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# Emergency Rules

## DECLARATION OF EMERGENCY

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

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

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

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

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

## DECLARATION OF EMERGENCY

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

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

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

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

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

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

## DECLARATION OF EMERGENCY

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

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

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

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

# Rules

## RULES

### Board of Elementary and Secondary Education

#### Rule 4.00.72c

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

#### Rule 3.01.51e

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

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

#### **Rule 4.00.74**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. Interpretation of "attend".

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

B. Interpretation of "teacher".

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

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

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

Interpretation of field or discipline.

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

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

C. Course work leading to an approved advanced degree.

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

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

7. Appeals Procedure

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

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

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

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

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

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

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

## **RULES**

### **Board of Regents**

#### **Academic Affairs**

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

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

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

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

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

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

\* \* \* \*

**Finance**  
**Capital Projects**

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

\* \* \* \*

**Finance**  
**Dedicated Revenues**

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

William Arceneaux  
Commissioner of Higher Education

**RULE**

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

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

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

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

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

**RULE**

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

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

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

6-26-66 50 570.66

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

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

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

**RULE**

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

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

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

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

For each additional person add \$85.00

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

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

For each additional person add \$78.00

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

Size Household	Standard
1	\$190.00
2	240.00

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

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

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

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

**RULES**

**Department of Natural Resources  
Office of Conservation**

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

**Rule 1. Definitions**

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

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

The Act—The Louisiana Surface Mining and Reclamation Act.

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

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

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

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

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

#### Rule 2. Exploration Operations Permit

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

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

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

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

#### Rule 3. Development Operations Permit

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

3.2 The application shall contain the following:

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

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

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

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

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

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

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

#### Rule 4. Surface Mining Permit

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Rule 5. Mining Plan

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

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

#### Rule 6. Reclamation Plan

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

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

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

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

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

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

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

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

#### Rule 8. Permit Revision or Correction

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

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

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

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

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



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

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

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

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

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

#### Rule 10. Standards

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

(a) Grading of the overburden;

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Rule 11. Reports and Reporting

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

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

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

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

#### Rule 13. Transfer

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

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

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

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

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

**Rule 14. Mine Closing and Release**

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

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

R. T. Sutton  
Commissioner of Conservation

**RULES**

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

**Timber Stumpage Values  
Calendar Year 1978**

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

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

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

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

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

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

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

Effective date: January 1—December 31, 1978.

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

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

**RULES**

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

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

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

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

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

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

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

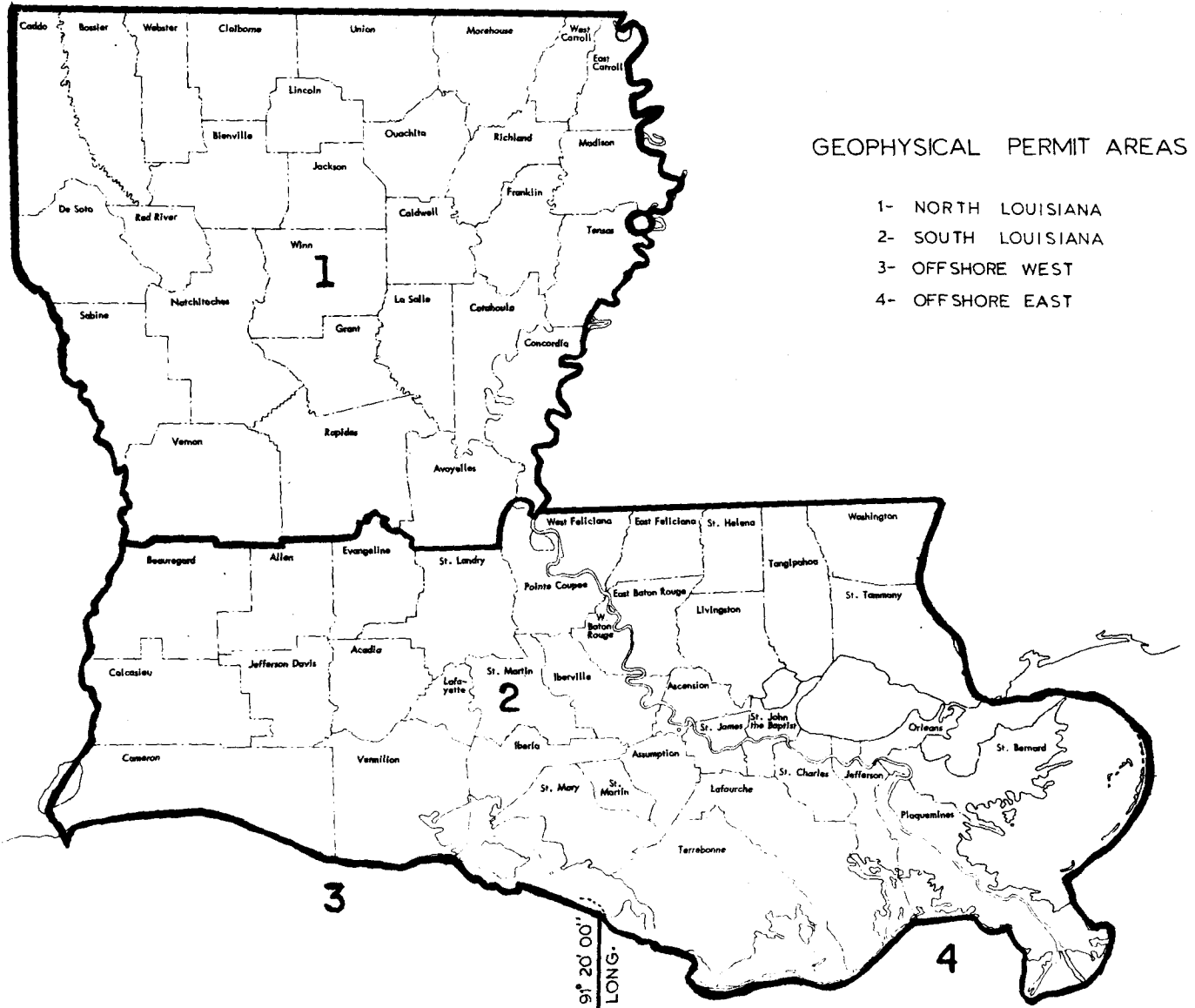
All permits shall not be deemed to cover and include any State oil and gas lease either in effect or thereafter to be in effect, so long as such lease or leases remain in effect, covering any portion of the area covered by the permit or permits, but if permittee or permittees shall secure appropriate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

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

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

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

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



## RULE

### Department of Wildlife and Fisheries

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

#### Oyster Seed Ground Closure

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

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

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

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

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

J. Burton Angelle, Secretary  
Department of Wildlife and Fisheries

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

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

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

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

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

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

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

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

## Notices of Intent

### NOTICE OF INTENT

#### Department of State Civil Service

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

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

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

Amend and reenact Rule 7.20(c) as follows:

7.20 Noncompetitive Classes.

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

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

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

\* \* \* \*

Enact Rule 11.23(k) as follows:

11.23 Civil, Emergency, and Special Leave.

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

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