretary of the Louisiana Department of Public Safety and Corrections, Corrections Services, to prescribe rules and regulations for the maintenance of good order and discipline in the facilities and institutions under the jurisdiction of the Department, which rules and regulations shall include procedures for dealing with violations thereof. The Disciplinary Rules and Procedures

for Adult Inmates provide for loss of good time by an adult inmate for violation of the rules and regulations. In the case of a Schedule A violation, the offender may lose good time up to a maximum of one-half of the amount earned by the inmate for one month, and in the case of a Schedule B violation, the offender may lose good time up to a maximum of the amount earned by the inmate for one month. The Louisiana Legislature has authorized the Department to impose a forfeiture of good time up to a maximum of one hundred and eighty days for violations of the rules and procedures. [La. R.S. 15:571.4(B)(4)(amended by Louisiana Acts 1995, Number 980, effective August 15, 1995).]

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

For the foregoing reasons, the Louisiana Department of Public Safety and Corrections, Corrections Services has determined that adoption of this emergency rule is necessary and hereby adopts this emergency rule change effective May 5, 1999. This emergency rule shall remain in effect for a period of 120 days or until the final rule change is promulgated, whichever occurs first.

Title 22
CORRECTIONS, CRIMINAL JUSTICE
AND LAW ENFORCEMENT
Part I. Corrections

Chapter 3. Adult and Juvenile Services
§359. Penalty Schedule. Disciplinary Report (Heard by Disciplinary Board)

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

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonald*, 94 S.Ct.2963 (1974), *Ralph v. Dees*, C/A/ 81-94, USDC (Md.La.), *Terry Rivera, Sr. v. State of*

Louisiana, et al., Number 98CA0507, (12/28/98) consolidated with *Joseph Romero v. Louisiana Department of Public Safety and Corrections, et al.*, Number 98CA0508.

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

Richard L. Stalder
Secretary

9905#031

DECLARATION OF EMERGENCY
Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

1999 Spring Inshore Shrimp Season

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 fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters, and R.S. 56:497(A)(2) which provides that the season in Zone 2 shall open no later than the third Monday in May in 1999, the Wildlife and Fisheries Commission does hereby set the 1999 Spring Inshore Shrimp Season to open as follows:

Zone 1, that portion of Louisiana's inshore waters from the Mississippi State line to the eastern shore of South Pass of the Mississippi River, to open at 6 a.m., May 17, 1999, except the open waters of Breton and Chandeleur Sounds as described in the menhaden rule (LAC 76:VII.307.D) which shall open at 6 a.m., May 10, 1999, and

Zone 2, that portion of Louisiana's inshore waters from the eastern shore of South Pass of the Mississippi River westward to the western shore of Vermilion Bay and Southwest Pass at Marsh Island, as well as 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 Channel at Eugene Island as delineated by the River Channel buoy line to Freshwater Bayou, all to open at 6 a.m., May 10, 1999, and

Zone 3, that portion of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island westward to the Texas State Line, to open at 6 a.m., May 17, 1999.

The Commission also hereby grants to the Secretary of the Department of Wildlife and Fisheries the authority to close any portion of the State's inshore waters to protect small white shrimp if biological and technical data indicates the need to do so, or enforcement problems develop.

Bill A. Busbice, Jr.
Chairman

9905#042

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Isles Dernieres Barrier Islands Refuge
(LAC 76:III.321 and 331)

The Wildlife and Fisheries Commission does hereby establish emergency regulations for the management of the Isles Dernieres Barrier Islands Refuge which includes Wine Island, East Island, Trinity Island, Whiskey Island, and Raccoon Island. Formerly, three of these islands, i.e., Wine, Whiskey, and Raccoon Islands, were included within the Terrebonne Barrier Islands Refuge and were regulated under provisions of LAC 76:III.321. By promulgation of this declaration of emergency, the Terrebonne Barrier Islands Refuge regulations found at LAC 76:III.321 are hereby repealed.

A declaration of emergency is necessary to regulate public access to the Isles Dernieres Barrier Islands Refuge in order to ensure that those members of the public utilizing the public use area on Trinity Island enjoy a clean and healthful environment and in order to minimize contact with the numerous species of colonial seabirds that utilize the islands as nesting habitat in the spring and summer months. This declaration of emergency will become effective on May 6, 1999 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule.

