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# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Health and Human Resources Office of Family Services

The Department of Health and Human Resources, Office of Family Services, does hereby exercise the emergency provision of the Administrative Procedures Act (R.S. 49:953B) to adopt the following policy in relation to the provision of vendor payment day care services. Since the closure of intake for vendor payment day care services on September 23, 1977, the number of participants has decreased to the enrollment level needed to remain within the program allocation for the remainder of this fiscal year. At this time, controls must be adopted to assure that the enrollment remains stable on an ongoing basis.

Effective January 15, 1978, a proportional share or quota of day care spaces shall be designated by the State Office of Family Services on a regional basis. The regional quota is based on the results of an analysis of the day care quarterly reports for the past two years to determine the average usage of vendor payment day care services by region. At the beginning of each quarter, the regional social services consultants shall be furnished the quota for their particular region. This quota system is not applicable to those children receiving day care through the Work Incentive Program (WIN), as provision of day care is mandatory for the WIN recipient. Upon receipt of the regional quota, the social services consultant or their designated representative must then determine how many spaces will be allowed for each parish in the region which has participating day care centers and family day care homes (HD's). Once the parish Office of Family Services has been assigned its quarterly quota, internal controls must be established by the local office to assure that the number of children certified for day care does not exceed the quota.

During the balance of this fiscal year should it be determined that an additional number of children can be served, the quota will be increased accordingly.

William A. Cherry, M.D., Secretary  
Department of Health and Human Resources

## DECLARATION OF EMERGENCY

### Department of Health and Human Resources Office of Family Services

The Department of Health and Human Resources, Office of Family Services does hereby exercise the emergency provisions of the Administrative Procedures Act (R.S. 49:953B) to adopt the following policy in relation to board payments for foster children in certain private child caring institutions. Effective November 1, 1977, the board rate paid by the Office of Family Services was adjusted to equal the board rate paid to the same facilities by the Office of Youth Services. The new rates to the designated facilities reflect the costs of child care as

audited by the Office of Youth Services. The designated child caring facilities and the adjusted board rates are as follows:

Facility	Adjusted Rate
Blundon Home	\$630.00
Carrollton House	617.10
*Hope Haven/Madonna Manor	630.00
Joliet House	630.00
LaPlace Christian Home	544.50
Lafitte House	591.00
McDonnell Methodist Home	618.90
Milne	630.00
Pollux House	630.00
Rutherford House	630.00
Sager Brown School	630.00
St. Elizabeth's	630.00
Samaritan House	630.00
Southern Hills Group Home	545.70

\*Does not include children in the intensive care unit at above \$630 rate.

William A. Cherry, M.D., Secretary  
Department of Health and Human Resources

## DECLARATION OF EMERGENCY

### Department of Health and Human Resources Office of Family Services

The Department of Health and Human Resources, Office of Family Services, has adopted effective December 1, 1977, the reservation of a bed for up to twenty-five days per calendar year while the recipient is absent from an intermediate care facility for the mentally retarded for home leave. Retroactive payment will not be made for any home leave days which exceeded the previous eighteen day limitation prior to December 1, 1977.

This action shall be taken pursuant to R.S. 49:953B. Copies of the emergency rule are available for public examination at the Department of Health and Human Resources, Office of Family Services, 755 Riverside Mall, Baton Rouge, Louisiana.

William A. Cherry, M. D., Secretary  
Department of Health and Human Resources

# Rules

## RULES

### Board of Elementary and Secondary Education

#### Rule 4.00.72c

Revision to Bulletin 1196, Louisiana Food and Nutrition Programs Policies of Operation, page 11, paragraph 3, second line, by changing item 1 to read: "utilities separately metered or technically estimated."

#### Rule 3.01.51e

Revision to Bulletin 741, Handbook for School Administrators, Revised 1977, page 25, to add the authority for granting of credit to students who take courses in vocational-technical schools.

Revision to Bulletin 741, Handbook for School Administrators, Revised 1977, page 23, to add the granting of credit for cosmetology.

#### **Rule 4.00.74**

Revision to Bulletin 1134, Standards for School Libraries, to read; "Public schools, grades one through eight or any combination, be allowed to subscribe to a minimum of three children's magazines per one hundred pupils."

#### **Rule 3.01.70v(17)**

Teachers and other school personnel will be allowed a certain period of time in which to acquire added certification: (1) With the exception of the 1977 legislative acts, when certification requirements are changed requiring a program change at the college level, that a period of at least four or five years be given so that catalogs may be changed and all incoming freshmen notified of the changes; (2) Any certification change made by the State Board of Elementary and Secondary Education should include implementation dates and should be specified at the time the Board takes action. (3) Any certification change recommended by the Teacher Certification Advisory Council should include implementation dates and should be specified at the time of recommendation to the Board for action.

#### **Rule 5.00.80(1)**

##### **Tuition Exemption for Teachers**

Guidelines were adopted for the implementation of Act 20 (1977 Extraordinary Session).

##### **Act 20 Guidelines**

1. The State Department of Education shall prepare an application form for the approval of the tuition exemption. This form will be sent to all local school boards for distribution to eligible teachers.

2. A. Teacher will get the form from the local school board and make application for tuition exemption to the State Department of Education.

B. Applications must be received in the department thirty days prior to enrolling in the college or university.

C. Applications will be processed and the teacher will be notified fourteen days prior to the date of enrollment as to the approval or disapproval of their tuition exemption.

D. All applications will be screened for eligibility by the State Department of Education.

E. All qualified applicants will be granted only the "tuition" exemption.

3. Any certified teacher teaching in, or on approved leave from, a State approved elementary or secondary school, and any adult education teachers in approved adult education classes and/or centers, or any degreed teacher eligible to teach in a public school and teaching in an approved nonpublic school in compliance with nonpublic school standards, shall be eligible for the tuition exemption providing the teacher "attends" a Louisiana public college or university. This tuition exemption shall not apply to those teachers holding temporary certificates but will apply to those teachers holding regular certificates with temporary certification in a particular area.

A. Interpretation of "attend".

The teacher shall enroll in an on-campus course or an extension course. Correspondence courses will not be considered.

B. Interpretation of "teacher".

Those classroom teachers, counselors, and librarians that are actively engaged in the day-to-day teaching of children, and special education teachers in the approved elementary and secondary schools of the State, and adult education teachers in the approved adult education classes and/or learning centers in the state.

C. Only full time teachers or teachers on approved leave that are regularly employed are eligible under this act. Day-to-day substitute teachers are not to be eligible.

4. Only those courses of instruction in the teacher's field or discipline may be taken under this program. Course load shall not exceed six semester hours per semester while teaching full time.

Interpretation of field or discipline.

A. Course work to further develop his/her proficiency in any of the areas of certification endorsed on his/her teaching certificate.

B. Course work to further develop his/her proficiency in any field, outside his/her area of certification, to which the teacher has been assigned. This type of assignment must be attested to by the school principal or immediate supervisor.

C. Course work leading to an approved advanced degree.

5. The State Superintendent of Education shall reimburse each Louisiana public college or university at the end of the semester for only the "tuition" funds lost due to this program. The funds shall be paid from monies appropriated therefor or otherwise made available for this program.

6. The program will go into effect only after certification by the Division of Administration and approval by the Legislative Budget Committee that the General Fund revenues are available for this purpose.

7. Appeals Procedure

A. An Act 20 Appeals Committee composed of three members shall be appointed by the State Board of Elementary and Secondary Education.

B. Any person determined to be ineligible by the State Department of Education would be given reasons for denial and advised of the right to appeal to the Act 20 Appeals Committee.

C. The individual should then contact the Director of the State Board of Elementary and Secondary Education for procedures to be followed for the appeal.

D. The Act 20 Appeals Committee would meet, if necessary, prior to the regular monthly meeting of the State Board of Elementary and Secondary Education to hear appeals cases so that their recommendations can be acted upon by the full Board at the regular meeting.

#### **Rule 3.01.70v(18)**

An individual who met certification requirements prior to their change on September 1, 1975, but did not have the certification added to the certificate, shall be certified by the Department of Education upon presentation of evidence that the error was not of his own making. This does not cover those cases where an individual failed to meet his responsibility by having the certification added himself.

Bro. Felician Fourrier, S.C., Acting Director  
Board of Elementary and Secondary Education

## **RULES**

### **Board of Regents**

#### **Academic Affairs**

##### **Letters of Intent**

Section II, 2.2(Rev.)—The purpose of letters of intent is to strengthen the planning and coordination of academic programs by allowing the Board of Regents to review summaries of projected programs while they are still in the formative stage. Accordingly, institutions of higher education shall transmit letters of intent to the Commissioner of Higher Education for all academic programs to be proposed. A letter of intent must be filed separately for each program to be submitted. Each letter of intent should be limited to three pages or less. It should provide the title, a brief description, and purpose of the projected program, and demonstrate that the program would:

- (1) Be within the role and scope of the institution.
- (2) Complement and strengthen existing programs at the institution.
- (3) Avoid unnecessary duplication of programs at other State-supported institutions.
- (4) Supply present and future manpower needs.
- (5) Be within the institution's anticipated resources.

(a) Letters of intent have no binding qualities. Institutions may later decide to alter or cancel plans for projected programs. Letters of intent will not affect the authority of management boards to dispense with proposed programs as they deem appropriate. Communications and deliberations pursuant to a letter of intent will imply neither approval nor disapproval of the subsequent program by the Board of Regents.

(b) Letters of intent must be filed at least twelve months in advance for the submittal of baccalaureate, master's, specialist, and doctoral programs; and ninety days in advance for the submittal of certificate and associate programs. Under unusual circumstances, institutions may at any time request the Board of Regents to waive these requirements.

(c) The staff will submit periodic reports to the Board of Regents summarizing both the letters of intent on file and deliberations with institutions pertaining to them.

\* \* \* \*

**Finance**  
**Capital Projects**

Section II, 3.4(Rev.)—All changes to any institution or system's physical facilities that add to, improve, change the utilization of, or that remove from use such facilities will first be submitted to this Board for review, comment, and approval prior to beginning any such project. Provided, however, that exception(s) will be made for certified emergency projects of a nonrecurring nature requiring immediate attention. Any such emergency project certified to by the appropriate management board's chief administrative officer may be approved by the Commissioner of Higher Education if concurred in by the Chairman of the Board and the Chairman of the Finance Committee. Any such action(s) taken will be reported to the full Board at its next meeting. Funding limits for emergency projects of this type are as established by State statute. Minor repairs and minor construction costing less than \$25,000 will not be subject to individual approval by the Board of Regents provided adequate funds are available, all existing emergencies are being satisfied, and these projects are approved by the appropriate management board.

\* \* \* \*

**Finance**  
**Dedicated Revenues**

Section II, 3.5B(Rev.)—Revenues which were dedicated to higher education institutions prior to January 1, 1975, will comply with requirements set forth in the new Constitution concerning the dedication of funds and applicable State statutes.

William Arceneaux  
Commissioner of Higher Education

**RULE**

**Department of Health and Human Resources**  
**Office of Family Services**

The Department of Health and Human Resources, Office of Family Services, has adopted policy that permits only incurred expenses for the following types of necessary medi-

cal or remedial care and services to be deducted from the medically needy applicant's excess income.

1. Inpatient hospital services, including mental and tuberculosis hospitals.
2. Outpatient hospital services.
3. Laboratory and X-ray services.
4. Diagnostic and treatment components of Early and Periodic Screening, Diagnosis and Treatment Program for under age twenty-one including dental services and eyeglasses. State Office approval for dental services under age twenty-one is not necessary for spend-down, but is required for the Office of Family Services to participate on spend-down date.
5. Family planning services and supplies for individuals of childbearing age (such services covered under physician and pharmacy services).
6. Licensed physician services, including injections, but OFS will not participate in payment for therapeutic injections on spend-down date.
7. Chiropractic services.
8. Optometrists' services for cataract glasses only and for eye examinations for glasses and purchase of glasses for individuals.
9. Home health services.
10. Licensed medical clinic services, including mental health centers, alcoholism clinics.
11. Licensed skilled nursing facilities.
12. Licensed intermediate care facilities, including institutions for mentally retarded.
13. Prescription drugs, but OFS will participate only in payment for covered legend drugs, i.e., those drugs that can only be purchased with a prescription, with certain exceptions.
14. Durable medical equipment, including artificial limbs, eyes, braces, hearing aids, wheelchairs, hospital beds, lifts, commodes, walkers. OFS State Office approval is not necessary for spend-down, but is required for OFS to participate on spend-down date.
15. Rehabilitation center services—OFS State Office approval is not necessary for spend-down but is required for OFS to participate on spend-down date.
16. Medical transportation.
17. Dental treatment regardless of age.

William A. Cherry, M.D., Secretary  
Department of Health and Human Resources

**RULE**

**Department of Health and Human Resources**  
**Office of Family Services**

The Department of Health and Human Resources, Office of Family Services, has adopted revisions to the Standards for Payment to Skilled Nursing Facilities and Intermediate Care Facilities I and II so that the medicaid payment to these facilities shall include the following care items: any form of disposable pads or diaper service; irrigation trays, drainage bags and tubing; and, sheepskins.

The nursing facility shall no longer be able to charge medicaid recipients and/or their families for these items. The facility will either provide or arrange for medically prescribed oxygen and physical therapy and transportation for medical care. The recipient and/or their families may be involved in the arrangements, but will not be responsible for the payment of these services.

6-26-66 50 570.66

In addition, when a facility has been involuntarily terminated from participation in the Medical Assistance Program, that facility can come back into the program following the decertification without a sixty day lapse on payment.

The nursing homes shall be responsible for providing, for medicaid recipients as part of the vendor payment, laxatives (any one brand of the following): milk of magnesia, mineral oil, cascara, glycerin suppositories.

