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Executive Orders

EXECUTIVE ORDER DCT-80-5

WHEREAS, the Comprehensive Employment and Training Act of 1973 (Public Law 93-203) as amended, which is commonly referred to as "CETA", establishes a new decentralized federal, state and local system of manpower programs that provide job training, employment opportunities, education and other services for economically disadvantaged, unemployed and underemployed persons; and,

WHEREAS, CETA requires the Governor to coordinate the manpower policy, plans and services of the prime sponsor and the state agency, throughout the State of Louisiana; and,

WHEREAS, the term "manpower" includes training and education programs, and supportive services aimed at increasing the skills and employment opportunities for persons who are unemployed, underemployed and economically disadvantaged; and,

WHEREAS, manpower programs provide skill training, rehabilitation, transitional employment experience, job placement and related child care, social and health services; and,

WHEREAS, it is vital that state and local agencies closely coordinate their efforts in developing plans which meet the locally determined needs in recommending meaningful programs to alleviate employment problems, in reducing duplication and gaps in manpower services, and in effectively and economically utilizing state and federal manpower funds; and,

WHEREAS, employment and training programs should be integrated with all human services to serve better the trainable segment of our society; and,

WHEREAS, the Comprehensive Employment and Training Act of 1973 as amended, and the U.S. Secretary of Labor's Rules and Regulations as published in the Federal Register (Vol. 44 No. 65, Section 675.4) and any subsequent regulations thereto designate the Governor to act as the Prime Sponsor for planning and delivery of manpower and related services in those areas in the State not under the jurisdiction of other federally designated prime sponsors of the State;

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, by virtue of the authority vested in me, by the Constitution and the laws of this State, do hereby order and direct the following:

1. The Louisiana Department of Labor, Office of Labor, under the direction of the Secretary of Labor, shall be designated as the administrator of all CETA programs for the Balance of State prime sponsorship.

2. The Louisiana Department of Labor, under the direction of the Secretary of Labor, shall be designated as the administrator for the CETA Governor's Special Grant programs.

3. The Secretary of Labor shall designate the contracting officer for all CETA grants, subgrants, contracts and subcontracts.

4. The Governor's State Employment and Training Council is created and established with its membership to be structured in accordance with the Federal Secretary of Labor's Rules and Regulations. The Council Chairman and its members will be appointed by the Governor.

5. The State Employment and Training Council shall meet at regular intervals and at other times it deems advisable. The Council shall be provided staff and support services through the Louisiana Department of Labor, Office of the Secretary. The Council staff will be under the direction of the Deputy Secretary of Labor, Office of the Secretary, or any other designee as authorized by the Secretary.

6. All state agencies and prime sponsors dealing with man-

power related programs shall cooperate in a coordination of planning process, identification of common goals and objectives, sharing of data, and allocation of resources toward these ends which shall be manifested in linkages with the State Employment and Training Council, other state agencies and prime sponsors.

7. All state agencies and prime sponsors dealing with manpower related programs shall support and aid the Governor's State Employment and Training Council in its manpower coordination initiatives, which shall include review of agency and prime sponsor plans. All state agencies and prime sponsors shall provide annual plans, requests for grants, and any modifications thereto to the Governor's State Employment and Training Council for review and comment.

8. Each state agency and prime sponsor responsible for manpower related programs shall exchange manpower program information and data among the state agencies and the CETA prime sponsors through this Council as well as coordinate and communicate with the State Council and all local manpower program advisory councils.

9. The Governor's State Employment and Training Council shall continuously review all manpower programs of each state agency and prime sponsor dealing with manpower or manpower related programs. The reviews conducted by the Council shall include an emphasis upon statewide and inter-prime sponsor issues of utilization and coordination of plans and operations in contiguous areas.

BE IT FURTHER RESOLVED that Executive Order No. 76-13 is hereby rescinded and recalled, and is null, void and of no effect.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 8th day of April, A.D., 1980.

David C. Treen
Governor of Louisiana

EXECUTIVE ORDER DCT 80-6

WHEREAS, United States military personnel have attempted to rescue the American hostages held prisoners in the country of Iran;

WHEREAS, eight members of the rescue team sustained fatal injuries and gave their lives trying to save their fellow countrymen; and

WHEREAS, the bodies of these eight men are on the way home to the United States; and

WHEREAS, the people of the State of Louisiana are proud of their efforts and want to show their appreciation; and

WHEREAS, the people of the State of Louisiana share the grief and sorrow of the families and loved ones whose lives were lost,

NOW, THEREFORE, by virtue of the powers vested in me as Governor of the State of Louisiana, and in order to show the respect of the people of the State of Louisiana for the gallant efforts of those military personnel on the rescue team who died in Iran, I, DAVID C. TREEN, acting as Governor and Commander-in-Chief, do hereby order the flag of the United States and the flag of the State of Louisiana to be flown at half-mast, until the bodies of the eight men rest again on American soil, over the State Capitol and the public departments and institutions of the state and over the Court . . .

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 5th day of May, A.D., 1980.

David C. Treen
Governor of Louisiana

Emergency Rules

DECLARATION OF EMERGENCY

Board of Trustees for State Colleges and Universities

At its meeting on April 18, 1980, the Board of Trustees for State Colleges and Universities adopted the following rule, effective immediately.

"The Policies and Procedures Manual of the Board of Trustees for State Colleges and Universities, Part VII, Section 7.2B is changed to read as follows:

B. Conversions of Basis - Nine to Twelve Months. Unclassified personnel whose employment is being changed from a nine-month to a twelve-month basis, without change in duties and responsibilities or a promotion, shall be increased in salary by one-third of their nine-month salary. Any such employee whose status changes from a twelve-month to a nine-month salary basis without a change in duties and responsibilities or a promotion shall be decreased in salary by one-fourth of his previous twelve-month salary. Unclassified personnel whose employment is being changed either from a nine-month to a twelve-month basis or from a twelve-month to a nine-month basis, with a change in duties and responsibilities or a promotion shall be paid a salary appropriate for the new duties and responsibilities.

This was taken as an emergency action in order to put it into effect immediately, as personnel actions of this nature are brought to the board at nearly every meeting. The Board wished to make its position clear on this matter. This action was taken in accordance with the emergency provisions of the Administrative Procedures Act and under the authority of Article VII, Section 6 of the 1974 Constitution.

Bill Junkin
Executive Director

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

In accordance with the provisions of Louisiana R.S. 40:29, the Department of Health and Human Resources, Office of Family Security, has implemented the following rule regarding Home Leave Days Covered by the Medical Assistance (Title XIX) Program:

Payment is made to reserve the bed of a resident of an Intermediate Care Facility for the Mentally Retarded (ICF/MR) for twenty-five days per calendar year for leave(s) of absence. For the year 1980, the Medical Assistance Program will consider extensions on an individual basis for any case in which a recipient has exhausted his twenty-five days covered leave, and denial of additional leave time is contrary to the goals of the active treatment plan for mental retardation.

This policy will allow the Medical Assistance Program to comply with the goal of emphasis on a treatment plan of normalization and preparation for the individual's return to the community effective January 1, 1980.

George A. Fischer, Secretary
Department of Health and Human Resources

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

In accordance with the provision of Louisiana R.S. 40:29, the Department of Health and Human Resources, Office of Family Security has implemented the following policy regarding Title XIX (Medicaid) payment for abortions:

Effective February 19, 1980, the Louisiana Medical Assistance Program will make payment for medically necessary abortions for eligible recipients. Abortions will be covered which are necessary in the professional judgment of the pregnant woman's attending physician, that judgment exercised in the light of all factors (physical, emotional, psychological, familial, and the woman's age) relevant to the health-related well-being of the pregnant woman. Claims for abortions must be accompanied by a written statement signed by the attending physician certifying that in his judgment the abortion was medically necessary because of those factors (as defined above) which would have adverse effect on the health-related well-being of the patient.

This action will allow the Medical Assistance Program to be in compliance with regulations issued in the recent Federal Court ruling which was issued effective February 19, 1980. Compliance with these regulations assures continued federal financial participation in Louisiana's Medical Assistance Program.

George A. Fischer, Secretary
Department of Health and Human Resources

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

In accordance with the provision of Louisiana R.S. 40:29, the Department of Health and Human Resources, Office of Family Security has adopted the following policy regarding Patient Transfer Procedure for Title XIX recipients in Long Term Care facilities:

Patient Transfer Procedure

A. Individual Recipient Transfers - Involuntary transfer of discharge of a nursing home Medical Assistance recipient may occur only for medical reasons, for the recipient's welfare or that of other residents, or for nonpayment of the facility fee. Except in an emergency, a recipient must be given reasonable advance notice to ensure orderly transfer and continuity of care. Orderly transfer takes into account the availability of suitable alternative facilities, sufficient time to afford the recipient a choice, if possible, in whether to move and where, a review by facility and agency staff of his medical/psychological condition, the availability of adequate appropriate transportation, sufficient appraisal of the receiving facility as to the recipient's condition.

1. Facility responsibility in assuring orderly transfer shall include:

a. Final update, with the transfer in mind, of the individual plan of care, including discharge plan, which has been reviewed and revised periodically since admission. Individual plan of care includes nursing and medical plans, a plan for any therapies required, a social care plan, an activity plan, and a dietary plan.

In addition, the facility shall propose specific plans for transfer including transportation arrangements and, when feasible, visits by the recipient to the proposed receiving facility.

b. Following a medical assessment of the resident as near as practicable to the date of transfer, and execution by the physician of a written statement that, based on the resident's current

physical condition, there are no medical contra-indications to transfer, preparation of a discharge/transfer plan containing all information pertinent to the recipient's present condition and need for continued care and submittal of same to Long Term Care Regional Office. Included in the discharge/transfer plan shall be nursing procedures required by the patient, rehabilitative needs, appropriate level of medical care, and any special medical arrangements necessary to alleviate adverse impacts on the patient.

Information regarding the following may be pertinent: patient's intellectual capacity, memory and orientation as to time, place, and person, the patient's social disturbance or maladjustment, length of the patient's residence in the facility and dependence on familiar surroundings and staff.

The facility shall have completed final update of individual plan of care and the discharge/transfer plan as required by sections A1 a and b, before notice of transfer is sent to a recipient and/or responsible person.

c. Written notification to recipient, responsible person, (attending physician) and Long Term Care Regional Office of proposed transfer and reason(s) as soon as possible and as far in advance as is necessary, but at least forty-eight hours prior to the discharge conference. Written notification shall contain the following:

1. Proposed date of transfer or discharge and reason(s) for same.
2. Discharge conference date, time and place.
3. Availability of nursing home personnel to assist in locating new nursing home facilities.
4. Right of the resident to be represented by a third party at all stages of the discharge or transfer process.
5. Right of the resident within three days from date of discharge conference to register a complaint concerning the transfer with the Regional Long Term Care Unit.

d. As soon in advance of the transfer as possible to insure an orderly transfer, but at least ten days in advance of the proposed date of transfer, but nursing home administrator and/or director of nursing and/or social worker shall meet with the resident and responsible party to discuss the transfer. The requirement that the resident be present is waivable upon a written statement from his physician detailing the medical contraindications to the resident's participation in such a meeting. The resident and the responsible party shall be notified at least forty-eight hours prior to the conference and invited to attend and participate, although it is not mandatory that the responsible party attend. Among those items discussed at this conference shall be those items enumerated in A1, b and c.

e. Provision of all pre-transfer services required in the final up-date of the individual plan of care and transfer/discharge plan.

f. Maintaining the recipient in the facility for as long as necessary, even beyond the proposed date of transfer when medical conditions warrant, in order to ensure orderly transfer as defined above.

g. Arranging for the transportation required in the recipient's transfer plan.

h. Referral, as appropriate, to parish office social service staff to locate another facility most suitable to the recipient's needs.

2. Regional Long Term Care Unit responsibility shall include:

a. Review of available medical/social data and discharge summary prior to transfer to assure medical certification for admission to receiving facility and to ensure that recipient is being transferred in accordance with the patient's bill of rights.

b. Evaluation and referral to State Office Medical Assistance Program of any violation of patient rights.

3. Parish Social Service Staff responsibility shall include:

a. Acceptance of request by recipient and/or responsible person for services in locating and arranging transfer to an appropriate facility or return to noninstitutional living arrangements.

b. Acceptance of referral by Long Term Care Regional Office for services in locating and arranging transfer to an appropriate facility or return to noninstitutional living arrangement.

c. Resolution of complaints filed by nursing home resident and/or responsible party.

4. State Office Medical Assistance Program responsibility shall include:

a. Notification to facility of any instance in which transfer of a recipient is contrary to patient rights.

b. Appropriate sanctions with respect to provider agreement.

c. Maintenance of statistical data regarding frequency of involuntary transfers statewide and by individual facility.

d. Receipt of complaint from the resident or responsible party and arranging for visit with the resident or responsible party prior to transfer to investigate said complaint and take appropriate action as required.

5. Licensing and Certification Division responsibility shall include:

a. Assurance that each participating facility has adequate written transfer policies and procedures.

b. Establishment of written criteria for monitoring transfers based on the Agency's patient transfer procedure.

c. Conducting reviews based on written criteria of the adequacy of facilities' transfer procedures and pre- and post-transfer care of recipients.

6. DHHR Appeals Section has responsibility for processing recipient requests for fair hearings in accordance with 42 CFR 431.200.

B. Mass Transfer of Recipients - The following provisions shall apply to any mass transfer, which is defined as the intended relocation of more than fifteen residents within a thirty day period.

When the Licensing and Certification Division determines that a facility no longer meets State and Federal Title XIX certification requirements, decertification action is taken, usually with an advance effective date unless patients are in immediate danger.

