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# Executive Orders

## EXECUTIVE ORDER DCT 82-11

WHEREAS, the private lending institutions in Louisiana who participate in the Guaranteed Student Loan Program have expressed considerable interest in exploring the possibilities of using the Student Loan Marketing Association as a secondary market for guaranteed student loans;

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, by virtue of the authority vested in me, pursuant to the Constitution and applicable statutes of the State of Louisiana, do hereby rescind and declare null and void Executive Order 80-2 issued February 26, 1980.

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 26th day of May, A.D., 1982.

David C. Treen  
Governor of Louisiana

## EXECUTIVE ORDER DCT 82-12

WHEREAS, the Governor's Task Force on Drinking and Driving was created by the authority of Executive Order 82-2 and amended by Executive Orders 82-3, 82-6 and 82-10; and

WHEREAS, it is within the best interest of the people of our state that this task force recommend specific legislation to alleviate this severe problem;

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, by virtue of the powers vested in me as Governor, pursuant to the constitution and the applicable statutes of the State of Louisiana, do hereby direct the Governor's Task Force on Drinking and Driving to study these problems and make specific recommendations.

The Task Force shall continue under the jurisdiction of the Department of Public Safety and shall be composed of 21 members rather than the 20 as previously stipulated. The additional member shall be appointed at large.

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 27th day of May, A.D., 1982.

David C. Treen  
Governor of Louisiana

## EXECUTIVE ORDER DCT 82-13

This Executive Order is issued by virtue of authority vested in me by law, in accordance with the provisions of R.S. 39, Chapter 17:1551-1736, with reference to the subject matter covered herein. Effective as of the date of my signature below, this

Order revokes and supersedes Executive Order 80-17 dated October 20, 1980.

### R.S. 39:1596: **Small Purchases**

"Any procurement not exceeding the amount established by Executive Order of the Governor may be made in accordance with Small Purchase Procedures prescribed by such Executive Order, except that procurement requirements shall not be artificially divided so as to constitute a Small Purchase under this Section."

Therefore, pursuant to the above authority, in order to discharge my duty and responsibility as directed by the above-quoted Section of the State Statutes, it is hereby ordered that all state of Louisiana agencies shall observe and abide by the following Rules and Regulations, and provided further that all purchases shall be made through the State Purchasing Office in the Division of Administration except where specific authority to purchase any materials or supplies has been delegated in writing by the Commissioner of Administration.

Therefore, pursuant to the authority vested in me by R.S. 39:1596, all departments, institutions, boards, commissions, budget units, and any other agencies under the jurisdiction of the Executive Department of the state government shall be required to observe and be guided by the following specific directives.

**Small Purchases:** Any procurement not exceeding Five Thousand Dollars (\$5000) may be made in accordance with the following small purchase procedures, except those services defined in sub parts g which shall be small purchases regardless of price and further that procurement requirements shall not be artificially divided so as to constitute a small purchase.

1. All agencies of the State Government except those exempted under R.S. 39:1572, are authorized to purchase tagable equipment where the cost does not exceed either \$500 or the amount of the agencies purchasing authority, whichever is lower. All other tagable equipment shall be requisitioned through the State Purchasing Office of the Division of Administration, with the provision that the only exceptions shall be by written permission of the Commissioner of Administration. This in no way eliminates the requirement of purchasing equipment from State Contracts in areas where those contracts exist.

2. All agencies of the state government covered by R.S. 39: Chapter 17, wherever the cost is estimated to be above \$100, regardless of whether purchases are made by the State Purchasing Office or agencies to whom purchasing has been delegated, shall observe the following Rules and Regulations on small purchases, but maximum competitive bidding shall be obtained in all cases in accordance with R.S. 39:1655. **This Executive Order in no way affects or changes the purchasing authority which has been delegated to your agency.**

**a. Purchases under \$100.** No competitive bidding is required.

**b. Purchases over \$100 but under \$500** shall be made by receiving price quotations wherever time permits, or if time does not permit, telephone and telegraph quotations may be obtained and purchases made on the basis of the lowest quotation received, however, it shall be determined in writing why time did not permit written quotations.

**c. Purchases over \$500 but under \$2,000** shall be made by soliciting written quotations from at least five (5) bonafide prospective bidders using DA 101 and FACS 101 forms.

**d. Purchases over \$2,000 but under \$5,000.** No purchases where the estimated cost is over \$2,000 but under \$5,000 shall be made except by sending out written invitations for bids to at least eight (8) bona fide, qualified bidders. In addition, the agency may advertise at their discretion. Written invitations for bids shall contain complete specifications, the quantity required, and shall stipulate that bids will be publicly opened and read at a

## EXECUTIVE ORDER DCT 82-14

specific date and time, as well as such other pertinent information such as the delivery point and other information sufficient for a supplier to make an acceptable bid. Agencies shall follow the requirements of the Purchasing Rules and Regulations established by the Commissioner of Administration in all other aspects of purchasing except as indicated above.

**e. Purchases over \$5,000.** No purchases where the estimated cost is over \$5,000 shall be made except by advertising in accordance with R.S. 39:1594C and sending out written invitations for bids to at least eight (8) bona fide, qualified bidders and where feasible use should be made of State Purchasing's computerized vendor list. In addition, all purchases must be made in accordance with the Purchasing Rules and Regulations established by the Commissioner of Administration.

### **f. Automotive, Machinery and Equipment Parts and**

Repairs and parts associated with those repairs for Automobiles and Machinery shall be obtained by either:

(1) The use of an "Authorized Dealer". (An "Authorized Dealer" is defined as a dealer certified by the manufacturer to perform maintenance on their equipment.)

(2) Obtaining competitive bids as indicated above.

### **g. Exceptions to minimum competitive requirements:**

(1) Federal Government surplus property.

(2) Livestock for slaughter when purchased at public auction sale.

(3) Purchasing or selling transactions between State budget units.

(4) Textbooks, newspapers, subscriptions, or foreign publications, and memberships.

(5) Repairs and parts associated with those repairs for heavy equipment, airplanes, and large boats shall be obtained by the use of an authorized dealer.

Repairs and parts associated with those repairs for other equipment in excess of \$5,000 require prior approval of the Chief Procurement Officer.

(6) All public utilities, governed by Louisiana Public Service.

(7) All services provided by local government. Example: Garbage Pick-up

### **h. Telephone or telegraph quotations should be obtained for the following from at least three (3) bona fide, qualified bidders wherever possible.**

(1) Farm products which include, but may not be limited to, fresh vegetables, milk, eggs, fish, or other perishable foods.

(2) Food, materials, and supplies needed for the operation of boats in isolated localities where only limited outlets of such supplies are available.

(3) Food purchased and used in Home Economics colleges courses where purchasing, preparing, and serving is part of the regularly prescribed course.

(4) Food purchases and other materials and supplies required by juvenile Detention homes where the number of the inmates is unstable and unpredictable.

(5) Convention and meeting facilities.

(6) Gasoline and fuel purchases unless covered by a competitive contract. Gasoline and fuel purchases in excess of \$5,000, unless covered by a competitive contract, require prior approval of the Chief Procurement Officer.

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 28th day of May, A.D., 1982.

David C. Treen  
Governor of Louisiana

WHEREAS, in the response to the medical malpractice insurance crisis which became manifest in 1975 with the ever increasing cost of medical malpractice insurance coverage and the unavailability of coverage due to the threatened exodus of all medical malpractice insurance carriers from the State of Louisiana, the Legislature of Louisiana enacted Act 817 of 1975, the Medical Malpractice Act; and

WHEREAS, by the enactment of Act 817 of 1975, the Legislature of Louisiana intended to encourage the prompt settlement of valid medical malpractice claims and the abandonment of invalid claims; and

WHEREAS, the Patient's Compensation Fund was established as an integral part of Act 817 of 1975; and

WHEREAS, the Legislature of Louisiana in 1975 provided the procedure for those health care providers qualified under Act 817 to fund through individual medical malpractice insurance surcharge contributions the Patient's Compensation Fund; and

WHEREAS, the balance of the Patient's Compensation Fund for the protection of the patients of the State of Louisiana presently exceeds \$15 million; and

WHEREAS, the Legislature established the medical review panel process to provide a body of experts assembled to evaluate the patient's claim and to provide the courts and the parties with an expert medical opinion; and

WHEREAS, during the seven years of Louisiana experience under Act 817 of 1975, the medical malpractice claims filed under the provisions are reaching full maturation; and

WHEREAS, both the legal and medical professions of the state have identified and recognized certain aspects of the medical review panel process which impede the legislative intent of expeditious resolution of claims and as such are in need of study and review to adequately assure the protection of all patients of Louisiana; and

WHEREAS, the integrity of the concept and the actuarial soundness of the Patient's Compensation Fund to assure a continuing source of compensation for patient claims arising out of medical malpractice must be maintained; and

WHEREAS, both the legal and medical professions of the state desire to continue to support the expressed legislative goals of prompt resolution of medical malpractice claims and the continued availability of professional medical services to the people of Louisiana; and

WHEREAS, it is in the best interests of the people of our state to undertake this worthy pursuit;

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution of Louisiana and applicable statutes, do hereby create the Governor's Commission on Medical Malpractice.