William A. Cherry, M.D., Secretary  
Department of Health and Human Resources

**RULE**

**Department of Health and Human Resources  
Office of Family Services**

The Department of Health and Human Resources, Office of Family Services, has adopted the following Need Standards for the Aid to Families with Dependent Children (AFDC) and the General Assistance (GA) programs in compliance with Act 540 of the 1976 Legislature.

**A. Aid to Families with Dependent Children.  
Parishes of Orleans, St. Bernard, Jefferson  
and East Baton Rouge**

Size Household	AFDC Need Standard
1	\$ 125.00
2	240.00
3	333.00
4	410.00
5	483.00
6	550.00
7	615.00
8	680.00
9	743.00
10	805.00
11	873.00
12	943.00
13	1010.00
14	1083.00
15	1155.00
16	1233.00
17	1293.00
18	1375.00

For each additional person add \$85.00

**All Parishes other than Orleans,  
St. Bernard, Jefferson, and  
East Baton Rouge**

Size Household	AFDC Need Standard
1	\$ 115.00
2	215.00
3	303.00
4	378.00
5	450.00
6	515.00
7	583.00
8	648.00
9	710.00
10	773.00
11	840.00
12	910.00
13	983.00
14	1055.00
15	1128.00
16	1200.00
17	1273.00
18	1345.00

For each additional person add \$78.00

**B. General Assistance (Aid to partially and/or temporarily disabled):**

Size Household	Standard
1	\$190.00
2	240.00

The standards for families with dependent children were arrived at by adjusting the Federal poverty guidelines so that each standard would bear the same percentage relationship to the actual AFDC grant standard for each household size. The Department of Health, Education and Welfare requires that a flat grant standard for a two person household be the same percentage of the need standard for that size household as the flat grant standard of a ten person household is of the need standard for a ten person household, and so on for each size household. A review of information available on need standards has led us to the conclusion that the poverty index as published by the Federal Community Services Administration is a reasonable standard, and probably comes as close as anything else to reflecting what income is needed by a family to maintain a standard of living that is consistent with a level of decency. The higher level for Orleans, Jefferson, St. Bernard, and East Baton Rouge Parishes is warranted because the shelter costs in those parishes are considerably higher than costs in other parishes.

The standard for a two person household in General Assistance is the same as the standard for a two person AFDC household in a nonrural setting. The standard for a one person General Assistance household, however, is larger than the standard for a one person AFDC household because in General Assistance the individual is usually living alone with responsibility for total living expenses; whereas, in AFDC the child is always living in a shared expense setting with an adult and need is less.

The AFDC and GA need standards have no direct effect on payment levels or amounts. Need standards are required by Department of Health, Education and Welfare regulations, but provide that payment levels can be less when required by State budget limitations and after considering other benefits that are available to the indigent individuals and families.

William A. Cherry, M.D., Secretary  
Department of Health and Human Resources

**RULES**

**Department of Natural Resources  
Office of Conservation**

**Practice and Procedure for all  
Hearings, Investigations, and Proceedings  
Under the Louisiana Surface Mining  
and Reclamation Act.**

**Rule 1. Definitions**

Each of the words used herein which have been defined in Section 904 of Title 30, Louisiana Revised Statutes, shall have the same definition and meaning as therein set forth. The following words as used in these rules shall have the following meanings:

Section—Unless otherwise identified refers to the section numbers in Title 30 of the Louisiana Revised Statutes.

The Act—The Louisiana Surface Mining and Reclamation Act.

Exploration operations permit—The written certification by the Commissioner that the named operator may conduct the exploration operations described in the certification during the term of the exploration operations permit and in the manner established in the certification.

Toxic material—Any substance present in sufficient concentration or amount which reasonably supports the conclusion that such substance presents a substantial risk of causing injury or illness to plant, animal or human life.

Access road—All private roads located within the permit area and under the control of the operator of the surface mining operations.

High wall—The vertical or nearly vertical wall of exposed strata adjacent to the side of a mineral deposit which results from surface mining excavations.

Terracing—Grading where the steepest contour of the high wall shall not be at a greater angle from the horizontal than that set by the Commissioner and approving a specific reclamation plan calling for terracing, with the table portion of the restored area a flat terrace without depressions to hold water and with adequate provision for drainage, unless otherwise approved by the Commissioner.

#### Rule 2. Exploration Operations Permit

2.1 Any person desiring to conduct exploration operations, as defined herein, shall file with the Commissioner an application, in triplicate, upon forms furnished by the Commissioner, for an area permit to engage in exploration operations. Such application shall be filed at least thirty days prior to requested date of issuance.

2.2 Submit a permit fee of fifty dollars for each application filed. Each application shall be restricted to a single township.

2.3 Submit a bond in the amount of three thousand dollars for each township affected provided the amount of test holes and core holes shall not exceed seventy-two in number. In the event tests holes or core holes are to exceed seventy-two, the bond is to be increased by thirty dollars for each additional test hole or core hole provided said additional number of test holes or core holes for a township is approved by the Office of Conservation.

2.4 The exploration operations permit shall be valid for a period of one year from date of issuance and the bond may be increased at any time during this period should the Commissioner of Conservation deem it necessary. Within six months after expiration of the area permit, the applicant shall submit a report to the Commissioner setting forth therein a record of the location of each test hole or core hole drilled together with an affidavit attesting that each has been properly plugged and abandoned. The required bond shall be released after the Commissioner determines that the test or core holes have been properly plugged and after the Commissioner has been furnished with the core analysis and the logs of each test hole or core hole drilled where available. Any core analysis and logs so furnished shall likewise be due within six months after expiration of the exploration operations permit.

#### Rule 3. Development Operations Permit

3.1 Any operator proposing to undertake development operations which involve the removal of substantial quantities of overburden with explosives or power earthmoving equipment primarily in order to determine quality, boiler design criteria, the feasibility of removing lignite or coal, and other testing purposes, shall submit an application for development operations permit to the Commissioner prior to commencing any such operations. A permit fee of seventy-five dollars shall accompany each application.

3.2 The application shall contain the following:

(a) Topographic maps or equivalent maps or aerial photographs showing the area to be disturbed;

(b) The maps or aerial photographs required by 3.2(a) above shall show the tract boundaries, the contour on which the activity will take place, and the intervals at which there will be surface disturbances;

(c) A description of the method or methods which will be used to carry out the development operations on the proposed site and an estimate of the cost of reclamation per acre;

(d) A reclamation plan to regrade and revegetate the disturbed area in accordance with Regulation No. 10 hereof;

(e) A sufficient bond to insure performance of the duty to reclaim the disturbed area pursuant to the approved reclamation plan, said bond to be in an amount consistent with the findings in Rule 3.2(c) above;

(f) A statement setting forth the proposed date of commencement of the development operations and an estimate of the period of time during which such operations are to be carried out.

3.3 Application for such permit shall be processed expeditiously and applicants notified of action taken thereon by the Commissioner with respect thereto within five working days of receipt of application.

#### Rule 4. Surface Mining Permit

4.1 Permit applications may cover one or more surface mining operations which may or may not be contiguous. A single application may be submitted to the Commissioner for a combined surface mining permit covering all noncontiguous surface mining operations and shall contain a single mining and reclamation plan covering all land described in the application.

4.2 The permit application shall be submitted on forms prescribed by the Commissioner and shall contain all the information and data required by the provisions of Section 905 of the Act.

4.3 Within sixty days following receipt of a proper application, the Commissioner shall call a public hearing pursuant to the provisions of Section 910 and shall either grant or deny the application within fifteen working days after completion of the hearing, in the manner and pursuant to the terms and provisions of the Act and the rules and regulations which the Commissioner may adopt thereunder.

4.4 Each successful applicant shall submit a certificate of public liability insurance, a performance bond with acceptable surety, or a bond or cash or collateral securities in accordance with the provisions of the Act, and shall pay to the Office of Conservation the required fee at the time and in the amount provided for in the Act.

4.5 When an application is made for a permit to conduct surface mining operations, the Commissioner shall immediately cause the area proposed to be included within the permit-area to be examined prior to the issuance of the permit. Following the hearing on the application, the area or a portion thereof may be designated by the Commissioner, pursuant to Section 905(D) of the Act, as unsuitable for reclamation should evidence at the hearing conclusively warrant the finding that such operations will result in significant damage to important areas that are: (a) State or national historical sites or landmarks; (b) archeological sites; (c) aquifer and aquifer recharge areas which provide drinking water to the public; (d) subject to frequent flooding or of unstable geology that may reasonably be expected to endanger life and property; (e) areas where such operations would endanger any public road, public building, cemetery, school, church, or similar structure or existing dwelling outside the permit area.

4.6 The surface mining permit shall be granted if it is established that the application complies with the requirements of these rules and all applicable Federal and State laws. The Commissioner may approve a surface mining permit conditioned upon the issuance of all other required permits or licenses, and all permits granted by the Commissioner during the initial regulatory period of the Federal

Surface Mining and Reclamation Act of 1977 (Public Law 95-87), as set forth in Section 502 of that Act, shall specifically require compliance with applicable performance standards of the Federal Act and interim rules promulgated by the Secretary of the Interior pursuant to Section 501 (a) of that Act.

4.7 The Commissioner may deny a permit application to mine an area or may delete any portion of the area of land contained within the requested permit area, if:

(a) The Commissioner finds that the reclamation as required by these rules cannot be accomplished by means of the proposed reclamation plan;

(b) Any part of the proposed operation lies within an area which the Commissioner has designated as unsuitable for surface mining pursuant to these rules unless the application is amended to exclude such designated areas;

(c) The Commissioner finds that the proposed mining operation will cause pollution of any water of the state, or that the proposed mining operation will cause pollution of the ambient air of the state;

(d) The applicant has failed to furnish a certification that the police jury for the parish wherein the mining operation will take place, the Louisiana Wildlife Federation, the Louisiana Wildlife and Fisheries Commission, the soil and water conservation district for the parish, and the Louisiana Air Control Board have been notified of the application for a surface mining permit and that each have received a copy of said application;

(e) If the applicant is a foreign corporation and has failed to include a certificate from the Secretary of State of Louisiana certifying that it is a corporation authorized to do business in and is in good standing in the State of Louisiana;

(f) An applicant has failed to furnish the Commissioner any other forms, documents or information including results of exploration and development operations relating to the requested surface mining operation requested by the Commissioner that are reasonably necessary to effectuate the purposes of the Act;

(g) The applicant has had any other permits issued hereunder revoked or any bonds posted to comply with these rules forfeited and the conditions causing the bond to be forfeited have not been corrected to the satisfaction of the Commissioner;

(h) The Commissioner determines that the proposed operation will adversely affect any public highway or road;

(i) The operator is unable to produce the bond or cash or collateral security to be filed by an applicant covering the area of land within the permit area on which the operator will initiate and conduct surface mining operations during the first one and one-half years as shown by the mining plan.

(j) The Commissioner determines an area to be a State-owned navigable stream or lake and the reclamation as required by these rules cannot be accomplished by means of the proposed reclamation plan.

(k) The proposed reclamation plan does not adequately provide for the public safety where mining through or up to an oil or gas pipeline servitude.

#### Rule 5. Mining Plan

5.1 Applicant shall set forth a complete mining plan describing the manner in which the land is to be disturbed in the surface mining operation.

5.2 There shall be shown on the plat, the section or sections to be mined during the first one and one-half years of the mining plan.

#### Rule 6. Reclamation Plan

6.1 All land affected by surface mining operations shall be reclaimed as near as practicable to its original or other beneficial condition, considering past and possible uses of the area involved. Such reclamation shall be accomplished at the time and in the manner set forth in the operator's reclamation plan as approved by the Commissioner pursuant to the terms and provisions set forth in Section 911 of the Act.

6.2 Applicant shall submit a reclamation plan in the application for the surface mining permit including a description of the means to be used and an estimate of the cost of reclamation per acre.

#### Rule 7. Basis of Revocation and Suspension

7.1 The Commissioner may cause an operator to halt all or any pertinent portion of a surface mining operation or reclamation program when on the basis of any inspection he reasonably believes that an emergency exists in that to allow the operation or program to continue would:

(a) Cause or could reasonably be expected to cause irreparable damage to persons or to public or private property; or

(b) Create or could reasonably be expected to cause an imminent danger to the health or safety of the public; or

(c) Cause or could reasonably be expected to cause significant imminent harm to water and other natural resources and in such event the Commissioner shall proceed with revocation or suspension proceedings as provided for in Section 906 of the Act.

7.2 When, on the basis of an inspection, the Commissioner or a surface mining and reclamation inspector determines that any operator is in violation of any requirement of the Act or any pertinent condition required therein, but such violation does not constitute an emergency as set forth in the Act, the Commissioner shall endeavor by private conference, conciliation and persuasion to the fullest extent he may reasonably determine appropriate to eliminate such violation. In case of failure at such conference, the Commissioner shall proceed with a formal complaint at a hearing before the Commissioner as provided for in Section 906.

#### Rule 8. Permit Revision or Correction

The holder of a permit may file an application to revise or to correct a permit in the following manner:

(a) A document shall be prepared setting forth the revisions or corrections desired upon the form of an application for a permit and indicate thereon the revisions or corrections desired. Such application shall be made in the same manner and shall contain the same information used in connection with obtaining the original permit.

(b) Within five working days after receiving the application for the revisions or changes, the Commissioner shall determine whether or not the application for revisions or changes propose a substantial revision or change for the intended use of the land or significant alterations in the reclamation plan.

(c) In the event the Commissioner determines that such application for a revision or change proposes a substantial change in the intended future use of the land or a significant alteration in the reclamation plan, he shall so notify the applicant. In such event applicant shall be required to comply with notice and hearing requirements provided for in the Act in the case of an original application.