On the date the facility is notified of decertification, DHHR shall immediately begin notifying residents and responsible parties of the decertification and of the availability of the services listed below:

In situations in which a facility discontinues operations or participation in the Medical Assistance Program, recipients and/or their responsible persons shall be notified as far in advance of the effective date as possible to assure orderly transfer and continuity of care. If the facility is closing, plans must be made for transfer. If the facility is withdrawing from the program, the recipient has the option of remaining in the facility on a private-pay basis.

Payments may continue for Title XIX eligible patients not to exceed thirty days following the effective date of decertification. This applies to Title XIX applicants or recipients admitted prior to the notice of decertification and is permitted only if the facility cooperates completely in the orderly movement of patients to other Title XIX facilities or other placement arrangements of their choice. The facility shall not admit new medical assistance recipients after receipt of the decertification notice. There will be no payment approved for such an admittance.

The process of certification requires concentrated and prompt coordination between the Long Term Care Regional Office, Parish Office Assistance Payments and Social Services, and the facility in order to safeguard the protection of Medical Assistance recipients, to assist in the most appropriate placement for each recipient when such assistance is needed or requested by the patient and/or the responsible relative, and to close vendor payment timely upon the patient's discharge. The facility retains its usual responsibility to notify the parish office promptly of all changes in patient's status.

The Office of Human Development and the Office of Family Security shall designate at least two individuals to function as a

transfer team, and to be responsible for supervising transfer activities in the event of proposed facility decertification, or when the home voluntarily elects to terminate its participation in the Title XIX program. The following steps and procedures must be taken by, or under the supervision of, this team.

1. When a provider agreement is extended in accordance with 42 CFR 442.16, the transfer team shall immediately begin to identify appropriate receiving facilities for affected recipients. The team shall begin to plan for transfer of those recipients and will coordinate efforts with Long Term Care Regional Office who will evaluate the condition of affected recipients and make determinations of level of care appropriate for those recipients.

2. When payments are continued for up to thirty days under Title XIX pursuant to 42 CFR 441.11 following decertification, the following steps shall be taken:

a. Notification and Offer of Services - Immediately upon receipt of the written notification from the Medical Assistance Program, the parish office Assistance Payments staff assigned responsibility for the facility shall send a letter to each medical assistance recipient and/or responsible person, containing the following information:

1. Decertification of the facility to participate in the Medical Assistance Program because of deficiencies in certain standards which have not been corrected or because of voluntary withdrawal;

2. The last date for which vendor payment for care of the recipient can be made;

3. The offer of services to assist in making the most appropriate arrangements for the patient, providing the name of the state member assigned to contact immediately if such help is needed.

b. Provision of Services and Effecting Transfer - OHD parish office has responsibility to provide social services called for in the transfer/discharge plan or otherwise necessary to ensure orderly transfer in accordance with Title XX State Plan and to obtain services available under Title XIX. Communication between OHD, OFS parish office, and the Long Term Care Regional Office is essential to explore and define needs, appropriate resources and take appropriate action. The transfer planning team shall be responsible for maintaining this communication.

OFS parish office shall maintain a listing of individual patient status as authorization forms are submitted for closures and transfers. At the conclusion of the thirty day period, the transfer planning team shall submit a report of arrangements made for all recipients to State Office, Medical Assistance Program, with a copy to the Assistance Payments Program.

Within five days following the termination of a provider agreement, transfer planning team members shall meet with appropriate administrative and other personnel of the Home in order to discuss the transfer process. These transfer planning team members shall continue to meet periodically with nursing home personnel, as needed throughout the transfer planning process. In addition, the designated Agency representatives, in order to assure an orderly transfer planning process, shall identify any potential problems, monitor the home's compliance with transfer procedures, and resolve any dispute in the best interest of the patients. The transfer team shall encourage the home to take as active a role as possible in transfer planning. Failure of the nursing home to comply with instructions of the transfer planning team members regarding patient transfers may subject the home to denial of reimbursement for the thirty-day extension period.

C. Emergency Situations - A resident may be immediately transferred or discharged when a bona fide emergency exists, such as fire or contagious disease, or a severe threat to the safety and well-being of residents.

Such emergency transfers shall be closely monitored and reviewed by the State Office Medical Assistance Program. Approp-

iate sanctions shall be imposed on facilities that use emergency transfer provisions when no bona fide emergency situation exists.

D. Reservation of Patient Rights - Nothing in this plan shall be construed in derogation of the presently existing rights of patients.

E. Intelligent Waiver of Rights by Patient - A patient may knowingly and intelligently waive any of the provisions of these regulations, provided such waiver shall be in writing. The State Office Medical Assistance Program shall review all such waivers to ensure that they were made freely and intelligently, after the recipient and/or responsible party was fully informed of his or her rights under these transfer procedures. Appropriate sanctions shall be imposed on Facilities that obtain waivers by coercion, or without providing full information about residents rights.

This action will allow the Medical Assistance Program to be in compliance with the recent consent judgment by the U.S. District Court that was signed and became effective March 8, 1980.

George Fischer, Secretary

Department of Health and Human Resources

DECLARATION OF EMERGENCY

Department of Natural Resources Environmental Control Commission

In accordance with the provisions of Louisiana Revised Statutes 48:953 (B), the Environmental Control Commission hereby gives notice that it has found that an imminent peril to the public health, safety and welfare requires the extension of its Interim Rules of Procedure as an emergency rule.

The Department of Natural Resources has received numerous letters and telephone calls alleging violations in various parts of the State on environmental matters and there is at present no mechanism to handle these complaints or to enforce applicable statutory and regulatory requirements concerning the environment. The Commission's Interim Rules of Procedure are specifically designed to deal with this problem.

The Interim Rules of Procedure adopted by the Environmental Control Commission on January 14, 1980 form the basis for all actions of the Commission in the administration of the Louisiana Environmental Affairs Act and the various environmental regulatory programs under this act. The expeditious enforcement of the Environmental Affairs Act and the existing substantive rules and regulations of the various environmental programs required the immediate adoption of the proposed Interim Rules of Procedure. The Commission has determined that the existing provisions of the Sanitary Code dealing with solid waste, the regulations of the Air Control Commission, the regulations of the Stream Control Commission, the regulations of the Nuclear Energy Division and the State's Hazardous Waste Program are not enforceable without such Rules of Procedure. Additionally, no action would be possible on numerous permit requests pending at the present time. Further delays in processing these permits could adversely affect the public welfare by possibly denying jobs to Louisiana citizens or restricting available sources of radiation for medical treatment. The inability of the State to administer or enforce these environmental programs clearly presents an imminent peril to the health, safety and welfare of the citizens of Louisiana.

Under the provisions of the Environmental Affairs Act, the Commission is authorized to delegate various aspects of its authority under the Act to the Assistant Secretary of the Office of Environmental Affairs. In the area of enforcement, this delegation of authority is crucial in order to allow prompt reaction to a violation which might endanger the public or the environment. The Commission's Interim Rules of Procedure accomplish this and other delegations of authority required for the proper and efficient administration of the Environmental Affairs Act. These Interim Rules of Procedure expire according to their terms on April 30, 1980. The Commission is presently in the process of adopting final

Rules of Procedure in accordance with the normal rulemaking provisions of the Louisiana Administrative Procedure Act. This rulemaking process will not be completed by the termination date of the Commission's Interim Rules of Procedure.

Without prompt action to extend the Interim Rules of Procedure for the Commission, Louisiana's existing environmental rules and regulations are not capable of being administered and enforced in a manner which will insure the protection of the public health, safety and welfare from hazards resulting from violations of the Environmental Affairs Act and existing rules and regulations. It is in recognition of this imminent peril to the public health, safety and welfare that the Environmental Control Commission proposes to extend its Interim Rules of Procedure as an emergency rule under Louisiana Revised Statutes 49:953 (B).

Interim Rules of Procedure Louisiana Environmental Control Commission

General 1.0 - 1.5

1.0 The object of these rules is to provide an interim procedural system governing the operation of the Environmental Control Commission and practice before the Commission in the administration and enforcement of the Louisiana Environmental Affairs Act from its effective date of January 1, 1980 unless repealed, amended, or readopted prior to that time, (LRS 30:1051-1147). These rules are designed to supplement certain provisions of the Louisiana Environmental Affairs Act and the Louisiana Administrative Procedures Act (LRS 49:951-964). Practices and procedures provided for in these two statutes which are not specifically included in these rules shall be applicable to the operations of the Commission and to all practice and appearances before the Commission. If any of the provisions of these rules should conflict with any provision of either the Louisiana Environmental Affairs Act, the Louisiana Administrative Procedures Act or applicable Federal law, the statutory provisions or law shall control.

1.1 All terms used in these rules, unless the context otherwise requires or unless specifically defined in the Louisiana Environmental Affairs Act, or in substantive regulations promulgated by the Environmental Control Commission or its predecessor, shall have their usual meaning.

1.2 Whenever these rules, existing rules and regulations of the predecessors of the Environmental Control Commission, or other rules of the Louisiana Environmental Control Commission or the Environmental Affairs Act permit or require the filing of any notice, petition, document, or other correspondence with the Environmental Control Commission or the Assistant Secretary of the Office of Environmental Affairs, such filing shall be addressed and mailed or delivered to the appropriate party at the following address: P. O. Box 44066, Baton Rouge, Louisiana 70804.

1.3 Notice for any hearing or other notification required by these rules, except subsections 2.11. and 2.12., the Louisiana Environmental Affairs Act, or the Louisiana Administrative Procedures Act shall be effective when postmarked for delivery by registered mail, return receipt requested and properly addressed to the appropriate party.

1.4 In computing any period of time prescribed or allowed in these or other rules of the Environmental Control Commission, existing rules and regulations of the predecessors of the Commission, the Louisiana Environmental Affairs Act, or the Louisiana Administrative Procedures Act, the day on which the designated period begins shall not be included. The last day of the designated period shall be included unless it is a Saturday, a Sunday, or a legal holiday as provided in LRS 1:55 in which event the designated period shall run until the end of the next day which is not a Saturday, Sunday, or legal holiday.

1.5 These Interim Rules of Procedure shall become effective

upon approval by the Natural Resources Committees, meeting jointly. These Interim Rules of Procedure and all exemptions, implementation plans, rules and regulations formulated, issued or granted under them shall expire and cease to have effect at midnight, April 30, 1980, unless terminated earlier, amended or continued in force and effect under rules and regulations adopted by the Commission.

Environmental Control Commission 2.0 - 2.13.

2.0 The Environmental Control Commission shall be composed of the seven members specified in LRS 30:1062. As provided in LRS 30:1062, each member of the Commission may designate a representative to serve on the Commission in the absence of that member. Any such designation by a member shall be made in writing and a copy of such designation shall be placed in the record of each Commission meeting at which a designated representative serves in place of a member. The Attorney General or his designated representative shall be the legal counsel to the Commission and shall assist and advise the Commission in the discharge of its duties and responsibilities under the Louisiana Environmental Affairs Act.

2.1 Four members of the Commission or their duly designated representatives shall constitute a quorum for any meeting of the Commission for the transaction of business.

2.2 The Environmental Control Commission shall elect its Chairman and Vice Chairman from the membership of the Commission. The Chairman and Vice Chairman shall serve until April 30, 1980, or until their successors are elected. The Chairman, or in his absence, the Vice Chairman shall preside at all meetings of the Commission. In the absence of the Chairman and Vice Chairman, the Chairman's designated representative shall preside.

2.3 The Assistant Secretary of the Office of Environmental Affairs shall serve as the official custodian of all records of the Commission. All records of the Commission, meeting notices, Docket Agendas, and other documents relating to the Commission shall be maintained in a central location within the Offices of the Assistant Secretary. All such records shall be available for public inspection in accordance with the provisions of appropriate State or Federal law.

2.4 Regularly scheduled meetings of the Commission shall be held on the fourth Tuesday of each month, unless otherwise ordered by the Chairman. Unless otherwise stated in the notice of hearing, all hearings and meetings shall be held in Baton Rouge, Louisiana.

2.5 Special meetings of the Environmental Control Commission may be called at any time by the Chairman of the Commission. In addition, any interested person may petition the Commission to call and hold a public hearing in accordance with the provisions of Section 2.8 of these regulations.

2.6 Any interested person may petition the Commission to have a matter placed on the agenda of a scheduled meeting or have the Commission hold a hearing on a particular matter.

2.7 In the performance of those duties the authority for which was delegated by the Commission under Section 5.1 of these Rules of Procedure, the Assistant Secretary shall call and hold all hearings necessary for such purposes in accordance with applicable State or Federal laws and the Rules and Regulations adopted thereunder.

2.8 A petition for a special meeting of the Commission under Section 2.5 and a request for Commission action under Section 2.6 shall be made by filing in writing with the Assistant Secretary a plain and concise statement of the purpose of the request and the action requested of the Commission. The petition shall be accompanied by supporting affidavits or documentation. The Assistant Secretary shall send copies of the petition and attachments to all members of the Commission and its legal counsel within seven days of its receipt.

2.9 After reviewing the petition and any other factors it deems necessary, the Commission members shall decide at their next meeting scheduled after receipt of the request whether to call a public hearing and shall direct the Assistant Secretary to provide written notification of their decision and the reasons therefor, to the petitioner within twenty days of their decision on the petition.

2.10 As each hearing is called, the Assistant Secretary shall designate it by consecutive numbers, and shall keep a record which will show in convenient form the number of the hearing, the place and time of the hearing, the names of attorneys, the names of all parties to the hearing, the nature of the hearing and all subsequent proceedings in the matter with the dates thereof.

2.11 The Assistant Secretary shall maintain a mailing list of all persons who request personal notice of public hearings of the Commission or the Assistant Secretary. Any person requesting to be placed on such list shall be mailed notice of each public hearing as it is called at the address provided to the Assistant Secretary. This notice is in addition to the legal notice requirements of the Administrative Procedures Act for the purpose of encouraging public participation in the hearing process.