Said commission shall study problems related to medical review panel procedures in order to assure the adequate protection of all medical patients. Said commission shall make proposals for legislation to the Governor prior to the first day of March of 1983.

BE IT FURTHER RESOLVED, the commission shall be located within the Office of the Governor and shall be composed of the following persons:

Gerald R. La Nasa, M.D., Past President, Louisiana State Medical Society;

Donald J. Palmisano, M.D., J.D., First Vice-President, Louisiana State Medical Society;

John C. Cooksey, M.D., Fifth District Counselor, Louisiana State Medical Society;

Henry Alsobrook, J.D., President, Louisiana Bar Association;

A. Kennon Goff, III, J.D., President, Louisiana Trial Lawyers Association;

William R. Carruth, Assistant Attorney General, Louisiana Department of Justice.

BE IT FURTHER RESOLVED, that the members of the commission shall receive no compensation for their service on the commission.

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 3rd day of June, A.D., 1982.

David C. Treen  
Governor of Louisiana

#### EXECUTIVE ORDER DCT 82-15

WHEREAS, rape is an act of violence which has become a problem of tragic national proportions; and

WHEREAS, in 1980, over 82,000 cases of rape were reported in the United States, 1,867 of those in Louisiana; and

WHEREAS, this problem deserves the special attention and response of the people of Louisiana;

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, by virtue of the authority vested in me, pursuant to the Constitution and applicable statutes of the State of Louisiana, do hereby create the Governor's Task Force on Rape. Said Task Force shall be composed of:

- one member representing the District Attorney's Association who shall be designated by the Governor;
- one member representing the Coroners Association who shall be designated by the Governor;
- one member representing the Stop Rape Crisis Center of Baton Rouge who shall be designated by the Governor;
- one member representing the executive director of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice who shall be designated by the Governor;
- one member representing the Commander of the Louisiana State Police who shall be designated by the Governor;
- one member representing the Louisiana Sheriff's Association who shall be designated by the Governor;
- one member representing the Louisiana Association of Chiefs of Police who shall be designated by the Governor;
- one member representing the Special Agent in charge of the Federal Bureau of Investigation for Louisiana who shall be designated by the Governor;
- one member representing the Speaker of the House of Representatives from among the membership of that body;
- one member to be designated by the President of the Senate from among the membership of that body;
- one member to be designated by the Superintendent of Education;
- one member who shall be designated by the Governor from among the faculties of the public colleges and universities in Louisiana; and
- additional members who shall serve at-large and shall be designated by the Governor.

Said task force shall be located within the Department of Public Safety and shall study the facts surrounding this problem and make specific recommendations for legislation to combat this problem.

Said task force shall make recommendations to the Governor prior to September 30, 1982 and shall disband at that time unless specifically recreated by executive order.

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 4th day of June, A.D., 1982.

David C. Treen  
Governor of Louisiana

#### EXECUTIVE ORDER DCT 82-16

WHEREAS, due to the catastrophe which occurred on July 9, 1982 at 4:10 p.m., because of the crash of Pan American World Airways Flight 759, causing the loss of life of all of the passengers and crew of Flight 759, and causing the loss of the lives of a number of persons who resided in the City of Kenner, Parish of Jefferson, Louisiana; and

WHEREAS, severe damage was caused to property and possessions owned by citizens of the City of Kenner, Parish of Jefferson; and

WHEREAS, substantial disruption of public services and utilities in the City of Kenner, and the Parish of Jefferson, Louisiana, have occurred as a result of this catastrophe; and

WHEREAS, the Chief Executive of Louisiana is required to act in the public interest in times of emergency, catastrophe, and disaster; and

WHEREAS, it is necessary and appropriate under the Constitution and the laws of this State, for the Governor, to take such action as he considers necessary and appropriate to protect lives and property to the end that existing hazards and dangers will be decreased and hopefully eliminated; and

WHEREAS, such conditions exist and valid requests have been made to him by the City of Kenner, Louisiana;

NOW, THEREFORE, by virtue of the powers vested in me to preserve law and order and to curtail and reduce the injury and danger and damage to persons and property resulting from catastrophe and disaster, I, DAVID C. TREEN, acting under the authority granted to me and the duties imposed upon me by Article 4, Section 5(A) and (J) of the Louisiana Constitution of 1974, Act 636 of 1974 as amended by Section 1 of Act 645 of 1975 (The Louisiana Disaster Act of 1974), do hereby, and for an indefinite period not to exceed 30 days from this date, order and proclaim that a state of emergency exists in the City of Kenner, Parish of Jefferson, State of Louisiana, and that the resources of all of the departments of the State of Louisiana to the extent necessary be utilized in assisting with this emergency.

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 10th day of July, A.D., 1982.

David C. Treen  
Governor of Louisiana

#### EXECUTIVE ORDER DCT 82-17

WHEREAS, the Governors of Kansas, Missouri, Arkansas, Louisiana and Oklahoma created a nonprofit corporation to act as a regional council for the purpose of performing regional planning and implementing regional governmental functions previously performed by the Ozarks Regional Commission and to perform additional future governmental functions relating to regional de-

velopment as is hereafter and from time to time authorized by the Governor members of the regional council; and

WHEREAS, the regional council created is performing functions and acting on behalf of all five member states; and

WHEREAS, the members of the organization consist exclusively of the Governors of the five states and the Board members appointed by the Governors are from among members of the Governor's cabinet or his personal staff; and

WHEREAS, there will be no private interests involved whatsoever in the control or management or decision making authority of the regional council; and

WHEREAS, the control and supervision of this organization are vested solely in the Governor members and their designated representatives; and

WHEREAS, the Governors as state members and their designated representatives have complete financial control and autonomy over the regional council and its expenditure of program and administrative funds;

NOW, THEREFORE, BE IT RESOLVED, that as of July 31, 1981, the Council of Ozarks Governors, Inc., was created to assist in developing, executing and coordinating regional programs for the states of Kansas, Missouri, Arkansas, Louisiana and Oklahoma.

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 2nd day of August, A.D., 1982.

David C. Treen  
Governor of Louisiana

#### **EXECUTIVE ORDER DCT 82-18**

WHEREAS, by Public Law 97-35, Congress established the Community Services Block Grant Program for the purpose of providing funds to the state so that it can provide a range of services having a measurable and potentially major impact on the causes of poverty; and

WHEREAS, The Congressional Act mandates that each state will provide activities designed to assist participants including the elderly poor to secure meaningful employment; to attain an adequate education; to make better use of available income; to attain adequate housing and a suitable living environment; to obtain emergency assistance through loans or grants to meet immediate needs; to remove obstacles which block self-sufficiency; and to achieve greater participation in the affairs of the community; and

WHEREAS, the Congressional Act further mandates that: the state will provide on an emergency basis supplies as may be necessary to counteract conditions of starvation among the poor; linkages with other social services programs must be established; states will encourage the private sector to help in efforts to ameliorate poverty; and

WHEREAS, all of the aforementioned are national goals and state goals which can best be accomplished by full cooperation and coordination of efforts of the federal government, the governments of the participating states, the private sector, i.e., business, industry and the communities; and

WHEREAS, this administration is aware of the urgent need to provide some coordination of the various entities involved in the attainment of these goals; and

WHEREAS, the funds have been appropriated by Congress to fund the Community Services Block Grant Program; and

WHEREAS, by participating in this program, the State of Louisiana will realize many benefits, including improved assistance to the needy and improved communications between the communities and state government;

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, by the power and authority vested in me by the Constitution and laws of the state, do hereby create and establish the Department of Labor Advisory Committee on Community Services Block Grant. Fiscal responsibility shall be vested in the State Department of Labor. The Committee shall be an inter-agency public body composed of the Secretary of Labor or his designee and approximately 23 representatives from labor, business and community based organizations/community action agencies. Selections from these groups shall be made by the Governor of the State of Louisiana;

The Committee shall:

1) Develop a mechanism by which regulations may be implemented without such regulations adversely affecting those employees and participants they seek to assist;

2) Provide a useful and viable forum for input into the regulatory and procedural processes of the Louisiana Department of Labor Community Services Block Grant;

3) Divide into subcommittees to discuss and make recommendations to the general body on specific areas so as to further promote the efficiency of the program and the committee;

4) Meet at least bi-monthly at a time to be determined by the committee to discuss and deal with any problems within the program;

5) Have as its chairperson the Secretary of Labor or he in his discretion may designate a chairperson to serve in his absence.

