

CONTENTS

I. EXECUTIVE ORDERS

- EWE-78-17—Training of state personnel in program evaluation473

II. EMERGENCY RULES

Agriculture Department:

- Office of Agricultural and Environmental Sciences—Amendments to the Sweet-potato Weevil Quarantine and Regulation473

Health and Human Resources Department:

- Office of Family Security—Limitations in the Medical Assistance Program473
Office of Human Development—Increase in day care payment rate and changes in eligibility criteria474

Natural Resources Department:

- Office of Conservation—Implementation of the Natural Gas Policy Act of 1978474

III. RULES

Agriculture Department:

- Fertilizer Commission—Policy, terms and definitions, and procedures for sampling and analysis476
Market Commission—Guaranteed loans476

Commerce Department:

- Real Estate Commission—Rules of the Commission477

Corrections Department:

- Office of Adult Services—Work release486
Board of Pardons—Consideration of applications487
Office of the Secretary—Special agents487
Inmate furloughs and temporary releases487

Education:

- Board of Trustees for State Colleges and Universities—Scholarship limitations488
Board of Elementary and Secondary Education—CETA projects; National Teacher Examination scores for certification489
Board of Regents—State Appropriation Formula489

Governor's Office:

- Architects Selection Board—Implementation of Act 721, 1975 Regular Session494
Office of Contractual Review—Rules for state professional, personal, and consulting service contracts495

- Facility Planning and Control Department—Capital Improvement Projects Procedure Manual for Design and Construction497

- Commission on Law Enforcement and Administration of Criminal Justice—Privacy and Security Regulation503

Health and Human Resources Department:

- Air Control Commission—Construction permits510
Board of Embalmers and Funeral Directors—Licensing of funeral establishments510
Office of Family Security—Submission of physician claims511
AFDC and GA need standards511
Revisions to the Food Stamp Manual511
Office of Health Services and Environmental Quality—Seafood processing511
Division of Vital Records Registry—Short form birth certificate form511
Office of Human Development—Amendments to CASP512
Office of Management and Finance—Cost-related reimbursement for day care treatment facilities for children and handicapped512

Transportation and Development Department:

- Board of Registration for Professional Engineers and Land Surveyors—Re-examination516

Urban and Community Affairs Department:

- Office of Consumer Protection—Procedural rules516

IV. NOTICES OF INTENT

Agriculture Department:

- Office of Agricultural and Environmental Sciences—Sweet potato dealer's certificate permit517
Certified seed and sampling and tagging518
Seed Commission—Noxious weed seed519

Education:

- Board of Trustees for State Colleges and Universities—Advanced degree adjustments519
Board of Elementary and Secondary Education—Audio-visual requirement for library science certification; federal funds for education projects; four-year Second Language Specialist program and five-year bilingual training program; alternatives to general education requirements; NTE in lieu of degree for certification519

Health and Human Resources Department:

- Office of Family Security—Limitations in the Medical Assistance Program520
Office of Human Development—Increase in day care payment rate and changes in eligibility criteria520

Natural Resources Department:	
Office of Conservation—Implementation of the Natural Gas Policy Act of 1978	520
Radiation safety requirements for industrial radiographic operations	521
Public Safety Department:	
Office of Alcoholic Beverage Control—Amendments to the rule prohibiting unfair practices in the malt beverage industry	521
Wildlife and Fisheries Department:	
Stream Control Commission—Wastewater discharges to intermittent streams and man-made drainage channels	522
Process generated discharges from sand and/or gravel extraction	522

V. POTPOURRI

Corrections Department:	
Office of the Secretary—State Penitentiary Hospital certified to treat mentally ill	523
Health and Human Resources Department:	
Air Control Commission—State Implementation Plan revisions	523

Executive Orders

EXECUTIVE ORDER EWE-78-17

WHEREAS, the State of Louisiana has faced and, undoubtedly, will continue to face increasing demands for social and other governmental services, and

WHEREAS, the resource costs of social and other governmental services are accelerating at a faster rate than the projected growth of state resources, and

WHEREAS, through mastery of program evaluation techniques, state agencies will be better able to make the most efficient possible use of the resources allotted to them, while securing the maximum possible benefits from their program efforts for the people of Louisiana, and

WHEREAS, Act 277 of the 1976 Louisiana Legislature established a policy of mandatory review of state statutory agencies and required the periodic termination of such agencies, making their re-creation contingent of an evaluation of their program effectiveness.

