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Executive Orders

EXECUTIVE ORDER EWE-77-12

WHEREAS, governmental regulation at the Federal level and fixing of artificially low prices on natural gas have caused a rapid and premature depletion of Louisiana's reserves of natural gas and have failed to encourage greater additional exploration and production thereof; and

WHEREAS, Federal controls which fixed and restricted price increases, as otherwise stipulated in existing sale contracts, have had a pronounced and detrimental effect upon the economy of Louisiana and have resulted in Louisiana's natural gas being sold, both intrastate and interstate, at inordinately low prices; and

WHEREAS, the State of Louisiana is suffering curtailment and pending curtailment of the necessary and critical supply and delivery of natural gas in Louisiana; and

WHEREAS, the vital interest and general welfare of the people of Louisiana are in jeopardy, with respect to the present and future needs of Louisiana for access to its natural gas; and

WHEREAS, the depletion and exhaustion of Louisiana's natural gas can have a serious and detrimental effect upon the economy of Louisiana and its people; and

WHEREAS, the Constitution of Louisiana in Article IX, Section 2 (A) declares that natural gas is affected with a public interest; and

WHEREAS, proposals have been advanced in the Congress of the United States and in Federal regulatory agencies which will have a profound effect upon the exploration, production, and sale of Louisiana's natural gas; and

WHEREAS, other regions of the country have not exerted reasonable efforts to utilize the energy resources of this nation (including the exploration and production of additional natural gas) resulting in an energy crisis and the imposition of undue economic burdens upon Louisiana and its people; and

WHEREAS, the efforts of the State to fully address the energy problem and the depletion of its natural gas reserves can be greatly aided by the ability to proceed quickly on the basis of complete, accurate information and facts; and

WHEREAS, the exploration, production, and sale of natural gas, both intrastate and interstate, are deserving of study in order to develop facts and recommendations for action to protect the vital interest and general welfare of the people of Louisiana; and

WHEREAS, the Governor, the legislators, and the people of Louisiana should be made aware of the serious

and critical emergency facing the State with respect to the exploration, production, sale, and price of its great depletable natural gas supply.

NOW, THEREFORE, I, EDWIN W. EDWARDS, by virtue of the authority vested in me as Governor of Louisiana by the Constitution and laws of this State, do hereby create and establish the Natural Gas Advisory Commission.

The Commission shall consist of eleven members appointed by the Governor as follows: Senator Claude B. Duval, P. O. Box 3017, Houma, Louisiana 70361, who shall be Commission Chairman; Senator Charles C. Barham, P. O. Box 220, Ruston, Louisiana 71270; Mr. Mark H. Bonner, Jr., 10725 Airline Hwy., Baton Rouge, Louisiana 70816; Representative Thomas Brady, P. O. Box 986, Olla, Louisiana 71465; Mr. William D. Brown, 1600 Stubbs, Monroe, Louisiana 71201; Senator Ned Doucet, 114 LeJeune, Kaplan, Louisiana 70548; Mr. Frank W. Harrison, Jr., P. O. Box 51943, Lafayette, Louisiana 70501; Senator Edgar J. Mouton, P. O. Box Z, Lafayette, Louisiana 70501; Mr. Alvin T. Raetzsch, P. O. Box 1000, Lake Charles, Louisiana 70602; Representative A. W. Sour, 755 Bester, Shreveport, Louisiana 71107; Representative Wilbert J. Tauzin, P. O. Box 780, Thibodaux, Louisiana 70301. Mr. John Camp, attorney at Lake Charles, is hereby authorized to aid and assist the Commission in its work. The members of the Commission who are members of the House of Representatives and of the Senate shall receive the same per diem as they receive as members of the Legislature and such per diem shall be payable from the funds of the House of Representatives and the Senate, respectively, and the remaining members of the Commission shall be paid from any funds made available for that purpose.

The Commission is hereby authorized to:

1. Study ways and means to encourage the exploration for additional natural gas, both intrastate and interstate.
2. Study the many uses of natural gas.
3. Accumulate facts and data regarding the processing of natural gas and the by-products made therefrom.
4. Study the effect of the price of natural gas, both intrastate and interstate, and its effect on the economy of the State and its people.
5. Study particularly the prices received for natural gas from State owned lands; and in that connection, study the royalties and monies received from lands owned by the State or its political subdivisions.
6. Study Federal laws, rules, and regulations with respect to natural gas, including the pricing thereof; to study and seek to keep abreast of the proposals for legislation, rules, and regulations by the President, the Executive Branch, and the Congress.

7. Study the cost incident to the conversion of plants to the use of other forms of energy than natural gas.

8. And in general, study all matters necessary or incidental to the consideration of the production, exploration, sale, and use of Louisiana's natural gas, both intrastate and interstate.

The Commission is hereby authorized and directed to utilize the personnel, services, and facilities of the Louisiana Department of Natural Resources and all other departments and agencies of government as assistance in the conduct of its study, inquiry into facts, and in reaching findings and recommendations.

In addition the Commission is authorized to hold hearings, receive information, hear testimony, and collect data, facts, documentation and all such information as may be necessary or proper in connection with its purposes.

The Commission shall make periodic written reports to the Governor, the Legislature, and the public regarding any facts, findings, or recommendations made pursuant to its authority.

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 12th day of August, A.D. 1977.

EDWIN EDWARDS

Governor of Louisiana

Emergency Rules

DECLARATION OF EMERGENCY

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

At its special meeting on August 26, 1977, the Board of Trustees for State Colleges and Universities adopted the following rule, effective immediately:

Section 3.7 Facilities, Use of, is amended to read as follows:

"When facilities of an institution are used for activities other than those of the institution, the institution is authorized to negotiate the cost for the use of such facilities with the user organization. Said organizations shall be required to carry sufficient public liability insurance to protect all parties concerned, including the institution."

This emergency rule is necessary to modify Section 3.7 of the policies of the Board of Trustees for State Colleges and Universities for the following reason:

In response to Senate Concurrent Resolution 22 of the First Extraordinary Session of the Legislature, 1977, requesting amendment of Rule 3.7 by limiting facility use fees to \$250 for each occasion, the Finance and Physical Plants Committees of the Board have undertaken the study of this fee for revision, if practical. However, since public schools have opened, organizations are presently contacting the universities for use of their facilities.

Therefore, in an attempt to cooperate with the request of the Legislature, this emergency rule is necessary so that the universities as well as the user organizations might negotiate a cost agreeable to both.

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

DECLARATION OF EMERGENCY

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

The Department of Health and Human Resources, Office of Family Services has adopted effective September 1, 1977, revised Standards for Payment so that recipients of medical assistance for Skilled Nursing Facilities and Intermediate Care Facilities I and II services shall no longer be charged for personal laundry services, a small facility (under sixty beds) may permit the cook to function as the dietary supervisor, physicians may now initial (rather than use his entire signature) certification and recertification of persons to such facilities as well as plan of care, and nursing home records shall now be retained for inspection for six years from date of service.

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

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

DECLARATION OF EMERGENCY

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

The Department of Health and Human Resources, Office of Family Services, exercised the emergency provisions of the Administrative Procedures Act (R.S.

49:953B) to close intake for day care services in both vendor payment day care centers and family day care homes effective September 15, 1977. The only exception shall be for WIN participants for whom the availability of day care is mandatory.

This measure must be instituted in the vendor payment day care program to contain expenditures within budgetary limitations. An analysis of the 1977-78 fiscal year appropriation for the day care program shows that the present enrollment must be reduced by approximately four hundred eighty participants in order to contain program costs during the remainder of this year.

At this time the Office of Family Services is unable to project the specific length of time this measure will be necessary; however, we anticipate it will not exceed three months. Parish Offices of Family Services will maintain waiting lists on applicants requesting day care services. Once intake is re-opened, those applicants who were determined eligible and whose need for day care is within the established criteria will be given priority for the service based on the initial date of their request.

During the period intake is closed, procedures will be formulated for maintaining better control over day care enrollment on an ongoing basis within the level the budget will support.

Participating day care centers are being advised of this action.

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

Rules

RULES

Department of Agriculture Office of Agricultural and Environmental Sciences Pesticide Commission

Rules and Regulations on Mixing and Application of Pesticides

1. Definitions:

a. "Pesticide" means any substance or mixture of substances defined as a pesticide by R.S. 3:1622(13).

b. "Insecticide" means any substance or mixture of substances intended for preventing or inhibiting the establishment, reproduction, development, or growth of; destroying; or repelling any member of the Class Insecta or other allied classes in the Phylum Arthropoda that is defined as a pest under R.S. 3:1622(12).

c. "Herbicide" means any substance or mixture of substances intended for use in preventing or inhibiting the growth of, killing, or destroying plants and plant parts defined to be pests under R.S. 3:1622(12). The term "herbicide" shall for the purposes of these regulations include a substance or mixture of substances intended for use as a plant growth regulator, defoliant, or desiccant.

d. "Inorganic arsenicals" means any herbicide containing a compound formed by a reaction between arsenic and any substance which does not contain a carbon-hydrogen (organic) group (radical). Examples are arsenic trioxide, sodium arsenate, and arsenic acid.

e. "Phenoxy herbicides" means any herbicide as defined above that contains a phenoxy derivative of a lower aliphatic acid as an ingredient thereof.

2. General restrictions on pesticides: Pesticides that are not registered with the Louisiana Department of Agriculture shall not be applied within the state.

3. Restrictions on the mixing of insecticides: All insecticides not labeled for ultra-low volume application in accordance with Federal or State law shall be diluted before application with a minimum of an equal amount of water.

4. Restrictions on application of esters of phenoxy herbicides: Ester compounds of "phenoxy herbicides" containing an aliphatic alcohol radical with less than six carbon atoms shall not be applied in the state.

5. Restricted herbicides: The application of the following herbicides shall be restricted as set out in paragraphs 6, 7, and 8 of this section.