2.12 In addition to the Notice List provided for in Section 2.11 of these Rules of Procedure, a bulletin shall be issued periodically by the Commission and mailed to a subscription list including public officials, industries who operate under Commission permits, and any interested individuals and organizations who request that their name be on such list. The bulletin will contain information concerning permit applications, actions by the Commission or the Assistant Secretary on permits, licenses, variances, registrations, compliance schedules or enforcement actions, and other information of public interest concerning the State's environmental programs.

2.13 All rulemaking authority under the Environmental Affairs Act is vested in and shall be exercised by the Environmental Control Commission. In the exercise of this rulemaking authority, the Commission shall follow the procedures set forth in the Louisiana Administrative Procedures Act, LRS 49:951 et seq. unless preempted by applicable Federal law and regulations or LRS 30:1066 and LRS 30:1135. These procedures shall be followed for all rulemaking actions of the Commission including the amendment of existing rules and the adoption and amendment of these Rules of Procedure.

Investigations 3.0. - 3.8.

3.0 Any person may file with the Assistant Secretary of the Commission, a written complaint of a violation of the Environmental Affairs Act, the existing rules and regulations of the predecessors to the Commission, or applicable rules and regulations promulgated by the Commission under said Act. The complaint may be accompanied by supporting evidence, documentation and photographs, if any. The Assistant Secretary shall review all complaints within fifteen days of receipt and make a determination as to whether an investigation is warranted. Where the Assistant Secretary finds that no investigation is warranted, notice of that determination, with written reasons, shall be sent to the person filing the complaint. The complainant may appeal the determination to the Commission which shall take action it deems appropriate.

3.1 The Assistant Secretary may, at any time upon his own initiative or upon receipt of a written complaint under Section 3.0, or upon the direction of the Commission, investigate any suspected violation of the Environmental Affairs Act, the rules and regulations adopted by the Commission under said Act or the existing rules and regulations of the predecessors to the Commission. Upon initiation of an investigation, the Assistant Secretary shall notify the members of the Commission and the Commission's counsel in writing, of the fact and nature of the investigation and provide copies of the files.

3.2 In connection with the investigation of a possible violation

of the rules and regulations, the Assistant Secretary may authorize, at his discretion, that any public hearing held be conducted in accordance with the rules applicable to adjudication proceedings.

3.3 The Assistant Secretary has the power to develop facts by either staff investigatory procedures or through formal investigatory hearings.

3.4 Investigations shall be for the purpose of determining such questions as whether a violation exists, the scope of the violation, and the persons or parties involved.

3.5 To the extent practicable, investigatory hearings shall be held in accordance with the provisions of Section 4. of these Rules of Procedure, provided that all interested persons shall be afforded a reasonable opportunity at any such hearing to submit data, views or arguments orally or in writing. In addition to such investigatory hearings, the Assistant Secretary may utilize such informal investigative procedures as he deems appropriate, including, but not limited to, prehearing conferences, the taking of depositions, submission of written interrogatories, interview of witnesses, and site inspections.

3.6 When the Assistant Secretary determines that there has been a violation of the Act, the existing rules and regulations of the predecessors of the Commission, or of any of the rules and regulations of the Environmental Control Commission under the Environmental Affairs Act, appropriate action shall be taken by the Assistant Secretary or the Commission, which may include the initiation of adjudicatory proceedings for enforcement purposes, or the institution of appropriate judicial proceedings.

3.7 All enforcement actions taken by the Commission or the Assistant Secretary shall be conducted in accordance with the provisions of LRS 30:1073. All hearings held pursuant to LRS 30:1073 E shall be adjudicative. All orders, compliance orders, emergency cease and desist orders, and notices of violation shall be issued in writing and notice given to the violator by registered mail, return receipt requested, with a copy sent to the Commission's counsel and the Commission members.

3.8 If an adjudicatory hearing is held, any person may appear and testify. Only parties, as defined in Section 4.4, may cross-examine witnesses, object to evidentiary offers or testimony or otherwise participate in the adjudicatory procedures described in these rules. Reasonable restrictions may be imposed on public testimony as may be appropriate.

Adjudication, Notice, Hearing, Records 4.0. - 4.13.

4.0 All meetings of the Commission and hearings conducted by it shall be public and shall be conducted by the Commission Chairman or a presiding officer designated by the Chairman to conduct the hearings.

4.1 All hearings held by the Assistant Secretary shall be public and shall be conducted by the Assistant Secretary or Hearing Officer designated by him. The Assistant Secretary shall give written notice to the Commission and interested persons of all hearings which he conducts. This notice shall include the time, place and date of the hearing and the matters to be considered.

4.2 The time and place for all hearings shall be fixed by the Commission or the Assistant Secretary. All hearings shall be held in a convenient place, accessible to the public, in the City of Baton Rouge except when it is deemed that the interests of the Commission, Assistant Secretary or any person or party, or the location of the parties or witnesses, or the ends of justice require otherwise. In such event the hearing may be held in any other convenient place of public accessibility within the State.

4.3 Any hearing may, for valid cause, be continued by the Assistant Secretary or the presiding officer, for a period not to exceed ninety days.

4.4 Parties shall have the right, but shall not be required, to be represented by counsel. Any such counsel must be duly licensed to practice law in the State of Louisiana, or be associated in the hearings with such duly licensed counsel.

a. In an adjudicatory hearing the person under investigation and the Office of Environmental Affairs shall be parties entitled to cross-examine witnesses, object to evidentiary offers or testimony or otherwise participate in an adjudicatory role.

b. The complainant or any other person who has a substantial interest in the outcome of the adjudication may be permitted to intervene as parties. Intervention shall be freely granted provided the proper petition for intervention is filed at least fifteen days prior to the hearing and such intervention is not likely to create an undue broadening of the issue or otherwise unduly impede the resolution of the matter.

4.5 In an adjudication, all parties who do not waive the rights shall be afforded an opportunity for hearing after such notice as is required by the appropriate State or Federal law or regulation.

4.6 The notice for all hearings will include:

- a. A statement of the time, place and nature of the hearing.
- b. A statement of the legal authority and jurisdiction under which the hearing is to be held.
- c. A reference to the particular sections of the statutes and rules involved.
- d. A short and simple statement of the matters asserted.
- e. The date on which any person who may support or object to the matters asserted must present to the Secretary a written statement. A written statement shall contain a short and simple statement of the basis of the objection or support expressed.

4.7 If the Commission or Assistant Secretary is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application or request, a more definite and detailed statement shall be furnished.

4.8 Opportunity will be afforded to all parties to timely respond and present evidence on all issues of fact, and argument on all issues of law and policy involved, and to conduct such cross-examinations as may be required for a full and true disclosure of the facts.

4.9 Unless precluded by law, informal disposition may be made, at any time, of any case of adjudication by stipulation, agreed settlement or consent order.

4.10 The record in a case of adjudication shall include:

1. All pleadings, motions and intermediate rulings.
2. All evidence received or considered, or a resume thereof if not transcribed.
3. A statement of matters officially noticed, except matters so obvious that statement of them would serve no useful purpose.
4. Offers of proof, objections and rulings thereon.
5. Proposed findings and conclusions and exceptions thereto.
6. Any decision, opinion or report by the officer presiding at the hearing.
7. The record in any case of adjudication may be left open for the receipt of additional evidence and such evidence shall be made a part of the record of that case.

4.11 The Assistant Secretary shall make full transcript of all proceedings before the Commission and of hearings conducted by him and shall, at the request of any party or person, furnish said party or person with a copy of the transcript or any party thereof upon payment of the cost thereof.

4.12 Findings of fact will be based exclusively on the evidence and on matters officially noticed, all in accordance with the State Administrative Procedures Act and other applicable law.

4.13 A. Should any party fail to file briefs or memoranda, or fail to appear at any prehearing conference, as provided for in Section 6.3. of these rules, without good cause shown, that party shall not be permitted to introduce evidence, cross-examine witnesses or otherwise participate in the adjudicatory hearing as a party.

B. Should any party fail to appear at the hearing on the appeal, disposition of that appeal shall be made as follows:

1. If appellant fails to appear, the Commission may at its discretion dismiss the appeal, continue it to a later date or proceed with the hearing and render its decision based upon the evidence admitted at the hearing.

2. If appellee fails to appear, the Commission may at its discretion continue the hearing to a later date or proceed with the hearing and render its decision based upon the evidence admitted at the hearing.

3. If any other party fails to appear, the Commission shall proceed with the hearing and render its decision based upon the evidence admitted at the hearing.

4. The Commission may, for good cause shown, upon a two-thirds vote of the membership present rehear an appeal to permit an absent party to take part.

C. The Commission, on its own motion, or upon written motions of a party after an adversary hearing, may summarily dispose of an appeal if it finds that:

1. The person bringing the appeal has no legal right to appeal,
2. The appeal is not timely, or
3. The appeal is moot.

Delegations of Authority

5.0-5.4

5.0 In accordance with the authority granted the Commission by the provision of RS 30:1066(4) and 30:1073, and in recognition of the resulting benefit of prompt administration and enforcement of the Environmental Affairs Act, for the term of these interim, emergency rules and authority to perform the actions specified below is hereby delegated to the Assistant Secretary of the Office of Environmental Affairs.

5.1 A. Subject to the provisions of Section 5.2. below and the provisions of the Environmental Affairs Act, the following authority is specifically retained by the Environmental Control Commission:

1. Authority for formulating and implementing environmental policy for the State of Louisiana.
2. Authority to adopt, amend, or repeal all rules and regulations for the protection of the environment for the State of Louisiana.
3. Authority to hear appeals in accordance with the provisions of R.S. 30:1072.
4. Authority to bring and settle all civil actions necessary for the enforcement of the Environmental Affairs Act or the rules and regulations adopted thereunder.
5. Authority to suspend, or revoke any permit, compliance order, license, or variance which had been issued to a person, under rules and regulations in effect on January 1, 1980, who has failed to take timely corrective action in response to a compliance order or an emergency cease and desist order.
6. Authority to conduct any studies or investigations that the Commission considers necessary to fulfill its duties under the Environmental Affairs Act.
7. Authority to issue such orders including cease and desist orders, and determinations as may be necessary to effectuate the purposes of the Environmental Affairs Act, which authority is shared by delegation with the Assistant Secretary.
8. The assessment of civil penalties under RS 30:1073 E (1).

B. Subject to the provisions of Section 5.2 below, the supervision of the Commission, and the provisions of the Environmental Affairs Act, the following authority vested in the Commission is hereby delegated to the Assistant Secretary, for purposes of these emergency rules and regulations. The authority delegated by the Commission to the Assistant Secretary hereunder shall include:

1. The issuance of emergency cease and desist orders under RS 30:1073 C (1).
2. The issuance of notices of violation and compliance orders and the commencement of suit under RS 30:1073 C (2).
3. To conduct studies and investigations pursuant to these rules, necessary to fulfill duties under the Environmental Affairs Act.

5.2 The delegations made in Section 5.1 B. of these Rules shall in no way limit the authority of the Commission to expand or restrict other delegations to the Assistant Secretary on specific permits, licenses, registrations, or variances as contemplated by RS 30:1065, et al.

5.3 The Assistant Secretary may defer to the Environmental Control Commission for the performance of any act or acts the authority for which has been delegated by Section 5.2 whenever it appears to the Assistant Secretary that it is appropriate for the Commission to act on a particular matter.

5.4 In accordance with the provisions of RS 30:1072, any order, refusal or ruling issued by the Assistant Secretary concerning a permit, license, registration, rule, rules non-compliance, or variance shall become final unless the person or persons named therein apply in writing within thirty days after the order is served or the sending of bulletin provided for in Section 2.12, whichever is later, asking the Commission to review the action of the Assistant Secretary. Upon the timely filing of such a petition, the Commission shall schedule a meeting to review the actions of the Assistant Secretary and either support modified or reverse the action taken by the Assistant Secretary on the matter in question. Any other aggrieved or adversely affected person may also appeal any such order, refusal or ruling of the Assistant Secretary to the Commission pursuant to the above procedures, which person shall be a party to the hearing. This procedure is in addition to rights and remedies provided persons or parties in the State Administrative Procedures Act, RS 49:951-968.

The petition of appeal must be filed in quadruplicate and set forth the application number, the date of decision, the decision, and the grounds for appeal. Appellant must specify the grounds for appeal, with appropriate citations to the rules, the Act and/or prior decisions. The petition must be signed by the appellant or his attorney.

The Commission, at its discretion, may authorize that any hearing on appeal be adjudicative.

Rules of Evidence, Official Notice, Oaths and
Affirmations, Subpoenas,
Deposition and Discovery

6.0-6.5

6.0 In adjudication proceedings: The Assistant Secretary or presiding officer will admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs, and will give effect to the rules and privileges recognized by law. The Assistant Secretary or presiding officer will exclude incompetent, irrelevant, immaterial and unduly repetitious evidence. Objection to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

6.1 All evidence, including records and documents in the possession of the Assistant Secretary of which he desires to avail himself, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be made available for examination by the parties before being received in evidence.

6.2 Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the Assistant Secretary or the presiding officer's specialized knowledge. Parties will be notified either before or during the hearing, or by reference to preliminary reports or otherwise, of the material to be noticed, including any staff memoranda or data, and they will be afforded an opportunity to contest the admissibility of the material to be noticed. The Commission staff's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

6.3 The Assistant Secretary or the presiding officer conducting a proceeding subject to these rules and regulations shall have the power to administer oaths and affirmations, regulate the course of the hearings, and the time and place of continued hearings, fix the time for filing of briefs and other documents, and to direct the parties to appear and confer to consider simplification of the issues and to mutually exchange any and all information regarding witnesses, evidence to be introduced, and the basis for each party's position on the issue.