NOW, THEREFORE, IT IS ORDERED THAT state agencies develop and implement policies of program evaluation designed to increase the efficiency of their resource utilization, to improve the effectiveness of their management structure, to measure the impact of their program efforts, to better their decision-making ability, and to thereby raise the quality of state services provided to the people of Louisiana, and

IT IS FURTHER ORDERED THAT, to aid agency efforts in this project, the Division of Administration and the Governmental Services Institute offer a series of training sessions designed to instruct senior state personnel in the techniques and theory of program evaluation, and

IT IS FURTHER ORDERED THAT, to ensure the success of program evaluation efforts in Louisiana, the Assistant Secretaries and Undersecretaries of all state departments lend this project their fullest cooperation.

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 6th day of December, A.D. 1978.

Edwin Edwards
Governor of Louisiana

Emergency Rules

DECLARATION OF EMERGENCY

**Department of Agriculture
Office of Agricultural and Environmental Sciences**

Effective December 7, 1978, the Department of Agriculture, Office of Agricultural and Environmental Sciences, has exercised those powers conferred by the emergency provisions of the Administration Procedures Act, R.S. 49:953, to adopt amendments to the Sweet-potato Weevil Quarantine and Regulations, which

were initially adopted under the provisions of Parts 2 and 3 of Chapter 12 of Title 3 of the Louisiana Revised Statutes of 1950. This action has been taken to prevent spread of Sweet-potato Weevil from infested areas, to areas not known to sustain infestations of these pests. This insect is considered to be the most destructive pest of sweet potato industry of Louisiana. In connection with this infestation, it has become necessary to promulgate the following emergency rule, by amending Supplement to Sweet-potato Quarantine and Regulation, Section III, Quarantined Areas, that portion of paragraph 2-A dealing with West Carroll Parish, by adding the following property.

... that portion consisting of a one mile radius of and including the property of E.A. O'Neal Farm, Eugene and Model O'Neal, section 10, R11E, T22N, which includes portions of sections 2, 3, 4, 9, 10, 11, 15, and 16.

Richard Carlton, State Entomologist
Office of Agricultural and
Environmental Sciences

DECLARATION OF EMERGENCY

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

Effective January 1, 1979, the Department of Health and Human Resources, Office of Family Security, has exercised those powers conferred by the emergency provisions of the Administrative Procedures Act, R.S. 49:953B, to adopt limitations in the Medical Assistance Program (MAP).

It has become necessary to promulgate the following emergency rule to remain within the budget appropriations for fiscal year 1978-79, the following program limitations are being implemented effective January 1, 1979:

(1) Inpatient hospital services. The number of days payable for inpatient hospital service are reduced from fifteen to ten. The present procedure for applying Professional Studies Activities/Length of Stay criteria to every admission may extend the number of inpatient hospital days if the patient is admitted with at least one eligible day remaining.

(2) Outpatient hospital services. The number of outpatient hospital visits are limited to three per calendar year.

(3) Physician services. The number of inpatient physician visits are reduced from fifteen to ten per calendar year. There is no provision for extension of visits beyond the ten visit limit.

(4) Home health services. Before payment can be made for all home health services, prior approval of the treatment plan by the MAP will be required. This prior approval will be secured directly from the MAP by the home health agency.

(5) Durable medical equipment. The existing program is being closely reviewed and a very restrictive criteria is being applied for approval of all durable medical equipment. Hearing aid batteries will no longer be a covered service.

(6) Drug services.

(a) The Medical Assistance Program will implement a "lock-in" procedure whereby a recipient suspected of overutilizing the pharmacy program is limited to services from one physician and one pharmacy.

(b) The following maintenance type drugs shall be dispensed in a month's supply or one hundred unit doses: anti-coagulants; anti-convulsants; oral anti-diabetics; calcium gluconate, calcium lactate, and calcium phosphate; cardiovascular drugs, including diuretics and antihypertensives; estrogens; ferrous gluconate and ferrous sulfate; potassium supplements; thyroid and anti-thyroid drugs; vitamins A, D, K, B₁₂ injection, folic acid, and nicotinic acid. Claims submitted for quantities less than a month's supply are to be rejected.