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 11th day of August, A.D., 1982.

David C. Treen  
Governor of Louisiana

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Agriculture Warehouse Commission

In accordance with the provisions of LSA 49:953 B and LSA 49:954 B (2), the Commissioner of Agriculture and the State Warehouse Commission hereby jointly give notice that the enactment of Act 657 of 1982, which became effective upon signature by the Governor, has created an emergency affecting the public welfare of the state insofar as the provisions of said Act necessitate emergency rule-making to implement the collection of assessments required under said Act.

Therefore, in order to carry into effect the provisions of Act 657 of 1982, the Commissioner of Agriculture and the State Warehouse Commission have each adopted the relevant provisions of the following Rule on an emergency basis:

1) The following assessments shall be collected by licensed grain dealers when commodities are purchased from producers and by licensed warehouses when commodities are removed from storage:

Rough rice - \$.005 per hundredweight  
Sugar - \$.005 per hundredweight  
Corn - \$.003 per bushel  
Soybeans - \$.003 per bushel  
Oats - \$.003 per bushel  
Milo or sorghum - \$.003 per bushel  
Wheat - \$.003 per bushel  
Cotton - \$.10 per bale, 1st 5,000 bales; \$.05 per bale, all over 5,000 bales  
Canned/frozen  
    fruits/juices/vegetables - \$.015 per case/carton  
Molasses/syrup - \$.05 per 100 gallons  
Oil - \$.10 per 100 gallons  
Pecans  
    Shelled - \$.01 per 30# carton  
    Unshelled - \$.20 per 130#

Peppers

Barrels - \$.24 per barrel  
Cisterns - \$.20 per barrel

2) The assessments collected as provided above by licensed grain dealers and licensed warehouses shall be due to the Louisiana Department of Agriculture no later than the fifteenth day after the close of each quarter.

3) Each licensed grain dealer and each licensed warehouse shall file a report of all assessments collected, on forms to be furnished by the Louisiana Department of Agriculture, at the same time as the assessments are due.

Bob Odom  
Commissioner

## DECLARATION OF EMERGENCY Board of Elementary and Secondary Education

The State Board of Elementary and Secondary Education, at its meeting of July 22, 1982, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953B, and adopted the following as an Emergency Rule:

"Regulations, Tuition Exemption Continuing Education Program for Teachers, Bulletin 1533, Revised 1982-83."

This emergency adoption is necessary because the Department of Education must print and distribute these Regulations in order to allow teachers to return to colleges and universities in the fall semester of 1982 under this program as provided by the Louisiana legislature. The effective date of this Emergency Rule is July 22, 1982.

James V. Soileau  
Executive Director

## DECLARATION OF EMERGENCY

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

The Department of Health and Human Resources, Office of Family Security, is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953B, to implement a Rule, effective September 1, 1982. The Rule will exclude the deeming of income and resources from parents and spouses to applicants who utilize any of the three Home and Community based services (Homemaker, Habilitation and Adult Day Care) in lieu of care in a Skilled Nursing Facility (SNF) or Intermediate Care Facility (ICF) (including Intermediate Care for the Mentally Retarded (ICF/MR)) which would otherwise be required. The applicants must meet all other eligibility conditions as specified in current policy.

This Rule applies only to those individuals using one of the three home and community based services who would otherwise require SNF/ICF services.

This Rule will:

- 1) Allow the provision of Medical Assistance to individuals determined to be in need of home and community based services for which they would otherwise be ineligible, because of deeming of income and resources of parents or spouse; and
- 2) Allow this agency to utilize provisions for alternative care to eliminate unnecessary utilization and reduce the cost of institutional care for eligible individuals.

Implementation of this Rule is based on a requested amendment to the approved waiver document (Section 2176 of Public Law 97 - 35) and is conditional upon approval by Health Care Financing Administration of the requested amendment to the waiver.

Roger P. Guissinger  
Secretary

## DECLARATION OF EMERGENCY

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

The Department of Health and Human Resources, Office of Family Security, has exercised those powers conferred by the emergency provision of the Administrative Procedure Act, R. S. 49:953B, to adopt the following as an Emergency Rule:

Effective August 12, 1982, the new Maximum Allowable Cost (MAC) determinations outlined below will be in effect for the following drugs:

Acetaminophen w/codeine, oral tablet 300 mg./60 mg.	0.1458
Ampicillin, oral capsule, 250 mg.	0.0422
Ampicillin, oral liquid, 125 mg/5 ml.	0.0114
Penicillin, VK, oral tablet, 250 mg.	0.0417
Penicillin, VK, oral tablet, 500 mg.	0.0649
Penicillin, VK, oral liquid, 125 mg./5 ml.	0.0109
Tetracycline HCl, oral capsule, 500 mg.	0.0394

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

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

This action will allow the Medical Assistance Program to be in compliance with Federal Regulation 45 CFR 19.5, effective August 12, 1982, which was published in the June 28, 1982, *Federal Register* (Volume 47, Number 124, pages 27968 through 27973). Compliance with these Regulations assures continued Federal financial participation in Louisiana's Medical Assistance Program.

Roger P. Guissinger  
Secretary

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

The Wildlife and Fisheries Commission does hereby exercise the emergency provision of the Administrative Procedure Act (R.S. 49:953B) to adopt, effective September 4, 1982 the following Rules and Regulations:

The Louisiana Department of Wildlife and Fisheries recommends that an alligator season be hereby established in accordance with the following regulations: No exceptions of these procedures will be permitted, and anyone taking alligators contrary to these regulations will be charge in accordance with Title 56 of the Louisiana Revised Statutes, appropriate federal laws and/or Wildlife and Fisheries Commission regulations:

1. Open Area - Alligator habitat in the State of Louisiana. Harvest quotas being rigidly controlled according to alligator population estimates within all of the state's wetland habitat types. A minimum of 620,000 alligators are present in this area outside of refuges.

2. Harvest season - The open season shall run for a 30-day period beginning on September 4, 1982, and continue through October 3, 1982. Size - no alligators under four feet in length may be taken.

3. Harvest methods - Alligators may be taken only during daylight hours, between one-half hour before official sunrise to one-half hour after sunset. Special instructions will be issued to the holders of alligator hunter licenses shortly before the opening of the season describing detailed methods regarding the skinning of alligators. Skins processed contrary to the specific requirements of the department will be considered illegal and will be confiscated by department personnel. Pole hunting is prohibited to protect the nesting female population. Hooks and lines may be set no more than one day prior to the season opening. No hook and line shall remain set after the closing day of the alligator season. All alligator hooks and lines must be checked daily and all hooks and lines must be removed when a hunter's tag quota is reached. Alligators can not be cut loose from hooks and lines for purposes of selecting larger alligators.

4. Licenses - An Alligator hunter must have in possession a valid commercial alligator hunter license to take or attempt to take, transport, or sell alligators or their skins. The fee for the resident license is \$25 per year and for the non-resident \$150. These licenses are non-transferable. In order to obtain a resident license, the hunter must have resided within the state for a period of 90 days immediately preceding the season and established bona fide residence in the state. A hunter must complete application forms provided by the department and furnish proof that he owns the land or has an agreement with the landowner or another authorized hunter to hunt alligators on the specified property. Information as to the location and acreage of the property must be provided (all land descriptions must include parish, township, range, and section delineation figures). Applications must be submitted beginning August 1, 1982. Property ownership and description requirements do not apply to public lake hunters. The alligator hunter license will be issued only after the hunter has satisfactorily

complied with the above requirements. Non-resident hunters and resident sport hunters must coordinate their hunt through land-owners and licensed resident hunters. A non-resident hunter may take no more than three alligators per season. A fur buyer license or fur dealer license is required for purchasing and handling raw alligator skins in Louisiana. An alligator parts dealer license is required of anyone purchasing alligator parts (other than hides) for resale, manufacturing, processing, and distribution; excluding a retailer selling canned alligator parts or a retailer purchasing alligator parts from a licensed alligator parts dealer. A restaurant selling prepared alligator meat for human consumption is not classified as an alligator parts dealer. The fee for the parts dealer license is \$50 per year. Persons or firms entering alligators or alligator skins and/or parts in interstate/foreign commerce in the course of a commercial activity must be licensed in accordance with state and federal regulations. Person shipping alligators, or alligator skins and/or parts to another state must do so in accordance with the regulations of that state.