6.4 The Assistant Secretary or the presiding officer shall have the power to sign and issue subpoenas in the name of the Commission requiring attendance and giving of testimony by witnesses and the production of books, papers and other documentary evidence. No subpoena will be issued until the party who wishes to subpoena the witness first deposits with the Assistant Secretary a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to RS 13:3661 and 3671. Witnesses subpoenaed to testify before the Secretary only to an opinion founded on special study or experience in any branch of science, or to make a scientific or professional examination and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the Assistant Secretary with reference to the value of the time employed and the degree of learning or skill required. Whenever any person summoned under this section neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, the Assistant Secretary may apply to the Judge of the District Court for the district within which the person so summoned resides or is found, for an attachment against him as for a contempt. The provisions of this part shall not be applicable as to the deposit of sums sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to RS 13:3661 and 3671 when the party requesting production complies with the provisions of the Louisiana Code of Civil Procedure applicable to the waiver of costs for indigents (Article 5181 through 5188).

6.5 The presiding officer or the Assistant Secretary, or any party to a proceeding before the Commission, may take the depositions of witnesses, within or without the State of Louisiana, in the same manner as provided by law for the taking or depositions in civil actions in courts of record. Depositions so taken shall be admissible in any proceeding affected by these rules or the Administrative Procedures Act. The admission of such depositions may be objected to at the time of hearing and may be received in evidence or excluded from evidence by the presiding officer in accordance with the rules of evidence provided in these Rules of Procedure.

Decision and Orders
7.0

7.0 Any final decision or order will be in writing or will be stated in the record. A final decision will include findings of fact and conclusions of law. If findings of fact are set forth in statutory language, they will be accompanied by a concise and explicit statement of the underlying facts supporting the findings. A party may submit proposed findings of fact and conclusions of law, and, in that event, the decision shall include a ruling upon each proposed finding and conclusion. Parties will be notified either personally or by mail of any decision or order. Upon request, a copy of the decision or order will be delivered or mailed forthwith to each party and to his attorney of record. By written stipulation, the parties may waive, and in the event that there is no contest, the Secretary may eliminate, compliance with this section.

Rehearings
8.0 - 8.2

8.0 A decision or order in a case of adjudication shall be subject to rehearing, reopening or reconsideration within ten days from

the date of its entry. The grounds for such action shall be either that:

1. The decision or order is clearly contrary to the law and the evidence;
2. The party has discovered, since the hearing, evidence important to the issues which he could not with the due diligence have obtained before or during the hearing;
3. There is a showing that issues not previously considered ought to be examined in order to dispose of the matter; or
4. There is other good ground for further consideration of the issues and the evidence in the public interest.

8.1 The petition of a party for rehearing, reconsideration or review should set forth the grounds which justify such action. Nothing in this section will prevent rehearing, reopening or reconsideration of a matter by the Assistant Secretary or the Commission in accordance with other statutory proceedings applicable to it, or at any time, on the grounds of fraud practiced by the prevailing party or procurement of the order by perjured testimony or fictitious evidence. On reconsideration, the hearing will be confined to those grounds upon which the reconsideration, reopening or rehearing was ordered. If an application for rehearing is filed timely, the period within which judicial review, under the applicable statute, must be sought shall run from the final disposition of such application.

8.2 In addition to any request for rehearing under Section 8.1 of these rules, any order of the Assistant Secretary is also subject to appeal to the Commission under Section 5.4 of these rules.

Construction and Effect 9.0. - 9.2.

9.0 Nothing in these rules and regulations shall be held to diminish the constitutional rights of any person, or to limit or repeal additional requirements imposed by statute or otherwise recognized by law. Except as otherwise provided by law, all requirements or privileges relating to evidence or procedure shall apply equally to the Commission, Assistant Secretary, and all persons.

9.1 If any provision of these rules and regulations shall be found to be in conflict with Federal requirements, such conflicting provision of these rules and regulations is hereby declared to be inoperative solely to the extent of such conflict, and such findings or determination shall not affect the operation of the remaining provisions of these rules and regulations in their application to the functions of the Commission or the Assistant Secretary.

9.2 If any provision of these rules and regulations or the application thereof is held to be invalid, the remaining provisions of these rules and regulations or other application thereof shall not be affected, so long as they can be given effect without the invalid provision, and to this end the provisions of these rules and regulations are declared to be severable.

Frank A. Ashby, Jr., Chairman,
Environmental Control Commission

DECLARATION OF EMERGENCY

Department of Public Safety Office of State Fire Protection

The Department of Public Safety, Office of State Fire Protection, has exercised those powers conferred by the emergency provisions of the Administrative Procedures Act, R.S. 49:953B, to adopt the following amendments to LAC 17-4:9, Hospital Fire Lanes, and LAC 17-4:10, Shopping Centers--Fire Lanes. This action has been taken to protect the health and welfare of the citizens of the State of Louisiana from the imminent danger caused by the disregard (flagrant and otherwise) of the prohibition of parking in fire lanes. Therefore, in an effort to counteract this threat to the citizens, the following emergency rules are promulgated:

LAC 17-4:9 Hospital Fire Lanes

9.3 The Fire Marshal, his certified local authorities, or local law enforcement officials shall remove any vehicle parked in any fire lane in the State of Louisiana by any means necessary and shall assess the cost of removal against the owner of said vehicle by storing said vehicle and refusing to release said vehicle until all costs incident to the removal and storage of said vehicle have been paid by the owner.

9.4 Owners and occupants of the property on which fire lanes are located are hereby charged with the responsibility of notifying the Fire Marshal, his certified local authorities, or local law enforcement officials of the existence of any vehicles parked in those fire lanes; and in the event that they are unable to contact the Fire Marshal, his certified local authorities, or local law officials, the owner and occupant are hereby charged with the responsibility of and are hereby authorized to remove any vehicle parked in those fire lanes by any means necessary and to assess the cost of same against the owner of said vehicle by storing said vehicle and refusing to release said vehicle until all costs incident to the removal and storage of said vehicle have been paid by the owner.

LAC 17-4:10 Shopping Centers--Fire Lanes

10.4 The Fire Marshal, his certified local authorities, or local law enforcement officials shall remove any vehicle parked in any fire lane in the State of Louisiana by any means necessary and shall assess the cost of removal against the owner of said vehicle by storing said vehicle and refusing to release said vehicle until all costs incident to the removal and storage of said vehicle have been paid by the owner.

10.5 Owners and occupants of the property on which fire lanes are located are hereby charged with the responsibility of notifying the Fire Marshal, his certified local authorities, or local law enforcement officials of the existence of any vehicles parked in those fire lanes; and in the event that they are unable to contact the Fire Marshal, his certified local authorities, or local law officials, the owner and occupant are hereby charged with the responsibility of and are hereby authorized to remove any vehicle parked in those fire lanes by any means necessary and to assess the cost of same against the owner of said vehicle by storing said vehicle and refusing to release said vehicle until all costs incident to the removal and storage of said vehicle have been paid by owner.

Daniel L. Kelly
State Fire Marshal

DECLARATION OF EMERGENCY

Department of Transportation & Development Office of Aviation & Public Transportation

Title 2 of the Louisiana Revised Statutes of 1950 provides for the regulation of aeronautics in Louisiana by the Louisiana Department of Transportation and Development (formerly the Department of Public Works). Section 2.8 of the Title provides that "all proposed airports and landing fields shall first be approved by the Office of Aviation and Public Transportation (OAPT) before they are so used or operated, and that no airport or landing field, excepting those constructed and operated prior to July 28, 1936, shall be used or operated without the approval of the Department." Section G of the Statute provides that the Department may prescribe such reasonable rules and regulations as it deems necessary and advisable for the public safety and for the promotion of aeronautics governing the designing, laying out, location, building, equipping, operation, and use of all airports, landing fields, or landing strips, and for the safety of those engaged in aeronautics. It is to insure this safety that these emergency provisions are promulgated.

Landing Area Registration Procedures

Pursuant to these statutory provisions, all landing area propo-

nents will provide the Louisiana Department of Transportation and Development, Office of Aviation and Public Transportation with the following information prior to use of the area for landing or take-off of aircraft:

1. Completed Environmental Questionnaire - OAPT FORM 500A. This form addresses general environmental considerations.
 2. Completed Landing Area Location Sketch - OAPT FORM 500B. This sketch shows the relationship of the proposed site to other prominent centers of activity within an area of several miles.
 3. Completed Landing Area Immediate Vicinity Sketch - OAPT FORM 500C. This sketch shows the relationship of the proposed site to structures within the immediate vicinity.
 4. A location drawing of the proposed landing area on the United States Geological Survey topographic quadrangle series map covering your location. These can usually be obtained at blueprint supply companies, or one can be sent to you upon request if none are available from commercial sources.
 5. One copy of the Form 7480-1 which you submitted to the Federal Aviation Administration showing your intention to establish a landing area.
 6. One copy of the Federal Aviation Administration's notification to you of its favorable or unfavorable airspace findings.
- Instructions for registration along with copies of all appropriate forms are combined in OAPT Information Publication Number 5000, a copy of which may be obtained at no charge from: Louisiana Department of Transportation & Development, Office of Aviation & Public Transportation, Box 44245, Baton Rouge, Louisiana 70804, Attention: Director of Safety and Information Systems.

Classifications of Louisiana Airports, Seaplane Bases & Heliports

The classification of airports is necessary to assure an orderly method of administration by establishing a coded identity for each airport which relates to the role it plays in the Louisiana Airport System Plan (LASP), what guidelines should be followed in its development, and what special funds may be available for scheduled improvements.

Airports - The airports in the LASP are classified according to a simplified version of the Federal Aviation Administration's National Airports System Plan (NASP) classification system. Essentially this involves identifying the airport according to the type of aircraft which it will principally serve. Although the LASP classification is less complicated than that of the FAA NASP, there is no conflict between the NASP classification of an airport and the LASP classification. The classification of each publicly-owned airport is listed on the individual airport data sheets in Volume Two of the State Plan. Additional classifications were necessary to complete the System Plan: 1) Landing Strip, 2) Seaplane Base, and 3) Heliport. The letter codes used are as follows:

LS-Landing Strip - Air strips to be used as emergency, recreational, agricultural or other private business operations at the pilots own risk. Will accommodate about 75% of the propeller airplanes under 12,500 pounds gross weight. No special activity criterion for this type airport, and the facility cannot be approved as "open to the public."

BU-Basic Utility - THE DISTINCTION BETWEEN STAGES 1 AND II HAS BEEN ELIMINATED. This type of facility will accommodate about 95% of the general aviation propeller fleet under 12,500 pounds. There is no special activity criterion required for this type of airport. However, it is primarily intended to serve as the basic airport development unit open for use by the public.

GU-General Utility - This type of airport accommodates substantially all general aviation propeller aircraft under 12,500 pounds. It is primarily intended to serve the majority of a city's aeronautical needs (other than a metropolitan area) for other than business-jet aircraft.

BT-Basic Transport - These airports accommodate all general

aviation aircraft up to 60,000 pounds maximum gross weight (MGW), including propeller transport and business or executive jets.

GT-General Transport - These airports generally accommodate transport category aircraft between 60,000 pounds and 175,000 pounds MGW. Generally, the GT airport serves scheduled jet air carrier operators.

Seaplane Bases - These facilities can be either natural waterways, or man-made seaways used on a regular basis for take-off and landing of amphibious aircraft.

CU-Seaplane Utility - Based upon level of commercial activity.

CT-Seaplane Transport - Based upon level of commercial activity.

Helicopter Landing Site - A location used for helicopter takeoffs and landings on a one-time, temporary, or infrequent basis, which have not been specifically prepared for helicopter operations. A Helicopter Landing Site is typically an area used for emergency evacuation, or a rural site used in agricultural spraying operations. Helicopter Landing Sites need not be registered with the State.

Heliport - Any area of land, water, or structure used or intended to be used for the landing and takeoff of helicopters, which has been specifically prepared for use by helicopters, any area for use by helicopters which is "open to the public", or any area, other than those used for agricultural operations, which may have three or more takeoffs or landings in a thirty-day period. All heliports must be registered with the State in accordance with the Department of Transportation and Development, Office of Aviation and Public Transportation Information Publication No. OAPT 5000, "Registration Procedures for Landing Areas in Louisiana."

Heliport Service Facilities - Those facilities such as major maintenance facilities, or fueling facilities which may be used in conjunction with a heliport. Such facilities must receive approval from the Office of Aviation and Public Transportation prior to their construction or use. Registration of a heliport is not to be understood as approval for Heliport Service Facilities.

Interim Standards

The following facility standards will be utilized by the Louisiana Department of Transportation and Development when reviewing registration information supplied by proponents. (See drawings pages 165 - 172.)

Review of Landing Area Proposals

Upon receipt of the required information, the Office of Aviation and Public Transportation, following a reasonable period for review will provide the proponents with a statement of its findings and issue a notice of no objection to the establishment and use of the proposed landing area, if such is appropriate. The review may include:

1. Review of site in comparison with FAA and/or state minimum safety standards as appropriate to the type of use intended.
2. The solicitation of comments by the local governing bodies and local residents.
3. The holding of formal public hearings, or informal gatherings of concerned interests.
4. Site inspections, or any other lawful means of gathering needed information.

Administrative Remedy For Rejection of Application

Section 13 of the statute (Title 2) provides that where the Department rejects an application for permission to operate or establish an airport or landing field or in any case where the Department shall issue any order requiring certain things to be done, it shall set forth its reasons therefor and shall state the requirements to be met before such approval will be given or such order modified or changed. In any case where the Department

**FAA GENERAL AVIATION AIRPORT STANDARDS
LOUISIANA ACCEPTABLE RANGE**

ITEM	Landing Strip (LS)	Basic Utility (BU)	General Utility (GU)	Basic Transport (BT)	General Transport (GT)	ILS
R/W and T/W Slopes:						
Shoulder - R/W	3%-5% for 10 ft. then 1.5%-5% to edge of safety area					
- T/W	3%-5% for first 10 ft. then engineering design for grading and drainage will dictate					
Longitudinal	0%-2%					
Transverse	1%-2%					
Taxiway:						
C _L to Bldg. Line	50 ft. for primary T/W, 37.5 ft. (for T/W between Hangars)			50-75	100	200
C _L to Parallel T/W C _L	50	50	50	150	200	300
C _L to Obstruction	50	50	50	50-75	100	200
C _L to Aircraft Tiedowns	75	75	75	75-100	175	250
Safety Area Beyond Runway End:	200	200	200	200	200	200
Apron Slope	1%-2%	1.5% is optimum considering both drainage and aircraft operations				
Radius of Fillet	50-100					
Landing Area (acres)	27	35	53	64		
Approach Area (acres)***	21	21	25	25		
Building Area (acres)	8	12	24	24		
Total Area (acres)	56	68	102	113		

*** Note: Acreage assumes rectangular land acquisition

1/ Runway minimum length calculated for the weight group of the probable using aircraft for each airport type based on the State average normal maximum temperature (°F) in the hottest month of the year.