(d) The following corrections shall not be deemed to constitute a substantial change in the intended future use of the land or a significant alteration in the reclamation plan and the Commissioner may make a correction to a permit or order by reissuing the permit or order without

the necessity of following the notice and hearing requirements as in the case of an original application for surface mining permit:

- (1) To correct a clerical or typographical error;
- (2) To describe more accurately the location of the authorized surface mining operation;
- (3) To describe more accurately the nature, type, and method of the surface mining operation; or
- (4) To describe more accurately any provision in a permit or order, but without changing the substance of any such provision; or
- (5) To reduce size of area to be mined.

#### Rule 9. Designation of an Area as Unsuitable for Surface Mining Operations

9.1 When an application for surface mining permit has been filed with the Commissioner and he has determined, following his examination or the hearing on the application, as is provided for in Rule 4.5, that the area or a portion thereof should be designated as unsuitable for reclamation or should the Commissioner determine that reclamation pursuant to the requirements of the Act is not feasible as to a portion of the lands covered by said application, that portion of the area affected may be designated as unsuitable for all or certain types of surface mining. In this connection, surface mining operations will be presumed to not adversely affect any area involved if the person, or governmental agency which owns or is responsible for the administration or maintenance of the area, has no objection to the surface mining operation.

9.2 Following a determination by the Commissioner that lands are unsuitable for surface mining operations such determination, along with a general description of the location of the land, shall be published in a newspaper of general circulation in each of the parishes in which the land is situated. Where there is no newspaper of general circulation in the parish involved, publication in the nearest parish thereto should be made. The publication shall also state that a more precise delineation of the land's location may be found in the Commissioner's office.

#### Rule 10. Standards

The operator of all surface mining and reclamation operations not otherwise exempted or excluded shall as a minimum comply with all of the standards set forth in the Act and the following:

- (a) Conduct surface mining operations in a manner consistent with prudent mining practice, so as to maximize the utilization and conservation of the coal and lignite that can be economically recovered and so that re-affecting the land in the future through surface mining can be minimized;
- (b) After the coal and lignite have been removed, reduce all high walls, spoil piles, and banks to a slope sufficient to control erosion effectively and to sustain vegetation, where required, consistent with the anticipated subsequent use of the affected land;
- (c) Stabilize and protect all surface areas affected by the mining and reclamation operation effectively to control erosion and attendant air and water pollution;
- (d) Replace the topsoil or the best available subsoil, if any, on top of the land to be reclaimed;
- (e) Fill any auger holes with an impervious material in order to prevent drainage;
- (f) Minimize the disturbances to the prevailing hydrologic balance at the mine site and in associated offsite areas and to the quality and quantity of water in surface and groundwater systems both during and after surface mining operations and during reclamation by:

(1) Avoiding acid or other toxic mine drainage by such measures as, but not limited to:

- (a) Preventing or removing water from contact with toxic-producing deposits,
- (b) Treating drainage to reduce toxic content,
- (c) Casing, sealing, or otherwise managing boreholes, shafts, and wells to keep acid or other toxic drainage from entering ground and surface waters.
- (2) Conducting surface mining operations so as to prevent unreasonable additional contributions of suspended solids to streamflow or run off outside the permit area above natural levels under seasonal flow conditions; and
- (3) Consistent with good water conservation practices, removing such temporary or large siltation structures from drainways after disturbed areas are revegetated and stabilized;
- (g) Stabilize any waste piles;
- (h) Refrain from surface mining in proximity to active and abandoned underground mines where such mining would cause breakthroughs or could endanger the health or safety of miners;
- (i) Incorporate current engineering practices for the design and construction of water retention facilities which, at a minimum, shall be compatible with the requirements of the applicable State and Federal laws to insure that leachate will not pollute surface or groundwater, and locate impoundments so as not to endanger public health and safety should failure occur;
- (j) Insure that all debris, acid-forming materials, toxic materials, or materials constituting a fire hazard are treated or disposed of in a manner designed to prevent contamination of ground or surface waters or combustion;
- (k) Insure that any explosives are used only in accordance with existing State and Federal laws and regulations promulgated by the Commissioner;
- (l) Insure that all reclamation efforts proceed as contemporaneously as practicable with the surface mining operation;
- (m) Insure that construction, maintenance, and post-mining conditions of access roads into and across the site of operations will minimize erosion and siltation, pollution of air and water, damage to fish or wildlife or their habitat, or public or private property; provided that the Commissioner may permit the retention after mining of certain access roads if compatible with the approved reclamation plan;
- (n) Refrain from the construction of roads or other access ways up a stream bed or drainage channel or in proximity to such channel where such construction would seriously alter the normal flow of water;
- (o) Establish on all affected lands, where required in the approved reclamation plan, a diverse vegetative cover native to the affected land where vegetation existed prior to mining and capable of self-regeneration and plant succession equal in extent of cover to the natural vegetation of the area; except that introduced species may be used in the revegetation process where desirable or necessary to achieve the approved reclamation plan;
- (p) Assume responsibility for successful revegetation for a period of two years beyond the first year in which the vegetation has been successfully established as evidenced by the land being used as anticipated in the reclamation plan, provided that the two year period of responsibility shall commence no later than two complete growing seasons after the vegetation has been successfully established as determined by the Commissioner. Should the landowner or its agent or lessee, without the operators' per-

mission during the period in which the operator is responsible for successful revegetation, enter into possession of the area being reclaimed, the operator shall be released from any further responsibility at the time of the entry;

(q) With respect to permanent impoundments of water as a part of the approved reclamation plan, insure that:

(1) The size of the impoundment and the availability of water are adequate for its intended purpose;

(2) The impoundment dam construction will meet the requirements of the applicable State and Federal laws;

(3) The quality of impounded water will be suitable on a permanent basis for its intended use and the discharges from the impoundment will not degrade the water quality in the receiving stream;

(4) Final grading will provide adequate safety and access for anticipated water users; and

(5) Such water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses;

(r) An operator who has not made appropriate arrangements with the persons affected shall: not create a cut (a) within one hundred feet of any oil and gas well unless such well has been properly plugged, or (b) within one hundred fifty feet of the outside line of the right-of-way of any public highway or from the boundary of any national park, national monument, national historic landmark, property listed on the national register of historic places, national forest, national wilderness area, national wildlife refuge, national wildlife and scenic areas, state park, state wildlife refuge, state forest, recorded Louisiana landmark, State historic site, State archeological landmark, city or parish park, public road, public building, cemetery, school, church, or existing dwelling outside the permit area (as used in this subsection only, "persons affected" means those persons or government agencies which own or reside on or are responsible for the administration of the places listed in this subsection);

(s) Provide, prior to creating a cut for a surface mining operation, a drainage system adequate to prevent storm water runoff from coming into contact with the surface mining operation in quantities which could cause significant degradation of area surface and groundwaters;

(t) Provide that runoff water from areas disturbed by mining activities be impounded, drained, diverted or treated prior to discharge, to reduce soil erosion, damage to unmined lands, or the pollution of streams and other waters. These objectives shall be accomplished as follows:

(1) All water pumped from a mineral zone shall be retained in a holding pond located in the mine site area and may not be discharged unless such discharge will not adversely affect the receiving waters;

(2) After completion of mineral removal, rainfall runoff from the overburden shall be drained into the cut or otherwise controlled until erosion control is established. Techniques that the operator may utilize to accomplish the above include, but are not limited to:

(a) Grading of the overburden;

(b) Reliance upon the existence of natural drainage in the area; and

(c) The construction of ditches, dams, or berms.

(3) If a permanent water impoundment results from surface mining operations, its banks from the top down to ten feet below the mean water level shall be established as a slope of not greater than one foot vertical to three feet horizontal.

(u) Provide that toxic forming materials present in spoil ridges or in the exposed face of a mined mineral seam

or deposit be covered with nontoxic materials. Final cuts or other depressed areas no longer in use in mining operations, which accumulate toxic material, are prohibited;

(v) Unless otherwise specified by the Commissioner, planting shall be done when the season, local weather conditions and soil conditions are suitable for seed germination and plant survival;

(w) Revegetation shall be considered "successful" as required in the Act when it is:

(1) Capable of self-regeneration and plant succession; and

(2) Generally at least equal in extent of cover to the natural vegetation of the area;

(x) Provide that slopes of overburden piles be shaped to minimize runoff and to provide a surface to be seeded;

(y) In implementing the standards in this rule, the following guidelines will apply:

(1) In determining whether the anticipated post mining land use is beneficial, the Commissioner may consider, although not exclusively, practicable uses of which the land may be put; the past and present market value of the land; its productivity, past and present; its support of habitat for wildlife, past and present; and its provision for recreational utility, past and present.

(2) Except where the land will be inundated by a permanent water impoundment or unless the value and usefulness of the land will be reasonably comparable to or enhanced by an alternative procedure or by agreement with the landowner, the operator will restore the surface of the land to its approximate original contour and where necessary, take reasonable steps to prevent erosion.

#### Rule 11. Reports and Reporting

Each operator conducting surface mining operations under one or more approved surface mining permits shall file quarterly reports as provided for in Section 907 of the Act upon forms furnished by the Commissioner.

#### Rule 12. Release or Reduction of Bonds

12.1 At any time an operator may file an application with the Commissioner for the release of all or any part of the performance bond or deposit or collateral securities on deposit. Such application shall be on a form prescribed by the Commissioner.

12.2 Within forty-five days following receipt of the notification and request, the Commissioner shall conduct an inspection and evaluation of the reclamation work involved and make an estimate of the cost of completing same. Said bond or deposit or securities if the Commissioner is satisfied that reclamation covered by the bond or deposit or securities or portion thereof has been accomplished as required by the approved reclamation plan on file with the permit may be released in whole or in part. If the Commissioner disapproves the application for release of the bond or other collateral securities or cash or a portion thereof, the Commissioner shall notify the operator in writing, stating the reasons for disapproval and recommending corrective actions necessary to secure said release.

#### Rule 13. Transfer

13.1 When one operator succeeds another at any uncompleted operation, either by sale, assignment, lease or otherwise, the first operator will continue to be responsible and liable under his permit until such time, if ever, that the successor operator has been issued a permit and such transfer, assignment or sale to the successor operator has been approved by the Commissioner.

13.2 Application for the transfer shall be approved on written finding by the Commissioner when the following requirements have been met:

(a) The terms and conditions of the existing permit are being satisfactorily met;

(b) The successor operator has furnished a satisfactory performance bond or substitute collateral required under the terms of the Act;

(c) The successor operator has provided any additional or revised information required by the Commissioner.

**Rule 14. Mine Closing and Release**

14.1 Any incremental part of a mining operation for which a separate bond, cash, or collateral securities are filed by an applicant for a surface mining permit or the holder of such a permit will be considered closed for the purposes of these rules at such time as the operator demonstrates to the Commissioner that reclamation of the area of land affected has been completed in accordance with the provisions of the Act.

14.2 Upon fulfillment of these requirements, the operator will be notified thereof in writing by the Commissioner and released with respect to the area concerned, which notification will entitle the operator to a final release of the bond or return of the cash or collateral securities theretofore filed with the Commissioner.

R. T. Sutton  
Commissioner of Conservation

**RULES**

**Department of Natural Resources  
Office of Forestry  
and  
Office of the Governor  
Tax Commission**

**Timber Stumpage Values  
Calendar Year 1978**

Listed below are the timber stumpage values set by the Louisiana Tax Commission and the Louisiana Forestry Commission on December 12, 1977, as provided by law. These values are for the calendar year 1978.

The unit values were determined by the Commissions following an examination of stumpage price information collected directly from sawmills, pulpmills, and pulpwood procurement centers processing more than ninety-five percent of the wood harvested in Louisiana. The information was gathered by Office of Forestry foresters and other competent personnel.

In accordance with a motion passed by the Louisiana Forestry Commission on September 22, 1977, and as previously agreed upon by the Louisiana Tax Commission and the Severance Tax Division, Louisiana Department of Revenue, all hardwood species and cypress sawtimber values will be combined into a single entity.

The sawtimber values are based on Doyle Log Rule and the pulpwood values are based on a standard cord (128 cubic feet.).

- Pine Sawtimber—  
\$115.00 per thousand board feet
- All Hardwoods and Cypress Sawtimber—  
\$45.00 per thousand board feet
- Pine Pulpwood—  
\$7.50 per cord
- Hardwood Pulpwood—  
\$3.50 per cord

The regular severance tax rate is 2¼ percent of the above sawtimber stumpage values and 5 percent of the above pulpwood values.

The severance tax rate on timber conservation contract lands is six percent of all above stumpage values both sawtimber and pulpwood.

Effective date: January 1—December 31, 1978.

All other forest products (fence posts, ties, poles, pilings, etc.) to be computed on basis of Doyle Log Rule or standard cords (128 cubic feet) as applicable.

D. L. McFatter, State Forester  
C. Gordon Johnson, Chairman  
Tax Commission

**RULES**

**Department of Natural Resources  
Office of Mineral Resources**

The State Mineral Board has adopted by resolution at its December 14, 1977 meeting the following Rules and Regulations pertaining to the issuance of geophysical permits. These Rules and Regulations shall become effective February 13, 1978.

**Rules and Regulations Applicable to Geophysical and  
Geological Surveys Conducted Upon or Relating to  
State-Owned Lands and Waterbottoms**

I. Permits for geophysical and geological surveys under Title 30, Chapter 3, Sections 211 through 216 of the Revised Statutes of 1950 should be obtained from the State Mineral Board through the Office of Mineral Resources, Department of Natural Resources.

