

CONTENTS

I. EXECUTIVE ORDERS	
DCT 80-5 — CETA Program	155
DCT 80-6 — State flags at half mast	155
II. EMERGENCY RULES	
Education Department:	
Board of Trustees for State Colleges and Universities — Conversions of basis	156
Health and Human Resources Department:	
Office of Family Security — Home leave days covered by Title XIX	156
Medicaid payments for abortions	156
Patient transfer procedure	156
Natural Resources Department:	
Environmental Control Commission — Interim rules of procedures	158
Public Safety Department:	
Office of State Fire Protection — Fire lanes	163
Transportation and Development Department:	
Office of Aviation and Public Transportation — Rules and regulations pertaining to aeronautics in Louisiana	163
III. RULES	
Commerce Department:	
Racing Commission — Rules LAC 11-6:53.11 and LAC 11-6:54 — medication	174
Education Department:	
Board of Elementary and Secondary Education — Adoption and Revision of Bulletins and Regulations, Amended Annual Program Plan for 1981-1983, Crime and Disruptive Behavior Module, Pupil Appraisal Handbook and Addendum — Talented	174
Board of Trustees for State Colleges and Universities — Patent policy	174
Health and Human Resources Department:	
Office of Family Security — Nonemergency medical transportation	175
Maximum Allowable Costs list amended	175
Natural Resources Department:	
Office of Conservation — NGPA rules	175
Surface mining regulations	177
Transportation and Development Department:	
Specifications for gasoline, unleaded gasoline, gasohol	198
Treasury Department:	
Board of Trustees of the State Employees' Group Benefits Program — Rules and regulations for election of members and related issues	199
Wildlife and Fisheries Department:	
Wildlife and Fisheries Commission — 1980 Brown shrimp season	224
IV. NOTICES OF INTENT	
Agriculture Department:	
State Market Commission — Loans and loan guarantees	225
Education Department:	
Board of Elementary and Secondary Education — Requirements for Certification of Adult Education School personnel, Louisiana Food and Nutrition Programs of Operation, generic certification requirements for special education	225
Louisiana State University and Agricultural and Mechanical College, Board of Supervisors — "Quorum" redefined	225
Board of Trustees for State Colleges and Universities — Student fees	225
Conversions of basis	225
Governor's Office:	
Division of Administration — Central Purchasing, rules and regulations	226
Health and Human Resources Department:	
State Board of Dentistry — Expenses of continuing education courses	226
Dental hygiene licenses	226
Board of Examiners for Nursing Home Administrators — Clarification of definitions, update of regulations, strengthening of requirements for administrator-in-training and Continuing Education programs	226
Office of Family Security — Patient transfer procedure	226
Medicaid payments for abortions	228
Home leave days covered by Title XIX	228
Standards for payment to long term care facilities	229
Office of Hospitals — Unclaimed bodies	229
Natural Resources Department:	
Office of Conservation — Tight formation rules	230
Office of Environmental Affairs — Review process of application for hazardous waste permit	230
Environmental Control Commission — Amend permit fee schedules for Hazardous Waste, Air Quality, Nuclear Energy and Water Quality programs	230
Office of the Secretary — State/EPA agreement for fiscal year 1981	231

Public Safety Department:	
Office of Motor Vehicles — Special license plates231
Revenue and Taxation Department:	
Severance Tax Section — Implementation and administration of Act 599 of the 1978 regular session232
Transportation and Development Department:	
Office of Aviation and Public Transportation — Rules and regulations pertaining to aeronautics in Louisiana233
Size, weight, load policies for vehicles on Louisiana highways234
Urban and Community Affairs:	
Office of Consumer Protection — Advertising of air conditioning, refrigeration, and heating contractors and repairmen234
Wildlife and Fisheries Department:	
Wildlife and Fisheries Commission — 1980-81 seasons and bag limits234

Executive Orders

EXECUTIVE ORDER DCT-80-5

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

David C. Treen
Governor of Louisiana

EXECUTIVE ORDER DCT 80-6

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

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

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

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

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

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

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

David C. Treen
Governor of Louisiana

Emergency Rules

DECLARATION OF EMERGENCY

Board of Trustees for State Colleges and Universities

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

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

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

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

Bill Junkin
Executive Director

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

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

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

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

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

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

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

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

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

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

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

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

Patient Transfer Procedure

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

1. Facility responsibility in assuring orderly transfer shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Regional Long Term Care Unit responsibility shall include:

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

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

3. Parish Social Service Staff responsibility shall include:

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

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

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

4. State Office Medical Assistance Program responsibility shall include:

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

b. Appropriate sanctions with respect to provider agreement.

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

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

5. Licensing and Certification Division responsibility shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

George Fischer, Secretary

Department of Health and Human Resources

DECLARATION OF EMERGENCY

Department of Natural Resources Environmental Control Commission

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

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

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

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

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

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

**Interim Rules of Procedure
Louisiana Environmental Control Commission**

**General
1.0 - 1.5**

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

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

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

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

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

1.5 These Interim Rules of Procedure shall become effective

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

**Environmental Control Commission
2.0. - 2.13.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Investigations 3.0. - 3.8.

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

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

3.2 In connection with the investigation of a possible violation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4.6 The notice for all hearings will include:

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

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

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

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

4.10 The record in a case of adjudication shall include:

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

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

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

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

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

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

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

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

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

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

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

Delegations of Authority

5.0-5.4

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

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

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

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

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

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

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

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

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

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

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

6.0-6.5

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

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

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

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

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

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

Decision and Orders
7.0

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

Rehearings
8.0 - 8.2

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

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

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

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

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

Construction and Effect 9.0. - 9.2.

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

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

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

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

DECLARATION OF EMERGENCY

Department of Public Safety Office of State Fire Protection

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

LAC 17-4:9 Hospital Fire Lanes

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

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

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

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

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

Daniel L. Kelly
State Fire Marshal

DECLARATION OF EMERGENCY

Department of Transportation & Development Office of Aviation & Public Transportation

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

Landing Area Registration Procedures

Pursuant to these statutory provisions, all landing area propo-