(c) The therapeutic class of antilipemics are to be excluded from payment. Examples of nonpayable drugs in this class are Athemol—N, Atromid—S, Choloxin, Colestid, Cytellin, Lorelco, Nicalex, and Questran.

(d) The following specific drugs are also to be excluded:

Amitriptyline Tab. 150 mg.	Motrin
Amoxicillin, All Forms	Nalfon
Clinoril	Naprosyn
Darvocet-N 50	Propoxyphene 32 mg.
Darvocet-N 100	Propoxyphene Comp. 32 mg.
Darvon-N	Propoxyphene with aspirin
Darvon N with ASA	Stero-Darvon with ASA
Indocin	Robaxisal
Melzine (Antivert)	Tetrex, All Forms
	Tolectin

(e) The program has established a price listing under which a payment will not be made in excess of the established maximum cost for certain drugs that are available from more than one manufacturer.

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

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Human Development

The Department of Health and Human Resources, Office of Human Development (OHD) does hereby exercise the emergency provisions of the Administrative Procedures Act (R.S. 49:953B) to adopt the following policy in relation to vendor payments to licensed day care centers and approved family day care homes. Effective January 1, 1979, the maximum rate of monthly payment to family day care homes is \$69.30 for each eligible child. The maximum rate of monthly payment to licensed day care centers is \$104.72 for each eligible child.

In addition, OHD is revising the eligibility criteria for day care which results in more children who become Title XX eligible to receive the service. Specifically, the criteria in regard to provision of day care has been expanded to provide that the service may be utilized in a formerly active protective service case when recommended by the service worker at the time the case is transferred to another OHD service unit. In addition, in former foster care cases the service of day care will be utilized to facilitate child and family adjustment immediately after the child is returned home from placement.

Adoption of emergency rulemaking is necessary as follows. State funds were appropriated for day care vendor payment rate increases by the 1978 Louisiana Legislature, contingent on the availability of federal funds. These federal funds were to be used in part to increase the state's vendor payment rate because of the inadequacy of present rates due to inflationary spiral. In November, 1978, P.L. 95-600, Revenue Act of 1978, releasing federal funds, was signed by President Carter. Therefore, in order to insure that day care centers have sufficient funds to meet the January 1, 1979, increase in social security taxes as well as minimum wage increases, the increase in payment rate will become effective January 1, 1979. Without sufficient funds to meet the increased costs in staff expenses, the health, safety, and welfare of many of Louisiana's children will be adversely affected by either a decrease in day care center staff or through involuntary displacement from day care center rolls.

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

DECLARATION OF EMERGENCY

Department of Natural Resources Office of Conservation

Pursuant to the provisions of R.S. 49:953B, as Commissioner of Conservation, I have adopted Emergency Rules for Practice and Procedure for All Applications and Proceedings for Determination of Well Categories under Natural Gas Policy Act of 1978.

These rules are being adopted on an emergency basis due to the Natural Gas Policy Act of 1978. The failure to adopt rules with immediate effect could cause severe disruptions or uncertainty in the supply of natural gas for public consumption during the winter period, and I do find that an imminent peril to public welfare requires this emergency action.

These rules are designed to implement and clarify applicable Federal Energy Regulatory Commission regulations as they apply to Louisiana with the minimum possible imposition of a regulatory burden.

These Emergency Rules of Practice and Procedure shall be effective on and after November 27, 1978, as amended on November 29, 1978.

* * * *

Emergency Rules Practice and Procedure for All Applications and Proceedings for Determination of Well Categories Under Natural Gas Policy Act of 1978

(Editor's Note: The forms which accompany these rules are not published here, in accordance with R.S. 49:954.1C. Copies of the forms may be obtained from the Office of Conservation, Department of Natural Resources, Box 44275, Baton Rouge, Louisiana 70804.)

1. Definitions.

A. Unless the context specifically requires otherwise any special words or terms and phrases used herein are used as defined in the Natural Gas Policy Act of 1978, applicable Federal Energy Regulatory Commission rules and regulations pertaining thereto, or applicable meanings given in Title 30 of the Louisiana Revised Statutes.