5. Tagging - In addition to a valid commercial alligator hunting license, the hunter must also obtain from the department, and have in his possession while hunting, official tags which must be firmly attached to each alligator skin immediately upon taking. Numbered tags will be issued to license holders for a sum of \$5 (one fee charged regardless of the number of tags involved). The tags must be attached in the last six inches of the tail. The tag must remain attached to the skin until finally processed by the fabricator. It shall be illegal to possess alligator skins in Louisiana without valid official tags attached. Official alligator tags will be issued only to alligator hunters, and farmers and only to those who have authorized applications. The number of tags will be issued on the basis of the quantity and quality of the habitat, and the rate per acre will be fixed based on extensive population estimates. Tags will be issued for alligator habitat only, based on final decision of department biologists. Tags issued on public lakes are non-transferable and limited to two per hunter. No more than this fixed number of tags will be issued. Each official tag will bear a characteristic number, and the tag numbers issued to each hunter will be recorded. *Unused tags must be returned by the hunter to the department no later than 15 days following the close of the season.* Lost or stolen tags will not be replaced but must be reported within 15 days of close of season. Tags can be used only on the lands applied for and approved on the application. Tags furnished by the Louisiana Department of Wildlife and Fisheries must be attached to all alligators meat/parts upon transfer by a hunter or farmer.

6. Alligator Farmers and Breeders - Licensed alligator farmers or breeders will be issued permits to kill and skin their alligators but must follow the same Rules and Regulations which apply to wild alligators (except farm alligators can be harvested during closed season with department approval).

7. Harvest Rates - Tags will be issued on the following basis, with the exception of alligator farmers, breeders and the nuisance complaint program. (See following pages.)

8. Sale of Alligator Skins - All alligator skins taken during the alligator season must be validated by personnel of the Louisiana Department of Wildlife and Fisheries prior to the hides leaving the state. Special skinning instructions will be verified, and any skins not prepared according to instructions issued in advance of season will be considered illegal. Buyers/dealers must abide by special skinning instructions or be subject to forfeiture of improperly skinned hides.

9. Buyer/Dealer Hide Records - All buyers and dealers

making purchases of alligator hides shall maintain a complete set of records of all purchases and sales. Such records will include names and addresses of buyers and/or sellers, alligator hide tag number and length, and date purchased. Dealers will submit reports as required by the department for all hides purchased/sold. Every buyer or dealer having raw alligator hides in his possession shall file with the department within sixty days after the close of the alligator season, or prior to shipping out of state, a complete report as specified on forms provided by the department.

10. Shipment - All interstate shipments of raw alligator skins must be tagged with official out-of-state shipping tags provided by the department. All shipments of skins within the state must be tagged with official Louisiana Department of Wildlife and Fisheries in-state shipping tags. A severance tax of 25¢ per hide must be paid on all out-of-state shipments at the time skins are transported or shipped.

11. Sale of Meat and Parts - Meat and other parts from lawfully taken alligators can only be sold according to Louisiana Health Department regulations, Louisiana Department of Wildlife and Fisheries regulations, and federal laws. Alligator meat sold for human food must be processed in a facility approved by the Louisiana Health Department. Alligator hunters, farmers, and parts dealers shall maintain records of all transactions, purchases, and sales on forms provided by the department. These forms shall be submitted to the department within 30 days following the close of the season and thereafter at 60-day intervals until all parts are sold. All alligator meat and parts, excluding hides, shall be tagged with an official alligator parts tag (Color: Blue) to be furnished by the department. Hunters, farmers, and dealers shall furnish a bill of sale to all retailers and restaurants purchasing alligator parts. This bill of sale shall be maintained for a period of six months.

12. Nuisance Removal Program - A statewide alligator nuisance removal program will be administered on an annual basis. This program will allow the taking of problem alligators within the confines of municipal, ward, parish, or state responsibility where there are alligator-people conflicts. Alligators taken under this program must be taken in accordance with state regulations and local regulations/ordinances. Skinning instructions issued by the department will be for one calendar year. This nuisance removal program depends upon close cooperation of state, parish, and local authorities. Tags may be issued by the department to an approved licensed hunter who has been designated by department supervisory personnel or officials of a local governing body. The number of tags issued will be based on the number of complaints received and the quantity and quality of alligator habitat involved. The commission is hopeful this program will lessen the threat to people and property by reducing human/alligator contact.

13. Hunting on Public Lakes - The department may select public lakes for an experimental alligator hunting program. The harvest will be controlled by a tag allotment for each lake as determined by population surveys by department personnel. An alligator hunter can receive tags for and hunt on only one public lake each season. The tag quota for a public lake is two per hunter. Alligator tags issued on public lakes are non-transferable. In the event that the number of applicants for any particular public lake exceeds the number of allowable hunters, a public drawing will be held to select hunters. Applications for public lake hunting must be received at least 10 days prior to the season opening date.

Jesse J. Guidry  
Secretary

Parish	Tag Allotment/Marsh Type		
	Brackish	Intermediate	Fresh
Cameron Calcasieu	1:200	1:100	1:100
Jeff Davis			1:100
Vermilion	1:150	1:100	1:225
Iberia St. Mary	1:200	1:200	1:200
Terrebonne	1:250	1:125	1:150
Lafourche	1:400	1:225	1:100
St. Charles	1:400	1:100	1:100
St. John the Baptist			1:100
Jefferson	1:250	1:225	1:150
Orleans	1:500	1:225	1:225
Plaquemines	1:400	1:225	1:225
St. Bernard	1:475	1:225	
St. Tammany	1:150	1:150	1:150
Tangipahoa			1:200
Swamp	1:320		
Dewatered Marsh	1:500		

1982 NON-MARSH ALLIGATOR TAG ALLOTMENT BY DISTRICT AND PARISH  
LAKE REGION<sup>1</sup>

DISTRICT	PARISH	HABITAT	ACRES OF HABITAT	TAG ALLOTMENT	ACRES/TAG	REMARKS
I	Caddo	Cross Lake	500	10	50	Experimental Harvest
	Bossier	Flag Lake	500	10	50	"
	DeSoto	*Clear Lake	1,500	50	30	"
		**Smithport Lake	1,500	50	30	"
		Bayou Pierre Brake	3,000	30	100	Private Property
	DeSoto-Caddo	Wallace Lake	2,000	20	100	Experimental Harvest
II	Ouachita	Black Bayou Lake	720	15	50	Experimental (Private)
		Cheniere Brake	1,000	10	100	Experimental
III	Grant	Iatt Lake	3,000	20	150	Experimental Harvest
	Rapides	Indian Creek	500	10	50	"
		Cotile Lake	400	10	40	"
		Kincaid Lake	550	10	55	"
	Rapides- Evangeline	Cocodrie Lake	4,000	20	200	"
	Natchitoches	Black Lake	2,400	12	200	"
	Winn	Saline Lake	2,400	12	200	"

DISTRICT	PARISH	HABITAT	ACRES OF HABITAT	TAG ALLOTMENT	ACRES/TAG	REMARKS
III	Vernon	Anacoco Lake	1,000	10	100	Experimental Harvest
		Vernon Lake	400	8	50	"
IV	Caldwell	Horseshoe Lake	300	10	30	Experimental Harvest
		Jones Brake	200	10	20	"
		Dizzy Brake	160	10	16	Experimental (Private)
	Concordia	Lower Sunk Lake	600	12	50	"
	Tensas	Lake St. Joseph	500	26	20	"
402 V	Beauregard	Bundick Lake	1,750	12	150	Experimental Harvest
	Evangeline	Chicot Lake	1,625	16	100	"
		Miller's Lake	3,000	30	100	Experimental (Private)
VI	Avoyelles	Grassy Lake W.M.A.	760	15	50	Experimental Harvest
		Spring Bayou W.M.A.	3,240	32	100	"

<sup>1</sup>Any private alligator habitat determined by Dept. personnel to have a reproducing population may be issued tags at the rate of one tag per 75 acres of habitat.