II. Application for a permit for such exploration must be filed in quadruplicate with one copy addressed to the Secretary of the Department of Natural Resources and three copies addressed to the Assistant Secretary of the Office of Mineral Resources at least ten days before the requested effective date of the permit and each copy must be accompanied by supporting documents as follows:

A. A map showing the geographic district of the state for which the permit is being sought.

B. A statement of the type work planned such as gravity meter, magnetometer, reflection, refraction, etc. It is required that official permit application forms be used which are available upon request from the Office of Mineral Resources.

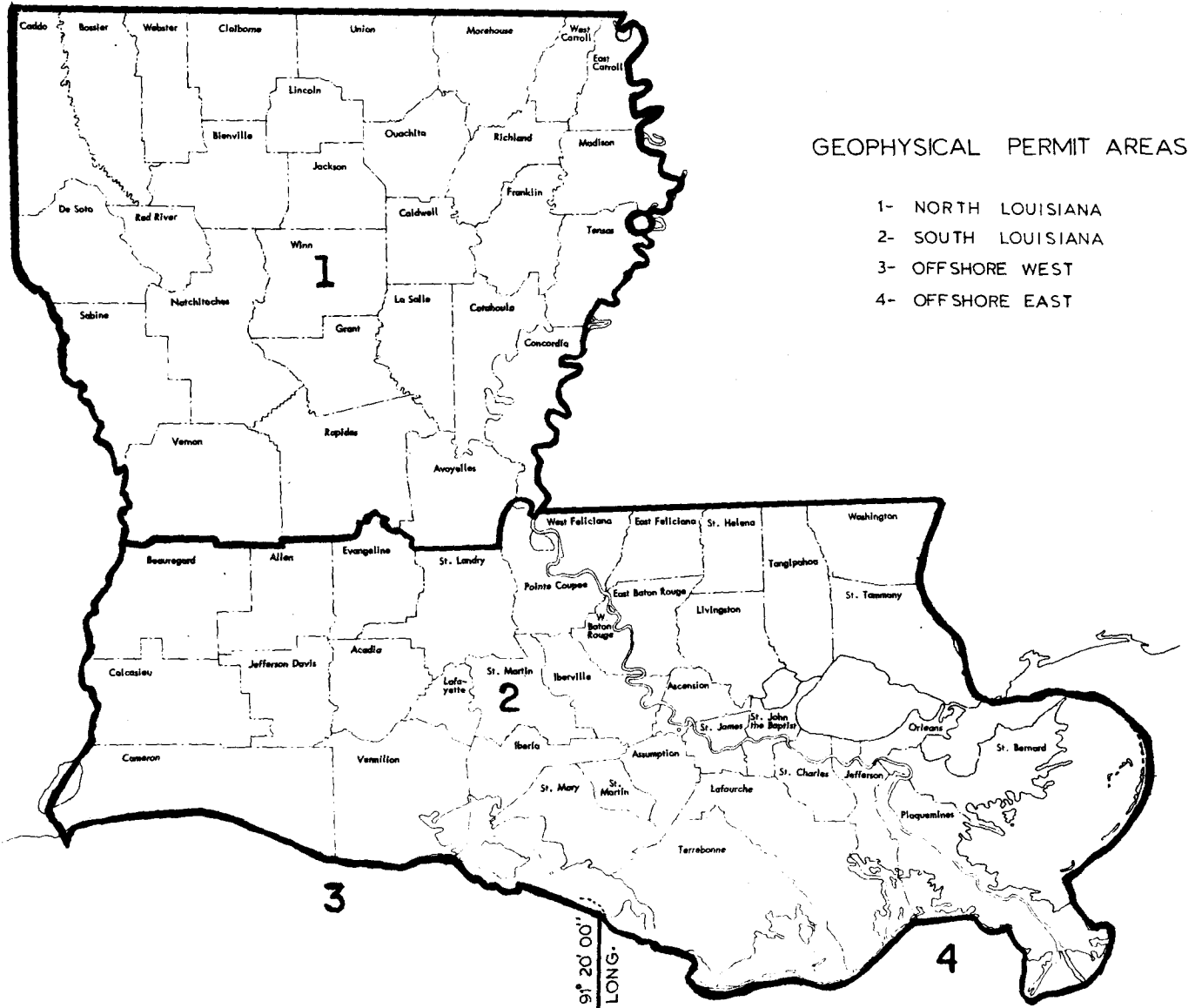
All permits shall not be deemed to cover and include any State oil and gas lease either in effect or thereafter to be in effect, so long as such lease or leases remain in effect, covering any portion of the area covered by the permit or permits, but if permittee or permittees shall secure appropriate consent from the lessee or lessees under any such lease or leases to conduct operations thereon of the type permitted by the permit or permits, such permit or permits shall evidence the acquiescence of the State Mineral Board in such consent. Upon the expiration, lapse, or termination of any such State lease or leases, permits shall automatically extend to cover the acreage formerly under lease.

III. Whenever there arises an emergency or other cause which prevents the applicant from filing application as above provided, application for a permit for such exploration may be requested in any manner, and the Assistant Secretary of the Office of Mineral Resources, acting as Secretary of the State Mineral Board, is authorized to grant, in any manner, temporary permission to conduct such geophysical operations after notifying the Secretary of the Department of Natural Resources and the Department of Wildlife and Fisheries of the informal application for this temporary permit. Operations under this paragraph shall be confined to the areas affected by

the emergency conditions such as are deemed to exist in the discretion of said Secretary of the State Mineral Board. Within ten days of the date of granting such temporary permission a written application shall be filed in accordance with the provisions of paragraph II.

IV. Permits are limited to a period of one year from date of issuance, unless revoked for cause.

V. All permits shall be limited to a single geographic district of the state as those districts are designated on the attached plat.



## RULE

### Department of Wildlife and Fisheries

The following rule was adopted via resolution of the Wildlife and Fisheries Commission.

#### Oyster Seed Ground Closure

Whereas, R. S. 56:433 directs the Wildlife and Fisheries Commission to hold a public hearing for the closure of the oyster season, and

Whereas, this public hearing was held with the oyster industry at the New Orleans office on November 15, 1977, and

Whereas, the marine biologists, after surveying the oyster seeding grounds, reported there are few oysters in the area and those remaining should be protected,

Now, therefore, be it resolved that the oyster season on the State seed grounds will be closed one-half an hour after sundown on Sunday, February 12, 1978, and

Be it further resolved, that after January 1, 1978, all oysters harvested from the State seed grounds shall be three inches or larger.

J. Burton Angelle, Secretary  
Department of Wildlife and Fisheries

VI. In order to accommodate proper administration of permits and orderly operations thereunder, the applicant must submit to the Office of Mineral Resources notice of the date of commencement of any geophysical and geological work authorized by a permit, a plat acceptable to the Office of Mineral Resources reasonably identifying and locating each particular grid area in which operations are to be conducted and, after completion of field operations, a like plat on each proposed grid, which is to be supplemented with any additional detailed work thereafter conducted, reflecting the locations of all shot points and the date of completion of said work, which latter plat shall be deemed confidential if so requested by permittee. All geophysical and geological information and data obtained by permittee in conducting operations hereunder shall be governed by R. S. 30:213. For the purposes of these rules and regulations, date of commencement of operations is defined as the date upon which crews and equipment are moved into the area to be worked.

VII. A certified check, cashier's check or band money order in the amount of \$250.00 payable to the Office of Mineral Resources should accompany each application as the fee for issuance of a permit.

VIII. Pursuant to R.S. 30:214 all permits will be issued subject to strict compliance by the permittee with all applicable rules governing the conduct of seismic exploration in water areas as such rules may from time to time be promulgated by the Department of Wildlife and Fisheries for the protection of oysters, fish, and wildlife. Further all wildlife and waterfowl refuges, game and fish preserves, or oyster seed ground reservations or any part thereof, shall not be deemed to be included in the area covered by any permit unless written permission from the agency in charge of such refuge, preserve, or reservation is also secured.

IX. The State Mineral Board hereby declares that all information, maps, and other data of every kind whatsoever that are supplied to the Board pursuant to the requirements of R. S. 30:213, shall be kept confidential and shall be available only to the State Mineral Board and Commissioner of Conservation in the proper administration and development of State-owned lands and waterbottoms. In order to make effective such secrecy, all such maps and other data shall at all times be kept under lock and key, except during the course of actual examination by or on behalf of the Board or the Commissioner. Any violation of these requirements is hereby declared cause for peremptory removal from office or discharge of the offending officer or employee in addition to the penalty provided by R.S. 30:216.

X. In the event a permittee conducts operations for an operator, the name and address of such operator shall be furnished to the Office of Mineral Resources prior to the commencement of any such operations.

XI. The permitting requirements of R.S. 30:212 do not apply to the lessees of State-owned lands and waterbottoms under lease for mineral exploration and development. However, the provisions of paragraphs VIII, IX and XII of these Rules shall be applicable to any geophysical exploration conducted by or for the account of such a lessee.

XII. The approval of the State Mineral Board, through its duly authorized officer, of any permit, is granted subject to any future rules and regulations which may be adopted by the State Mineral Board from time to time. The Board hereby declares that in the event any changes in the rules and regulations are effected, thirty days written notice shall be given to all permittees whose permits are still in effect.

C. J. Bonnecarrere, Assistant Secretary  
Office of Mineral Resources

## Notices of Intent

### NOTICE OF INTENT

#### Department of State Civil Service

The State Civil Service Commission will hold a public hearing on February 14, 1978, for the purpose of considering changes in Civil Service Rules 7.20(c) and 11.23.

The hearing will begin at 9:00 a.m. and will be held in the Conference Room of the Wildlife and Fisheries Building, 400 Royal Street, New Orleans, Louisiana.

The proposals to be considered at the public hearing are as follows:

Amend and reenact Rule 7.20(c) as follows:

7.20 Noncompetitive Classes.

(c) The Director may waive competitive appointment requirements and approve the noncompetitive appointment of an applicant to a position provided such applicant:

1. is a bona fide client of the Vocational Rehabilitation Program or the Blind Services Program of the Office of Rehabilitation Services, Department of Health and Human Resources, and . . .

Explanation—The proposed amendments will (1) remove the requirement for Commission approval of waiver of competitive appointment requirements by the Director, and (2) reflect the fact that Act 513 of the 1976 Regular Session transferred the Vocational Rehabilitation Program from the Department of Education to the Department of Health and Human Resources.

\* \* \* \*

Enact Rule 11.23(k) as follows:

11.23 Civil, Emergency, and Special Leave.

An employee shall be given time off without loss of pay, annual leave, or sick leave when

- (k) the employee is a current member of the Civil Air Patrol and incident to such membership is ordered to perform duty with troops or participate in field exercises or training, except that such leave shall not exceed fifteen work-

ing days in any one calendar year and shall not be used for unit meetings or training conducted during such meetings.

Explanation—Act 495 of the 1977 Legislature amended R.S. 42:394 relative to leaves of absence for State employees. The Act added members of the Civil Air Patrol to the list of those eligible for up to fifteen working days paid leave for days during which they are ordered to duty with troops or at field exercises or for instruction. The proposed rule change will provide those same benefits to Civil Air Patrol members who are classified State employees.

\* \* \* \*

Persons interested in making comments relative to these proposals may do so at the public hearing or in writing to the following address: Director, Department of State Civil Service, Box 44111, Baton Rouge, Louisiana 70804.

George Hamner, Director  
Department of State Civil Service

### NOTICE OF INTENT

#### Department of Commerce Licensing Board for Contractors

The State Licensing Board for Contractors will consider the adoption of the following rule at its regularly scheduled meeting at 1:00 p.m., February 14, 1978, in the office of the Board, 9181 Interline Avenue, Suite 100, Baton Rouge, Louisiana 70809.

Any person, firm, or corporation duly licensed under the provisions of R.S. 37:2150, et seq., who violates any provision of the said Louisiana contractor's licensing law or any rule or regulation of this Board may, after due and proper hearing, have its license suspended or revoked by this Board. Prior to the Board's action on suspension or revocation of licenses as aforesaid, the licensee shall be given a hearing in accordance with the Louisiana Administrative Procedures Act.

Interested persons may comment on the proposed rule at the meeting of the Board.

Emery L. Villar, Executive Director  
Licensing Board for Contractors

### NOTICE OF INTENT

#### Department of Commerce Real Estate Commission

Pursuant to R.S. 49:951, et seq., notice is hereby given that the Louisiana Real Estate Commission intends to consider at its February 9, 1978, meeting adoption of revised Rules and Regulations pertaining to examination procedures and procedures pertaining to real estate schools.

Interested persons may present their views, in writing, to the Louisiana Real Estate Commission, Box 44517, Baton Rouge, Louisiana 70804 not later than February 6, 1978.

Stanley Passman, Executive Director  
Real Estate Commission

### NOTICE OF INTENT

#### Board of Trustees for State Colleges and Universities

In accordance with the laws of the State of Louisiana and with reference to the provisions of Title 30 of the Revised Statutes of 1950, a public hearing will be held in the Mineral

Board Hearing Room, State Land and Natural Resources Building, Baton Rouge, Louisiana, beginning at 9:30 a.m. on February 24, 1978.

Under the authority of Article VIII, Section 6 of the 1974 Louisiana Constitution, the Board will at such hearing consider amendment to Part IV, Educational Policies and Procedures, 4.9 B.1., Letter of Intent; and Part VII, Faculty and Staff Personnel Policies and Procedures, Section 7.13 Faculty, A-3.

The Board of Trustees for State Colleges and Universities will accept written comments until 4:30 p.m., February 8, 1978, at the following address: Board of Trustees for State Colleges and Universities, Suite 1412, One American Place, Baton Rouge, Louisiana 70825.