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

C. "FERC" means the Federal Energy Regulatory Commission.

D. "NGPA" means the Natural Gas Policy Act of 1978.

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

F. "District office" means one of the district offices of the Office of Conservation, State of Louisiana.

2. Applications.

2.1 Any interested person requesting the classification of a well or a reservoir pursuant to the authority granted to the Commissioner by Section 503 of the NGPA in order to determine the applicable category for any such wells or reservoirs pursuant to Title 1 of said NGPA shall:

2.2 File a written application made upon forms prescribed by the Office of Conservation, Department of Natural Resources, State of Louisiana. The original and two copies of such applications shall be filed with the Commissioner at the District Office for the district in which the subject well or reservoir is located. All applications must be completed in conformance with the Commissioner's Rules and Regulations as well as the rules and regulations of FERC before the applications will be considered by the Commissioner. An application may cover a new determi-

nation or a request for a change affecting an existing determination. An application may be amended, supplemented or withdrawn by the applicant at any time prior to the Commissioner's determination.

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

2.4 If applicant is an individual, the application shall be signed and sworn to by such individual. If applicant is a corporation, the application shall be signed and sworn to by a responsible official of such corporation. If applicant is a partnership, the application must be signed and sworn to by one general partner of the partnership.

2.5 Certify that the purchaser(s) of the natural gas has been served by delivery or by mail, postage prepaid, a copy of the application, less required supporting documents.

2.6 Include a filing fee of one hundred dollars per application to cover administrative costs.

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

3. Documents Supporting Application.

3.1 All applications must contain, prior to hearing, all information, data, forms, affidavits, plats, maps, exhibits and evidence as may be required by law or the rules and regulations of the FERC and the Louisiana Office of Conservation.

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

4. Notice; hearing.

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

- A. A statement of the time, place and nature of the hearings.
- B. A statement of the legal authority and jurisdiction under which the hearing is to be held.
- C. A reference to the particular sections of the statutes and rules involved.
- D. A short and plain statement of the matters asserted and the relief sought.

Provided, however, that unless the Commissioner, for good reason, determines otherwise, an application involving recognition of the new onshore reservoir category (§102(c)(1)(c)) shall not be brought up for hearing prior to a hearing for unitization of the subject reservoir held pursuant to the rules of the Office of Conservation. Further, the Commissioner may hear any such NGPA application and unitization hearing jointly.

4.2 Any notice filed and published pursuant hereto may cover and include more than one well or reservoir in one notice

published provided the same applicant has filed for all such well determinations or multiple determinations as to any such well.

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

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

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

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

4.4 Except with regard to applications involving recognition of the new onshore reservoir category (§102(c)(1)(C)) wherein the limits of the subject reservoir have not been subject to an Office of Conservation unitization hearing prior to the NGPA determination hearing, if there are no protests filed, an application may be considered and determined by the Commissioner by informal disposition on the basis of sworn testimony, depositions, or affidavits filed in writing with the Commissioner as well as all exhibits, forms and other matters properly filed before the Commissioner, which matters shall comprise the transcript of the hearing on which the determination is based. Each applicant, requesting an informal disposition, as such, shall file with the Commissioner an affidavit agreeing that the determination can be made by the Commissioner without the necessity of an appearance. The Commissioner may, however, in any event, upon his own motion, require an evidentiary hearing with sworn testimony and in such cases shall notify the applicant prior to the hearing date of his decision to do so.

4.5 If an interested party files a protest at the hearing on the application, and no other protest to the application has been made prior to the hearing, then the Commissioner shall continue the hearing on the application until a date determined by him at that time, and his fixing of such new hearing date as such shall be notice to the party filing the protest. Thereafter, the Commissioner shall notify the applicant of the new hearing date and shall additionally send the applicant a copy of the protest which has been filed. Failure to appear at such continued hearing will be deemed a withdrawal by the applicant or any protestant.

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

5. Rehearings.

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

- A. The decision is clearly contrary to the law and the evidence.
- B. The party has discovered since the hearing evidence important to the issues which he could not have with due diligence obtained before or during the hearing.
- C. There is a showing that issues not previously considered ought to be examined in order properly to dispose of the matter.

D. There is other good ground for further consideration of the issues and the evidence in the public interest.

Upon such application the Commissioner shall have power to grant or deny rehearing or to abrogate or modify his previous determination without further hearing. Unless the Commissioner acts upon the application for rehearing within thirty days after it is filed, such application may be deemed to have been denied.

6. Notice of Determination.

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

These emergency rules of practice and procedure shall be effective on and after November 27, 1978, as amended on November 29, 1978.