\*North of La. 509 Bridge

\*South of La. 509 Bridge

## 1982 NON-MARSH ALLIGATOR TAG ALLOTMENT BY PARISH

## CYPRESS-TUPELO SWAMP REGION

DISTRICT	PARISH	ACRES OF HABITAT	TAG ALLOTMENT	ACRES/TAG	REMARKS
VI	Iberville	29,880	93	320	Tag allotment based upon night counts, alligator model and harvest rate of 7% of harvestable size animals.
	Lafayette	1,200	4	320	
	Pointe Coupee	1,000	3	320	
	W. Baton Rouge	7,040	22	320	
VII	Ascension	40,320	126	320	
	E. Baton Rouge	2,000	6	320	
	Livingston	66,720	208	320	
	St. Tammany	28,457	89	320	
	Tangipahoa	36,181	113	320	
VIII	Assumption	98,560	308	320	
	Iberia	31,550	99	320	
	LaFourche	112,350	351	320	
	St. Charles	39,340	123	320	
	St. James	76,960	241	320	
	St. John	104,320	326	320	
	St. Mary	60,190	188	320	
	Terrebonne	43,014	134	320	

1982 NON-MARSH ALLIGATOR TAG ALLOTMENT BY PARISH  
 ATCHAFALAYA BASIN REGION

DISTRICT	PARISH	ACRES OF HABITAT	TAG ALLOTMENT	ACRES/TAG	REMARKS
VI	Iberville	86,540	115	750	Tag allotment based upon night counts, alligator model and harvest rate of 7% of harvestable size animals.
	Pointe Coupee	3,700	5	750	
	St. Landry	17,240	23	750	
	St. Martin	113,550	151	750	
VIII	Iberia	39,980	53	750	
	St. Martin	80,000	107	750	
	St. Mary	13,560	18	750	

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

The Wildlife and Fisheries Commission hereby exercises the emergency provision of the Administrative Procedure Act (R.S. 49:953B) to adopt, effective September 8, 1982 the following Rules and Regulations:

WHEREAS, the natural oyster reefs (oyster seed grounds) under the managerial supervision of the Louisiana Wildlife and Fisheries Commission must open on the first Wednesday following Labor Day, September 8, 1982, as provided for by Louisiana Law Title 56, Section 433, which also authorized the Commission to regulate the size limit and area closures after January 1 of each year on state controlled grounds, and

WHEREAS, "Oyster Seed Reservations" are small portions of the "Oyster Seed Grounds" managed and controlled for seed oyster production which are opened on alternate years.

NOW THEREFORE BE IT RESOLVED that the Louisiana Wildlife and Fisheries Commission does hereby open the "Hackberry Bay (Du Chene) Oyster Seed Reservation" and the "Sister Lake (Caillou Lake) Oyster Seed Reservation" in accordance with Louisiana Law Title 56, Section 433, which opens said season one-half hour before sunrise on the first Wednesday following Labor Day, September 8, 1982. Said season shall remain open with the same regulations as the regular oyster season; however, the secretary shall be authorized and empowered to close the two areas if it is deemed necessary by biological investigations and sampling.

BE IT FURTHER RESOLVED that the "Sister Lake Oyster Seed Reservation" will be operated utilizing a permit system.

Jesse J. Guidry  
Secretary

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

The Louisiana Wildlife and Fisheries Commission does hereby exercise the emergency provision of the Administrative Procedure Act (R.S. 49:953B) to adopt the following Rules and Regulations:

WHEREAS, The Louisiana Department of Wildlife and Fisheries owns the Pointe au Chein Wildlife Management Area located in Lafourche and Terrebonne Parishes, and

WHEREAS, Edaphic conditions have gradually changed to one of a more saline condition, and

WHEREAS, A water area known as Wonder Lake near the community of Montegut, Louisiana, has converted from a fresh water to a salt water lake, and

WHEREAS, This lake does support large numbers of marine organisms such as shrimp, and

WHEREAS, A portion of the lake is on private property and is open for shrimp trawling, and

WHEREAS, It is difficult to determine the boundary lines between the private property and the Department-owned property, and

WHEREAS, The harvest of shrimp from the portion of the lake on the Department of Wildlife and Fisheries' property would not adversely affect the overall management of the area, and

WHEREAS, To permit public utilization of this portion of the Game Management Area for the 1982 Fall shrimp season, scheduled to open on the third Monday of August, 1982, emergency provisions are hereby invoked:

NOW THEREFORE, BE IT RESOLVED, That the Louisiana Wildlife and Fisheries Commission does hereby amend its regulations pertaining to the Pointe au Chein Wildlife Management Area to permit daytime trawling in that portion of the Game Management Area known as Wonder Lake.

BE IT FURTHER RESOLVED, That this action is being taken under the emergency procedure provisions in order to make the area available to the public for the 1982 Fall shrimp season.

Jesse J. Guidry  
Secretary

# Rules

## RULE

### Department of Commerce Racing Commission

LAC 11-6:53.37.1

The following procedure is hereby established for the testing of a split or referee sample.

After a horse has voided and its urine collected for testing, the volume of urine collected shall be split or divided into approximately equal parts, one being processed for initial laboratory testing for the detection of the presence of prohibited drugs or substances therein. The remaining part shall be identified as the split or referee sample to be processed for future testing under the procedures hereby established. Both parts shall be treated with a proper amount of ascorbic acid to preserve the sample against deterioration of the sample ingredients.

Should blood be drawn at the test or retaining barn for testing, it shall be split or divided in approximately equal parts to be processed for testing by the initial test and the split is referee test if timely requested. If the blood is from a two year old horse, the specimen tag shall so indicate.

The veterinarian in charge of the test barn shall indicate on the specimen or sample tag sent to the chemical testing laboratory along with any sample the fact that the specimen was taken from a two year old horse.

Within five days from the date the stewards notify a trainer that the initial laboratory test on a urine or blood specimen from a horse entered and raced by him was positive for the presence of a prohibited drug or substance, the trainer must request the stewards to have the split or referee sample tested by an alternate laboratory as provided herein. At the time of his request the trainer must deposit the sum of \$300 with the stewards to cover all expenses to be incurred in testing the split or referee sample. The stewards shall forward the \$300 deposit to the state chemical testing laboratory. Failure of a trainer to make a timely request to the steward constitutes a waiver of any and all rights to have the split or referee sample tested.

A trainer timely requesting a testing of a split or referee sample may select any one of the laboratories, classified and designated as alternate laboratories, to perform the testing.

Ray Vanderhider  
Chairman

## RULE

### Board of Elementary and Secondary Education

Rule 4.01.93(1)

The Board adopted the *Standards for Compliance and Accreditation Program* for public elementary and secondary education.

Rule 4.03.01

The Board adopted the Louisiana Program Plan for the Administration of Vocational Education - Five Year Plan, 1983 - 1987.

Rule 9.00.50

The Board adopted Revised Bulletin 1191, *School Transportation Handbook* (1982).

James V. Soileau  
Executive Director

## RULE

### Board of Trustees for State Colleges and Universities

8.5D Class Attendance Regulations for the Colleges and Universities Under the Control of the Board

D. When a freshman or sophomore student receives excessive unexcused absences (ten percent of the total classes), the instructor may recommend to the student's academic dean that he be withdrawn from the rolls of that class and given an appropriate grade.

Bill Junkin  
Executive Director

## RULE

### Office of the Governor Division of Administration

#### [Policy & Procedure Memorandum No. 49 (Revised) 8-82]

Subject: General Travel Regulations

In accordance with the authority vested in the Commissioner of Administration by Section 231 of Title 39 of the Revised Statutes of 1950 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:951-968 as amended, notice is hereby given of the revision of Policy and Procedures Memorandum No. 49, the State General Travel Regulations, effective August 20, 1982. These amendments are both technical and substantive in nature and are intended to clarify certain portions of the previous regulations or provide for more efficient administration of travel policies. These regulations apply to all State departments, boards, and commissions created by the Legislature or Executive Order, with the exceptions noted below,

and operating from funds appropriated, dedicated, or self-sustaining; federal funds; or funds generated from any other source.

Legal Basis - L.R.S. 39:231 - "The Commissioner, with the approval of the Governor, shall prescribe Rules defining the conditions under which each of various forms of transportation may be used by State officers and employees and used by them in the discharge of the duties of their respective offices and positions in the State service and he shall define the conditions under which allowances will be granted for all other classes of traveling expenses and the maximum amount allowable for expenses of each class."

I. Definitions: For the purpose of this Section, the following words have the meaning indicated.

A. State Officer

1. State Elected Officials

2. Department Head as defined by Title 36 of the Louisiana Revised Statutes. (secretary, deputy secretary, under-secretary, assistant secretary, and the equivalent positions in Higher Education and the Offices of Elected Officials.)