() = Louisiana Minimum

**FAA GENERAL AVIATION AIRPORT STANDARDS
LOUISIANA ACCEPTABLE RANGE**

ITEM	Landing Strip (LS)	Basic Utility (BU)	General Utility (GU)	Basic Transport (BT)	General Transport (GT)	ILS
Clear Zones						
Visual	250x450 x 1000 @20:1	250x450 x 1000 @ 20:1	250x450 x 1000 @ 20:1	500x700 x 1000 @ 20:1	500x700 x 1000 @ 20:1	
Trapezoid Size	= 8 acres	= 8 acres	= 8 acres	= 14 acres	= 14 acres	
	Non-prec.	Non-prec.	Non-prec.	Non-prec. + 3/4 mile	Non-prec. + 3/4 mile	Prec.
Instrument	500x800 x 1000 @ 20:1	500x800 x 1000 @ 20:1	500x800 x 1000 @ 20:1	1000x1510 x 1700 @ 34:1	500x1010 x 1700 @ 34:1	1000x1700 x 2500 @ 50:1
	= 15 acres	= 15 acres	= 15 acres	= 49 acres	= 30 acres	= 79 acres
Transitional Surfaces	3:1	3:1	7:1	7:1	7:1	7:1

- Note: 1) Practicalities of land acquisition may dictate rectangular configuration
 2) Length of Approach Zones for Utility Runways and Visual Approaches equal distance to obtain 50 ft. vertical clearance.
 3) 3:1 Transitional Surfaces recommended in accordance with proposed revision to FAR Part 77 as submitted by NASAO to the FAA October 14, 1974

**FAA GENERAL AVIATION AIRPORT STANDARDS
LOUISIANA ACCEPTABLE RANGE**

ITEM	Landing Strip (LS)	Basic Utility (BU)	General Utility (GU)	Basic Transport (BT)	General Transport (GT)	ILS
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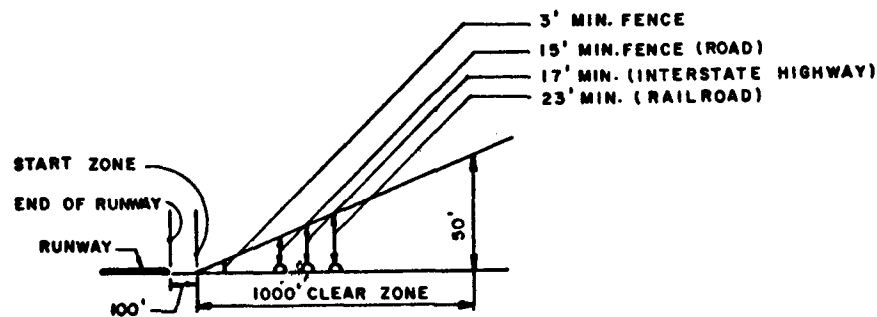
Obstacle Removal

All objects except for frangible-mounted air navigational aids which, because of their function, must be located near the runway should be cleared to ground level within the area 125 ft. laterally either side of the runway centerline and extending 200 feet beyond the runway ends. (100 feet min.)

Part 77 Clearances

- 17 ft. for interstate highway
- 15 ft. for any other public roadway
- 10 ft. or the height of the highest mobile object that would normally traverse the road whichever is greater for a private road
- 23 ft. for a railroad and for a waterway or any other traverse way not previously mentioned, or amount equal to the highest mobile object that would normally traverse it.

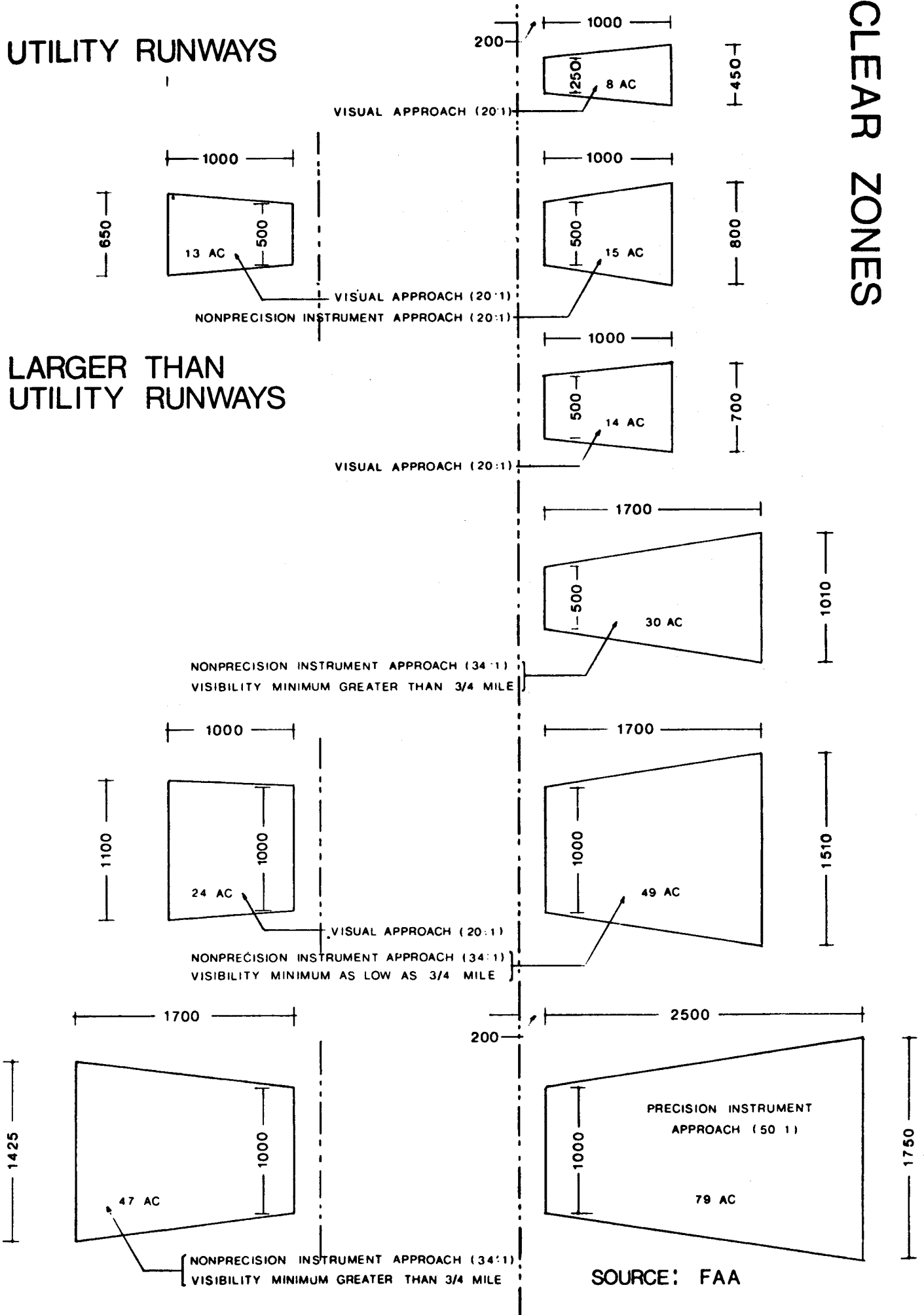
These dimensions measured from nearest existing or planned pavement edge.



UTILITY RUNWAYS

CLEAR ZONES

LARGER THAN UTILITY RUNWAYS



SOURCE: FAA

STATE OF LOUISIANA

RECOMMENDED HELIPORT DESIGN STANDARDS

GEOMETRIC CRITERIA	DESIGN CRITERIA	COMMENTS
Length of Landing Area Class I (Private) Class II (Public) <u>1/</u>	1.5 times overall helicopter length 1.5 times overall helicopter length (FAA current Design Guide recommended 2x - for Class II)	To preclude premature obsolescence, the size of future aircraft must be considered and planned for. Special consideration must be given elevated heliports.
Width of Landing Area Class I Class II	1.5 times overall helicopter length 1.5 times overall helicopter length	Note: At some sites the areas available can be less than the recommended dimensions.
Touchdown Pad <u>2/</u> Class I Class II	1.5 times the tread and 1.5 times the wheel base (or skid/float contact length)	Same as above
Length and Width of Touchdown Area Class I Class II	One rotor diameter One rotor diameter	Same as above
Width of Peripheral Area Class I Class II	.25 times overall helicopter length 10 ft. minimum .25 times overall helicopter length 10 ft. minimum	This area constitutes a safety zone related to the landing area. Any fencing should be on the outside edge of the peripheral area. Also, no aircraft should be parked here.
Taxiway Width Class I Class II	20 feet 20 feet	Hover taxiing may eliminate the need for a taxiway at Class I heliports.

1/ FAA Class III has been eliminated

2/ Not in present FAA Design Guide

NOTE: FAA Heliport Design Guide to be revised to incorporate above notes.

STATE OF LOUISIANA

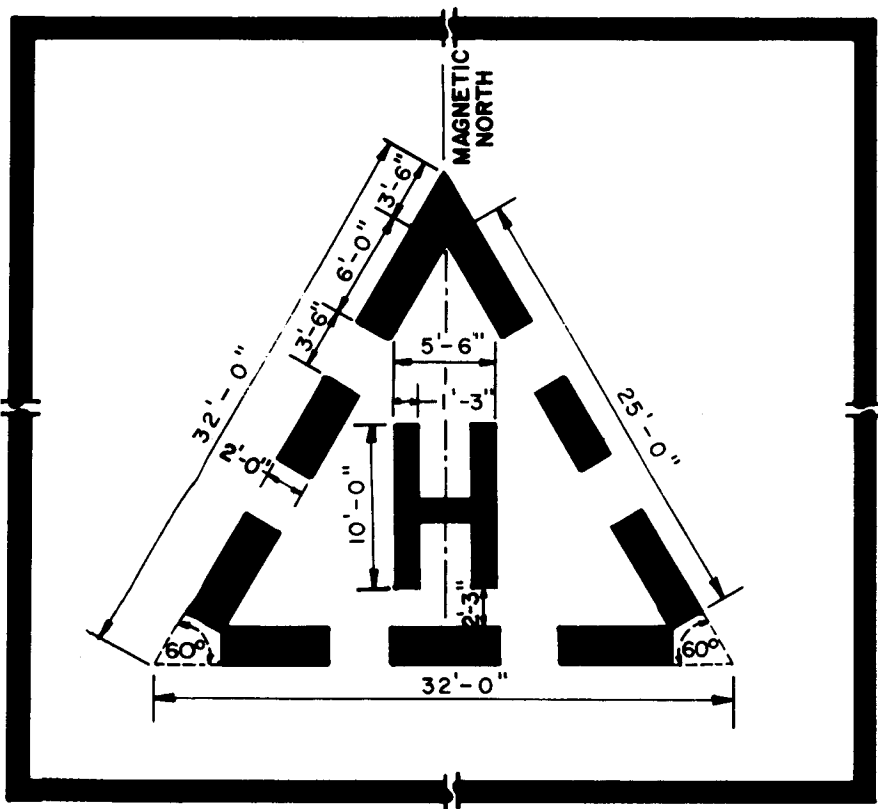
RECOMMENDED HELIPORT DESIGN STANDARDS (Continued)

GEOMETRIC CRITERIA	DESIGN CRITERIA	COMMENTS
Pavement Slopes	2.0 percent maximum	
Shoulder Slope	5.0 percent maximum for 1st 10 ft. 3.0 percent thereafter	These are preferred slopes.
Radius of Pavement Fillet	25 feet, minimum	Fillets may be omitted at Class I heliports
Shoulder Width for Touchdown Area		
Class I	Varies	
Class II	10 feet	
Shoulder Width for Taxiways and Aprons		
Class I	Varies	
Class II	10 feet	

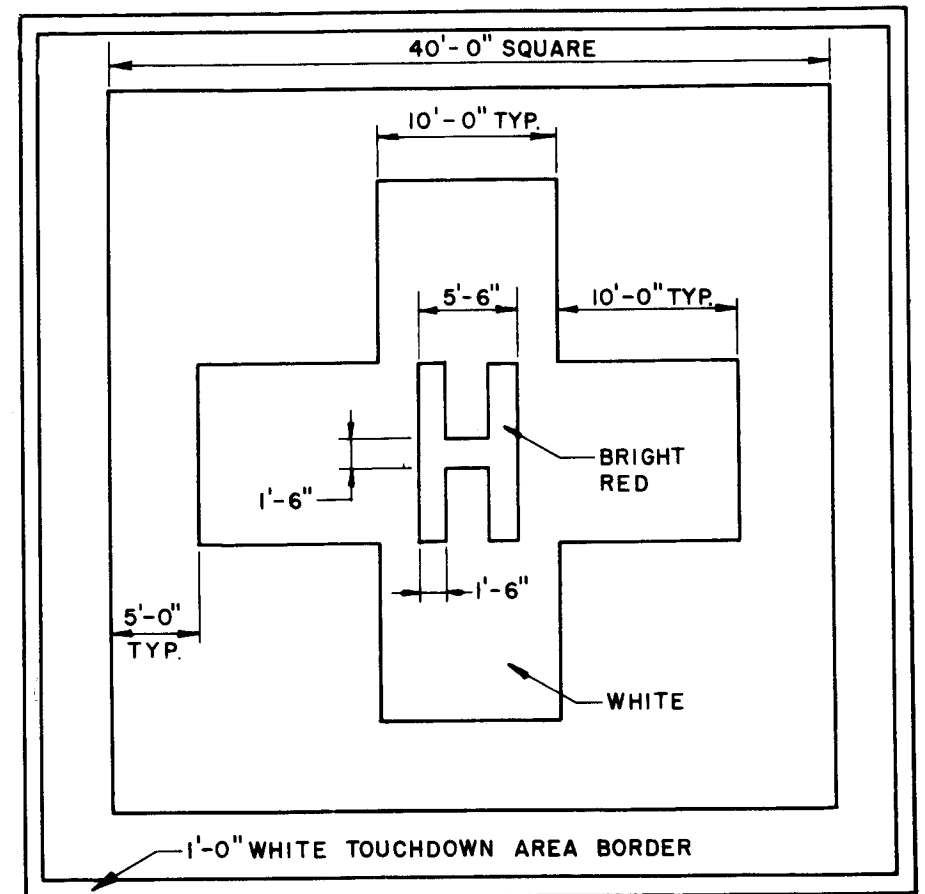
NOTE: Rooftop heliports require special engineering and architectural considerations of structural design strength requirements, static loading and dynamic loading.