Chemical Name	Common Name	Trade Name
4-amino-3,5,6-trichloro-picolinic acid	picloram	Tordon, Tordon 22K, Tordon Beads, Tordon 10K Pellets
arsenic trioxide		Arsenic trioxide, White arsenic sodite, Atlas A, Penite 35
calcium arsenate		Calcium Arsenate, Orthoarsenate, Tricalcium arsenate, Chip-Cal, Kleen-UP
3-chlorophenoxy-alpha-propionamide	3-CPA	
4-chlorophenoxy acetic acid	4-CPA	
2,5-dichloro-3-nitrobenzoic acid	dinoben	
2,4-dichlorophenoxy acetic acid	2,4-D	Formula 40, Aqua Kleen, Barweed Phenox, 24-DA, Weedrap, 2,4-D nas, 2,4-D dlve, 2,4 DE, Hormotox, AM Sol, Weedar 64, Weedno-more, Hormosalt, Weedanol, Weedone, Dacamine, Weedey, Hedonol, Emulsamine, Defy
4-(2,4-dichlorophenoxy) butyric acid	2,4-DB	2,4-DB, Butyrac 118, Butoxone, Butyrac 200
2-(2,4-dichlorophenoxy) propionic acid		2,(2,4-DP), DPA, 2,4-DP Proprihap, Dichloroprop, Cornox RK, Hormatox, Polytox, Polynone
2,3,6,-trichlorophenylacetic acid in combination with the dimethylamine salt of 2,4-dichlorophenoxy acetic acid	fenac plus	Fenac Plus
2-methoxy-3,6-dichlorobenzoic acid	dicamba	Banvel, Mediben
2-methyl-4-chlorophenoxyacetic acid	MCPA	MCPA, MCP, Agroxone, Methoxone, Mephanac, Weedar, Bine-trol, Raphone, Weedone
4-(2 methyl-4-chlorophenoxy) butyric acid		MCPB, MCP butyric, Tropotox, MCPD, 4-(MCPB), Can-Trol, Thitrol, Legumex
2-(2 methyl-4-chlorophenoxy) propionic acid	2-(MCPD)	
arsenic acid	arsenic	Arsenic acid, Orthoarsenic Acid, Dessicant

Chemical Name	Common Name	Trade Name
sodium arsenite		Sodium Arsenite, Triox, Sodium Acid Arsenate, Penite, NaAs, Atlas A, Chem-Sen, Crabex, Weedo
sodium 2,4-dichlorophenoxyethyl sulfate		Sesone, Ses, 2,4-des, 2,4DS
(2,4,5-trichlorophenoxy) acetic acid	2,4,5-T	Various
2-(2,4,5-trichlorophenoxy) ethyl 2,2-dechloropropionate		Erbon, Baron, Novon, Novege
2-(2,4,5-trichlorophenoxy) propionic acid	silvex	2,4,5-TP, Propon, Kuron, Kurosol, Fenoprop, Weedone 2,4,5-TP, Silvi-Rhap 2,4-DEP, Falone
tris (2,4-dichlorophenoxyethyl) phosphite a mixture of tri-, tetra- and polychlorobenzoic acid		PEA, Zobar, Benzac 354, Polychloro-Benzoic Acid

6. Minimum Distance to susceptible plants: The herbicides set out in paragraph 5 of this section shall not be applied at less than the minimum distance set out below.

However, specialized equipment as set out in paragraph 8 of this section will not be restricted by this paragraph.

Wind Speed	Minimum Distance to Susceptible Plants (where there will be a detrimental effect) from Point of Application (center of swath)	
	Aerial Equipment	Ground Equipment
0-3mph	1/2 mile downwind, 1/2 mile crosswind (90 degrees ± 10 degrees) 50 feet upwind	1/8 mile downwind, 1/8 mile crosswind 20 feet upwind
4-6mph	1 mile downwind, 1/2 mile crosswind, 50 feet upwind	1/4 mile downwind, 1/8 mile crosswind, 5 feet upwind
7-10mph	2 miles downwind, 1/2 mile crosswind, 50 feet upwind	1/2 mile downwind 1/4 mile crosswind, 5 feet upwind
10+mph	application prohibited	application prohibited

7. Parishes of Restriction:

a. The herbicides set out in paragraph 5 shall not be applied by commercial or custom applicators between April 1 and September 15 of each year in the following parishes without written authorization from the Commissioner of Agriculture or his duly appointed agent. The parishes of restriction are: Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Evangeline, Franklin, Grant, Jackson, Lafayette, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Pointe Coupee north of U.S. Highway 190, Rapides, Red River, Richland,

Sabine, St. Landry, St. Martin, Tensas, Union, Vermilion north and east of a line starting at the Lafayette Parish border and running along Highway 700 to Highway 92, then along Highway 92 to Highway 343, then along Highway 343 to Highway 699, then along Highway 699 to U.S. Highway 167, then along U.S. Highway 167 to Highway 330, then along Highway 330 to the Iberia Parish border, Vernon, Webster, West Carroll, and Winn.

b. The herbicides set out in paragraph 5 shall not be applied by commercial or custom applicators between March 1 and June 15 in that area of St. John the Baptist and St. James Parishes lying between U.S. Highway 61

and the Mississippi River without written authorization from the Commissioner of Agriculture or his duly appointed representative.

8. Operation of Specialized Equipment: Operation of specialized equipment shall not be restricted to the minimum distances set out in paragraph 6. Instead, operation of specialized equipment shall be by permit only. Permits for operation of specialized equipment shall be issued on an annual basis beginning January 1, 1978.

9. Maintaining of Records: Commercial applicators shall keep and maintain for two years records containing information on kinds, amounts, uses, dates, and places of application of all uses of pesticides with restricted uses. These records will be made available for inspection by officials of the Louisiana Department of Agriculture at reasonable times.

10. Grounds for Revocation or Suspension of Certification: In addition to the violations listed in R.S. 3:1634, any conviction of a violation or assessment of a civil penalty under the Federal Insecticide, Fungicide and Rodenticide Act will be grounds for revocation or suspension of certification.

* * * *

Rules for Certification of Nonfee Commercial Applicators Under Sub-Categories 7b and 7c of Section V of State Plan

I. Definition of Applicator Under Sub-Category 7b: Applicators who apply or supervise the application of restricted use pesticides on a nonfee basis in, on or around institutions, motels, apartment houses, hotels, schools, hospitals, and like places as the owner or in the employ of the owner, will be required to be certified in Sub-Category 7b.

II. Definition of Applicator under Sub-Category 7c: Applicators who apply or supervise the application of restricted use pesticides on a nonfee basis in, on or around commercial grain elevators and other grain handling establishments, flour mills, food processing plants, and other places where processed or unprocessed foods are stored, as the owner or in the employ of the owner, will be required to be certified in Sub-Category 7c.

III. Experience Requirements: An individual applying for certification must have had two years experience in the phase of work for which he is making application. This experience to be substantiated by a notarized statement from the person who was responsible for the activity of the applicant during the time this experience was gained.

IV. Examination of Applicants: The applicant will be required to pass an examination in one or all of the three phases of pest control, dependent on the type of pesticide application in which he is engaged.

Phases

1. General Pest Control: This involves control of invertebrate pests commonly or occasionally occurring in establishments listed in paragraphs I and II

2. Vertebrate Control: This involves control of vertebrate animals commonly occurring in establishments listed in paragraphs I and II

3. Stored Grain Pest Control: This involves control of insects in and around establishments listed in paragraph II.

In addition to the specific examination(s) the applicant will also be required to pass a modified general exam as required of pest control operators in the Sub-Category 7a of the State Plan.

V. Fees: There will be no licensing requirement nor will there be a bond or insurance requirement. There will be a certification fee of five dollars for each of the three phases of examination and a five dollar annual renewal fee for each phase.

VI. Limitations: This certification will limit the application of pesticides to the applicant's personal property or that of his employer.

Gilbert L. Dozier, Commissioner
Department of Agriculture

RULE

Department of Agriculture Office of Agricultural and Environmental Sciences Structural Pest Control Commission

Notice is hereby given that the Louisiana Department of Agriculture, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, has adopted a policy to refuse permission for an applicant to take an examination as required of Section 1265 of the Structural Pest Control Law and Regulations, so long as the applicant is under probation, suspension, or any other disciplinary action of the Commission.

Richard Carlton, Secretary
Structural Pest Control Commission

RULES

Capital Area Groundwater Conservation Commission

Rules and Regulations for Determination of and Payment of Delinquent Accounts

Purpose: The purposes of these rules and regulations are (1) to establish the time when pumpage charges assessed by the Capital Area Groundwater Conservation Commission in accordance with R.S. 38:3083 are delinquent, and (2) to provide for penalties for violation of Act 678, Regular Session of 1974, as amended by Act

213, Regular Session of 1976, by failure to pay pumpage charges within the time specified.

Applicability: The rules and regulations contained herein shall apply to all users in the parishes of East Baton Rouge, East Feliciana, Pointe Coupee, West Baton Rouge, and West Feliciana who are determined by the Board of Commissioners to be liable for the payment of pumpage charges (R.S. 38:3079).

These rules and regulations shall be effective on September 20, 1977, and shall apply in all respects for subsequent years.

Billing Schedule: The Commission bills on a quarterly basis with pumpage charges due as follows: For the period October–December, billing date is January 1; for the period January–March, billing date is April 1; for the period April–June, billing date is July 1; and for the period July–September, billing date is October 1.

Determination of When an Account is Delinquent: A user's account shall be considered delinquent sixty calendar days after the quarterly billing dates, which are specified above. When the sixty calendar days have expired and a user has not paid the pumpage charges, the Commission shall inform the user by certified mail, return receipt requested, that unless payment is received in the Commission's office within fifteen calendar days of receipt of letter, the user shall be considered in violation of State Act 678, Regular Session of 1974, as amended by State Act 213, Regular Session of 1976.

If the user is unable to pay the pumpage charges in the time specified above, the user shall provide the Commission valid and substantiated facts, which necessitate the request for an extension of time to pay. The decision to extend the time for payment shall rest solely within the discretion of the Board of Commissioners, Capital Area Groundwater Conservation Commission, and each such request for an extension will be dealt with on a case by case basis.

Violation Penalty: A user, who has been so notified in accordance with the section entitled "Determination of When an Account is Delinquent," herein, who is knowingly and willfully in violation of the provisions of Act 678 and its amendments for failure to pay pumpage charges, shall be subject to a civil penalty that shall be computed on the basis of one percent per day of the amount of the pumpage charges owed until that amount is paid in full. The penalty shall not exceed one thousand dollars a day for each day of violation and for each act of violation as provided in R.S. 38:3083.