B. State Employee - Employees below the level of state officer

C. Authorized Persons

1. Advisors and consultants who are called upon to contribute time and services to the state who are not otherwise required to be reimbursed through a contract for professional, personal, or consulting services in accordance with R.S. 39:1481 et. seq.

2. Members of boards, commissions, and advisory councils required by federal or state legislation or regulation. Travel allowance levels for all such members and any staff shall be those authorized for state employees unless specific allowances are legislatively provided.

3. Other persons performing official state business who have prior approval for travel from the Commissioner of Administration.

D. Official Domicile

1. Except where fixed by law, the official domicile of an officer or employee assigned to an office shall be, at a minimum, the city limits in which the office is located. The Department head or his designee should determine the extent of any surrounding area to be included, such as parish or region. As a guideline, a radius of at least 30 miles is recommended. The official domicile of an authorized person shall be the city in which the person resides, except when the department head has designated another location (such as the person's workplace).

2. The official domicile of a person located in the field shall be the city or town nearest to the area where the majority of work is performed, or such city, town, or area as may be designated by the department head, provided that in all cases such designation must be in the best interests of the agency and not for convenience of the person.

3. Every state officer, employee, and authorized person, except those on temporary assignment, shall be assigned an official domicile, and no travel or subsistence expenses shall be allowed at the place of official domicile unless granted under the provisions of Section II or IV. Documentation of official domicile assignments shall be readily available in the department's travel reimbursement files.

E. Temporary Assignment - Any assignment made for a period of less than thirty-one consecutive days at a place other than the official domicile.

F. Traveler - A state officer, state employee, or authorized person when performing authorized travel.

G. Travel Period - A period of time between the time of departure and the time of return.

H. In-State Travel - All travel within the borders of

Louisiana or travel through adjacent states between points within Louisiana when such is the most efficient route.

I. Out-of-State Travel - Travel to other states within the continental United States. Travel through an adjacent state when this is the most efficient route between points within Louisiana is not considered out-of-state travel for the purpose of these regulations.

J. International Travel - All travel outside the 48 contiguous states.

K. Special Meals - Reimbursement designed for those occasions when, as a matter of extraordinary courtesy or necessity, it is appropriate and in the best interest of the state to use public funds for provision of a meal to a person who is not otherwise eligible for such reimbursement. Examples include:

1. Visiting dignitaries or executive-level persons from other governmental units, and persons providing identified gratuity services to the State, when such persons are not being reimbursed from other sources for the expenditure directly or indirectly. This explicitly does not include normal visits, meetings, reviews, etc. by federal or local representatives.

2. Bona-fide official business meetings at which a meal is served and it is required to meet during a meal hour.

3. Extraordinary situations when state employees are required by their supervisors to work more than a twelve hour weekday or six hour weekend day (when such are not normal working hours) to meet crucial deadlines or to handle emergencies.

II. Exceptions to Regulations: The Travel Regulations established by the Commissioner of Administration shall govern reimbursement of travel expense (transportation, meals, lodging, and miscellaneous expenses) for all travelers with the following exceptions.

A. Where allowances are fixed by law.

B. Where the best interests of the state call for exceptions; however, no change from the established regulations will be allowed without first securing prior written approval from the Commissioner of Administration. After-the-fact approvals will be granted only under the most unusual of circumstances.

C. Department heads may establish travel regulations within their respective agencies, but such regulations shall not exceed the maximum limitations established by the Commissioner of Administration. Three copies of such regulations shall be submitted for prior review and approval by the Commissioner of Administration.

D. Department heads, may, in special instances, allow their employees to exceed the lodging and meal provisions of these regulations by no more than twenty percent on a case-by-case basis. Each case must be fully documented as to necessity (e.g., proximity to meeting place) and cost effectiveness of alternative options. Documentation must be readily available in the department's travel reimbursement files. This authority shall not be delegated to any other person.

III. Eligibility for Reimbursement of Travel Expenses:

A. Travelers are eligible to receive reimbursement for travel only when away from "official domicile" or on temporary assignment unless reimbursed under provisions of Section II or IV. Temporary assignments will be deemed to have ceased after a period of thirty-one calendar days, and after such period the place of assignment shall be deemed to be his/her official domicile. He/she shall not be allowed travel and subsistence unless permission to extend the thirty-one day period has been previously secured from the Commissioner of Administration.

B. A traveler whose residence is other than the official domicile of his/her office shall not receive travel and subsistence while at his/her official domicile nor shall he/she receive reimbursement for travel to and from his/her residence, unless exception has

been granted under Section II.

C. State Officers and others so authorized by statute or individual exception will be reimbursed on an actual expenses basis for all reasonable travel expenses except in cases where other provisions for reimbursement have been made by statute. In cases where actual expenses are claimed, all state officers and others so authorized will cooperate to the extent that all records of travel will be clear and complete. The request for reimbursement must be accompanied by a receipt or other supporting document for each item claimed, with the exceptions noted in Section VI.H. The "actual expense" status relates only to meal and lodging limitations. All other limitations, procedures, and allowances in these regulations apply to all elected and appointed state officials, unless exception has been granted by the Commissioner of Administration. Any prior exception granted is declared null and void.

IV. Authority to Incur Traveling Expenses:

A. All travel must be authorized and approved in writing by the head of the department, board, or commission from whose funds the traveler is paid. A department head may delegate this authority in writing to one designated person, except as noted in Sections II.D, IV.D and V.B.6. Additional persons within a department may be designated with approval from the Commissioner of Administration. A file shall be maintained on all approved travel authorizations.

B. Traveling expenses of travelers shall be limited to those expenses necessarily incurred by them in the performance of a public purpose authorized by law to be performed by the agency, and must be within the limitations prescribed.

C. The department head may approve an authorization for routine travel for an employee who must travel in the course of performing his/her duties; this may include domicile travel if such is a regular and necessary part of the employee's duties, but not for attendance at infrequent or irregular meetings, etc. *Within the city limits where his/her office is located, the employee may be reimbursed for mileage only. The Department head shall determine the appropriateness of reimbursement for meals if travel is outside the city limits but within the domicile and otherwise meeting the requirements of Sections VI. B. and C. This should be noted on the routine travel authorization for the employee or approved on a case by case basis.*

An authorization for routine travel shall not cover travel between an employee's home and workplace, out-of-state travel, or travel to conferences or conventions and must be renewed each fiscal year.

D. All international travel must be approved by the Commissioner of Administration prior to departure, unless specific authority for approval has been delegated to a department head pursuant to Section II.C of these regulations. Requests for approval must be accompanied by a detailed account of expected expenditures (such as room rate/day, meals, local transportation, etc.), the funding source from which reimbursement will be made, and an assessment of the adequacy of this source to meet such expenditures without curtailing subsequent travel plans. Reimbursement for international travel will not exceed the high cost area rates unless prior approval is specifically sought and granted by the Commissioner of Administration. Such requests must be documented as to the necessity to incur such expenses. (See VI.I)

E. All special meals must have prior approval from the Commissioner of Administration in order to be reimbursed, unless specific authority for approval has been delegated to a department head for a period not to exceed six months (which may be rescinded at any time). In such cases, the department head will report on a monthly basis to the Commissioner of Administration all special meal reimbursements made during the previous month. These reports must include, for each special meal, the name and title of the person requesting reimbursement, the name and title of

each recipient and the cost of each meal (noting alcohol costs not reimbursable), and an explanation as to why the meal was in the best interest of the state. Renewal of such delegation will depend upon a review of all special meals authorized and paid during the period. Documentation (all receipts, authorizations, etc.) shall be on file in the department head's office for review by DOA and the Legislative Auditor. Any prior approvals or understandings in this regard are not applicable. Requests to the Commissioner for special meal authorization must include, under signature of the department head:

1. Name and position of the state officer or employee requesting authority to incur expenses and assuming responsibility for such.
2. Clear justification of the necessity and appropriateness of the request, including why such is in the best interests of the state.
3. Names, official titles, and affiliations of all persons for whom reimbursement of meal expenses is being requested, and whether reimbursement for such is available to each person from another source.
4. Statement that reimbursement limitations found in Section VI.C.1 will be followed.

#### V. Transportation (Applicable to all travelers):

A. Travel Routes - The most direct and usually traveled route must be used by official state travelers. All mileage shall be computed on the basis of odometer readings or from point of origin to point of return on the basis of the current official state Department of Transportation and Development highway map. For out-of-state travel, mileage shall be computed on the basis of standard highway guides. Any substantial deviations from distances shown in the standard highway guides shall be documented.

B. Method of Transportation - The most cost-effective method of transportation that will accomplish the purpose of the travel shall be selected. Among the factors to be considered should be length of travel time, cost of operation of a vehicle, cost and availability of common carrier services, etc.