HELIPORT MARKING

The triangular marker should be placed in the approximate center of the touchdown area. The letter "H" shall be centered in the triangle as shown. The triangle should be oriented so that solid apex is pointed to magnetic north. All marking should be white. Where necessary or desirable to confine the actual touchdown area of the helicopter landing area to a comparatively small area, as on roof tops, or specific portions of landing areas, the touchdown area should be clearly defined by a solid or segmented border at least one foot wide.



HOSPITAL HELIPORT MARKING



**STATE OF LOUISIANA
RECOMMENDED SEAPLANE FACILITY STANDARDS**

Classification	Lane length in ft. at Sea Level	Lane width in ft. Constructed/Natural	Depth in ft.	Turning Basin in ft.-Diameter	Remarks
Seaplane Utility	3,000	100/200	3	None	Minimum for limited small float plane operation. Approaches should be 20:1 or flatter for a distance of at least 2 miles on natural sites.
Seaplane Utility	3,500	150/200	4	None	Minimum for limited commercial operation. Approaches should be 40:1 or flatter for a distance of at least 2 miles.
Seaplane Transport	5,000	150/250	10	1,000	Minimum for extensive commercial operation. Approaches should be 40:1 or flatter for a distance of at least 2 miles.
Seaplane Transport	8,000	200/350	12	1,000	Unlimited. Approaches should be 40:1 or flatter for a distance of 2 miles.

- Notes:**
- 1) Approach clearances stated in Remarks apply to natural sites - constructed sites have same clear zone criteria as land airports.
 - 2) Above widths are single lane no water taxiways.
 - 3) The recommended lengths indicated above are for glassy water, no wind, sea level conditions at standard temperature of 59 degrees Fahrenheit.
 - 4) Utility classification refers to limited commercial operation. Transport classifications refers to extensive commercial operation.

may deem it necessary it may order the closing of any airport or landing field until it shall have complied with the requirements laid down by the Department. To carry out the provisions of this Chapter the Secretary of the DOTD or any person designated by him and any officers, state, parish, or municipal, charged with the duty of enforcing this Chapter, may inspect and examine at reasonable hours any premises, and the buildings and other structures thereon, where such airports or landing fields are operated. Any order made by the Department pursuant to this Chapter shall serve upon the interested person by registered mail or in person before such order shall become effective.

Failure to Comply

Failure to properly comply with appropriate directives of the Louisiana Department of Transportation and Development may result in penalties. State Law (2:12) provides that the Department, its members and employees, and every state, parish, and municipal officer charged with the enforcement of state and municipal laws, shall enforce and assist in the enforcement of this Chapter. The Department is further authorized in the name of the "State of Louisiana" to enforce the provision of this Chapter by injunction in the district courts of this State.

David L. Blackshear, Asst. Sec.
Office of Aviation & Public Transportation

Rules

RULE

Department of Commerce Racing Commission

The Louisiana State Racing Commission does hereby adopt the following rules, Rules LAC 11-6:53.11 and LAC 11-6:54.

Rule - LAC 11-6:53.11

53.11 Full use of modern therapeutic measures for the improvement and protection of the health of a horse is authorized, however, no such medication will be used on the day of the race except as may be provided in LAC 11-6:54.

Rule - LAC 11-6:54 Permitted Medication

54.1 The use of Arquel, and/or Lasix is permitted upon a race horse within a licensed racing enclosure or an auxiliary (off-track) stable area, subject to compliance with the following:

A. Only a veterinarian may prescribe, dispense, and administer Arquel and/or Lasix, except a trainer may administer Arquel if it is an ingestible or is topically applied.

B. Lasix may be administered the day of the race upon approval of the State Veterinarian. Lasix will not be administered to any horse racing in the state of Louisiana, except under the following conditions:

1. The subject horse must be known to bleed by either the Louisiana State Veterinarian or one of the association veterinarians, and will be considered a known bleeder.

B. When the subject horse is observed bleeding, it will not be accepted in the entries for a period of fourteen days, and then, only with the written consent of the Louisiana State Veterinarian. A known bleeder must remain on the lasix list for a minimum of ninety days.

3. The Louisiana State Veterinarian at each track will keep an up to date list of horses placed on the lasix or bleeders list and shall notify the other tracks that are racing in Louisiana.

4. Horses shipping in from other states, that intend to race in Louisiana, in order to qualify under this rule as known bleeders, must have filed in its behalf a statement to this effect from either the state veterinarian or a licensed racing association veterinarian of that respective state. This statement must be filed with the Louisiana State Racing Commission Veterinarian at the appropriate Louisiana track.

C. Daily reports of the administration of Lasix must be given to the State Veterinarian by 12:00 noon. They must be signed by the attending veterinarian and cosigned by the State Veterinarian, and must contain the following:

1. Date of the race.
2. Number of the race in which the horse is to run.
3. Name of the horse and its tattoo identification number.
4. Name of permissive medication or medications administered.
5. Hour and date that all permitted medications was administered to the horse.

D. Prior to or at the time of its entry in a race at each race meeting, a trainer shall report to the State Veterinarian each horse under his care by name, including the tattoo identification number, which shall run on Arquel. Once a horse is reported to be on a Arquel program, it shall be deemed to be continued on the program unless removed in accordance with the provisions of Section 54.1F.

E. Whenever bleeder medication, or Arquel, is to be administered to a horse entered for racing, that information will be posted for public information in the Daily Racing Form, and the Daily Racing Program.

F. Any horse on a Arquel program that races well and "lights the board" must be treated each time he races. A horse that races poorly, or is pronounced cured, or is not responding to Arquel therapy, may be taken off the treatment upon the recommendation of the treating veterinarian, subject to the approval of the State Veterinarian or, where a trainer administered the Arquel upon the recommendation of any veterinarian, subject to the approval of the State Veterinarian. Once a horse is taken off a Arquel program, it shall not be placed back on Arquel for thirty days.

G. To insure that the use of Arquel is consistent and the reporting is accurate, the Commission reserves the right to pre-race blood tests or post-race urine tests, or both, whenever it is deemed necessary.

H. Notwithstanding anything herein contained to the contrary, Arquel shall not be prescribed, dispensed, or administered to a two-year-old horse.

54.2 As used in this rule, "veterinarian" shall mean a person who is licensed to practice veterinary medicine in Louisiana, and who is in good standing and is licensed by the Commission.

54.3 Any person found to have violated the provisions of this rule may be punishable by fine, and/or suspension, and/or revocation of license.

Albert M. Stall, Chairman
Racing Commission

RULE

Board of Elementary and Secondary Education

Rule 3.00.14

The Board adopted as policy Adoption and Revision of State Department of Education Bulletins and Regulations.

Rule 4.02.01

(Replaces present policy) The Board adopted the Amended Annual Program Plan for Special Education for 1981-1983.

Rule 3.01.70u(14)

The Board adopted the Crime and Disruptive Behavior Module for those entering teacher education programs in the 1980 fall semester.

Rule 7.02.00

The Board adopted Bulletin 1508, *Pupil Appraisal Handbook*, and the *Addendum-Talented*.

James V. Soileau
Executive Director

RULE

Board of Trustees for State Colleges and Universities

The Policies and Procedures Manual of the Board of Trustees for State Colleges and Universities, Part VII, Section 7.7 is changed to read as follows:

Section 7.7 Patent Policy

A. General Policy — The Board of Trustees for State Colleges and Universities System of the State of Louisiana, hereinafter referred to as the Board of Trustees System, expects and encourages creative productivity on the part of employees of the Board of Trustees System. The Board of Trustees System recognizes its responsibility to assist and protect the developer, to assist the universities under its jurisdiction in matters pertaining to patents, to

protect the interests of the public, and to protect the interests of financial sponsors of the project other than the Board of Trustees System.

B. Patents — Inventions resulting from work carried on by, or under the direction of, University System personnel, supported, in whole or in part, by funds under control of the System, or involving University System facilities should be used and controlled to produce the greatest benefit to the Board of Trustees System and the public. The Board of Trustees System reserves the right to acquire and retain legal title to any such inventions, and any employee responsible for such invention shall, upon the request of the Board of Trustees System assign all rights, title and interest to the Board of Trustees System. The Board of Trustees System may apply for a patent in its own name or the evaluation of invention and application for patents may be made by contractual arrangement or assignment, as approved by the Board of Trustees System. If the Board of Trustees System declines to pursue a patent application, it may release its rights to the inventor. The Board of trustees System respects and recognizes the right of sponsors of research and development to the title of such invention as may arise from projects sponsored by them in conformance with the policy, explicitly stated contractual agreements covering such sponsorship, and applicable law.

C. Shared Royalties — In the event royalties are generated by any patent assigned to the Board of Trustees System, an appropriate share of such royalties shall be paid to the inventor. The inventor's share shall be determined by the following.

1. In cases where the Board of Trustees System assigns such patent rights to the Research Corporation, the share of royalties to be paid to the inventor shall be governed by the terms of the contract between the Board of Trustees System and the Research Corporation.
2. In cases where the invention is covered by a contractual agreement with a sponsoring agency, the financial arrangements shall be in accordance with that contractual agreement. In cases of sponsorship by federal agencies, compliance with the appropriate federal regulations shall be affected in ultimate agreement.
3. In cases where the Board of Trustees System obtains ownership of a patent directly and expends funds to develop and market the invention, any royalties generated will be first used to cover the expenses of obtaining and exploiting the patent. After this outlay, the inventor's share shall be 33-1/3% of the net royalties with the remaining share going to the Board of Trustees System.
4. Net royalties on patents available to the Board of Trustees System shall be used for research, development and other scholarly activities and allocated one hundred percent (100%) to the university campus where the patent originated.

D. Administration — The Board of Trustees System authorizes each university to establish a university patent committee appointed by the President and assigned tasks relating to patent matters as determined by the university administration.

E. Assignment — As an alternative to licensing, an outright assignment of a patent in return for a specified consideration, lump sum or deferred, may be considered.

Bill Junkin
Executive Director

RULE

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

The Department of Health and Human Resources, Office of Family Security, has adopted the following policy regarding Title XIX (Medicaid) Nonemergency Medical Transportation:

Providers, participating in the Title XIX (Medicaid) Nonemergency Medical Transportation Program, who intend to provide service to more than five recipients per month, must furnish verification of the following items when application is made to provide nonemergency medical transportation:

1. Valid driver's license.
2. Current vehicle registration.
3. Safety inspection certification (brake tag).
4. Certification of liability insurance.

These items may be confirmed by mail.

George A. Fischer, Secretary
Department of Health and Human Resources

RULE

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

The Department of Health and Human Resources, Office of Family Security, has adopted a rule expanding the list of drugs for which Maximum Allowable Costs (MAC) are required by Federal Regulations. Effective March 31, 1980, the following drugs have been added to the MAC:

Hydralazine HC1 25 mg	\$0.0279 per tablet
Hydralazine HC1 50 mg0384 per tablet

In no case may a recipient be required to provide payment for any difference in a prescription price that may occur with the implementation of MAC, nor may our office use a cost which exceeds the established maximums except as follows. HEW's regulations provide that when a physician certifies that a specific brand is medically necessary for a particular patient, then the MAC limitations for that medication will not apply. In this case their specific guidelines provide that:

1. The certification must be in the physician's handwriting.
2. The certification may be written directly on the prescription, or on a separate sheet which is attached to the prescription.
3. A standard phrase written on the prescription, such as "brand necessary" will be acceptable.
4. A printed box on the prescription blank that could be checked by the physician to indicate brand necessity is unacceptable.
5. A handwritten statement transferred to a rubber stamp and then stamped on the prescription blank is unacceptable.

George A. Fischer, Secretary
Department of Health and Human Resources

RULE

**Department of Natural Resources
Office of Conservation**

The Office of Conservation has adopted the NGPA Rules-Practice and Procedure for All Applications and Proceedings for Determination of Well Categories under Natural Gas Policy Act 1978. The forms for the filings discussed below are available upon request at the Office of the Commissioner of Conservation.

NGPA Rules

Pursuant to authority delegated under the laws of the State of Louisiana and the United States and particularly Title 30 of the Louisiana Revised Statutes of 1950, as amended, and the Natural Gas Policy Act of 1978, following a public hearing held under Docket No. NGPA 80-845 in Baton Rouge, Louisiana, on April 15, 1980, these rules and regulations are issued and promulgated by the Commissioner of Conservation as being reasonably necessary to govern, control and administer the authority contained in the Natural Gas Policy Act of 1978 and, in general, to carry out the

provisions of the laws of this State and the United States. These rules are designed to implement and clarify applicable Federal Energy Regulatory Commission regulations as they apply to Louisiana and provide for the minimum possible imposition of regulatory burden.