Civil Suit and Jurisdiction: The place of suit to recover this penalty shall be selected by the Board, as may be appropriate, in the district court of the parish of the residence of any one of the defendants, or in the district court of the parish where the violation took place. [R.S. 38:3083 A (1)]

Suit shall be at the direction of the Board, and shall be instituted and conducted in its name by the Attorney

General or by the district attorney of the district under the direction of the Attorney General. [R.S. 38:3083 A (2)]

Marie H. Wenger, Chairman
Capital Area Groundwater
Conservation Commission

RULE

Board of Elementary and Secondary Education

Rule 3.01.51b

Revision to Bulletin 741, 1977, page 75, Item 4, Staff Personnel, Standards for Approval of Elementary and Secondary Schools.

The Board delayed the implementation date for one year of the requirement of 450:1 pupil-counselor ratio in secondary schools.

Earl Ingram, Director
Board of Elementary and
Secondary Education

RULES

Department of Health and Human Resources Office of Family Services

The Department of Health and Human Resources, Office of Family Services, will implement effective October 1, 1977, a Medically Needy Program. This program's implementation will assure compliance with Act 528 passed by the Louisiana Legislature in 1976, which directed the Department of Health and Human Resources to prepare and administer a Medically Needy Program. The intent of the Medically Needy Program is to assume the expense of services covered by Louisiana's Medical Assistance Program when an individual or family is categorically related to a comparable group and whose income and/or resources are insufficient to meet medical needs. The Medically Needy Program will not include payments to mental health hospitals, tuberculosis hospitals, and long term care facilities.

Eligibility Requirements for the Medically Needy Program

Eligibility for the Medically Needy Program is limited to individuals and/or families who are categorically related to a comparable group covered by an assistance category, but their income and resource levels are sufficient to meet their basic maintenance needs.

1. Categories of public assistance relatedness:

A. Age requirements for Supplemental Security Income (SSI) (sixty-five), verified by birth certificate,

passport, baptismal certificate, census report, Retirement Survivors' and Disability Insurance (RSDI), etc.;

B. Blindness requirement for SSI (vision is no better than 20/200 even with glasses) verified by examination by a licensed ophthalmologist, eye, ear, nose and throat specialist, or optometrist;

C. Disabled requirement for SSI (physical or mental impairment prevents substantial gainful work, impairment is expected to last twelve months, or result in death), verified by medical examination and review by Medical Social Review Team (MSRT) of the Office of Family Services, RSDI verification;

D. Deprivation of parental support as in Aid to Families with Dependent Children (AFDC), deprivation exists when at least one parent is dead, absent continuously from the child's home, or incapacitated. It is not necessary to file nonsupport charges.

The requirement for categorical relatedness as a condition of eligibility for the Indochinese Refugee applicant/recipient is not imposed for Medically Needy assistance.

2. Resource requirements:

A. Home and contiguous property regardless of value.

B. Auto (motor vehicle) valued up to \$1,200 is excluded. Any vehicle valued above this amount would need to be required for at least one of the following:

- (1) If needed in medical care.
- (2) If used for work or for business,
- (3) If car has been modified for use by handicapped person.

C. Liquid assets worth up to \$1,500 for individual, \$2,250 for two, \$2,275 for three. Add twenty-five dollars for additional household members.

D. Life insurance face value \$1,500 on each individual in the family. Do not count term life insurance or any that does not have a cash surrender value.

Indochinese Refugee applicants/recipients' financial resources which are in fact not available to the refugee, including resources remaining in Vietnam and Cambodia owned by the refugee or a responsible relative, shall not be considered in determining eligibility for the Medically Needy Program.

Medically Needy Group Designation

There are two major groups within the Medically Needy Program:

1. Regular Medically Needy are those individuals or families whose income for family size is within the Medically Needy Income Eligibility Standard (see chart) and whose resources fall within specified limits for the Medically Needy Program. Eligibility as Regular Medically Needy continues as long as the individual or family meets the categorical relatedness criteria and income and resources are within the specified limits. In these situations, a redetermination of eligibility is required every six months.

The eligibility date in Regular Medically Needy situations may be the first day of the month of application, or may extend retroactively as far back as the first day of the third month prior to the month of application.

At the time of redetermination, the case shall be either closed or eligibility will be extended for the next six months. A redetermination scroll for Regular Medically Needy cases will be sent from State office during the fifth month of eligibility. Eligibility must be redetermined prior to the cutoff date during the six month period.

2. Spend-Down Medically Needy are those individuals or families whose resources fall within the specified limits, but whose adjusted income is above the Medically Needy Income Eligibility Standard (see chart). These individuals or families qualify for the Medically Needy Program on the basis that their excess income is obligated or spent for medical services. Eligibility for this group is for a predetermined time period, up to a maximum of three months.

There will be no redetermination in these cases since Spend-Down Medically Needy individuals or families have a "fixed" period of eligibility at the end of which data processing automatically closes the case. Individuals or families may reapply for Spend-Down Medically Needy.

In Spend-Down Medically Needy cases, the date eligibility begins will be the day on which excess income is obligated or spent on medical services to that point specified on the Medically Needy Income Eligibility Standard (see chart). Eligibility can be extended retroactively as far back as the third month preceding the date of application. Individuals in this group will not be automatically certified for full month coverage, but will be eligible from the point the incurred expenses have "spent-down" the excess income.

MEDICALLY NEEDY INCOME ELIGIBILITY STANDARD

Rural Parishes

Urban Parishes
(Orleans, Jefferson, St. Bernard,
East Baton Rouge)

Number of Persons	Monthly Eligibility Standard	Quarterly Eligibility Standard	Number of Persons	Monthly Eligibility Standard	Quarterly Eligibility Standard
1	\$108.00	\$ 325.00	1	\$117.00	\$ 351.00
2	117.00	351.00	2	133.00	400.00
3	167.00	501.00	3	183.00	550.00
4	208.00	625.00	4	225.00	675.00
5	242.00	726.00	5	258.00	775.00
6	275.00	825.00	6	300.00	900.00
7	317.00	951.00	7	333.00	1,000.00
8	350.00	1,050.00	8	367.00	1,101.00
9	383.00	1,150.00	9	400.00	1,200.00
10	417.00	1,251.00	10	433.00	1,300.00
11	450.00	1,350.00	11	467.00	1,401.00
12	492.00	1,476.00	12	508.00	1,525.00
13	525.00	1,575.00	13	542.00	1,626.00
14	567.00	1,701.00	14	583.00	1,750.00
15	608.00	1,825.00	15	617.00	1,851.00
16	642.00	1,926.00	16	667.00	2,001.00
17	683.00	2,050.00	17	692.00	2,076.00
18	725.00	2,175.00	18	733.00	2,200.00
19	767.00	2,301.00	19	783.00	2,350.00
20	800.00	2,400.00	20	825.00	2,475.00

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

RULES

Department of Health and Human Resources
Office of Health Services and Environmental Quality

**Rules and Regulations on Chemical Test for Intoxication
Breath Alcohol Testing with the
Gas Chromatograph Intoximeter**

(Editor's Note: These rules supplement the Rules and Regulations for the Chemical Test for Intoxication, Numbers 1 through 12, which were published in the Louisiana Register, Volume 3, Number 6, page 271.)

13. Analysis of a breath specimen for the determination of the alcoholic content therein may also be performed with the gas chromatograph intoximeter, manufactured by CalDetect, Inc., Richmond, California,

and distributed by Intoximeters, Inc., St. Louis, Missouri. This device has the approval of the Louisiana Department of Health and Human Resources, Office of Health Services and Environmental Quality, Bureau of Laboratories. The gas chromatograph intoximeter is an approved technique or method for the performance of chemical test for alcoholic influence.

14. The gas chromatograph intoximeter was developed by CalDetect, Inc., Richmond, California. It is a specifically designed instrument to analyze direct breath alcohol samples. The unit is housed in a single chassis with a breath sampling valve, injector, column, and flame ionization detector. Identification and quantitation of ethyl alcohol are obtained automatically in about ninety seconds with both a digital concentration readout and a multiple copy impact numeric printer. The electronics include an automatic zero controller for the printer and the digital readout and an electronic integrator for the ethyl alcohol content (% blood alcohol). Included in the electronics is an automatic shut-down control in the event of a malfunction, plus a self-purging

system to air-dry the total breath inlet system between each sampling. Temperature and carrier gas controls are fine set during installation and thereafter are automatically controlled. The instrument is built with a regulated power supply to eliminate any effect from power line fluctuations.

15. Principle of Operation: The gas chromatograph intoximeter is based on the principle of separation (specificity) and measurement (quantitation). Separation of a breath sample is accomplished by the column packed with Porapak Q material, and measurement is achieved by the flame ionization detector (FID). The carrier gas picks up the breath sample in the sampling valve and percolates it through the column to allow the ethyl alcohol to be separated from other interfering substances which may appear in the breath. The substance packed in the column (Porapak Q material) physically separates the different substances in the sample. The ethyl alcohol passes into the FI detector and the burning of the alcohol creates an electronic signal. An amplifier magnifies this signal and transports it simultaneously to the printer and the digital readout accessory. The sampling valve, column, and detector are housed in a temperature controlled oven which is preset during installation, and does not require a later adjustment. In the standby position, the carrier gas flow is reduced to about one-tenth of its normal value to conserve gas. Room air supplies both the support air for the FI detector, and is also used to purge the breath inlet line and sampling valve when a blank is run.

An analysis is started by having the subject blow into the breath inlet line. This blowing action automatically shuts off the purge air and starts an electronic timing sequence. Once the subject has delivered a sufficient breath sample, an analyze cycle is automatically started.

This procedure assures that deep lung breath is passing through the sampling valve. A motorized piston then transfers an exact volume of the deep lung breath (approximately 1/4cc) into the column. The carrier gas then sweeps the breath sample predictably through the column to the detector and it takes about one minute for the ethyl alcohol to go through the column. The electronics add up (integrate) the signal produced when the alcohol is detected. This signal is fed to both the printer and digital concentration readout. This instrument is also adaptable to add a strip chart recorder.

16. Each instrument shall be checked out and approved for use by the Louisiana State Police Crime Laboratory at least once every three months. An instrument certification card shall be maintained with each instrument whereby each time the instrument is checked out or certified the technician certifying it shall note the date and sign his name. This date of certification shall be placed on each operational check list and shall be prima facie evidence as to the certification of the instrument.