1. State-owned vehicles shall be utilized for travel to points within Louisiana whenever possible unless another method of transportation can be documented as more efficient.

2. When common carrier services are unavailable and time is at a premium, travel via state aircraft shall be investigated, and such investigations shall be documented and readily available in the department's travel reimbursement files.

3. A common carrier (train, bus or airplane) shall be used for out-of-state travel unless it is documented that utilization of another method of travel is more cost-efficient or practical and approved in accordance with these regulations.

4. A personally-owned vehicle may be approved for use when a state vehicle or common carrier is not available or appropriate and this has been certified by the traveler's supervisor.

5. Before travel by privately-owned aircraft is authorized by a department head, the traveler shall certify that: a) at least one hour of working time will be saved by such travel; and b) no other form of transportation, such as commercial air travel or a state plane, will serve this same purpose. Chartering a privately-owned aircraft at any rates higher than those permitted by Section VI.A.7. must have prior written approval of the Commissioner of Administration.

6. Written approval of the department head prior to departure is required for the rental of vehicles. Such approval may be given when it is shown that vehicle rental is the only or most economical means by which the purposes of the trip can be accomplished. In each instance, documentation showing cost effectiveness of available options must be readily available in the

department's travel reimbursement files. This authority shall not be delegated to any other person.

#### C. Operation of Motor Vehicles on Official State Business

1. No vehicle may be operated in violation of state or local laws. No traveler may operate a vehicle without having in his/her possession a valid state driver's license.

2. If available, safety restraints shall be used by the driver and passengers of vehicles.

3. All accidents, major and minor, shall be reported first to the local police department or appropriate law enforcement agency. An accident report form, available from the Office of Risk Management (ORM) of the Division of Administration, should be completed as soon as possible and returned to ORM, together with names and addresses of principals and witnesses. An accident report concerning state-owned vehicles shall also be filed with the insuring agency, Travelers Insurance Company, as soon as possible. The branch closest to the official domicile of the vehicle should be contacted. Any questions about this should be addressed to the Office of Risk Management of the Division of Administration. These reports shall be in addition to reporting the accident to the Department of Public Safety as required by law.

4. Unauthorized persons should not be transported in state or privately-owned vehicles during the conduction of official state business. Approval of exceptions to this policy may be made by the traveler's supervisor if he determines that the best interests of the state will be served and if the passenger (or passenger's guardian) signs a statement acknowledging the fact that the state assumes no liability for any loss, injury, or death resulting from said travel.

#### D. State-owned Automobiles

1. All purchases made on state gasoline credit cards must be signed for by the approved traveler making the purchase. The license number and the unit price and quantity of the commodity purchases must be noted on the delivery ticket by the vendor. Items incidental to the operation of the vehicle may be purchased via state gasoline credit cards only when away from official domicile on travel status. In all instances where a credit card is used to purchase items or services which are incidental to the operation of a vehicle, the tissue copy of the credit ticket along with a written explanation of the reason for the purchase will be attached to the report required in Item 3 of this Section.

2. Travelers in state-owned automobiles who purchase needed repairs and equipment while on travel status shall make use of all fleet discount allowances and state bulk purchasing contracts where applicable. Each agency/department shall familiarize itself with the existence of such allowances and/or contracts and the location of vendors by contacting the Purchasing Office, Division of Administration.

3. The user of each state-owned automobile shall submit a monthly report to the department head, board, or commission indicating the number of miles traveled, odometer readings, credit card charges, dates, and places visited. When an agency car pool vehicle is used, the traveler, upon returning the vehicle to the pool, shall report the operating condition of the vehicle to the person designated as the responsible assigning officer.

4. State-owned vehicles may be taken out of state only if permission of the department head has been given prior to departure. If a state-owned vehicle is to be used to travel to a destination more than 500 miles from its usual location, documentation that this is the most cost-effective means of travel should be readily available in the department's travel reimbursement files.

#### E. Personally-Owned Vehicles

1. No personally-owned vehicle may be used on official state business unless prior written approval by the traveler's supervisor, conforming to Section IV.A. and IV.B., has been granted.

2. When two or more persons travel in the same personal-

ly-owned vehicle, only one charge will be allowed for the expense of the vehicle. The person claiming reimbursement shall report the names of the other passengers.

F. Rented Motor Vehicles

Department heads shall send to the Commissioner of Administration a monthly report listing each instance in which a vehicle has been rented and showing the name of the renter, the type of vehicle, the location where the vehicle was rented, the number of days of rental, the total expense, and the source of funds. Non-conformance with this provision will result in suspension of the department's authority to approve vehicle rental.

VI. Reimbursement for Transportation, Lodging, Meals, and Other Expenses

A. Transportation

1. A mileage allowance shall be authorized for travelers approved to use personally-owned vehicles while in the conduct of official state business. There will be no reimbursement for mileage incurred commuting to/from one's residence to his official domicile, unless previously mentioned exception has been granted. Mileage shall be reimbursable on the basis of 21¢ per mile. Mileage shall be computed as provided for in Section V.A. When the use of a privately-owned vehicle has been approved in accordance with Sections V.B.4. or V.B.5. for out-of-state travel, the traveler will be reimbursed on the basis of 21¢ per mile not to exceed the cost of travel by coach/economy class air rates. Reimbursement shall be on the basis of the most direct route. The traveler shall be required to pay all operating expenses of the vehicle such as, but not limited to, fuel, repairs, replacement of parts and insurance.

2. Travelers using motor vehicles on official state business will be reimbursed for necessary storage and parking fees, ferry fares, and road and bridge tolls.

3. State-owned credit cards will not be issued to travelers for use in the operation of privately-owned vehicles.

4. In no case will a traveler be allowed mileage or transportation when he/she is gratuitously transported by another person.

5. When a traveler is required to regularly use his/her personally-owned vehicle for agency activities, the agency head may request authorization from the Commissioner of Administration for a lump sum allowance for transportation or reimbursement for transportation (mileage) as provided in Section VI.A.1. Request for lump sum allowance must be accompanied by a detailed account of routine travel listing exact mileage for each such route. Miscellaneous travel must be justified by at least a three-month travel history to include a complete mileage log for all travel incurred, showing all points traveled to or from and the exact mileage. Requests for lump sum allowance shall be granted for periods not to exceed one fiscal year.

6. Commercial air travel will be reimbursed only at coach or economy class rates. The difference between the air coach or economy class rates and first class air rates will be paid by the traveler, if the travel was performed at first class air rates. If space is not available in less than first class air accommodations in time to carry out the purpose of the travel, the traveler will secure a signed statement from the airline indicating this fact and attach such to the travel voucher.

7. Reimbursement for use of a privately-owned aircraft under the guidelines of Section V.B.5. will be made as provided for in VI.A.1. or the cost of coach/economy class commercial air rates, whichever is less.

B. Lodging and Meals

1. Meals only (including tips): Except as provided in Section II.D., travelers may be allowed up to the following amounts for meals:

Breakfast	\$4.00
Lunch	\$5.00
Dinner	\$9.00
	\$18.00

2. Travelers may be reimbursed for meals according to the following schedule:

Breakfast: When travel begins at/or before 6 a.m. on the first day of travel, or extends beyond 9 a.m. on the last day of travel, and for any intervening days.

Lunch: When travel begins at/or before 10 a.m. on the first day of travel, or extends beyond 2 p.m. on the last day of travel, and for any intervening days.

Dinner: When travel begins at/or before 4 p.m. on the first day of travel, or extends beyond 8 p.m. on the last day of travel, and for any intervening days.

3. Lodging only - Except as provided in Section II.D., travelers may be reimbursed actual expenses for lodging not to exceed \$40 (plus tax) per day. Receipts from a bona fide hotel or motel for lodging shall be submitted and attached to the travel voucher.

C. Lodging and Meals in High Cost Areas

1. Meals only (including tips) - Except as provided in Section II.D., travelers on official state business in high cost areas as designated in Section VI.C.5., may be reimbursed up to the following amounts for single meals, or a total of \$26 per day, if receipts are attached.

Breakfast	\$5.00
Lunch	\$7.00
Dinner	\$14.00
	\$26.00

If the request for reimbursement for meals is not over \$18.00 for a single day, receipts for that day will not be required. It is recommended that all employees in high cost and extra high cost areas who anticipate meal expenses of over \$18 per day make plans to receive receipts for all meals.