All interested persons will be afforded reasonable opportunity to submit data, views, comments, or arguments at the regular February Board meeting.

Bill Junkin, Executive Director  
Board of Trustees for State  
Colleges and Universities

### NOTICE OF INTENT

#### Department of Education

The State Department of Education will hold a public hearing at 10:00 a.m., February 8, 1978, in the Sixth Floor Conference Room, State Department of Education Building, 626 North Fourth Street, Baton Rouge, Louisiana.

The purpose of the hearing will be to receive comments and consider adoption of the proposed Guidelines for Teacher In-Service as mandated by Act 10 of the Louisiana Legislature.

Interested persons may submit their written views and opinions until 4:30 p.m., February 6, 1978, at the following address: State Department of Education, Division of Academic Programs, Box 44064, Baton Rouge, Louisiana 70804. Reasonable opportunity for oral comment will be permitted at the hearing.

J. Kelly Nix  
State Superintendent of Public Education

### NOTICE OF INTENT

#### Governor's Special Commission on Education Services

Notice is hereby given in accordance with the requirements of R. S. 36:954(B), Act 83 of the 1977 Regular Session, of the implementation of the Plan for Reorganization dated December 28, 1977, for the Governor's Special Commission on Education Services in the Department of Education.

The agencies and effective dates of the transfer are as follows:

Abolition and transfer as provided in R. S. 36:921, at 12:10 a.m., February 19, 1978:

A. T. H. Harris Scholarship Foundation Board of Trustees (R. S. 17:1781-83)

B. Louisiana Higher Education Assistance Commission (R. S. 17:3021-30)

The Governor, the Joint Legislative Committee on Reorganization of the Executive Branch, the Commissioner of Administration, and the Chairman of the Governor's Special Commission on Education Services have given their approval to this notice of intent and its implementation.

Documents relating to this notice of intent will be available for public inspection beginning March 1, 1978, in the office of the Executive Director-Coordinator of the Commission, which

is located on the fourth floor of the State Capitol Building, Baton Rouge, Louisiana 70804.

Edwin Edwards, Governor  
State of Louisiana

Edmund Reggie, Chairman  
Joint Legislative Committee on Reorganization  
of the Executive Branch

Charles E. Roemer, II Commissioner  
Office of the Governor, Division of Administration

Dan S. Borne', Chairman  
Governor's Special Commission on Education Services

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Notice is hereby given that the State Board of Elementary and Secondary Education intends to adopt at its February 23, 1978, meeting, the following policies:

1. Revision to Bulletin 741, *Handbook for School Administrators*, Revised 1977, pages 1, 2, 4, 15, 16, 17, 18-25, 26, 27, 28, 29, 30-31, 34, 35, 36, 37-44 to extend application to the nonpublic schools in the following areas:

Page 1, Paragraph 2, Transfer student records.

Page 2, Paragraph 3, School fund records.

Paragraph 4, Health records.

Paragraph 5, Textbook records.

Paragraph 6, Other records.

Page 4, Paragraph 4, Reports of pupil progress.

Paragraph 5, Other reports.

Page 15 Special requirements.

Health and physical education.

Page 16 Second paragraph on students not enrolled in the high school participating in school activities. Proficiency examinations.

Page 17 Guidelines.

Page 18-25 Secondary program of studies.

Page 25 Guidelines for granting credit in vocational education courses.

Page 26 Vocational cooperative education programs. Private and sectarian schools.

Page 27 Correspondence study courses.

Page 28 Students transferring from foreign schools.

Page 29 Adding elective courses to the program of studies.

Pages 30-31 Approval of experimental programs.

Page 34 Instruction by private teachers.

Page 35 High school credit for college courses.

Page 36 Early college admissions policy.

Pages 37-44 Graduation requirements for adults.

2. Policy whereby a representative of the vocational-technical teacher organizations (Louisiana Vocational Association and Louisiana Federation of Vocational-Technical Teachers) or other legally constituted bodies in this field as recognized as such by the Board, not be charged annual leave to attend Board and Committee meetings affecting vocational-technical teachers.

3. Guidelines for post-baccalaureate programs for advanced preparation of teachers and other professional school personnel to read as follows:

There are two primary categories in state for post-baccalaureate programs for advanced preparation of teachers and other professional school personnel.

1. Post-baccalaureate for those seeking initial certification.

2. Post-baccalaureate for those working beyond initial certification.

All advanced programs presently existing in the state which have achieved approval by their institutions's Management Board and the Board of Regents and which meet certification requirements of the State Board of Elementary and Secondary Education will be maintained.

All new post-baccalaureate programs of study in teacher education must first receive approval by the institution's management board and the Board of Regents; thereafter, the program shall be submitted to the Department of Education and the State Board of Elementary and Secondary Education for verification that the program meets all certification standards as stated in Bulletin 746.

According to Bulletin 746, Louisiana Standards for State Certification of School Personnel, the following certification areas require advanced degrees and possession of a standard Louisiana teaching certificate: School Superintendent; School Principal; Assistant Principal; Parish or City Supervisor of Instruction; Supervisor of Child Welfare and Attendance and/or Visiting Teacher; Supervisor of School Libraries; Supervisor of Parish or City Materials and/or Media Centers; Counselors in Elementary Schools; Counselors in Secondary Schools; Reading Specialist; Supervisor of Student Teaching; Parish or City School Supervisor/Director of Special Education. Ancillary personnel: Parish School Food Service Supervisor's Certificate; School Psychologist.

4. Amendment to policy on graduate courses offered in Louisiana by out-of-state institutions to read as follows:

Courses in Louisiana by out-of-state institutions shall be recognized for purposes of teacher certification and salary increments only if the following conditions are met:

1. The out-of-state institution must be registered with the Secretary of State as a bona fide business operating in the State of Louisiana for the purpose of offering teacher education programs and with the Louisiana State Board of Regents as required by Act 225, 1976 Regular Session.

2. Any institution offering a course in Louisiana must have State and regional accreditation recognized by the state in which the institution is domiciled for each program from which a course is offered.

3. Course level offerings in the State of Louisiana must bear accreditation at the level of offering in the state of domicile.

4. Courses offered in Louisiana must be applicable to advanced degrees at the home campus of the out-of-state institution.

Responsibility for written verification of compliance with the above conditions lies with the applying institution prior to the first class meeting of each course.

5. Policy in accordance with Act 86 (1977 Regular Session) as follows: If the publisher has not collected books within forty-five days after receipt of notification by the Department of Education, the parish or city superintendents may dispose of them by selling them to private persons or donating them to hospitals or parish prisons. Any monies received from the sale of these books shall remain at the parish level for materials of instruction.

The State Board of Elementary and Secondary Education will accept written comments until 4:30 p.m., February 8, 1978, at the following address: State Board of Elementary and Secondary Education, Box 44064, Baton Rouge, Louisiana 70804.

All interested persons will be afforded reasonable opportunity to submit data, views, or comments at the regular February meeting.

Bro. Felician Fourrier, S.C., Acting Director  
Board of Elementary and Secondary Education

## NOTICE OF INTENT

### Board of Regents

Notice is hereby given that the Board of Regents intends to consider the addition of a paragraph to its bylaws at its regular February, 1978, meeting. The addition concerns the expansion of standing committees.

Interested persons may submit written comments up to fifteen days following publication of this notice of intent to the following address: Louisiana Board of Regents, Suite 1530, One American Place, Baton Rouge, Louisiana.

William Arceneaux  
Commissioner of Higher Education  
Board of Regents

## NOTICE OF INTENT

### Department of Health and Human Resources Office of Family Services

The Department of Health and Human Resources, Office of Family Services plans to adopt the following policy in relation to board payments for foster children in certain private child caring institutions. The board rate paid by the Office of Family Services will be adjusted to equal the board rate paid to the same facilities by the Office of Youth Services. The new rates to the designated facilities will reflect the costs of child care as audited by the Office of Youth Services. The designated child caring facilities and the adjusted board rates are as follows:

Facility	Adjusted Rate
Blundon Home	\$630.00
Carrollton House	617.10
*Hope Haven/Madonna Manor	630.00
Joliet House	630.00
LaPlace Christian Home	544.50
Lafitte House	591.00
McDonnell Methodist Home	618.90
Milne	630.00
Pollux House	630.00
Rutherford House	630.00
Sager Brown School	630.00
St. Elizabeth's	630.00
Samaritan House	630.00
Southern Hills Group Home	545.70

\*Does not include children in the intensive care unit at above \$630 rate.

Interested persons may submit written comments until 4:30 p.m., February 3, 1978, to Mr. Alvis D. Roberts, Acting Assistant Secretary, Office of Family Services, Department of Health and Human Resources, Box 44065, Baton Rouge, Louisiana 70804.

William A. Cherry, M.D., Secretary  
Department of Health and Human Resources

## NOTICE OF INTENT

### Department of Health and Human Resources Office of Family Services

The Department of Health and Human Resources, Office of Family Services proposes to adopt the following policy for controlling the enrollment level within budgetary limits in the vendor payment day care program.

A proportional share or quota of day care spaces will be designated by State Office of Family Services on a regional basis. The regional quota is based on the results of an analysis of the day care quarterly reports for the past two years to determine the average usage of vendor payment day care services by region. At the beginning of each quarter, the regional social services consultants will be furnished the quota for their particular region. This quota system is not applicable to those children receiving day care through the Work Incentive Program (WIN), as provision of day care is mandatory for the WIN recipient. Upon receipt of the regional quota, the social services consultant or their designated representative must then determine how many spaces will be allowed for each parish in the region which has participating day care centers and family day care homes (HD's). Once the parish Office of Family Services has been assigned its quarterly quota, internal controls must be established by the local office to assure that the number of children certified for day care does not exceed the quota.

During the balance of this fiscal year should it be determined that an additional number of children can be served, the quota will be increased accordingly.

Interested persons may submit written comments until 4:30 p.m., February 3, 1978, to Mr. Alvis D. Roberts, Acting Assistant Secretary, Office of Family Services, Box 44065, Baton Rouge, Louisiana 70804.

William A. Cherry, M.D., Secretary  
Department of Health and Human Resources

## NOTICE OF INTENT

### Department of Health and Human Resources Office of Family Services

The Department of Health and Human Resources, Office of Family Services, proposes to adopt, the reservation of a bed for up to twenty-five days per calendar year while the recipient is absent from an intermediate care facility for the mentally retarded for home leave. Retroactive payment will not be made for any home leave days which exceeded the previous eighteen day limitation prior to December 1, 1977.

Interested persons may submit comments orally or in writing until 1:00 p.m., February 6, 1978, to: Mr. Alvis D. Roberts, Acting Assistant Secretary, Office of Family Services, Department of Health and Human Resources, Box 44065, Baton Rouge, Louisiana 70804, Phone: (504) 389-6036.

William A. Cherry, M. D., Secretary  
Department of Health and Human Resources

## NOTICE OF INTENT

### Department of Health and Human Resources Office of Management and Finance

The Department of Health and Human Resources proposes to adopt amendments to its rules and sliding billing scales for general hospitals, (Louisiana Register, March 20, 1977). The amendments will provide that:

1. Admissions to State-owned general hospitals will be available to all bona fide residents of Louisiana, not just the poor, destitute, or medically indigent. Those persons who are not poor, destitute, or medically indigent shall be admitted on a space available basis and shall be reasonably charged for treatment. This change brings the rules in conformity with R.S. 46:6, as recently amended by Act 669 of 1977.

2. Persons who are potentially eligible for medical assistance benefits from any Federal or State program will be required to apply for and follow through with applications for said benefits. In addition, these persons may be billed for treatment, if the billing will make them eligible for benefits. This change requires these persons to apply for, and allows State facilities to take advantage of, the Medically Needy Program recently implemented by the Office of Family Services (Act 528 of 1976), under provisions of Title XIX of the Social Security Act (42 USC 1396 et seq.).

Interested persons may submit written comments until 4:30 p.m., February 6, 1978, to the following address: Mr. Ronald Falgout, Undersecretary, Office of Management and Finance, Department of Health and Human Resources, Box 3776, Baton Rouge, Louisiana 70821.

#### I. Admissions.

A. General hospitals—Admissions for treatment shall be made available only to bona fide residents of the State of Louisiana. In no case shall persons of any description be refused emergency treatment. Persons who are not poor, destitute, or medically indigent shall be admitted only on a space available basis and shall be billed in accordance with the applicable fee schedule upon leaving the hospital. Persons who are potentially eligible for medical assistance benefits from any Federal or State program may be billed for services, if such billing may render them eligible for said benefits. In the event that the program does not cover the appropriate charges for treatment, or the person is later determined to be ineligible for benefits, the responsible party shall be charged and billed in accordance with these rules and regulations. Persons seeking treatment shall furnish all information requested by the Intake Screening Department of the admitting facility.

\* \* \* \*

#### II. General Regulations.

\* \* \* \*

C. Failure to provide information—A person responsible for the payment of charges for services rendered who refuses to supply the information necessary for an accurate determination of eligibility by the Administrator of each facility of the required rate of charges for services rendered shall be presumed to be able to pay the full cost of services rendered and shall be billed accordingly. Any person who is potentially eligible for medical assistance benefits from any Federal or State program who refuses to apply for and follow through with application for said benefits shall be presumed to be able to pay the full cost of services rendered and shall be billed accordingly.

\* \* \* \*

E. Medical Assistance—All persons eligible to receive medical assistance benefits from any Federal or State program shall be eligible for free treatment provided the program as administered has agreed to cover the appropriate charges for treatment. All persons potentially eligible for medical assistance benefits from any Federal or State program who have been admitted to a State facility shall apply for and follow through with application for said benefits. In the event that the program does not cover the appropriate charges for treatment, or the person is later determined to be ineligible for benefits, the responsible party shall be charged and billed in accordance with these rules and regulations.