Title 76

WILDLIFE AND FISHERIES

Part III. State Game and Fish Preserves and Sanctuaries

Chapter 3. Particular Game and Fish Preserves and Commission

§321. Terrebonne Barrier Islands Refuge

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(18), R.S. 56:761 and R.S. 56:785.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 19:910 (July 1993), repealed LR 25:

§331. Isles Dernieres Barrier Islands Refuge

A. Regulations for Isles Dernieres Barrier Islands Refuge

1. Regulations for Wine Island, East Island, Whiskey Island, and Raccoon Island

a. Public access by any means to the exposed land areas, wetlands and interior waterways of these islands is prohibited. Requests to access exposed land areas, wetlands and interior waterways shall be considered on a case-by-case basis and may be permitted by the Secretary or his designee in the interest of conducting research on fauna and flora, of advancing educational pursuits related to barrier islands, or of planning and implementing island restoration projects.

b. Disturbing, injuring, collecting, or attempting to disturb, injure, or collect any flora, fauna, or other property is prohibited, unless expressly permitted in writing by the Secretary or his designee for the uses provided for in Paragraph 1.a. above.

c. Boat traffic is allowed adjacent to the islands in the open waters of the Gulf and bays; however, boat traffic is prohibited in waterways extending into the interior of the

islands or within any land-locked open waters or wetlands of the islands.

d. Fishing from boats along the shore and wade fishing in the surf areas of the islands is allowed.

e. Littering on the islands or in Louisiana waters or wetlands is prohibited.

f. Proposals to conduct oil and gas activities, including seismic exploration, shall be considered on a case-by-case basis and may be permitted by the Secretary or his designee, consistent with provisions of the Act of Donation executed by the Louisiana Land and Exploration Company on July 24, 1997.

2. Regulations for Trinity Island

a. Public access is allowed in a designated public use area. An area approximately 3,000 linear feet by 500 linear feet is designated as a public use area, the boundaries of which will be marked and maintained by the Department. The designated public use area shall extend westward from the western boundary of the servitude area reserved by Louisiana Land and Exploration Company in the Act of Donation a distance of approximately 3,000 linear feet and northward from the southern shoreline within this area by a distance of approximately 500 linear feet. Public recreation such as bird-watching, picnicking, fishing and overnight camping is allowed in this area. Travel on or across this area shall be limited to foot or bicycle traffic only. No use of all-terrain vehicles or other vehicles powered by internal combustion engines or electric motors shall be allowed.

b. Public access to all exposed land areas of Trinity Island, other than the public use area, is prohibited. Requests to access these exposed land areas shall be considered on a case-by-case basis and may be permitted by the Secretary or his designee in the interest of conducting research on fauna and flora, of advancing educational pursuits related to barrier islands or of planning and implementing island restoration projects.

c. Disturbing, injuring, collecting, or attempting to disturb, injure, or collect any flora, fauna, or other property is prohibited, unless expressly permitted in writing by the Secretary or his designee for the uses provided for in Paragraph 2.b. above.

d. Any member of the public utilizing the designated public use area shall be required to have a portable waste disposal container to collect all human wastes and to remove same upon leaving the island. Discharge of human wastes, including that within the disposal container, onto the island or into Louisiana waters or wetlands is prohibited.

e. Littering on the island or in Louisiana waters or wetlands is prohibited.

f. Carrying, possessing, or discharging firearms, fireworks, or explosives in the designated public use area is prohibited.

g. Boat traffic is allowed adjacent to the island in open waters of the Gulf and bays and within the man-made canal commonly known as California Canal for its entire length to its terminus at the bulkhead on the western end of the canal. No boat traffic is allowed in other man-made or natural waterways extending into the interior of the island or in any land-locked open waters or wetlands of the island.

h. Fishing from boats or wade fishing in the surf areas of the island is allowed.

i. Houseboats may be moored in designated areas along the California Canal. An annual permit shall be required to moor a houseboat in the canal. The required permit may be obtained from the Department of Wildlife and Fisheries New Iberia Office.

j. Proposals to conduct oil and gas activities, including seismic exploration, shall be considered on a case-by-case basis and may be permitted by the Secretary or his designee, consistent with provisions of the Act of Donation executed by the Louisiana Land and Exploration Company on July 24, 1997.

B. Violation of any provision of these regulations shall be considered a Class Two Violation, as described in R.S. 56:115(D), 56:764, and 56:787.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(18), R.S. 56:109, and R.S. 56:781 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:

Bill A. Busbice, Jr.
Chairman

9905#041

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Directory: G:\INTERNET\REG\9905
Template: D:\doaapps\msoffice\Templates\Register.dot
Title: Emergency Rules
Subject:
Author: cfrilou
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Creation Date: 05/13/99 9:14 AM
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