17. Maintenance: Repair work and maintenance will be performed by personnel working for the Applied Technology Section of the Louisiana State Police Crime Laboratory who are certified by the Louisiana Department of Health and Human Resources, Office of Health Services and Environmental Quality, Bureau of Laboratories, to perform maintenance.

Personnel of the Louisiana State Police Crime Laboratory qualified to perform maintenance shall have attended a forty-hour school, sponsored by either the manufacturer or distributor, dealing with maintenance of the gas chromatograph intoximeter. Personnel performing maintenance shall also have completed an operator's course on the gas chromatograph intoximeter.

A. Maintenance checks shall be performed on a routine basis at least once every three months by the Louisiana State Police Crime Laboratory. Items to be checked shall be but not limited to the following:

1. Running a known alcohol standard. Checking instrument and calibration.
2. "O" rings should be replaced every three months, if applicable.
3. Air filter should be replaced every six months.
4. The pump filter should be cleaned every three to six months.
5. Oven temperature and column pressure should be rechecked when the instrument is initially installed and before and after replacing the "O" rings if applicable.

Personnel of the Louisiana State Police Crime Laboratory shall also have the authority to instruct individuals as breath-testing field supervisors. These individuals will be able to conduct minor service repair and monitor the chemical testing program on a local level.

18. Operators of the Gas Chromatograph Intoximeter: The Louisiana State Police Crime Laboratory shall have the authority to conduct a training course in the operation of the gas chromatograph intoximeter. Qualifications for operator shall be:

- A. Same as 7 A, B, C, and D. (see *Louisiana Register*, Volume 3, Number 6, page 273)
- B. Successful completion of a forty-hour training course, conducted by the Louisiana State Police Crime Laboratory. However, if an individual has already successfully completed a training course in chemical testing, the individual may attend a specific course on the operation of the gas chromatograph intoximeter.

19. Each breath-alcohol test performed on the gas chromatograph intoximeter shall have been conducted according to the "Gas Chromatograph Intoximeter Operational Check List."

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

RULES

Municipal Police Officers Supplemental Pay Board of Review

Rules of Practice and Procedure Before the Municipal Police Officers Supplemental Pay Board of Review

Section 1. Authority: These Rules of Practice and Procedure are promulgated by authority of R.S. 49:951 et seq., as amended, being the Louisiana Administrative Procedures Act. All rule-making and hearing procedures of this Board are conducted according to the Louisiana Administrative Procedures Act.

Section 2. Domicile of Board, Time of Meetings, Special Meetings: The Board shall be domiciled in Baton Rouge, Louisiana. Meetings and hearings shall be held upon the submission of an appeal to the Board or at the Board's own calling.

Section 3. Definitions: By reference, all of the definitions set forth and contained in R.S. 49:951 through 49:966, inclusive, are incorporated herein, and for the purpose of hearings to be held hereunder, the following definitions shall prevail:

A. "Board" shall mean the board of review for extra compensation paid by State to municipal police officers.

B. "Hearing" shall mean a hearing called by the Board under the authority of R.S. 33:2218.2C (6).

C. "Appellant" shall mean the individual submitting an appeal to the Board of Review concerning extra compensation to be paid.

D. "Applicant" shall mean the person for whom supplemental pay is sought.

E. "Full time employment" is defined as, and shall mean that: (1) law enforcement must be the applicant's primary job, (2) the applicant's major source of income must be derived through the municipality for law enforcement duties, (3) the applicant must work a minimum of forty hours per week in the capacity of a law enforcement officer.

Section 4. Eligibility for Supplemental Pay:

A. Must have been and be employed full time as defined in these rules, for at least twelve full calendar months, continuous or discontinuous in one or more municipalities in the State of Louisiana. For purpose of this one-year service prerequisite as to employees hired after the first working day of a month this begins on the first day of the following month.

B. If the municipality has its own civil service system or is under the municipal police civil service system established by R.S. 33:2471 et seq., the applicant must be classified under it.

Section 5. Entitlement Amounts: No supplemental pay shall be owed for less than a full calendar month of service except that service for the first fifteen days of a

calendar month (but less than for the full such month) shall entitle payment for one-half that month.

Section 6. Procedure for Applying for Determination of the Application, and for Appeals From a Denial of the Application:

A. The application for supplemental pay must be made on a form to be prescribed by the Board, signed by the Mayor, and Chief of Police before a notary, which shall furnish among other information: (1) a copy of the employee's civil service form if the municipality has a civil service system, (2) the date of first employment as a full-time police officer by the current municipal employer, amount of salary paid therefor, date of any prior such full-time employment by other Louisiana municipalities, description of present and prior such duties; and description of any other employment of and compensation received by, the applicant in the preceding twelve months.

B. The Board shall have sixty days from receipt of the application for supplemental pay to act upon it.

C. If the request is denied in whole or in part the applicant has thirty days from mailing of notice of denial within which to file with the Board on appeal in writing.

D. Upon the filing of such an appeal the Board shall give written notice to the applicant and the municipal employer of the applicant at least fifteen days from mailing of such notice, of the time, place and date of a hearing on such appeal, which hearing shall be not more than thirty days from the filing of an appeal.

Section 7. Hearing Procedure on Appeal: The hearings called according to these Rules and Regulations shall be conducted by the Board in accordance with the rules and procedures set forth in R.S. 49:956 et seq.

A. The Chairman of the Board or the Vice Chairman in the absence of the Chairman shall announce the title and docket number of the proceedings before the Board and direct a reading into the record of the notice of hearing together with the written appearances of the appellant. Attorneys and/or other representatives of the appellant shall be recognized along with other proper parties including representatives of the municipal employer of the appellant.

B. The appellant shall then present his evidence subject to cross-examination by the Board and other proper parties in those cases where the applicant requested the hearing to be held.

C. The Board shall then present its evidence subject to cross-examination by the applicant and other proper parties.

D. Where the Board has called the hearing on its own motion, the order of presentation of evidence shall be reversed.

E. The Board may make an informal disposition of the case by stipulation, agreed settlement, consent order, or default.

F. The Board shall render its final decision and order in accordance with these rules and regulations, and with R.S. 49:958, within thirty days of conclusion of the hearing.

Section 8. Default in Appearing: In the event of the failure of any appellant to appear at the hearing provided for, and also provided that the foregoing rules as to service have been complied with, the appellant so failing to appear or otherwise notify the Board shall be deemed to be in default, and the evidence as received by the Board at that time shall be entered into the record and may be taken as true and the order of the Board entered accordingly.

Section 9. Stenographic Record of Hearing: At the expense of and at the written request made not less than five days prior to the date set for the hearing by any person affected by the hearing, the Board or the person designated by it to hold the hearing shall cause a full stenographic record of the proceedings to be made by a competent stenographic reporter and, if transcribed, such records shall be made a part of the record of the Board of the hearing. All hearings are recorded by the Board's own stenographers and by agreement may be used as a transcript of the proceedings.

Major G. L. Johnston, Chairman
Municipal Police Officers Supplemental
Pay Board of Review

RULES

Department of Wildlife and Fisheries

The Department of Wildlife and Fisheries has adopted, via resolution of the Wildlife and Fisheries Commission, the following rules.

Waterfowl Regulations

WHEREAS, migratory waterfowl hunting regulations for the 1977-78 seasons have been provided to the Louisiana Wildlife and Fisheries Commission by the U. S. Fish and Wildlife Service, and

WHEREAS, forty-five days of hunting of ducks and coots will be allowed in the eastern zone of the state and fifty days in the western zone, along with seventy days of goose hunting for the state as a whole, and

WHEREAS, an option between the point system and the conventional bag limit has also been offered along with a special scaup season in a number of saltwater bays in Southeast Louisiana, now

THEREFORE BE IT RESOLVED that the following hunting season dates are established for the taking of ducks, coots, and geese during the 1977-78 seasons:

Ducks—coots: (Eastern Zone) November 19-December 4, December 17-January 14; (Western Zone) November 5-December 4, December 17-January 5.

Special scaup season: January 15-30, certain saltwater bays in Southeast Louisiana.

Geese: (Eastern Zone) November 19-January 27; (Western Zone) November 5-December 4, December 17-January 25.

THEREFORE BE IT FURTHER RESOLVED that the point system is hereby selected for the control of bag and possession limits for the hunting of ducks in accordance with the point values by species as allocated by the U. S. Fish and Wildlife Service, now

THEREFORE BE IT FURTHER RESOLVED that the bag limits on coots and all species of geese as established by the U. S. Fish and Wildlife Service are hereby adopted, now

THEREFORE BE IT FURTHER RESOLVED that all other Federal regulations pertaining to the hunting, methods of taking, shooting hours shall apply. Closed zones for the hunting of certain species of ducks and steel shot requirements in certain areas in Louisiana all as established by the U. S. Fish and Wildlife Service Federal regulations are also hereby adopted.

* * * *

Kisatchie National Forest

WHEREAS, hunting regulations for the Caney, Red Dirt, and Catahoula Wildlife Management Areas were established by the Commission at its regular meeting held in June, 1977, which were to apply during the forthcoming season, and

WHEREAS, the U. S. Forest Service has terminated these wildlife management areas and stated that they no longer exist on Kisatchie National Forest lands in the state, now

THEREFORE BE IT RESOLVED that the hunting regulations adopted in June for the Caney, Red Dirt and Catahoula Wildlife Management Areas are hereby rescinded, now

BE IT FURTHER RESOLVED that the hunting regulations applicable to the regions of the state where these lands are located shall apply.

* * * *

Hunting Seasons on Boeuf Wildlife Management Areas

WHEREAS, with the purchase of the new Boeuf Wildlife Management Area in Caldwell Parish it is appropriate at this time for hunting seasons to be established for 1977-78, and

WHEREAS, our personnel are on the area marking boundaries which will be completed by the upcoming hunting season, and

WHEREAS, the seasons need to be in compliance with other hunting seasons in the state on Wildlife Management Areas, now

THEREFORE BE IT RESOLVED that the following rules and regulations apply to the Boeuf Wildlife Management Area:

Deer: November 25-29; December 17-January 1, bucks only, season permit.

Squirrel and Rabbit: October 1-November 20 and December 3-16, still hunting only.