William A. Cherry, M.D., Secretary  
Department of Health and Human Resources

## NOTICE OF INTENT

### Department of Natural Resources Office of Conservation

#### Docket Number PL 78-9

Pursuant to the provisions of R.S. 49:953, the Office of Conservation, Department of Natural Resources, gives notice that it proposes to amend and reenact Rules of Procedure and Regulations of the Commissioner of Conservation applicable to matters arising under the Natural Resources and Energy Act of 1973, as amended, at a hearing to be held in the Conservation Auditorium, First Floor, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana, at 9:00 a.m. on February 16, 1978.

All interested persons will be afforded a reasonable opportunity to submit data, views, or arguments, orally or in writing. Written comments prior to the hearing should be forwarded to R. T. Sutton, Commissioner of Conservation, Box 44275, Baton Rouge, Louisiana 70804. Re: Docket No. PL 78-9.

#### Rules of Procedure

##### Applicable to Matters Arising under the Natural Resources and Energy Act of 1973,

##### Chapter 7 of Title 30 of Louisiana Revised Statutes of 1950.

Rule 1—Definitions—The words used herein shall have their usual meanings unless specially defined herein or in Chapter 7, Title 30 of Louisiana Revised Statutes of 1950, or in regulations promulgated by the Commissioner of Conservation pursuant thereto.

Rule 2—Applications—All applications to the Commissioner, pursuant to Chapter 7 of Title 30 of Louisiana Revised Statutes of 1950, or Article IX, Section 2 of the Louisiana Constitution 1974, shall comply with these rules of procedure.

Except as otherwise provided in these rules of procedure or in the Commissioner's regulations implementing the Natural Resources and Energy Act of 1973, all applications shall be made in duplicate in the form required by the Commissioner and to the extent required, shall contain an outline and explanation of the nature of the proposal and shall be accompanied by such attachments, if any, as are required for such applications under the provisions of Chapter 7 of Title 30 of Louisiana Revised Statutes of 1950 and applicable regulations adopted by the Commissioner pursuant thereto, and Article IX, Section 2 of the Louisiana Constitution 1974. In those situations where a public hearing is required, applications shall be submitted to the Commissioner in triplicate.

Rule 3—Applications Not Requiring Public Notice—Applications to the Commissioner for which no public notice is required shall be made in writing and shall be in the form required by the Commissioner and shall contain such information as is required for such applications under the applicable regulations.

If, in applicant's opinion, the public interest requires immediate action, the applicant may request a decision by telephone, and if approval is granted, the application must be submitted in writing within seventy-two hours thereafter.

Rule 4—Applications Requiring Public Notice—Public notice shall be given with respect to all applications for which a public hearing is required. Public notice shall be in writing and shall include (1) a statement of the time, place and nature of the hearing and the time within which a response is required, (2) a statement of the legal authority and jurisdiction under which the hearing is to be held, (3) a reference to the particular sections of the statutes, rules and regulations involved, and (4) a concise statement of the matters asserted.

The public notice, with a copy of the application, shall be mailed to all interested parties by the Commissioner on the date notice of the hearing is mailed to the applicant. The applicant shall furnish to the Commissioner a list of the names and addresses of all interested parties along with copies of the application enclosed within properly stamped envelopes addressed to the interested parties.

Notice to owners of land to be traversed by the pipeline, for all purposes under the Act and these regulations, shall be sufficient and shall be reasonable notice if mailed to the persons and to the addresses identified in the ad valorem tax records of the parish as the owners of the traversed lands. The public notice shall be further noticed upon interested parties by publication in the Official Journal of the State of Louisiana not less than ten days prior to the hearing.

**Rule 5—Applications Requiring Public Hearing—**No order, ruling or finding may be made or other action taken with respect to R.S. 30:553, 554, 555(A) through (C), 555(F), 555(H), 556, 557, 558, 571 through 576, 593, 596, 598(E) and 599 without a public hearing after due notice to all interested parties unless the right to a public hearing is waived pursuant to the provision of the Administrative Procedures Act, as amended, (R.S. 49:951-68) or the Natural Resources and Energy Act of 1973 expressly provides that no hearing is required in that instance.

Applications to the Commissioner of Conservation for which a public hearing is required shall be submitted in writing, be verified under oath, and shall be in a form and contain such information as is required by the Commissioner. The hearing on the application shall be noticed in accordance with Rule 4. The hearing date of the application shall not be less than ten days following the date of publication of notice.

Interested parties who wish to object to said application or participate in the hearing must file a petition or notice with the Commissioner and the applicant within five days following the receipt by such interested parties of the notice of the hearing. Petitions or notices filed in connection with the application shall set forth clearly and concisely the facts from which the nature of the petitioner's alleged right or interest can be determined, the grounds of the proposed participation, and the position of the petitioner in the proceeding, so as to fully and completely advise the parties and the Commissioner as to the specific issues of fact or law to be raised concerning public interest, provided however, that the right to participate in a proceeding commenced under this section shall not extend to objections directed solely to the matters involving rights-of-way, including but not limited to the public purpose and necessity to be served in an expropriation thereof or the compensation therefor which is a judicial question pursuant to the Constitution of the State of Louisiana 1974, Article I, Section 4.

The Commissioner, either upon his own motion, or at the request of an interested party or the applicant, may call a conference of the parties to a proceeding at any time, if in his opinion, such a conference would resolve or narrow the issues in controversy or assist in the conduct of the hearing.

If no objection to the application is timely filed by an interested party, in accordance with the provisions of this section, it will be unnecessary for the applicant to be present or to be represented at the hearing, and evidence shall be filed by affidavit or in such other form as is acceptable to or permitted by the Commissioner who shall render an order based upon the record in this proceeding. The order of the Commissioner shall be final, subject to reconsideration by him upon application for rehearing by the applicant or interested party filed within ten days from the date of its entry.

If the Commissioner, in his judgment, determines that an emergency exists, which, in the public interest, requires action on the application prior to the hearing date or the minimum ten day notice period herein required, the Commissioner may act on the application and issue a temporary order; however, such emergency authorization shall remain in force no longer than fifteen days from its effective date. In any event, a temporary order shall expire when the Commissioner's decision on the application after notice and hearing becomes effective.

An interested party who fails to comply with the requirements of this rule, may, at the Commissioner's discretion, be precluded from introducing witnesses or from presenting evidence at the hearing; however, any person shall be permitted to cross-examine witnesses and make statements confined to his position in the matter.

Hearings on applications for approval to connect an intrastate natural gas pipeline or gas gathering line to an interstate natural gas pipeline filed pursuant to R.S. 30:555(H) and Louisiana Constitution 1974, Article IX, Section 2, shall be held not less than ten days after notice given in the manner provided in Rule 4. Provided, however, that if the Commissioner, in his judgment, determines that an emergency exists, which, in the interest of public health, safety or welfare, requires that said hearing be held on shorter notice, said emergency hearing may be held on any abbreviated notice, but not less than three days following the date of publication of notice of said hearing in the Official Journal of the State of Louisiana.

**Rule 6—Applications and Notices—**All applications and notices filed pursuant to these rules of procedure shall contain a list of the names and addresses of the interested parties and show that a diligent effort has been made to obtain this list.

**Rule 7—Approvals by the Commissioner for Certain Matters under the Act—**All matters under the Act requiring the approval and permission of the Commissioner, and for which no objection thereto has been received within fifteen days after due notice, if required, and no public hearing is specifically required under the Act, may be approved by the Commissioner without a public hearing by the issuance of an order, or administratively, on forms and in a manner determined by the Commissioner.

**Rule 8—Approvals by the Commissioner for Matters Involving a Public Hearing—**As to matters under the Act requiring the approval of the Commissioner after a public hearing, the Commissioner shall issue his order and findings relative thereto on forms and in a manner determined by the Commissioner.

**Rule 9—Reports—**All reports required to be submitted to the Commissioner under the Act shall be on forms approved by him and filed in accordance with schedules set by him. The Commissioner may at his discretion grant extensions of time to file said reports beyond the applicable due date upon good cause shown.

**Rule 10—Applicability of Rules of Procedure—**The rules of Procedure set out herein apply only to the provisions of the Act (Chapter 7, Title 30), as implemented by applicable regulations. All other rules of procedure applicable to Chapters of Title 30 other than Chapter 7 shall not apply in any manner whatsoever to the Act, or regulations implementing same.

**Rule 11—Date and Timely Filings—**All notices and filings, as required by the Act shall be presumed as given timely when the date of the copy received by the Commissioner complies with appropriate delays herein provided. Copies to interested parties shall be deposited on the same day in the United States mail, properly stamped and addressed or, if telegraphic or wireless communication is used, dispatched on that day by the transmitting agency.

**Regulations, as Amended,  
under the Natural Resources and Energy Act of 1973,  
Chapter 7, Title 30 of the Louisiana Revised Statutes of 1950**

Regulation 1—Definitions—The words and terms defined herein shall have the following meanings when used in these Regulations. All other words and terms so used and not herein defined shall have their usual meanings unless specially defined in Chapter 7 of Title 30 of the Louisiana Revised Statutes of 1950.

Act or Chapter: shall mean the Natural Resources and Energy Act of 1973, being Act 16 of the Extraordinary Session of 1973, now Chapter 7 of Title 30 of the Louisiana Revised Statutes of 1950.

Commissioner: shall mean the Commissioner of Conservation of the State of Louisiana who shall be the Commissioner of Conservation within the Department of Natural Resources.

Excess Capacity of Intrastate Gas Pipelines: shall mean that part of the capability of a pipeline system to transport intrastate natural gas from point to point along its line in excess of the immediate needs of the pipeline company or its subsidiaries or its parent or the subsidiary companies of its parent. In determining excess capacity, the Commissioner may disregard existing contracts for the transportation or sale of intrastate natural gas to the extent they are not then being performed or fulfilled. Excess capacity of intrastate pipelines may also be created as a result of intrastate natural gas delivery curtailment orders of the Commissioner in the implementation of the allocation, rationing, and conservation measures governing the end-use of intrastate natural gas provided for in the Act.

Facility: shall mean any component of a pipeline or pipeline system except:

(1) Auxiliary Installations. Installations which are merely auxiliary or appurtenant to an existing transmission pipeline system and which are installed only for the purpose of obtaining more efficient or more economical operation of authorized transmission facilities, such as: valves; drips; yard and station piping; cathodic protection equipment; gas cleaning and treating equipment, heaters, cooling and dehydration equipment; residual refining equipment; water pumping treating and cooling equipment; production compressors; measurement equipment; pressure or flow regulation or control equipment; electrical and communication equipment and buildings.

(2) Replacement of Facilities. Facilities which constitute the replacement of existing facilities which have or will soon become physically deteriorated or obsolete to the extent that replacement is deemed advisable: provided, that such replacement will not result in a reduction or abandonment of service rendered by means of such facilities: provided further, that such replacement shall have substantially equivalent designed delivery capacity as the particular facilities being replaced.

(3) New Delivery Points. Metering and regulating installations and branch lines necessary to the establishment of new delivery points required for the delivery of gas to an existing customer.

(4) Taps. Taps on existing transporter pipelines which are installed solely for the purpose of enabling a purchaser or transporter to take delivery of gas from a producer.

Gas: shall mean any gas derived from or composed of hydrocarbons.

Interested Parties: shall mean those persons who have a direct interest in the subject matter for which an application is filed as such persons are defined in these regulations.

Intrastate Natural Gas: shall mean that gas produced, transported, and utilized wholly within the State of Louisiana, through the use of intrastate pipelines or of interstate pipelines where such use of interstate pipelines is or may hereafter be exempt from the control of the Federal Energy Regulatory Commission under the Natural Gas Act or rules and regulations promulgated by the Federal Energy Regulatory Commission thereunder, and gas, wherever produced, which is or may be transported into this state and delivered to an intrastate pipeline in this state to be used or consumed wholly within this state.

Intrastate Natural Gas Transporter: shall mean any person owning or operating an intrastate pipeline.

Intrastate Pipeline: shall mean a pipeline which is located and operated wholly within the State of Louisiana for the transportation of intrastate natural gas within the State of Louisiana, which does not extend beyond the boundaries of the State of Louisiana, and which is not merely a local branch of an interstate pipeline system but does not include producer owned producing and gathering lines and facilities associated and used in connection therewith, provided such lines and facilities are not used for hire in the transportation of natural gas for others.

Natural Gas Company: shall mean a person engaged in the sale of intrastate natural gas beyond the wellhead.

Person: shall mean any natural person, corporation, political subdivision, association, partnership, receiver, tutor, curator, executor, administrator, fiduciary, or representative of any kind.

Rules of Procedure: shall be the rules of procedure promulgated by the Commissioner and which are stated to be applicable to the Act.

Sale of Intrastate Natural Gas at the Wellhead: shall mean the first transfer for value by the producer of such gas whether at the wellhead, a central gathering facility, or at the tailgate of a gas processing plant.

Regulation 2—Certificate of Transportation to Be Issued Pursuant to the Provisions of Section 554 of the Act.

a. This regulation shall apply to a certificate of transportation issued to a qualified person(s) in accordance with the provisions of Section 554 of the Act.

b. All certificates of transportation heretofore issued by the Commissioner of Conservation pursuant to Section 554 of the Act, as implemented by Regulation 2, shall remain in force and effect pursuant to the terms and conditions thereof.

c. Any qualified person desiring a certificate of transportation shall apply to the Commissioner for an order therefor upon such forms and in such manner as the Commissioner prescribes, and shall furnish such data and information as the Commissioner may direct; provided, however, that if a person has filed documents and evidence with the Commissioner in accordance with Section 555(C) of the Act, as required by Regulation 4, such filing shall be considered by the Commissioner in his determination with respect to the issuance of an order hereunder.

d. The Commissioner shall issue an order granting a certificate of transportation to any qualified applicant if he finds that the applicant is able and willing to perform properly the service proposed and to conform to the provisions of Chapter 7 of Title 30 of the Revised Statutes of the State of Louisiana and the requirements, rules and regulations of the Commissioner thereunder, and that the proposed issuance of the certificate is or will be required by the present or future public interest.

e. All persons receiving a certificate of transportation shall be vested with all of the rights and privileges granted and extended under Section 554 of the Act.