R. T. Sutton
Commissioner of Conservation

Rules

RULES

Department of Agriculture Fertilizer Commission

The Louisiana Fertilizer Commission adopted the following at its meeting of November 21, 1978:

1. Rules and regulations, statements of uniform interpretation and policy, and official terms and definitions as set forth in the Official Publication of the Association of American Plant Food Control Officials, Number 30, 1977.

2. Procedures for sampling and analysis of fertilizers as set forth in Official Method of Analysis of the Association of Official Analytical Chemists, Twelfth Edition, 1975.

The Department of the State Register has chosen to omit publication of the rules in accordance with R.S. 49:954.1C. The rules may be inspected at Room 118 Wilson Laboratories, Louisiana State University, Baton Rouge, Louisiana.

E. A. Epps, Jr., Chief Chemist
Fertilizer Commission

RULES

Department of Agriculture Market Commission

1. Approved loans will be funded or guaranteed only after the facility has been completed in accordance with the loan application. Furthermore, evidence must be submitted showing that all material suppliers and workmen have been fully paid.

2. Livestock and/or commodities will not be considered as primal security for any loan made or guaranteed by the State Market Commission.

3. No loans and/or guarantees will be extended for consolidation of previous financial obligations. See Attorney General's Opinion No. 76-165, 2/4/76.

4. Loans and/or guarantees will be extended only to facilities which process, distribute, and/or market basic raw agricultural commodities as they originate from Louisiana producers. (Previous loan requests which were determined not in compliance with the statutes include clothing manufacturing plants, nursery opera-

tions, plants producing fertilizer, agricultural chemicals, and veterinarian supplies, and feed manufacturing plants where the major ingredients are not grown in Louisiana.)

5. No loans or guarantees shall be made for any facility which is constructed on leased land unless the Market Commission has been furnished an assignment of the lease and right of re-assignment. The lease must be for a term of not less than five years beyond the term of the loan.

6. Applications for a loan guarantee shall include a letter of commitment from a lending institution setting forth the terms and conditions upon which the loan sought to be guaranteed will be made.

7. Any person indebted to the Market Commission, whether through a direct loan, participation loan, or guarantee, must carry public liability insurance on the facility in an amount of not less than five hundred thousand dollars, naming the Market Commission as an additional insured. The Market Commission must be furnished a certificate evidencing such insurance, which shall include a condition that the insurance can not be cancelled without thirty days notice to the Market Commission. In addition, the applicant must carry fire and extended insurance coverage on the facility, naming the Market Commission as a loss payee as its interest may appear.

8. An application and its supporting data must be filed in the Department of Agriculture's Office a minimum of thirty working days prior to the meeting of the Market Commission at which the application will be considered.

9. The application must include:

A. A feasibility study of the proposed enterprise.

B. A credit analysis of the principals.

C. A three-year projected cash flow statement.

D. A letter from a Department of Agriculture attorney stating the application is in compliance with the law.

E. An evaluation of management capability.

F. Turn-down letters from two area lending institutions. The Market Commission will attempt to obtain participation from local sources.

G. An explanation of how the proposed marketing facility would enhance and/or benefit the agricultural community in which it would be located.

H. A financial statement on the principals, corporations, or cooperatives prepared by a Public Accountant using acceptable accounting principles.

I. An appraisal, if an existing facility, using market data, cost and earning approaches as the basis of value. Appraisers must be approved by the Market Commission prior to submission of the appraisal.

J. An affidavit disclosing what relationship, if any, the applicant(s) may have to any state official or employee of the State Department of Agriculture.

10. Marketing specialists from the Department of Agriculture will be utilized to analyze feasibility studies, and shall report to the Market Commission.

11. It shall be a Market Commission policy that at least one Commission member make on-site inspections and familiarize himself with the proposed facility.

12. Upon completion of the facility, the applicant must submit to the Market Commission a copy of the note, the mortgage, and a mortgagee title insurance binder in favor of the Market Commission. Upon approval of these documents by a Department of Agriculture attorney, the Market Commission shall schedule a formal loan closing. On all loans to corporations, personal endorsements shall be required unless waived by unanimous vote of the Market Commission. In addition, each corporation shall furnish on the anniversary date of the loan the following:

A. Names of all stockholders and the number of shares held by each.