Waterfowl: Same as outside except hunting only until 2:00 p.m.

Woodcock: Same as outside except closed during deer gun hunt.

Turkey: March 25-April 9, gobblers only.

Quail: November 24-February 28, except closed during deer gun hunt.

FURTHER BE IT RESOLVED that recreational vehicles having tires thirty-four inches or more in height are prohibited. Motorized vehicles restricted to established roads and vehicle trails, and

BE IT FURTHER RESOLVED that all blinds, both stationary and floating which exist on the area be removed five days prior to the regular duck season. Should the water be low and the floating blinds could not be removed from the area, no one is to use these blinds or permanent type structures left on the area. Should individuals not remove their blinds when conditions existed, Commission personnel will remove and destroy such blinds.

J. Burton Angelle, Secretary
Department of Wildlife and Fisheries

Notices of Intent

NOTICE OF INTENT

Department of Agriculture Livestock Sanitary Board

The Department of Agriculture, Livestock Sanitary Board, proposes to amend its Regulation 28, Requirements Governing Equine Infectious Anemia. The purpose of the proposed amendments is to more clearly define the requirements for the movement of horses within and into the state, and the handling of horses which show a positive reaction to the Coggins test. Interested persons may submit written comments through October 7, 1977, to Dr. Forrest E. Henderson, State Veterinarian, Box 44003, Baton Rouge, Louisiana 70804. The text of the proposed Regulation 28 follows:

Regulation 28

Requirements Governing Equine Infectious Anemia

Section 1. Equidae Required to be Tested.

1. Equidae moving into the State of Louisiana for any purpose other than immediate slaughter or research must

be accompanied by record of negative test for equine infectious anemia (Coggins Test) conducted within the past twelve months. The test must be conducted at an approved laboratory and the name of the laboratory and the case number must appear on the health certificate, as required in Regulation 1, Section 6, Paragraph 2.

2. Horses moving into the State of Louisiana to fairs, livestock shows, horse shows, breeders association sales, rodeos, and racetracks must be accompanied by record of negative test for equine infectious anemia (Coggins test) conducted within the past twelve months. The test must be conducted at an approved laboratory and the name of the laboratory and the case number must appear on the health certificate.

Horses moving within the state to fairs, livestock shows, horse shows, breeders' association sales, rodeos, racetracks or other concentration points must be accompanied by record of negative test for equine infectious anemia (Coggins test) conducted within the past twelve months. The test must be conducted at an approved laboratory and the name of the laboratory and the case number must appear on the official record.

Horses reacting to the Coggins test within the state will be identified by regulatory personnel by picture, brand, or tattoo. Positive horses will be rebled upon request, by State-employed veterinarians and samples submitted to the laboratory for reconfirmation, as required in Regulation 2, Section 5, Paragraphs 4 and 5.

3. All out-of-state horses offered for sale at Louisiana auction markets must be accompanied by record of negative test for equine infectious anemia (Coggins test) conducted within the past twelve months. The test must be conducted at an approved laboratory and the case number must appear on the health certificate.

All Louisiana horses offered for sale at Louisiana auction markets must be accompanied by record of negative test for equine infectious anemia (Coggins test) conducted by an approved laboratory within twelve months of date of sale.

Exceptions:

a. Horses consigned for immediate slaughter and reconsigned from auction market on VS 1-27 to an approved slaughtering establishment. Such animals shall be branded with the letter "S" on the left shoulder prior to leaving the auction market.

b. Horses consigned for slaughter and purchased by individual must have a blood sample drawn for equine infectious anemia testing before the animal can leave the auction market. This sample must be collected by an accredited veterinarian and submitted to an approved laboratory. Horses may then move from the auction market to the purchaser's premises under quarantine issued by Livestock Sanitary Board personnel until results of Coggins test are received. If animal is found to be positive it must be properly identified and will remain under quarantine until sold for immediate slaughter.

Owner may request confirmation test of positive animal(s) at time of identification and blood sample will be collected by a State-employed veterinarian and forwarded to an approved laboratory for confirmation, as required in Regulation 3, Section 13, Paragraph A, subparagraphs a and b.

Section 2. Collection and Submission of Blood Samples.

1. All blood samples for equine infectious anemia testing must be drawn and submitted to an approved laboratory by an accredited veterinarian.
2. Blood samples will be accompanied by Form VS 10-11, "Equine Infectious Anemia Laboratory Test Report," with completed information as to owner's name and address, and identification of animal (s).
3. Only serum samples in sterile tubes will be accepted for testing.

Section 3. Testing of Samples Collected.

1. Only laboratories approved by the U. S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, shall be authorized to conduct the Coggins test for equine infectious anemia in Louisiana.
2. Such laboratories must also receive approval by the Livestock Sanitary Board.
3. Approved laboratories must submit copy of VS Form 10-11 at the end of each week to the Livestock Sanitary Board office. (Green copy on negative samples and white copy on positive samples.)
4. A fee of \$2.50 shall be charged to the accredited veterinarian for conducting the Coggins test at State laboratories. Invoices will be forwarded to the veterinarian monthly for these charges.

Section 4. Identification and Quarantining of Animal(s) Positive to the Coggins Test.

1. Animal(s) positive to the Coggins test will be quarantined to the owner's premises until sold for immediate slaughter and must move from premises on VS 1-27 issued by State-Federal personnel.
2. Confirmation test of positive animal(s) will be conducted by State employed veterinarians upon request of the owner prior to identification.
3. All animal(s) positive to the Coggins test will be properly identified by State personnel.

Forrest E. Henderson, D.V.M.
State Veterinarian
Livestock Sanitary Board

NOTICE OF INTENT

Department of Civil Service

The State Civil Service Commission will hold a public hearing on October 4, 1977, for the purpose of considering changes in and addition to Civil Service

Rules 6.25(b), 8.26, 11.21, 11.29(a), 11.29(j), 12.3, 13.14, 13.17, and 14.1.

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

The proposals to be considered at this public hearing by the Civil Service Commission are as follows:

Proposal I

Amend and reenact Rule 6.25(b)1 as follows:

6.25 Compensation for Overtime Hours Worked.

(b) 1. While he is occupying a position for which the current minimum of the pay range is \$971 per month or more, unless this limitation has been removed through the application of the provisions of Rule 11.29(j).

Explanation: the purpose of this amendment is to adjust the overtime pay limitations to maintain the same relationship to the pay plan, adopted by the Civil Service Commission on September 7, 1977, as it had to the old pay plan.

Proposal II

Amend and reenact Rule 8.26 as follows:

8.26 Status of Unclassified Employees Upon Reorganization of State Government.

When State departments and agencies are reorganized pursuant to the provisions of the Constitution of 1974, legislative act and/or constitutional amendment:

(a) An employee occupying a position that either previously had or presently has, constitutional unclassified status and whose position is retained by the State may be continued in his position with probationary status without competitive examination provided:

1. His position falls within the classified service; and
2. He possesses the minimum qualification requirements established for the class to which his position has been allocated by the Director; and
3. He has at least one year of continuous service with the department or agency as of the effective date of the transfer; and
4. The method of transfer results in a bona fide reorganization of that function; and
5. The position was not placed in the unclassified service under the provisions of Rule 4.1(d); and
6. He is otherwise eligible for employment in the classified service.

(b) The rate of pay of an employee entering the classified service pursuant to Subsection (a) of this rule shall be fixed in accordance with the provisions of Rule 6.28.

(c) Unused annual, sick, and compensatory leave earned by and credited to an employee entering the classified service pursuant to Subsection (a) of this rule shall be assumed by his acquiring department and shall earn and be credited with leave benefits as provided elsewhere in these rules.

(d) An employee who enters the classified service pursuant to the provisions of Subsection (a) of this rule shall be amenable to the provisions of these rules with respect to all other aspects of his service as a classified employee of the State.

Explanation: the purpose of this revision is to provide an authority and mechanism for bringing unclassified employees of State government into the classified service as a result of reorganization initiated by legislative act or constitutional amendment. The rule as currently established is limited to the reorganization resulting from provisions of the Constitution of 1974 and does not provide for future legislative or constitutional reorganization.

Proposal III

Amend and reenact Rule 11.21 as follows:

11.21 Workmen's Compensation Payments.

When an employee is absent from work due to disabilities for which he is entitled to workmen's compensation he

(a) shall be granted sick leave not to exceed the amount necessary to receive total payments for leave and workmen's compensation equal to his regular salary.

(b) may be granted annual leave or a combination of annual and sick leave not to exceed the amount necessary to receive total payments for leave and workmen's compensation equal to his regular salary.

(c) may be granted leave without pay.

Explanation: the rule as currently established, by authorizing leave without pay at the employee's option, enables a disabled employee to potentially retain rights to a position indefinitely under the current Workmen's Compensation Law. The proposed revision would correct this discrepancy by placing the option with the employing agency. The revision does not affect the employee's right to use accrued sick leave.

Proposal IV

Amend and reenact Rule 11.29(a) and 11.29(j) as follows:

11.29 Compensatory Leave.

(a) Subject to the provisions of Sub-sections (d) and (i) of this rule and the requirements of Federal rules, statutes, regulations, and judicial decisions, an employee serving in a position for which the current minimum rate of the range is \$971 per month or more who is required to perform overtime duty may, in the discretion of his appointing authority, be credited with compensatory leave equal to the number of extra hours he has been required to work.

* * * *

(j) In unusual cases, and upon recommendation of the Director, the Commission may extend the application of the provisions of Sub-section (b) of this rule to one or more individual employees or to specific groups or classes of employees in specific departments who occupy positions for which the current minimum rate of

the pay range is \$971 or more, and who are required to perform overtime duty; provided, that the Director's recommendation must be accompanied by the appropriate appointing authority's representation that the overtime duty involved will be required over an extended period of time; except that where the payment of overtime is required under the provisions of Federal rules, statutes, regulations, and judicial decisions, such payment is authorized to be made by the appointing authority.

Explanation: the purpose of these revisions is to recognize the seventy-five dollars per month increase for all positions in the new pay plan adopted by the Commission on September 7, 1977, and to maintain the relationship required in the amendment to Rule 6.25(b)1 in Proposal I.