**Regulation 3—Requirements for Abandonment of all or any Portion of a Facility, or any Service Rendered by Means of such Facility under Section 555(B) of the Act.**

a. This regulation shall apply to requirements of an intrastate natural gas transporter to abandon all or any portion of a facility, or any service rendered by means of such facility, pursuant to the provisions of Section 555(B) of the Act.

b. Under Section 555(B) of the Act, where an abandonment of a service or facility is proposed, the interested parties shall be the signatory parties to the contract(s) affecting said services or facilities and the owners or operators of such facilities to be abandoned.

c. The Commissioner shall issue his permission and approval for the abandonment of all or any portion of the facilities of an intrastate natural gas transporter subject to the jurisdiction of the Commissioner, or any service rendered by means of such facilities, only after the intrastate natural gas transporter shall have demonstrated, to the satisfaction of the Commissioner, that the available supply of natural gas is depleted to the extent that the continuance of service is unwarranted or that the public interest and energy needs permit such abandonment. Application for abandonment shall be made to the Commissioner in writing, executed under oath by an individual having authority to execute same with a copy to all interested parties and shall include the following information:

(1) Description and location, if applicable, of the facility, or portion thereof, or the service rendered by such facility, or portion thereof, to be abandoned.

(2) If a gas sales contract:

(a) The exact legal name and status of the seller and purchaser and the name, title and mailing address of the person(s) to whom communications concerning the notice are to be addressed.

(b) Date of contract.

(c) Term of contract.

(d) Quantities of gas:

Maximum daily quantity seller is obligated to deliver: thousands of cubic feet per day (MCF/Day) or millions of British thermal units per day (MMBTU/Day)

Minimum daily quantity purchaser is obligated to receive: MCF/Day or MMBTU/Day.

Measurement—Pressure Base.

Service—Firm or Interruptible. Give conditions under which deliveries or receipts can be interrupted or curtailed and minimum level of daily volume during interruption or curtailment.

(e) Type of Sale: (Industrial, sale for resale, transportation or other.)

(f) Point(s) of Delivery.

(g) Delivery Pressures: Minimum, Maximum.

(h) Price.

(3) Reasons for abandonment.

(4) Prospective date of abandonment.

The Commissioner may request such additional information as in his opinion is reasonably necessary in order to properly evaluate the application.

d. Where an agreement as to the terms and conditions of abandonment has been reached between the transporter and the person or persons who are parties to a contract relating to the use of facilities or services to be abandoned, the application for abandonment shall be accompanied by a letter or agreement, signed by the parties or an authorized agent of the parties, verified under oath.

e. Applications for pregranted abandonment of emergency or temporary sales and connections necessitated thereby, including those sales to supply an immediate and necessary demand for gas, shall contain the information

required under section c. and d. above, and may be administratively approved by the Commissioner.

**Regulation 4—Transportation of Intrastate Natural Gas and the Construction, Extension, Acquisition, and Operation of Facilities or Extension Thereof Pursuant to Provisions of Section 555(C) of the Act.**

a. This regulation shall apply to the requirements placed by Section 555(C) of the Act upon a person relative to the transportation of intrastate natural gas and the construction, extension, acquisition, and operation of facilities or extensions thereof.

b. All applications by a person required to be filed with the Commissioner of Conservation pursuant to the provisions of Section 555(C) of the Act shall be in writing, verified under oath by an individual having authority to execute same, shall be in the form approved by the Commissioner, and shall contain the following information:

(1) The exact legal name of the applicant; its principal place of business; whether an individual, partnership, corporation or otherwise; the State under the laws of which applicant was organized or authorized; if a corporation, a certificate of good standing and authorization to do business from the Secretary of the State of Louisiana, the location and mailing address of applicant's registered office, the name and post office address of each registered agent in Louisiana, and the names and addresses of all its directors and principal officers; if a partnership or other similar organization, the names and addresses of its partners of record, officer or other responsible parties of record; applicant's current financial statement or such other information which may be submitted by the applicant and accepted by the Commissioner concerning the ability of the applicant to construct, acquire or operate the proposed facility or extension thereof; and the name, title, and mailing address of the person or persons to whom communications concerning the application are to be addressed.

(2) The nature of the service rendered by applicant (sale, transportation, gas for resale, industrial, or other use).

(3) A concise description of applicant's existing operations.

(4) A table of contents which shall list all exhibits and documents filed with the application.

(5) A map(s), of its pipeline system(s), which shall reflect the location and capacity of all compressor sites, all points of connection between such system(s) and pipelines, or pipeline system(s) of other persons, the date of such connections, and all major points of supply.

(6) A listing of applicant's gas sales contracts and gas transportation contracts on prescribed forms containing the following data:

(a) Parties: seller, purchaser, owner, transporter.

(b) Date of contract.

(c) Term of contract.

(d) Quantities of gas:

Maximum daily quantity seller is obligated to deliver: MCF/Day or MMBTU/Day.

Minimum daily quantity purchaser is obligated to receive: MCF/Day or MMBTU/Day.

Measurement—Pressure Base.

Service—Firm or Interruptible. Give conditions under which deliveries or receipts can be interrupted or curtailed and minimum level of daily volume during interruption or curtailment.

(e) Type of Sale: (Industrial, sale for resale, transportation or other.)

(f) Point(s) of delivery.

(g) Delivery pressures: minimum, maximum.

(h) Price.

(7) A listing of the location of interconnects between applicant's pipeline system(s) and pipeline or pipeline system(s) of other persons.

c. Subsequent filings may be required by the Commissioner to complete an evaluation of each pipeline system for the purposes of Section 555(C) or other sections of the Act.

A person may incorporate the information required to be filed under section b. paragraphs (1), (3), (5), (6), and (7) of this regulation by reference to prior hearing evidence, presented to the Commissioner, specifically identifying such prior evidence and the items to be incorporated therefrom.

d. All applications filed shall be noticed on interested parties, and all hearings required under Section 555(C) of the Act shall be in accordance with the rules of procedure of the Commissioner. Interested parties shall be as follows:

(1) Where a new supply of gas from a producing field(s) is to be connected by a new pipeline, the interested parties shall be:

(a) The owner(s) of the proposed new pipeline.

(b) The owner(s) of an existing pipeline (if different from owner(s) of proposed new pipeline), if any, to which the proposed new pipeline is to be connected.

(c) Each seller and each purchaser to the contract or contracts covering the new supply of gas to be connected, or in the case of gas to be transported or exchanged, the parties from whom the gas is to be received, and the parties to whom the gas is to be delivered.

(d) Owner(s) of the land to be traversed by the proposed pipeline.

(2) Where a new pipeline customer(s) is to be connected, the interested parties shall be:

(a) The owner(s) of the proposed new pipeline.

(b) The owner(s) of an existing pipeline, if any, (if different from the owner or owners of the proposed new pipeline) to which the proposed new pipeline is to be connected and from which pipeline gas will flow to the proposed new pipeline.

(c) Each seller and each purchaser to the contract(s) under which gas delivered by the new pipeline is to be sold, or in the case of gas to be transported or exchanged, each party to each transportation or exchange agreement.

(d) Owner(s) of the land to be traversed by the proposed pipeline.

e. The Commissioner, upon proper showing, shall issue his order in accordance with the application submitted. Provided however, the order shall expire on its first anniversary date if construction of facilities authorized by said order has not commenced. The Commissioner may, upon written request and for good cause shown, extend the expiration date of said order. The Commissioner shall be given timely written notice when the construction authorized under this regulation is completed.

f. The Commissioner may issue, upon application by a person(s) a temporary order in cases of emergency without notice or hearing pending the application for a permanent order, all in accordance with the rules of procedure of the Commissioner.

**Regulation 5—Governing Natural Gas Pricing Pursuant to the Provisions of Part V of the Act, Being Sections 591 Through 606 Thereof.**

a. This regulation shall apply to the price of intrastate natural gas sold by a natural gas company under contracts executed after December 8, 1973, under the provisions of Part V of the Act, being Sections 591 through 606 thereof.

b. Any and all hearings, investigations, and proceedings conducted or held under Part V of the Act shall be in accordance with the rules of procedure of the Commissioner of Conservation.

c. Each natural gas company who enters into a contract for the sale of intrastate natural gas shall file with the Commissioner, within thirty days after the execution of such contract, one complete copy of said contract and one complete copy of all classifications, practices, and regulations affecting such prices.

d. All notices of contracts, agreements or understandings, or proposed contracts, agreements or understandings, which may be submitted to the Commissioner pursuant to the provisions of Section 597 of the Act, shall be filed on forms approved by the Commissioner and shall contain the following information:

(1) The exact legal name and status of the purchaser and seller and the name, title and mailing address of the person(s) to whom communications concerning the notice are to be addressed.

(2) Parties: seller, purchaser, owner, transporter.

(3) Date of contract.

(4) Term of contract.

(5) Quantities of gas:

Maximum daily quantity seller is obligated to deliver: MCF/Day or MMBTU/Day.

Minimum daily quantity purchaser is obligated to receive: MCF/Day or MMBTU/Day.

Measurement—Pressure Base.

Service—Firm or Interruptible. Give conditions under which deliveries or receipts can be interrupted or curtailed and minimum level of daily volume during interruption or curtailment.

(6) Type of sale: (Industrial, sale for resale, transportation or other.)

(7) Point(s) of delivery.

(8) Delivery pressures: minimum, maximum.

(9) Price.

e. Unless the Commissioner gives notice to the contrary to the parties within fifteen days from the date of filing hereunder, any contract, agreement or understanding, or proposed contract, agreement or understanding, filed pursuant to the provisions of Section 597 of the Act shall be deemed to have been accepted or approved by the Commissioner without objection and to be in compliance with the provisions of Part V of the Act. If however, the Commissioner deems it advisable to consider the proposal further, he shall notify the parties accordingly and the matter shall thereafter be processed by the Commissioner in accordance with his rules and regulations.

f. All reports to be filed under the provisions of Part V of the Act, exclusive of those permitted or required under Section 597 thereof, shall be filed upon such forms and in such manner as prescribed by the Commissioner and as directed by him.

g. The Commissioner, upon receipt of a petition from any party to a contract or sale complaining of anything done or omitted to be done by any natural gas company in contravention of the provisions of Part V of this Act, shall pursuant to the provisions of Section 602 of this Act, forward a statement of the complaint to the natural gas company which shall have twenty days from receipt to satisfy the complaint or to answer the same in writing. In the event additional time to answer the complaint is requested by the natural gas company, in writing, the Commissioner may, for good cause shown, grant same, but in no case shall the additional time granted exceed thirty days.

h. In connection with filings made with the Commissioner by a natural gas company under provisions of Part V of the Act interested parties shall be the parties to each such contract so filed.

**Regulation 6—Requirements for Connections Pursuant to Section 555(H) of the Act and Louisiana Constitution 1974.**

a. All applications to the Commissioner of Conservation requesting approval for an intrastate natural gas transporter to connect its system with, move gas into or receive gas from another pipeline system, including pipelines or pipeline systems owned by it, within the terms of Section 555(H) of the Act, and Louisiana Constitution 1974, shall contain the following information:

- (1) Point of connection or connections.
- (2) Status or character of each pipeline, specifying whether said line or lines carry intrastate gas or interstate gas and whether they have been deemed jurisdictional by the Federal Energy Regulatory Commission.
- (3) Anticipated volumes of natural gas to be transferred or exchanged from one pipeline to another.
- (4) Term of exchange or transfer.
- (5) Reasons for interconnection.

The Commissioner may request such additional information as in his opinion is reasonably necessary in order to properly evaluate the application.

b. No order, ruling or finding may be made or other action taken with respect to this regulation without a public hearing after due notice to all interested parties unless the right to a public hearing is waived pursuant to the provisions of Administrative Procedures Act, as amended (R.S. 49:951-68).

c. Public interest does not require the issuance of an order authorizing any action taken by an intrastate natural gas transporter which would be covered by the provisions of Section 555(H) of the Act where imminent danger to life and property can be eliminated by such action. Provided, however, that every person undertaking such action shall so advise the Commissioner immediately by telegram stating briefly the circumstances and shall within ten days file a statement in writing and under oath, together with four conformed copies thereof, setting forth the purpose and character of the action, the facts warranting invocation of this section, and the anticipated period of the stated emergency. Emergency operations undertaken without an order pursuant to this section shall be discontinued upon the expiration of the emergency or as otherwise ordered by the Commissioner. All facilities installed for such temporary action shall be promptly removed after expiration of the exempt period of operation. Every person shall advise the Commissioner in writing and under oath within ten days following the removal of facilities constructed for emergency operations that such removal of facilities has been completed pursuant to this section. Every person undertaking any such action pursuant to this section desiring to continue such action shall file an application with the Commissioner prior to the expiration of the exempt period provided herein.