Rule 1 — Definitions

a. Unless the context specifically requires otherwise, any special word, term, or phrase used herein is used as defined in the Natural Gas Policy Act of 1978, applicable Federal Energy Regulatory Commission rules and regulations pertaining thereto, or applicable meaning given in Title 30 of the Louisiana Revised Statutes of 1950.

b. "Commissioner" shall mean the Commissioner of Conservation, State of Louisiana.

c. "FERC" shall mean the Federal Energy Regulatory Commission.

d. "NGPA" shall mean the Natural Gas Policy Act of 1978.

e. "Sections 102, 103, 107 and 108" shall mean those sections of the Natural Gas Policy Act of 1978 (NGPA).

f. "District Office" shall mean one of the district offices of the Office of Conservation, State of Louisiana.

Rule 2 — Applications

2.1 Any interested person requesting the classification of a well pursuant to the authority granted to the Commissioner by Section 503 of the NGPA in order to determine the applicable category for any such well pursuant to Title 1 of said NGPA shall file a written application made upon forms prescribed by the Office of Conservation, Department of Natural Resources, State of Louisiana. The original and two copies of such application shall be filed with the Commissioner at the District Office for the district in which the subject well is located. Each application must be completed in conformance with the Commissioner's rules and regulations as well as the rules and regulations of the FERC before the application will be considered by the Commissioner. An application may be amended, supplemented or withdrawn by the applicant at any time prior to the Commissioner's determination.

2.2 An individual application shall be completed as to each well for which a status determination is being requested, and if more than one status determination is being requested as to a single well then all forms and information required for each requested determination shall be submitted jointly under one application with notice to the Commissioner that multiple determinations for subject well are being sought under the application.

2.3 If the person filing the application is an individual, the filing shall be signed by such individual, or in the case of a minor or other legally disabled person, his duly qualified legal representative. If the person making such filing is a corporation, partnership, or trust, the filing shall be signed by a responsible official of the corporation, a general partner of the partnership, or the trustee of the trust. In the case of any other legal entity, the operator of the well may sign the application.

2.4 Applicant shall certify that he has delivered or mailed a copy of the completed FERC Form No. 121 to the purchaser(s), if any, pursuant to Section 274.201(d) of the FERC regulations.

2.5 Applicant shall certify that all owner(s), if any, have been given notice that an application for well status determination has been filed. Since all natural gas produced from a well is of the same classification, the Commissioner of Conservation will not process an application for well status determination for any well from more than one interested person.

2.6 Applicant shall include a filing fee of \$100.00 per application to cover administrative costs.

2.7 Upon receipt of an application for well status determination, the Commissioner shall notify the applicant of the receipt of the application and, should the application be incomplete in any respect, indicate the items to be filed which would make the application complete. Upon receipt of a complete application, the Commissioner shall assign a docket number to the application and notify the applicant of the hearing date and docket number.

Rule 3 — Documents Supporting Application

3.1 Each application must contain, prior to hearing, all data, information, forms, affidavits, plats, exhibits and such other evidence as may be required by the rules and regulations of the FERC and the Louisiana Office of Conservation. However, in the event the application is for the recognition of the new onshore reservoir category wherein the limits of the reservoir have not been subject to a prior office of Conservation unitization hearing, then the applicant may submit the geological and engineering evidence in support of the application at the public hearing which will be scheduled pursuant to Rules 4.1 and 4.2 hereof.

3.2 The form prescribed by the Commissioner shall prescribe for documents sufficient to comply with the minimum requirements imposed by the FERC. Additional support may be required by the Commissioner by giving notice of such to the applicant prior to the hearing, at the hearing itself, or by other means.

Rule 4 — Notice; Hearing

4.1 Upon receipt by the Commissioner of a complete application and after assigning a docket number to the application, the Commissioner shall set a reasonable time and place for a hearing on the application and shall cause a notice of the application to be published in the official journal of the State of Louisiana. Such notice shall be published at least ten days before the hearing and shall include:

- a. A statement of the time, place and nature of the hearing.
- b. A statement of the legal authority and jurisdiction under which the hearing is to be held.
- c. A reference to the particular sections of the statutes and rules involved.
- d. A short and plain statement of the matters asserted.

4.2 An application involving recognition of the new onshore reservoir category wherein the limits of the reservoir have not been subject to a prior Office of Conservation unitization hearing will be considered only by public hearing, at which time the applicant will be required to present the geological and engineering evidence in support of his application. Further, an application involving recognition of the new onshore reservoir category shall not be considered prior to a hearing for unitization of the subject reservoir scheduled pursuant to the Rules of Procedure for Conducting Hearings before the Commissioner of Conservation of the State of Louisiana, effective September 1, 1971. However, if at such hearing the applicant should present evidence which indicates that unitization is not required because:

- a. The limits of the reservoir underlie a single lease from both a working interest and a royalty interest standpoint,
- b. The limits of the reservoir underlie a voluntary unit,
- c. All working interest owners and royalty owners affected by the production from the reservoir agree that they do not desire unitization, or
- d. Such other appropriate reasons,

then the Commissioner of Conservation may waive said unitization requirement if the applicant so requests.

4.3 Except with regard to an application involving recognition of the new onshore reservoir category wherein the limits of the reservoir have not been subject to an Office of Conservation unitization hearing, an application may be considered and determined by the Commissioner by informal disposition on the basis of all data, information, forms, affidavits, plats, exhibits, and such other evidence properly filed before the Commissioner, which matters shall comprise the transcript of the hearing on which the determination is based. Each applicant requesting an informal disposition, as such, shall file with the Commissioner an affidavit agreeing that the determination can be made by the Commissioner without the necessity of an appearance. However, in any event the Commissioner may, upon his own motion, require an evidentiary hearing with sworn testimony and in such cases shall notify the applicant prior to the hearing date of his decision to do so.

4.4 An applicant who is required to present evidence and testimony at a public hearing held for well status determination pursuant to the NGPA will be required to purchase one copy of the transcript of the hearing for each well involved from the applicable court reporting service. Such copy will be mailed directly to the Commissioner from the applicable court reporting service and will be made a part of the application to be forwarded to the FERC.

4.5 Any interested person shall have the right to protest to the Commissioner with respect to a determination sought by any applicant. Each protest shall include:

- a. An identification of the determination protested.
- b. The name and address of the person filing the protest.
- c. A statement of the effect the determination will have on the protestor.
- d. A statement of the precise grounds for the protest and all supporting documents or references to any information relied on in connection with the protest.

After filing the protest as provided for herein, the person filing such protest shall have the right to be heard at the hearing and to present witnesses and other evidence, whether or not represented by legal counsel or technical assistants, on all issues of fact involved and argument of all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

If such a protest is received by the Commissioner prior to the date set for the hearing, then a copy of same shall be delivered by the Commissioner to the applicant by mail, postage prepaid.

4.6 If an interested person files a protest at the hearing on the application, then the Commissioner shall continue the hearing on the application until a date determined by him and shall notify the protestant and the applicant of the new hearing date. Further, the Commissioner shall send the applicant a copy of the protest which has been filed. Failure to appear at such continued hearing will be deemed a withdrawal by the protestant.

4.7 The Commissioner shall mail a notice of his determination to the applicant and to all persons appearing at the hearing.

Rule 5 — Rehearings

5.1 Upon determination by the Commissioner, any interested person may file a motion for rehearing within ten days after the date of determination. The application for rehearing shall set forth specifically the ground or grounds upon which such application is based. The grounds for such action shall be either that:

- a. The decision is clearly contrary to the law and the evidence;
- b. The person has discovered since the hearing evidence important to the issues which he could not have with due diligence obtained before or during the hearing;
- c. There is a showing that issues not previously considered ought to be examined in order to dispose properly of the matter;
- d. There is other good ground for further consideration of the issues and the evidence in the public interest.

Upon such application the Commissioner shall have power to grant or deny rehearing. Unless the Commissioner acts upon the application for rehearing within thirty days after it is filed, such application is deemed to have been denied.

Rule 6 — Notice of Determination

6.1 Within five days after the last day for filing a motion for rehearing, or if such a motion is filed, within fifteen days after it is denied or overruled by operation of law, the Commissioner shall give written notice to the FERC of his determination in accordance with the FERC rules and regulations.

Rule 7 — Confidentiality

7.1 No data, information, forms, affidavits, plats, exhibits, and such other evidence filed as part of an application for well status determination pursuant to the Natural Gas Policy Act of 1978 will be accorded confidential treatment by the Office of Conservation.

These rules of practice and procedure shall be effective on and after May 20, 1980.

R. T. Sutton
Commissioner of Conservation

RULE

Department of Natural Resources Office of Conservation

The following are amendments to rules adopted by the Department of Natural Resources, Office of Conservation pursuant to a hearing held in Shreveport on November 14, 1979, which were published in Volume 5, Number 12 of the Louisiana Register on December 20, 1979. The following sections of those rules are amended to read as follows:

§100.4 Responsibility.

(a) The Commissioner is responsible for exercising the authority delegated to him under the Act, including the following:

(1) Designation of lands as unsuitable for all or certain types of surface coal mining operations under 922 of the Act.

§100.5 Definitions.

(9) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles and coal refuse piles eliminated; permanent water impoundments may be permitted where the Commissioner determines that they are in compliance with Sections 216.49, 216.56 and 216.133 of these regulations.

(15) "Coal mining operations" means the business of developing, producing, preparing and loading bituminous coal, sub-bituminous coal, or lignite, or of reclaiming the areas upon which such activities occur. This term applies solely to Part 105 of these regulations.

(22) (a) "Development operations" means all or any part of the process of removing, by power earth moving equipment, coal or overburden for the purpose of determining coal quality or quantity or coal mining feasibility; provided, that if more than twenty-five thousand tons of coal or ten acres of overburden will be removed then such operations will be considered surface coal mining operations.

(37) "Fugitive dust" means that particulate matter not emitted from a duct or stack which becomes airborne due to the forces of wind or surface coal mining and reclamation operations or both. During surface coal mining and reclamation operations it may include emissions from haul roads; wind erosion of exposed surfaces, storage piles, and spoil piles; reclamation operations; and other activities in which material is either removed, stored, transported, or redistributed.

(46) "Historic lands" means historic or cultural districts, places, structures or objects, including archaeological and paleontological sites, National Historic Landmark sites, sites listed on or eligible for listing on a State or National Register of Historic Places, sites having religious or cultural significance to native Americans or religious groups, or sites for which historic designation is pending.

(58) "Land use" means specific uses or management-related activities, rather than the vegetation or cover of the land. Land uses may be identified in combination when joint or seasonal uses occur. Changes of land use or uses from one of the following categories to another shall be considered as a change to an alternative land use which is subject to approval by the Office.

(a) "Cropland" means land used for the production of adapted crops for harvest, alone or in a rotation with grasses and legumes, and includes row crops, small grain crops, hay crops, nursery

crops, orchard crops, and other similar specialty crops. Land used for facilities in support of cropland farming operations which is adjacent to or an integral part of these operations is also included for purposes of these land use categories.

(b) Pastureland or land occasionally cut for hay. Land used primarily for the long-term production of adapted, domesticated forage plants to be grazed by livestock or occasionally cut and cured for livestock feed. Land used for facilities in support of pastureland or land occasionally cut for hay which is adjacent to or an integral part of these operations is also included.

(c) Grazingland. Includes both grasslands and forest lands where the indigenous vegetation is actively managed for grazing, browsing, or hay occasional production. Land used for facilities in support of ranching operations which are adjacent to or in integral part of these operations is also included.

(d) Forestry. Land used or managed for the long-term production of wood, wood fiber, or wood derived products. Land used for facilities in support of forest harvest and management operations which is adjacent to or an integral part of these operations is also included.

(e) Residential. Includes single- and multiple-family housing, mobile home parks, and other residential lodgings. Land used for facilities in support of residential operations which is adjacent to or an integral part of these operations is also included. Support facilities include but are not limited to, vehicle parking and open space that directly relate to the residential use.

(f) Industrial/Commercial. Land used for —

(1) Extraction or transformation of materials for fabrication of products, wholesaling of products or for long-term storage of products. This includes all heavy and light manufacturing facilities such as lumber and wood processing, chemical manufacturing, petroleum refining, and fabricated metal products manufacture. Land used for facilities in support of these operations which is adjacent to or an integral part of that operation is also included. Support facilities include, but are not limited to, all rail, road, and other transportation facilities.

(2) Retail or trade of goods or services, including hotels, motels, stores, restaurants, and other commercial establishments. Land used for facilities in support of commercial operations which is adjacent to or an integral part of these operations is also included. Support facilities include, but are not limited to, parking, storage or shipping facilities.

(g) Recreation. Land used for public or private leisure-time use, including developed recreation facilities such as parks, camps, and amusement areas, as well as areas for less intensive uses such as hiking, canoeing, and other undeveloped recreational uses.

(h) Fish and wildlife habitat. Land dedicated wholly or partially to the production, protection or management of species of fish or wildlife.

(i) Developed water resources. Includes land used for storing water for beneficial uses such as stockponds, irrigation, fire protection, flood control, and water supply.

(j) Undeveloped land or no current use or land management. Land that is undeveloped or, if previously developed, land that has been allowed to return naturally to an undeveloped state or has been allowed to return to forest through natural succession.

(59) Deleted.

(75) "Permittee" means a person holding a permit or persons required to have a permit.

(78) "Prime farmland" means those lands which are defined by the Secretary of Agriculture in 7 CFR 657 (Federal Register Vol. 4 No. 21) and which have historically been used for cropland as that phrase is defined above.