Proposal V

Amend and reenact Rule 12.3 as follows:

12.3 Procedure in Adverse Actions for Cause, Except Suspensions.

(a) In every case of removal, demotion, or reduction in pay for cause of a permanent employee, the appointing authority or his authorized agent shall:

1. Furnish to the employee at the time such action is taken, or prior thereto, a statement in writing giving detailed reasons for such action.

2. In such cases, the appointing authority or his duly authorized agent shall include in the written notice the following provision: "You may appeal this action to the Civil Service Commission within thirty days. The appeal must conform to the provisions of Chapter 13 of the Civil Service Rules."

3. The appointing authority shall furnish the Director a copy of such statement within fifteen calendar days of the date the employee is notified.

Explanation: the purpose of this amendment is to ensure that employees subject to serious adverse actions are duly notified of their appeal rights regarding such actions.

Proposal VI

Amend and reenact Rule 13.14 as follows:

13.14 Summary Disposition of Appeal.

(b) Any request for summary disposition when made prior to the date fixed for the hearing of the appeal may be supported by admissions of fact and written argument or brief; provided, that

* * * *

2. The adverse party shall have fifteen calendar days after such service, or until the date of the hearing, whichever is sooner, to file with the Director an opposition to the request which opposition may be supported by written argument or brief.

Explanation: the purpose of this amendment is to allow additional time to the adverse party to file an opposition to a request for summary disposition of a

case. The ten days allowed under the current rule has proven unworkable.

Proposal VII

Amend and reenact Rule 13.17 as follows:
13.17 Notice of Hearing of Appeals.

(a) Subject to the provisions of Sub-section (b) hereof, the Director or referee shall give the appellant and the authority or persons against whose action the appeal has been taken a notice of the time and place fixed for the hearing or the taking of testimony at least fifteen days prior to the date of the hearing.

Explanation: The purpose of this amendment is to provide additional notice time to the principals of a hearing in order to correspond with the legally extended period provided for issuing subpoenas relative to such actions.

Proposal VIII

Amend and reenact Rule 14.1 as follows:
14.1 Prohibited Activities.

(e) No employee in the Classified Service and no member of the Commission shall

* * * *

5. Participate in an effort to recall from office an elected public official.

Explanation: the purpose of this amendment is to further clarify the political activity prohibitions by specifically denoting that participation in recall activities constitutes such action.

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

George Hamner, Director
Department of Civil Service

NOTICE OF INTENT

**Department of Corrections
Board of Pardons**

The Louisiana Board of Pardons will meet October 5, 1977, to amend its rule relative to the automatic review of applications which have been previously denied. Written comments or suggestions may be submitted through October 4, 1977, to the Louisiana Board of Pardons, Box 44142, Baton Rouge, Louisiana 70804.

John D. Hunter, Chairman
Board of Pardons

NOTICE OF INTENT

Board of Elementary and Secondary Education

Notice is hereby given that the State Board of Elementary and Secondary Education intends to adopt at its October 27, 1977, meeting, the following policies:

1. General policy statements relative to special education in the following categories:

- A. Right to Education Policy Statement,
- B. Full Educational Opportunities Goal and Timelines,
- C. Policy on Priorities,
- D. Child Identification,
- E. Individualized Education Program,
- F. Procedural Safeguards,
- G. Least Restrictive Environment,
- H. Protection in Evaluation Procedures (Nondiscriminatory Testing),
- I. Participation of Private School Children,
- J. Placement in Private Schools,
- K. Recovery of Funds for Misclassified Child.

2. Official function of the Textbook and Media Advisory Council as follows:

- A. To review constantly the process followed in the adoption of textbooks and materials of instruction and to strive to improve that process;
- B. To make recommendations to the State Board of Elementary and Secondary Education for State adoptions;
- C. To review data on a state by state basis on the expenditures for textbooks and to make recommendations for appropriation legislation in line with that data;
- D. To review and evaluate the five year cycle for adoption of textbooks in basic skills and disciplines;
- E. To help speed up the adoption process whereby they would handle any controversial material brought up by the general public before requesting approval from the Board.

The State Board of Elementary and Secondary Education will accept written comments until 4:30 p.m., October 12, 1977, at the following address: State Board of Elementary and Secondary Education, Box 44064, Capitol Station, Baton Rouge, Louisiana 70804.

The public is made aware of the consideration of the above rule change in compliance with R.S. 49:951, et seq.

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

Earl Ingram, Director
Board of Elementary and
Secondary Education

NOTICE OF INTENT

Board of Regents

Notice is hereby given that the Louisiana Board of Regents, at its regular October, 1977, meeting intends to adopt a Master Plan for Higher Education in Louisiana. The Board also intends to revise policy 2.2, Letters of Intent.

The proposed Master Plan and policy revision will be available for public inspection between the hours of 8:00 a.m. and 4:30 p.m., on any working day after September 21, 1977, at the offices of the Louisiana Board of Regents, Suite 1530, One American Place, Baton Rouge, Louisiana.

Interested persons may submit their views and opinions up to fifteen days following publication of this Notice of Intent at the following address: Louisiana Board of Regents, Suite 1530, One American Place, Baton Rouge, Louisiana.

William Arceneaux, Commissioner
of Higher Education
Board of Regents

NOTICE OF INTENT

Department of Health and Human Resources Office of Family Services

The Department of Health and Human Resources, Office of Family Services, proposes to adopt revised Standards for Payment so that recipients of medical assistance for Skilled Nursing Facilities and Intermediate Care Facilities I and II services shall no longer be charged for personal laundry services, a small facility (under sixty beds) may permit the cook to function as the dietary supervisor, physicians may now initial (rather than use his entire signature) certification and recertification of persons to such facilities as well as plan of care, and nursing home records shall now be retained for inspection for six years from date of service.

Interested persons may submit written comments until 4:30 p.m., October 5, 1977, to the following address: Mr. Roy E. Westerfield, Assistant Secretary, Office of Family Services, Department of Health and Human Resources, P. O. Box 44065, Baton Rouge, Louisiana 70804.

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

NOTICE OF INTENT

Department of Health and Human Resources Office of Health Services and Environmental Quality

The Louisiana Department of Health and Human Resources proposes to make revisions to Chapter I and Chapter II of the State Sanitary Code as those chapters relate to the laboratory examinations of specimens from suspected cases or carriers of communicable diseases.

The revision to Chapter I provides for laboratory examination of specimens submitted to State laboratories for the purpose of ascertaining the infectious status of individuals suspected of being cases or carriers of communicable diseases.

The revision to Chapter II provides for rabies examinations by State laboratories on animals that bite human beings and animals suspected of being infected with rabies.

Written comments regarding the foregoing proposed revisions may be addressed to the Office of the General Counsel, P. O. Box 3776, Baton Rouge, Louisiana 70821. Such comments will be considered only if received on or before October 5, 1977, at 4:30 p.m.

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

NOTICE OF INTENT

Department of Health and Human Resources Office of Health Services and Environmental Quality Air Control Commission

Notice is hereby given that the Louisiana Air Control Commission intends to completely revise the existing regulations and air quality standards and emission limitations applying to any source of emission existing partially or wholly within the State of Louisiana. The Commission also proposes to amend the State Implementation Plan. The particular goals of the proposed revisions include:

1. Establishment of total fluoride emission standards for existing phosphate fertilizer plants within the state.
2. Establishment of a sulfuric acid mist emission standard for existing sulfuric acid plants within the state.
3. To require the monitoring of stack emissions from fossil fuel fired steam generators, fluid bed catalytic cracking unit catalyst regenerators, sulfuric acid plants, and nitric acid plants.
4. To further limit hydrocarbon emissions to obtain reductions necessary to demonstrate compliance with the oxidant ambient air standard at the end of the compliance period of three years.

5. Revision of the State Implementation Plan to designate the Shreveport Standard Metropolitan Statistical Area (SMSA) as an Air Quality Maintenance Area (AQMA).

On Monday, October 31, 1977, at 10:00 a.m. the Louisiana Air Control Commission will hold a public hearing to discuss the aforementioned proposed regulations and State Implementation Plan changes. The meeting will be held in the Tulane Medical School, 1430 Tulane Avenue, New Orleans.

Copies of the revised regulations and State Implementation Plan will be available for inspection at the following locations: State Office Building, 325 Loyola Avenue, New Orleans, Louisiana; East Baton Rouge Parish Health Unit, 352 N. Twelfth Street, Room 83, Baton Rouge, Louisiana; Welfare Building, 1505 N. 19th Street, Monroe, Louisiana; Calcasieu Parish Health Unit, 721 Prien Lake Road, Lake Charles, Louisiana; State Office Building, 1525 Fairfield Avenue, 5th Floor, Shreveport, Louisiana.

Written comments may be submitted through October 28, 1977, to Mr. Orey Tanner, Jr., P.E., Assistant Chief, Air Quality Section, Office of Health Services and Environmental Quality, Box 60630, New Orleans, Louisiana 70160. Part or all of these proposed amendments are being made to conform with Federal regulations published in the Federal Register, Volume 41, Number 138, page 29,481, dated July 16, 1976.

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

NOTICE OF INTENT

Department of Natural Resources
Office of Conservation

Docket No. SMAR 77-1

In accordance with the laws of the State of Louisiana, R.S. 30:1, et seq., R.S. 49:951, et seq., and particularly R.S. 30:901 thru R.S. 30:914, a public hearing will be held in the New Civic Center, Council Chamber, City Hall, 1234 Texas Avenue, Shreveport, Louisiana, at 9:00 a.m., Wednesday, October 12, 1977.

At such hearing, the Commissioner will consider evidence relative to the issuance of statewide rules and regulations pertaining to the practice and procedure for all hearings, investigations, and proceedings before the Commissioner, Office of Conservation, State of Louisiana, under the Surface Mining and Reclamation Act (SMAR).

The proposed statewide rules and regulations, SMAR No. 1, is appended hereto. This represents the views of the Commissioner as of this date; however, the Commissioner reserves the right to propose additional rules or amendments thereto prior to final adoption.

The Commissioner of Conservation, on or after October 12, 1977, will promulgate statewide rules and regulations pertaining to surface mining and reclamation of lignite and coal in the State of Louisiana.

Comments and views regarding the proposed statewide rules and regulations should be directed in written form to be received not later than 5:00 p.m., October 12, 1977. Oral comments will be received at the hearing, but should be brief and not cover the entire matter contained in the written comments.