Regulation 7—Governing the Issuance of Orders Relative to the Transporting of Gas Using the Excess Capacity of Intrastate Gas Pipelines Pursuant to Section 501 et seq. of the Act.

a. All definitions in this regulation are in accordance with those of Regulation 1.

b. This regulation shall apply to the rights of the Commissioner of Conservation pursuant to Section 501 et seq. of the Act to determine whether or not excess capacity exists and to investigate the need for using said excess capacity of an intrastate natural gas transporter hereinafter identified as transporter with respect to transporting a gas supply owned by a person other than the proposed transporter.

c. All applications to the Commissioner by an owner(s) of intrastate natural gas for an order directing a transporter to transport said owner's gas in the transporter's intrastate pipeline system hereinafter identified as transporter's pipelines, pursuant to the provisions of Section 553 of the Act shall be in writing, verified under oath by an individual having authority, shall be in the form approved by the Com-

missioner, shall be noticed upon the proposed transporter by certified mail, and shall contain the following information:

(1) The legal status of the applicant as shown below and a statement in writing of applicant's financial capabilities to construct, operate, maintain, and terminate any required connecting lines onto the transporter's pipelines.

(a) If a sole proprietorship, state the name and address of the person owning said company.

(b) If a partnership, state:

(i) Name, address and percentage of interest of each and every partner owning twenty percent or more interest.

(ii) If said partnership is an affiliate of another entity, state the name and address and legal status of said affiliate.

(c) If the applicant's legal status is a corporation, state:

(i) The name and address of each shareholder owning twenty percent or more of the shares, together with the number and percentage of any class of voting shares of the corporation which such shareholder is authorized to vote, and

(ii) The name and address of each affiliate of the corporation who could derive direct benefit from the proposed use of transporter's pipelines, together with, in the case of an affiliate controlled by the corporation, the number of shares and percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that corporation and, in the case of an affiliate which controls that corporation, the number of shares and the percentage of any class of voting stock of that corporation, directly or indirectly owned by the affiliate.

(iii) The nature of the services rendered by the applicant and those affiliates identified in item (c) (ii) above and to whom.

(iv) State of incorporation.

(2) The operating capability of the applicant.

(a) Evidence of approval to construct, operate, and maintain any connectin pipeline facilities from the applicable State and Federal agencies.

(b) Design information and details to conclusively demonstrate that all of the applicant's connecting lines are properly sized for the proposed flow volumes and in full accordance with all State and Federal laws, rules and regulations, including but not limited to Parts 191 and 192, Title 49, of the Code of Federal Regulations, as amended.

(c) A concise description of applicant's existing operations pertaining to the application.

(3) Excess capacity requested for which the proposed user thereof is willing to pay whether such capacity is used or not.

(4) The period of time that the gas is to be transported.

(5) If gas proposed for transportation is to be delivered to the transporter's pipelines from a third party's pipeline, where the third party is a certified intrastate natural gas transporter or has been authorized by the Commissioner to construct and operate facilities for the transportation of natural gas in the State of Louisiana, and the subject gas is to be purchased from said third party, the applicant is not required to furnish the information as set forth in Part c., items (6) through (10), but item (7) (e) is required.

(6) Complete geological information on the productive zone(s) which is proposed to supply the gas reserve subject to this application, including structural maps, fault trace maps, isopachous maps, and copies of all logs used in the geologic evaluation.

(7) All well history, well test, reservoir and production data including, but not limited to, the following:

(a) Basic well information including total depth, plug-back total depth, perforated interval, net productive sand, sand top and base or water level, electrical survey (one-inch and five-inch), porosity logs, side wall and conventional core analysis, and any other logs or well surveys (including bottom-hole pressure survey information).

(b) Complete well test information including deliverability tests obtained on each well completed or tested in the productive zone(s).

(c) Complete monthly production history and production test reports on all wells which have produced from the productive zone(s).

(d) Estimated deliverability from well(s) to be connected during the period gas is transported hereunder.

(e) Complete chromatographic gas analysis of the gas to be transported, the content of sulphur, inert components and water, heating value, gravity, and temperature.

(f) Measurement basis for all data submitted.

(8) Copies of all lease information including unitization data, lease expiration dates, royalty and any special provisions pertaining to leases from which gas is to be produced and delivered to the transporter's pipelines.

(9) History of any past gas deliveries from well(s) to be connected to the transporter's pipelines, and whether past deliveries were made into pipelines under the control of the Federal Energy Regulatory Commission as of the date of application.

(10) Copies of abandonment orders from any previous gas deliveries.

(11) A conformed copy of the gas sales contract(s) involving the gas to be transported and a detailed statement concerning the end use of the gas. If the gas proposed for transportation:

(a) Is to be delivered from applicant's pipeline:

(i) The applicant shall provide the sources of all gas in the said pipeline and all dispositions therefrom unless applicant is a certified intrastate natural gas transporter or has been authorized by the Commissioner to construct and operate facilities for the transportation of natural gas in the State of Louisiana.

(b) Is to be delivered from a third party's pipeline:

(i) The applicant shall provide the sources of all gas in the said pipeline and all dispositions therefrom unless the third party is a certified intrastate natural gas transporter or has been authorized by the Commissioner to construct and operate facilities for the transportation of natural gas in the State of Louisiana.

(ii) The applicant shall provide a conformed copy of all gas sales and transportation contracts which in any way could affect the jurisdictional status of any of the transporter's facilities.

(12) Schematic flow diagram of the producing facilities to be used by the applicant for connecting onto the transporter's pipelines. The schematic should include all wellhead equipment, lines, valves, separating and scrubbing equipment, all safety and shutdown controls, all liquid and gas metering equipment complete with capacity and pressure specifications for all above mentioned equipment.

(13) Map showing location of all facilities to be used in the installation along with:

(a) Proposed point(s) of entry onto the transporter's pipelines.

(b) Proposed point(s) of discharge of the gas from the transporter's pipelines.

(c) Location of any other interconnects on the applicant's intrastate system with other pipeline systems.

(14) Maximum pressure at which applicant can deliver gas at proposed inlet, and maximum pressure required by applicant at proposed outlet point(s) of transporter's pipelines, and maximum and minimum daily volumes of gas to be transported.

(15) Schematic flow diagram showing all facilities to be installed at the outlet point(s) indicating all necessary control, metering and emergency shutdown devices.

d. The applicant shall furnish all the foregoing information pertaining to the application for excess capacity to the proposed transporter. Where any of this information is on file with the Commissioner, the applicant shall so state, and not be required to submit same with its application.

e. As a prerequisite to filing an application, it is required that the applicant provide written evidence to the Commissioner that the applicant has explored in good faith with the proposed transporter the feasibility of utilizing the transporter's pipelines.

f. Upon receipt of the application referenced in Part c. hereinabove, the Commissioner shall notice and hear the matter in accordance with the Commissioner's applicable rules of procedure. In determining whether or not excess capacity exists in the specific segment(s) of the transporter's pipelines in which the applicant's gas is to physically flow, the Commissioner shall take into consideration the following matters:

(1) The specific intrastate pipeline system(s) in which the gas is proposed to be transported, and the point(s) that the gas is to enter the transporter's pipelines and is to be discharged therefrom.

(2) The period of time that said gas is to be transported.

(3) Whether or not the quality specifications of the gas to be transported, including the content of sulphur, inert components, water, ethane and heavier hydrocarbons, heating value, gravity and temperature meet or exceed the highest quality specifications of the gas then being transported in the transporter's pipelines.

(4) The volume of gas required for the transporter's own use.

(5) The existing character, pressure, gas flows, condition and all operating data relative to transporter's pipelines and whether any of the involved pipeline(s) now, or has ever been engaged in the transportation of interstate gas.

(6) Pressure required by the transporter to receive the gas and the pressure(s) at which the gas would have to be redelivered for the applicant or for the account of the applicant.

(7) Pressure limitations and all other limitations of the transporter's pipelines determined in accordance with all applicable State, Federal and local laws and agency rules, regulations and orders including but not limited to such matters as population density along the transporter's pipelines and good engineering procedures, practices and calculations.

(8) Any and all matters applicable to or in any way connected with the applicant's gas, well(s) from which the gas is derived, facilities involved with the foregoing, or otherwise which could possibly subject the proposed transporter's pipelines, facilities or gas, to control by or within the jurisdiction of the Federal Energy Regulatory Commission, or any Federal regulatory body having similar jurisdiction.

(9) Any requirement which would cause the transporter to alter or modify any of its existing pipeline facilities or operating pressures, gas flows, or procedures in such a way as to result in the abridgment, violation or abrogation of any of its existing contract obligations whatsoever whether such agreements or obligations are due to gas purchases, gas sales or gas transportation, and whether serviced by the involved or another segment(s) of the transporter's pipeline.

(10) Any requirement which would cause the transporter to alter or modify any involved segment of its pipeline(s), or facilities either by way of installing, operating or maintaining additional pipelines or compression facilities, looping of existing pipelines, or otherwise, so as to create or increase pipeline capacity.

(11) All contractual obligations by a transporter existing as of thirty days after the date of application or date of hearing, whichever is sooner, requiring the utilization of pipeline capacity, including but not limited to the following:

(a) The maximum existing contract purchase obligations of the transporter under contracts for the purchase of gas supplies, subject to change based on actual maximum deliverability under the gas purchase contracts.

(b) The maximum existing contract delivery obligations of the transporter pursuant to its contracts for the sale of gas, which obligation shall always mean the transporter's maximum contractual delivery obligation, reduced solely by an amount equal to the physical inability of each purchaser of the transporter to receive its maximum contract quantities or the physical inability of a party for whom gas is being transported to utilize its maximum contract quantity.

(c) The maximum existing contract obligations of a transporter to receive and redeliver gas or equivalent gas under gas transportation or gas exchange contracts, subject to the provisions of item (b) immediately above.

(d) The maximum contract delivery obligations of transporter under any and all outstanding bona fide offers by the transporter to third parties which would require the utilization of any of transporter's pipelines, and affect transporter's pipeline capacity, which offer(s) is outstanding as of thirty days after the date of application or date of hearing, whichever is sooner.

(e) The maximum existing contract purchase and delivery obligations of the transporter under all contracts including but not limited to gas purchase, sales, and transportation agreements. In determining the maximum contract purchase and delivery obligations, the greater of the sums of transporter's maximum purchase or delivery obligations will control, subject only to the provisions of items (a) and (b) above.

(12) Any adverse effect utilization of capacity in the segment(s) specifically involved would have on the transporter's ability to operate its pipeline system and meet its existing contractual obligations.

g. Where it is found that excess capacity exists within a pipeline on a part-time or temporary basis and the Commissioner accordingly orders the transportation of gas during the periods when such excess capacity may be available, it shall be the responsibility of the owner of the gas being transported in the available excess capacity, and its buyer or the recipient of such gas, to adjust production and purchase or utilization of said gas so as not to impair the transporter's ability to render adequate service to its customers.

h. Prior to the issuance of any order hereunder, the applicant shall prove to the Commissioner's satisfaction that the gas proposed to be carried in the excess capacity of the

transporter's pipelines and the involved and related facilities of all parties, have not been, are not now, nor will be subject to control by or within the jurisdiction of the Federal Energy Regulatory Commission, or any Federal regulatory body having similar jurisdiction, or any successor agency thereof. Further, any order issued hereunder shall provide that if, pursuant to such order, any gas carried or to be carried by a transporter or any involved or related facilities of any party has been, is, or could be subject to the jurisdiction of the Federal Energy Regulatory Commission, or any successor agency thereof, said order shall be considered violated thereby, and shall ipso facto terminate, and end all obligations and duties of the transporter required thereunder without further action by the transporter or the Commissioner.

i. Every order issued by the Commissioner hereunder shall set the effective term thereof, quality, quantity, measurement and balancing, and further, after notice and hearing, if the parties cannot agree, shall fix the rates and charges to be paid by the owner of the gas to the transporter for the transportation of the gas, all in accordance with Section 553(E) of the Act.

j. The applicant whose gas is being carried in the transporter's pipelines shall retain title to its gas at all times while in transit. Every order by the Commissioner directing that a transporter carry the gas of the applicant in the excess capacity of the transporter's pipelines shall provide that said order shall not be effective unless and until the owner of the gas has executed in favor of the transporter a written indemnity and hold harmless agreement, in form as prescribed by the Commissioner, with good and sufficient surety, in an amount as determined by the Commissioner, protecting and indemnifying such transporter from and against any and all responsibilities, claims, losses, liabilities, damages of any nature or kind whatsoever, as well as any and all costs associated therewith, and whether for personal injury, property damage, or otherwise, including those of the transporter, the owner of the gas, third parties, or gas customers of the transporter, which may arise by virtue of any compliance by the transporter with such order, except that the written indemnity and hold harmless agreement shall not exonerate the transporter for any liability arising from his own negligence or fault.

k. Every order issued by the Commissioner hereunder shall provide that in the event the transporter ordered to carry the applicant's gas has a specific need for the excess capacity of its pipeline(s), or a part thereof, to transport its own gas or the gas of its subsidiaries or of its parent or of a subsidiary of its parent, or to satisfy the requirements of its own transportation or sales contracts for which it then possesses adequate gas supply to fulfill, may in whole or in part terminate said order by giving written notice. Said notice shall be served by certified mail by the transporter on the Commissioner and the applicant, shall specify the date on which effective, which shall be not less than ninety days of the date of said notice. If no opposition thereto is filed with the Commissioner by the applicant, or the Commissioner issues no objection in writing to the transporter and applicant, it shall be conclusively presumed for all purposes that all requirements of the Act are satisfied, that the transporter has a bona fide need for the excess capacity as stated in the notice, and that the public interest and the purposes of the Act would be best served by termination of the use of the excess capacity of the transporter's pipelines in whole or in part, and the order shall ipso facto terminate in accordance with the provisions of the notice. The above ninety-day requirement may be waived by a written agreement filed with the Commissioner and approved by the Commissioner, said agreement to be signed by the interested parties or an