(93) "Road" means a surface right-of-way for the purposes of travel by land vehicles used in coal exploration, development operations, or surface coal mining and reclamation operations. A road consists of the entire area within the right-of-way, including the roadbed, shoulders, parking and side area, approaches, struc-

tures, ditches, surface, and such contiguous appendages as are necessary for the total structure. The term includes access and haul roads constructed, used, reconstructed, improved, or maintained for use in coal exploration, development operations, or surface coal mining and reclamation operations, including use by coal hauling vehicles leading to transfer, processing, or storage areas. The term does not include pioneer or construction roadways used for part of the road construction procedure and promptly replaced by a Class I, Class II, or Class III road located in the identical right-of-way as the pioneer or construction roadway. The term also excludes any roadway within the immediate mining pit area.

(a) Class I Road means a road that is utilized for transportation of coal.

(b) Class II Road means any road, other than a Class I Road, planned to be used over a 6-month period or longer.

(c) Class III Road means any road, other than a Class I Road, planned to be used over a period of less than 6-months.

(108) "Substantial legal and financial commitments" means significant investments that have been made on the basis of a long-term coal contract in power plants, railroads, coal-handling, preparation, extraction or storage facilities, and other capital intensive activities. An example would be an existing mine, not actually producing coal, but in a substantial stage of development prior to production. Costs of acquiring the coal in place of the right to mine it without any existing mine, as described in the above example, alone, are not sufficient to constitute substantial legal and financial commitments.

(111) Deleted.

(116) "Temporary diversion" means a diversion of a stream or overland flow or surface mining and reclamation operations and not approved by the Office of Conservation to remain after reclamation as part of the approved post-mining land use.

(127) "Existing structures" means a structure or a facility used in connection with or to facilitate surface coal mining and reclamation operations for which construction begins prior to the approval of a State program or implementation of a federal program or federal lands program, whichever occurs first.

(128) "Substantially disturb" means, for purposes of coal exploration or development operations, to impact significantly upon land, air or water resources by such activities as blasting, mechanical excavation, drilling or altering coal or water exploratory holes or wells, construction of roads and other access routes, and the placement of structures, excavated earth, or other debris on the surface of land.

(129) "Direct financial interest" means ownership or part ownership by an employee of lands, stocks, bonds, debentures, warrants, partnership shares, or other holdings and also means any other arrangement where the employee may benefit from his or her holdings in or salary from coal mining operations. Direct financial interests include employment, pensions, creditor, immovable property and other financial relationships.

(130) "Complete applications" means an application for exploration or development operations approval or permit, which contains all information required under the Act or these regulations.

(131) "Collateral bond" means an indemnity agreement in a sum certain payable to the Office of Conservation executed by the permittee and which is supported by the deposit with the Office of Conservation of cash, negotiable bonds of the United States, state or municipalities, negotiable certificates of deposit, or an irrevocable letter of credit of any bank organized or authorized to transact business in the U.S.

(132) "Common size comparative balance sheet" means item amounts from a number of the permittee's or applicant's successive yearly balance sheets arranged side by side in a single statement followed by common size percentages whereby: (1) the asset total is assigned a value of 100%; (2) the total of liabilities and owner equity is also assigned a value of 100%; and (3) each

individual asset, liability and owner equity item is shown as a fraction of one of the 100% totals.

(133) "Common size comparative income statement" means an operator's income statement amounts for a number of successive yearly periods arranged side by side in a single statement followed by a common size percentages whereby net sales are assigned a 100% value, and then each statement item is shown as a percentage of net sales.

(134) "Retained earnings" means stockholder's equity that has arisen from retained assets from earnings in the business. This shall include only earnings from normal operations and not gains from such transactions as the sale of plant assets or investments.

(135) "Working capital" means the excess of the operator's current assets over its current liabilities.

(136) "Assets" means cash and current assets that are reasonably expected to be realized in cash or sold or consumed within one year.

(137) "Acid test ratio" means the relation of quick assets to current liabilities.

(138) "Quick assets" means cash and current assets that can be quickly turned into cash.

(139) "Cash" means (a) all cash items except cash (1) restricted by an agreement, or (2) described as earmarked for a particular purpose; and (b) short term investments such as stocks, bonds, notes, and certificates of deposit where the intent and ability to sell them in the near future is established by the operator.

(140) "Liquidity ratio" means the relation of cash to current liabilities.

(141) "Asset ratio" means the relation of total assets to total liabilities.

(142) "Return on investment" means the relation of net profit for the last yearly period to ending net worth.

(143) "Net worth" means preferred and common stock, all surplus accounts, and retained earnings.

(144) "Net profit" means the bottom line of the income statement after taxes, including taxes based on income, adjustments, all extraordinary income and expense, but before preferred and common stock dividends.

(145) "Capital assets" means those assets such as lands, buildings, and equipment held for use in the production and sale of other assets and services.

(146) Valid existing rights. For haul roads, valid existing rights means:

(a) A recorded right-of-way, recorded easement, servitude, or a permit for a coal haul road recorded as of August 3, 1977, or

(b) Any other road in existence as of August 3, 1977.

(147) "Extraction of coal as an incidental part" means the extraction of coal which is necessary to enable the construction to be accomplished. For the purposes of Part 107, only that coal extracted from within the right-of-way, in the case of a road, railroad, utility line or other such construction, or within the boundaries of the area directly affected by other types of government-financed construction, may be considered incidental to that construction. Extraction of coal outside the right-of-way or boundary of the area directly affected by the construction shall be subject to the requirements of the Act and this Chapter.

(148) "Chapter" means this Statewide Order 29-0-1 unless otherwise specifically referenced to another source in the particular context of a regulation.

(149) "Data gathering activities" means the field gathering of:
(a) Surface or subsurface geologic, physical, or chemical data by mapping, trenching, drilling, geophysical, or other techniques; or
(b) the gathering of environmental data to establish the conditions of an area before beginning surface coal mining and reclamation operations under the requirements of these regulations; provided, however, that data gathering activities shall not include those activities defined as exploration operations or development operations as those terms are defined under the Act or these regulations.

(150) "Current liabilities" means debts or other obligations that must be paid or liquidated within a short period of time, usually a year. This shall also include dividends payable on preferred stock within one year.

(151) "Current ratio" means the relation of current assets to current liabilities.

(152) "Monitoring", as used in Part 195, means the collection of environmental data by either continuous or periodic sampling methods.

(153) "Probable cumulative impacts", as used in Part 195, means the expected total qualitative, and quantitative, direct and indirect effects of mining and reclamation activities on the hydrologic regime.

(154) "Probable hydrologic consequence", as used in Part 195, means the projected result of proposed surface coal mining and reclamation operations which may reasonably be expected to change the quantity or quality of the surface and ground water; the surface or ground water flow, timing and pattern; the stream channel conditions; and the aquatic habitat on the permit area and other affected areas.

§100.11 Applicability.

This order applies to all coal exploration, development operations, and surface coal mining and reclamation operations, except—

§100.11

(b) The extraction of coal for commercial purposes where the surface coal mining and reclamation operation affects two acres or less, but not any such operation by a person who affects or intends to affect more than two acres at physically related sites.

(c) (1) Each structure used in connection with or to facilitate a coal exploration, development, or surface coal mining and reclamation operation shall comply with the performance standards and design requirements of these regulations.

§100.12 Petitions to Initiate Rulemaking.

(a) Any person may petition the Commissioner to initiate a proceeding for the issuance, amendment, or repeal of any regulation under the Act. The petition shall be submitted to the central office of the Office of Conservation in Baton Rouge.

(b) The petition shall be a concise statement of facts, technical justification, and the law which require issuance, amendment, or repeal of a regulation under the Act and shall indicate whether the petitioner desires a public hearing.

(c) Upon receipt of the petition, the Commissioner shall determine if the petition sets forth facts, technical justification or law which may provide a reasonable basis for issuance, amendment or repeal of a regulation. Facts, technical justification or law previously considered in a petition or rulemaking on the same issue shall not provide a reasonable basis. If the Commissioner determines that he has a reasonable basis, a notice shall be published seeking comments from the public on the proposed change. The Commissioner may hold a public hearing, may conduct an investigation or take other action to determine whether the petition should be granted.

(d) Within 90 days from receipt of the petition, the Commissioner shall issue a written decision either granting or denying the petition. The decision shall constitute the final decision for the Office.

(1) If the petition is granted, the Commissioner shall initiate a rulemaking proceeding in accordance with Louisiana law.

(2) If the petition is denied, the Commissioner shall notify the petitioner in writing, setting forth the reasons for denial.

§101.11

(c) (1) Each structure used in connection with or to facilitate a coal exploration, development, or surface coal mining and reclamation operations shall comply with the performance standards

and the design requirements of these regulations.

(i) An existing structure which meets the performance standards of these regulations but does not meet the design requirements of these regulations may be exempted from meeting those design requirements by the Office. The Office may grant this exemption on non-Indian and non-Federal lands only as part of the permit application process after obtaining the information required by §180.12 and after making the findings required in §186.21.

(ii) An existing structure which meets the performance standards of Subchapter B of 30 CFR Chapter VII which are at least as stringent as the comparable standard of Subchapter K of these regulations, may be exempted by the Office from meeting the design requirements of these regulations. The Office may grant this exemption on non-Indian and non-Federal lands only as part of the permit application process after obtaining the information required by §180.12 and after making the findings required in §186.21.

(iii) An existing structure which meets a performance standard of Subchapter B of 30 CFR Chapter VII which is less stringent than the comparable performance standards of Subchapter K of these regulations, or which does not meet a performance standard of Subchapter K for which there was no equivalent performance standard in Subchapter B shall be modified or reconstructed to meet the design standard of these regulations pursuant to a compliance plan approved by the office on non-Indian and non-Federal lands only as part of the permit application as required in §180.12 and according to the findings required by §186.21.

(iv) An existing structure which does not meet the performance standards of Subchapter B of 30 CFR Chapter VII and which the applicant proposes to use in connection with or to facilitate exploration, development, or surface coal mining and reclamation operations shall be modified or reconstructed to meet the design standards of these regulations prior to issuance of the permit.

§105.4

(a) (2) Promptly review the statement of employment and financial interests and supplements, if any, filed by each employee, to determine if the employee has correctly identified those listed employment and financial interests which constitute a direct or indirect financial interest in any surface coal mining operation or underground mining operation;

§105.17 What to report.

(a) Each employee shall report all information required on the statement of employment and financial interests of the employee, his or her spouse, minor children, or other relatives who are fulltime residents of the employee's home. The report shall be on forms as provided by the Office. The statement consists of three major parts, (1) a listing of all financial interests, including employment, security, real property, creditor and other financial interests held during the course of the preceding year, (2) a certification that none of the listed financial interests represent a direct or indirect financial interest in any surface coal mining operations or underground mining operations except as specifically identified and described by the employee as part of the certificate, and (3) a certification by the reviewer that the form was reviewed, that prohibited interests have been resolved, and that no other prohibited interests have been identified from the statement.

§105.19

(b) Actions to be taken by the Governor:

§161.4

(b) Determine whether an application for a permit must be denied because surface coal mining operations on those lands are prohibited or limited by Section 522(e) of the Federal Act (30 U.S.C. §1272 (e), §922 of the Act, and this Part.

§161.11

(c) On any lands which will adversely affect any publicly owned park or any places included on the National Register of Historic Places, unless approved jointly by the regulatory authority and the Federal, State or local agency with jurisdiction over the park or places;

§161.12

(f) (1) Where the proposed surface coal mining operation may adversely affect any public park or any places included on the National Register of Historic Places, the Office shall transmit to the Federal, State or local agencies with jurisdiction over a statutory or regulatory responsibility for the park or historic place a copy of the completed permit application containing the following:

§161.12

(g) If the Office determines that the proposed surface coal mining operation is not prohibited under Section 922 D of the LSMRA and this Part, it may nevertheless, pursuant to appropriate petitions, designate such lands as unsuitable for all or certain types of surface coal mining operations pursuant to Parts 162 or 164.

§161.12

(h) A determination of the Office that a person holds or does not hold a valid existing right for haul roads, which determination affects the rights of any party under this Part, shall be subject to administrative and judicial review under Sections 187.11(b) and 187.12(b)(1).

§164.11 Procedures: General process requirements.

The Office shall establish a process enabling objective decisions to be made on which, if any, land areas of the State are unsuitable for all or certain types of surface coal mining operations. These decisions shall be based on competent, scientifically sound data and requirements listed in Section 164.13-164.25.

§164.13

(a) Right to petition. Any person having an interest which is or may be adversely affected has the right to petition the Office to have an area designated as unsuitable for surface coal mining operations, or to have an existing designation terminated.

§164.23

(a) Make the information and data base system developed under Section 164.21 available to the public for inspection free of charge and for copying at reasonable cost, subject to confidentiality requirements of Section 176.16(b).

§164.25

(b) The Office shall maintain a map of areas designated as unsuitable for all or certain types of surface coal mining operations.

§171.13 Continued operation under interim permits.

(a) In the event of final disapproval of the Louisiana program under 30 CFR 732, including judicial review of the disapproval, and prior to the promulgation of a complete Federal program for Louisiana under 30 CFR 736.11(a), existing surface coal mining and reclamation operations may continue pursuant to the provisions of Section 502 of the Federal Act and Subchapter B of 30 CFR Chapter VII. During this period, no new permits for surface coal mining and reclamation operations shall be issued by Louisiana. Permits which lapse during this period may continue in full force and effect within the specified permit area, until promulgation of a Federal program for Louisiana.

(b) A person conducting surface coal mining operations under a permit issued or amended by the Office in accordance with the requirements of Section 502 of the Act, may conduct these operations beyond the period prescribed in Section 171.11, if —

(1) Timely and complete application for a permit under the permanent regulatory program has been made to the Office in accordance with the provisions of the Act, this Subchapter, and the regulatory program;