Direct comments to R. T. Sutton, Commissioner, Office of Conservation, Post Office Box 44275, Capitol Station, Baton Rouge, Louisiana 70804, Re: Proposed Rules and Regulations—SMAR No. 1.

Proposed Statewide Rules and Regulations Number SMAR-1

Pursuant to authority delegated under the laws of the State of Louisiana, and particularly Title 30 of the Revised Statutes, Sections 901 through 914, the following rules of practice and procedure are proposed by the Commissioner of Conservation as being reasonably necessary to carry out the mandates of the laws of this state.

Rule 1. Definitions

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

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

The Act—The Louisiana Surface Mining and Reclamation Act.

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

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

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

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

Terracing—Grading where the steepest contour of the high wall shall not be at a greater angle from the horizontal than that set by the Commissioner and approving a specific reclamation plan calling for ter-

encing, with the table portion of the restored area a flat terrace without depressions to hold water and with adequate provision for drainage, unless otherwise approved by the Commissioner.

Rule 2. Exploration Operations Permit.

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

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

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

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

Rule 3. Development Operations Permit.

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

3.2 The application shall contain the following information:

A. Topographic maps or equivalent maps or aerial photographs showing the area to be disturbed;

B. The maps or aerial photographs required by A above shall show the tract boundaries, the contour on which the activity will take place, and the intervals at which there will be surface disturbances;

C. A description of the method or methods which will be used to carry out the development operations on the proposed site;

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

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

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

Rule 4. Surface Mining Permit.

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

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

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

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

4.5 When an application is made for a permit to conduct surface mining operations, the Commissioner shall immediately cause the area proposed to be included within the permit area to be surveyed prior to the issuance of the permit. Following the hearing on the application, the area or a portion thereof may be designated by the Commissioner, pursuant to Section 905(D) of the Act, as unsuitable for reclamation should evidence at the hearing conclusively warrant the finding that such operations will result in significant damage to important areas that are: (a) State or National historical

sites or landmarks; (b) archaeological sites; (c) aquifer and aquifer recharge areas which provide drinking water to the public; (d) subject to frequent flooding or of unstable geology that may reasonably be expected to endanger life and property; (e) areas where such operations would endanger any public road, public building, cemetery, school, church, or similar structure or existing dwelling outside the permit area.

4.6 The Surface Mining Permit shall be granted if it is established that the application complies with the requirements of these rules and all applicable Federal and State laws. The Commissioner may approve a Surface Mining Permit conditioned upon the issuance of all other required permits or licenses.

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

A. the Commissioner finds that the reclamation as required by these rules cannot be accomplished by means of the proposed reclamation plan;

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

C. the Commissioner finds that the proposed mining operation will cause pollution of any water of the state, or that the proposed mining operation will cause pollution of the ambient air of the state;

D. the applicant has failed to furnish a certification that the police jury for the parish wherein the mining operation will take place, the Louisiana Wildlife Federation, the Louisiana Wildlife and Fisheries Commission, the Soil and Water Conservation District for the parish, and the Louisiana Air Control Board have been notified of the application for a Surface Mining Permit and that each have received a copy of said application;

E. if the applicant is a foreign corporation and has failed to include a certificate from the Secretary of State of Louisiana certifying that it is a corporation authorized to do business in and is in good standing in the State of Louisiana;

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

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

H. the Commissioner determines that the proposed operation will adversely affect any public highway or road;

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

Rule 5. Mining Plan.

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

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

Rule 6. Reclamation Plan.

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

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

Rule 7. Basis of Revocation and Suspension.

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

A. cause or could reasonably be expected to cause irreparable damage to persons or to public or private property; or

B. create or could reasonably be expected to cause an imminent danger to the health or safety of the public; or

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

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

Rule 8. Permit Revision or Correction.

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

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

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

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

D. The following corrections shall not be deemed to constitute a substantial change in the intended future use of the land or a significant alteration in the reclamation plan and the Commissioner may make a correction to a permit or order by reissuing the permit or order without the necessity of following the notice and hearing requirements as in the case of an original application for surface mining permit:

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

Rule 9. Designation Of An Area As Unsuitable For Surface Mining Operations.

9.1 When an application for surface mining permit has been filed with the Commissioner and he has determined, following his survey or the hearing on the application, as is provided for in Rule 4.5, that the area or a portion thereof should be designated as unsuitable for reclamation or should the Commissioner determine that reclamation pursuant to the requirements of the Act is not feasible as to a portion of the lands covered by said application that portion of the area affected may be designated as unsuitable for all or certain types of surface mining. In this connection, surface mining operations will be presumed to not adversely affect any area involved if the person, or governmental agency

which owns or is responsible for the administration or maintenance of the area, has no objection to the surface mining operation.

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

Rule 10. Standards.

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

A. conduct surface mining operations in a manner consistent with prudent mining practice, so as to maximize the utilization and conservation of the coal and lignite that can be economically recovered and so that reffecting the land in the future through surface mining can be minimized;

B. after the coal and lignite have been removed reduce all highwalls, spoil piles, and banks to a slope sufficient to control erosion effectively and to sustain vegetation, where required, consistent with the anticipated subsequent use of the affected land;

C. stabilize and protect all surface areas affected by the mining and reclamation operation effectively to control erosion and attendant air and water pollution;

D. replace the topsoil or the best available subsoil, if any, on top of the land to be reclaimed;

E. fill any auger holes with an impervious material in order to prevent drainage;

F. minimize the disturbances to the prevailing hydrologic balance at the mine site and in associated offsite areas and to the quality and quantity of water in surface and groundwater systems both during and after surface mining operations and during reclamation by:

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

(a) preventing or removing water from contact with toxic-producing deposits,

(b) treating drainage to reduce toxic content,

(c) casing, sealing, or otherwise managing boreholes, shafts, and wells to keep acid or other toxic drainage from entering ground and surface waters;

(2) conducting surface mining operations so as to prevent unreasonable additional contributions of suspended solids to streamflow or run off outside the permit area above natural levels under seasonal flow conditions; and

(3) consistent with good water conservation practices, removing such temporary or large siltation structures from drainways after disturbed areas are revegetated and stabilized;

G. stabilize any waste piles;

H. refrain from surface mining in proximity to active and abandoned underground mines where such mining would cause breakthroughs or could endanger the health or safety of miners;

I. incorporate current engineering practices for the design and construction of water retention facilities which, at a minimum, shall be compatible with the requirements of the applicable State and Federal laws to insure that leachate will not pollute surface or groundwater, and locate impoundments so as not to endanger public health and safety should failure occur;

J. insure that all debris, acid-forming materials, toxic materials, or materials constituting a fire hazard are treated or disposed of in a manner designed to prevent contamination of ground or surface waters or combustion;

K. insure that any explosives are used only in accordance with existing State and Federal law and regulations promulgated by the Commissioner;

L. insure that all reclamation efforts proceed as contemporaneously as practicable with the surface mining operation;

M. insure that construction, maintenance, and post-mining conditions of access roads into and across the site of operations will minimize erosion and siltation, pollution of air and water, damage to fish or wildlife or their habitat, or public or private property; provided that the Commissioner may permit the retention after mining of certain access roads if compatible with the approved reclamation plan;

N. refrain from the construction of roads or other access ways up a stream bed or drainage channel or in proximity to such channel where such construction would seriously alter the normal flow of water;

O. establish on all affected lands, where required in the approved reclamation plan, a diverse vegetative cover native to the affected land where vegetation existed prior to mining and capable of self-regeneration and plant succession equal in extent of cover to the natural vegetation of the area; except that introduced species may be used in the revegetation process where desirable or necessary to achieve the approved reclamation plan;

P. assume responsibility for successful revegetation for a period of two years beyond the first year in which the vegetation has been successfully established as evidenced by the land being used as anticipated in the reclamation plan, provided that the two year period of responsibility shall commence no later than two complete growing seasons after the vegetation has been successfully established as determined by the Commissioner. Should the landowner or its agent or lessee

without the operator's permission during the period in which the operator is responsible for successful revegetation enter into possession of the area being reclaimed, the operator shall be released from any further responsibility at the time of the entry;

Q. with respect to permanent impoundments of water as a part of the approved reclamation plan, insure that:

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

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

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

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

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

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

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

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

(1) all water pumped from a mineral zone shall be retained in a holding pond located in the mine site

area and may not be discharged unless such discharge will not adversely affect the receiving waters;

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

- (a) grading of the overburden;
- (b) reliance upon the existence of natural drainage in the area; and
- (c) the construction of ditches, dams, or berms.

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

U. provide that toxic forming materials present in spoil ridges or in the exposed face of a mined mineral seam or deposit be covered with nontoxic materials. Final cuts or other depressed areas no longer in use in mining operations, which accumulate toxic material, are prohibited;

V. unless otherwise specified by the Commissioner, planting shall be done when the season, local weather conditions, and soil conditions are suitable for seed germination and plant survival;

W. revegetation shall be considered "successful" as required in the Act when it is:

- (1) capable of self-regeneration and plant succession; and
- (2) generally at least equal in extent of cover to the natural vegetation of the area;

X. provide that slopes of overburden piles be shaped to minimize runoff and to provide a surface to be seeded;

Y. in implementing the standards in this rule the following guidelines will apply:

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

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

Rule 11. Reports and Reporting

Each operator conducting surface mining operations under one or more approved surface mining permits shall

file quarterly reports as provided for in Section 907 of the Act upon forms furnished by the Commissioner.

Rule 12. Release or Reduction of Bonds.

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

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

Rule 13. Transfer

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

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

A. The terms and conditions of the existing permit are being satisfactorily met;

B. The successor operator has furnished a satisfactory performance bond or substitute collateral required under the terms of the Act;

C. The successor operator has provided any additional or revised information required by the Commissioner.

Rule 14. Mine Closing and Release.

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

14.2 Upon fulfillment of these requirements the operator will be notified thereof in writing by the Commissioner and released with respect to the area concerned, which notification will entitle the operator to a final

release of the bond or return of the cash or collateral securities theretofore filed with the Commissioner.

R. T. Sutton
Commissioner of Conservation

NOTICE OF INTENT

Department of Public Safety Office of Fire Protection

Raymond B. Oliver, Assistant Secretary of the Department of Public Safety, Office of Fire Protection, more popularly known as the State Fire Marshal for the State of Louisiana, hereby gives notice that a public hearing will be held on the following proposed regulations in the State Office Building, 325 Loyola Avenue, Room 106, New Orleans, Louisiana on Friday, October 14, 1977, at 9:00 a.m.

I. Regular Inspection of Prisons. All prisons in the State of Louisiana shall be inspected by the Office of Fire Protection at least semiannually. When violations of the State Fire Marshal's Act are discovered, the appropriate authority responsible for the maintenance of the prison in question shall be given thirty days for complying with the order of the Fire Marshal to remedy the violations in question. After thirty days have elapsed from the initial inspection, the prison in question shall be reinspected. If upon reinspection the deputy State Fire Marshal is satisfied that the responsible authority is making an effort to comply with the original order of correction, an additional thirty days may be granted said authority for complete compliance. After sixty days have elapsed from the initial inspection, if compliance with the original order of correction has not been met, the matter will be turned over to the legal department of the Office of State Fire Protection which shall be instructed to immediately file suit for mandatory injunction in the appropriate district court to obtain immediate compliance.

II. Basic Requirements for Prisons.

A. There shall be at least eighty square feet gross area per prisoner.

B. Each cell block shall provide at least forty-eight square feet per prisoner.

C. Any prisons in buildings over seventy-five feet in height shall meet the requirements of R.S. 40:1578.6.

D. Each prison shall have an approved fire alarm system with a pull box in the security watchroom.

E. There shall be at least one approved fire extinguisher every 2500 square feet within the prison which fire extinguisher(s) shall be placed in the security watchroom.

F. Every cell must be equipped with gang locks.

G. Emergency lighting must be provided by means of a second alternative power source, preferably a

generator for which the plans and specifications have been approved by this office.

H. Two well separated means of egress shall be provided for every level in the prison.

I. All exist doors shall be equipped with locks that can be opened from either side.

J. In addition to the requirements set forth in Paragraphs A through I, all prisons must comply with all of the life and fire safety requirements set forth in the Fire Marshal's Act, the regulations promulgated by the Fire Marshal, and all applicable codes referenced therein.

III. Minimum Standards for Card Operated Automatic Gasoline Dispensing Systems.

A. Card operated automatic systems for dispensing class I flammable liquids shall be permitted without the requirement of an attendant or supervisor on duty but shall not be open to the public. Within the meaning of the Louisiana State Fire Marshal's Act, such an automatic gasoline dispensing system shall be deemed as not being open to the public if and only if the individual or other legal entity dispensing said class I flammable liquids meets the following criteria:

1. It is a commercial enterprise, governmental body, or private entity.

2. The gasoline obtained is used directly by the owners, employees, or members of said entity.

3. The gasoline dispensing device is not available to the public.

B. Card operated automatic dispensing systems for Class I flammable liquids shall comply with all applicable requirements of the Louisiana State Fire Marshal's Act, and in addition shall meet the following minimum standards:

1. The individuals possessing the cards to be used in the dispensing systems have attended an adequate program of instruction to assure maximum safety in proper use of the equipment and the dispensing of the fuel.

2. The area in which the dispensing system is located and access to the system must be closed to the public by adequate protective devices such as a fence which removes the possibility of creating a situation known in the law as an "attractive nuisance" and key lock pumps or other controlled access dispensing systems.

3. An approved automatic fire extinguishing system capable of extinguishing flames over at least a two hundred square foot area surrounding each pump island shall be installed on each island. The size, type, and insulation of said fire extinguishing system must be approved by the office of the State Fire Marshal, his deputy, or his authorized representative. Such fire extinguishing system shall be capable of being activated manually as well as automatically and when activated by either means the system shall automatically deactivate all gasoline pumps on the island. All such gasoline pumps

shall remain deactivated until said fire extinguishing system has been recharged or serviced and is again ready for use.

4. No such automatic dispensing systems shall be permitted inside of building.

5. The dispensing area must be adequately lighted at night.

6. All such dispensing facilities situated shall include heat sensing devices providing for automatic fuel cut off in the event of fire and an automatic alarm system connected to alert the nearest fire station.

7. A standpipe shall be available for use by the fire department in the event of a major spill or fire.

8. No card for the automatic dispensing system shall be issued to any individual who has not undergone an adequate program of instruction on the safe use of said automatic dispensing equipment.

9. A water hose shall be available for use in attending to minor gasoline spills.

C. The following warning signs shall be posted and conspicuously displayed:

1. These gasoline pumps are not open to the public.

2. Only the individual to whom an automatic dispensing card has been issued may use these pumps.

3. In the event of an emergency or equipment malfunction, call the following number _____.

4. In the case of any major spill of gasoline, call the fire department at the following number _____.

D. In addition to the above regulations, every card operated automatic gasoline dispensing system shall comply with the applicable provisions of the National Fire Code, National Fire Protection Association Pamphlet No. 30, 1973 edition, regarding the handling and use of flammable liquids.

E. In addition to the penalty provided in R.S. 40:1621, the failure of any individual, group, or other legal entity to comply with these regulations shall also result in the prohibition of said individual or legal entity from operating an automatic card operated gasoline dispensing system in the State of Louisiana.

Anyone who is interested in the above regulations should be present at the above hearing or should provide in writing on or before the date and time of the hearing the position of the individual or group with regard to the above stated regulations. Written comments should be addressed to Office of Fire Protection, 106 State Office Building, New Orleans, Louisiana 70112. Anyone who has any questions with regard to the promulgation of these regulations or the public hearing notice herein should contact this office immediately.

Raymond B. Oliver
State Fire Marshal

NOTICE OF INTENT

Department of Public Safety Commission on Law Enforcement and Administration of Criminal Justice

The Department of Public Safety, Commission on Law Enforcement and Administration of Criminal Justice, proposes to adopt rules governing the privacy and security of criminal history records. These rules shall:

1. Provide each individual with the right of access to all criminal history record information pertaining to him which is maintained in the records of affected agencies, and the right to institute an administrative proceeding to correct such records as are incomplete or inaccurate.

2. Promote and enforce, to the maximum, extent feasible, the utilization of procedures ensuring the completeness, accuracy, and integrity of criminal history record information by requiring all affected agencies to collect, maintain, use, or disseminate criminal history record information in a manner that assures that such information is current and accurate, and that adequate safeguards are provided to prevent the misuse or unauthorized alteration or destruction of such information.

Written comments may be submitted through October 21, 1977, to: Louisiana Commission on Law Enforcement and Administration of Criminal Justice, LCJIS Division, 1885 Wooddale Blvd., Suite 502, Baton Rouge, Louisiana 70806.

The Commission will meet at 1:30 p.m. October 26, 1977, at the Bellemont Motor Hotel, Airline Highway, Baton Rouge, to adopt the proposed rules. Reasonable opportunity for oral comment will be permitted at that time.

E. Bailey Grant, Chairman
Louisiana Commission on Law
Enforcement and Administration
of Criminal Justice

NOTICE OF INTENT

Department of Urban and Community Affairs Office of Consumer Protection

The President of the Consumer Protection Advisory Board hereby gives notice of intention to consider and give approval to amendments to Title 1 and Title 2 of the Consumer Protection Rules and Regulations proposed for adoption by the Assistant Secretary of the Office of Consumer Protection, Department of Urban and Community Affairs, at its public meeting on October 6, 1977, at 10:00 a.m. in the Mineral Board Auditorium, State Land and Natural Resources Building, Fourth and North Streets, Baton Rouge, Louisiana

70804. These amendments are being made to reflect changes in the Administrative Procedures Act (Act 279 of 1976) and the Reorganization Act (Act 83 of 1977).

Any interested person may submit, orally or in writing, his views, arguments, data, or reasons in support of or in opposition to this intended approval of the Assistant Secretary's adoption of amendments by personally appearing at the above public meeting at the above designated time, day and place and submitting same.

Charles W. Tapp, Assistant Secretary
Office of Consumer Protection

NOTICE OF INTENT

Department of Wildlife and Fisheries

The Louisiana Wildlife and Fisheries Commission will meet at 10:00 a.m. October 24, 1977, at 400 Royal Street, New Orleans, Louisiana 70130, to set the oyster season for Calcasieu Lake. Written comments or suggestions should be submitted to the above address before October 20, 1977. Reasonable opportunity for oral presentations will be made available at the Commission's meeting.

J. Burton Angelle, Secretary
Department of Wildlife and Fisheries

Potpourri

Department of Natural Resources Office of Conservation

Supplement to Office of Conservation Order SDS-1

Office of Conservation Order SDS-1, effective May 20, 1977, denied the use of certain existing cavities in Bayou Choctaw Salt Dome for the storage of crude oil. Since that time a public hearing has been held under Docket SDS 77-2 which resulted in the issuance of Statewide Order 29-M. Order 29-M established rules and regulations pertaining to the use of salt dome cavities for the storage of liquid and/or gaseous hydrocarbons. As a result of this order and additional information obtained from study by the staff, and submitted by the Federal Energy Administration, additional findings are as follows:

1. That cavities 1, 2, 3, 8A, 11, 13, 15, 16, 17, 18, 19, and 20, proposed for storage under Docket SDS 77-1,

conform to the requirements of Order 29-M with the following exceptions:

a. Cavities 3, 11 and 13 are presently 200 feet or less apart.

b. Cavities 15 and 17 are, at present, 150 feet apart.
2. Information from the United States Environmental Protection Agency, Office of Air Quality Planning and Standards, reveals that the emission offset requirement of the "Interpretive Ruling of the Requirements of 40 CFR 55.18" does not apply at the Bayou Choctaw project because of the temporary nature of hydrocarbon emissions.

3. That the liquids and/or gaseous hydrocarbons which are to be stored in the above cavities shall be deemed to be the property of the injector, subject to the provisions of any contract with the affected land or mineral owners.

O R D E R

Now, therefore, it is ordered that, in view of the additional findings listed above, cavities 3, 11, 13, 15, and 17 are exempted from the spacing provisions of Finding No. 4, Section II-B of Statewide Order No. 29-M; however a new capacity determination shall be required within thirty days of each refill cycle for these cavities, and the application of the Federal Energy Administration for authority to store crude oil in Bayou Choctaw Salt Dome is hereby approved.

This order shall be effective as of September 20, 1977.

R. T. Sutton
Commissioner of Conservation

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