2. Travelers may be reimbursed for meals according to the same schedule as that in Section VI.B.2.

3. Lodging only - Except as provided in Section II.D., travelers may be reimbursed actual expenses for lodging not to exceed \$55 (plus tax) per day. Receipts from a bona fide hotel or motel for lodging shall be submitted and attached to the travel voucher.

4. High Cost Areas: Atlanta, Georgia; Baltimore, Maryland; Boston, Massachusetts; Chicago, Illinois; Dallas, Texas; Denver, Colorado; Detroit, Michigan; Houston, Texas; Las Vegas, Nevada; Los Angeles, California; Miami, Florida; Minneapolis-St. Paul, Minnesota; New Orleans, Louisiana; Orlando, Florida; Philadelphia, Pennsylvania; Pittsburgh, Pennsylvania; St. Louis, Missouri; Salt Lake City, Utah; San Francisco, California; Seattle, Washington.

5. The inclusion of suburbs of these cities as high cost areas shall be determined by the department head on a case-by-case basis.

D. Lodging and Meals in Extra High Cost Areas

1. Meals only (including tips): Except as provided in Section II.D., meals may be reimbursed in accordance with guidelines in Section VI.C.1,2.

2. Lodging only: Except as provided in Section II.D., employees may be reimbursed actual expenses for lodging not to exceed \$70 (plus tax) per day. Receipts from a bona fide hotel or motel for lodging shall be submitted and attached to the travel voucher. The traveler still has the responsibility to save the state money by seeking the least expensive, appropriate lodging; sharing rooms when appropriate; requesting government discounts; etc.

3. Extra-High Cost Areas: New York City, New York; Washington, D.C. (and immediate suburbs).

E. Other Expenses - Only the following expenses incidental to travel may be reimbursed.

1. Communication expense relative to official state business.

2. Conference room rental or other extraordinary expenses with prior approval from the Commissioner of Administration and when not funded from another source.

3. Registration fees at conferences (meals that are a designated integral part of the conference may be reimbursed on an actual expense basis with prior approval by the department head).

4. Charges for storage and handling of equipment.

5. Taxi and bus fares.

6. Tips (for baggage handling only).

7. Limousine services to and from terminals or stations, when a less expensive mode is not available.

8. Vehicle rental, when documented and approved as required in Section V.B.6.

(a) Only the cost of rental of sub-compact or compact models is reimbursable, unless non-availability is documented, or the vehicle will be used to transport more than three persons.

(b) Collision deductible waiver insurance is not reimbursable. Should a collision occur while on official state business, the cost of the deductible should be paid by the traveler and reimbursement claimed on a travel expense voucher. The accident should also be reported in accordance with Section V.C.3. Personal accident insurance when renting a vehicle is not reimbursable; employees are covered under workmen's compensation while on official state business.

(c) Any personal mileage on a vehicle rented for official state business is not reimbursable and shall be deducted.

F. Special Meals - All of the following must be submitted for review and approval of the department head or his designee prior to reimbursement:

1. Detailed breakdown of all expenses incurred, with appropriate receipt(s).

2. Subtraction of costs for any alcoholic beverages.

3. Copy of prior written approval from the Commissioner of Administration (Section IV.E.4).

4. Reimbursement shall be limited to the amounts indicated in Section VI.C.1.

G. Restrictions Governing Claims for Reimbursement

1. Travel allowances shall not be granted for travel accomplished on Saturday, Sunday, or holidays unless approved in writing by the head of the department or his designee. (Approval and justification must be readily available in the department's reimbursement file.)

2. No claim for reimbursement shall be made for any lodging and/or meals furnished at a state institution or other state agency, or by any other party at no cost.

3. In case an employee travels by an indirect route for his/her own convenience (including when travel by automobile instead of by available aircraft incurs additional food and/or lodging expenses), any extra cost shall be borne by the traveler and reimbursement for expenses shall be based only on such charges as would have been incurred by the most direct and usually traveled route and method.

4. Items included in any expense account which do not fully conform to these regulations will be disallowed for payment.

5. In all cases where lodging expenses are incurred, the traveler shall utilize the most economical rooms available, considering such factors as the availability and cost of transportation to the site where state business will be conducted, availability of special discount rates, and cost savings obtainable by sharing rooms.

6. Request for exceptions to the lodging rate regulations must include the names, phone numbers, and lowest available rates of at least two other nearby hotels contacted. If this is not possible, the request should explain why.

H. Receipts or Other Support - Receipts or other substantiations are required for travel expenses, except for the following:

1. Taxicab or local public transportation less than \$10.

2. Routine meals (number of meals must be shown on travel voucher) under a total of \$18 per day. Receipts are required for meals in high cost areas unless the total expenditure for the day does not exceed \$18. If meals of state officials exceed this same limitation, receipts are required. All special meals require receipts.

3. Telephone and telegraph under \$3.

4. Tips for baggage handling.

5. Parking at self-service lots when less than \$5. The location of the lot and length of time parked must be indicated on the travel voucher in these cases.

I. Reimbursement for International Travel - International travelers will be reimbursed at the high-cost area rates for lodging and meal pursuant to Sections VI.C.1 and C.3 unless the necessity for incurring higher expenses is fully documented and approved by the Commissioner of Administration prior to departure. Receipts or other substantiation are required for all travel expenses (with the exceptions noted in Section VI.H) by all international travelers requesting reimbursement.

VII. General - The traveler is expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business.

A. Funds for Travel Expense - Persons traveling on official business will provide themselves with sufficient funds for all routine expenses. Advances of funds for travel shall be made only for extraordinary travel and should be punctually repaid when submitting the travel voucher covering the related travel, not later than the fifteenth day of the month following the completion of travel.

B. State Agency Credit Cards - Credit cards used in the name of the state agency are not to be used for the purpose of securing transportation, lodging, meals, or telephone and telegraph service, unless prior written permission has been obtained from the Commissioner of Administration.

C. Claims - All claims for reimbursement for travel shall be submitted on state Form BA-12, unless exception has been granted, and shall include all details provided for on the form. It must be signed by the person claiming reimbursement and approved by his/her immediate supervisor. The purpose for extra and unusual travel must be stated in the space provided on the front of the form. In all cases the date and hour of departure from and return to domicile must be shown.

Excepting where the cost of air transportation is invoiced directly to the agency/department, all expenses incurred on any official trip shall be paid by the traveler and his travel voucher shall show all such expenses in detail to the end that the total cost of the trip shall be reflected by the travel voucher. If the cost of the air transportation is paid directly by the agency/department, a notation will be indicated on the travel voucher indicating the date of travel, destination, amount, and the fact that it has been paid by the agency/department. The traveler's copy of the passenger ticket shall be attached to the travel voucher.

In all cases, and under any travel status, cost of meals and lodging shall be paid by the traveler and claimed on the travel voucher for reimbursement, and not charged to the state department.

Claims should be submitted within the month following the travel, but preferably held until a reimbursement of at least \$10 is due. In no case shall reimbursement for travel in a previous fiscal year be possible unless funds have been specifically reserved for that purpose.

D. Extended Stays - For travel assignment involving duty for extended periods at a fixed location, the reimbursement rates indicated should be adjusted downward whenever possible. Care should be exercised to prevent allowing rates in excess of those required to meet the necessary authorized subsistence expenses. It is the responsibility of each agency head to authorize only such travel allowances as are justified by the circumstances affecting the travel. The rates authorized will not exceed the reimbursable allowance stated herein, unless special approval is granted by the Commissioner of Administration.

E. Emergency Travel - Under extraordinary circumstances where the best interests of the state require that travel be undertaken not in compliance with these regulations, approval after the fact may be given if appropriate documentation is presented promptly. Each department shall establish internal procedures for authorizing travel in emergency situations.

F. Authorized Persons - Reimbursement of expenses for travel to be performed by authorized persons who are called upon to contribute time and service as defined in Section I.C. or who are requesting reimbursement in excess of state employee allowances shall require prior written approval from the Commissioner of Administration. Complete explanation and DOA approval must be shown on the travel expense form or attached thereto.

G. Fraudulent Claims - Any person who submits a claim pursuant to the aforementioned regulations, and who willfully makes and subscribes to any claim which he/she does not believe to be true and correct as to every material matter, or who willfully aids or assists in, or procures, counsels or advises the preparation or presentation of a claim which is fraudulent or is false as to any material matter shall be guilty of official misconduct. Whoever shall receive an allowance or reimbursement by means of a false claim shall be subject to immediate dismissal, as well as being criminally and civilly liable within the provisions of state law.

VIII. The Commissioner of Administration may waive in writing any provision in these regulations when the best interest of the state will be served.

E. L. Henry  
Commissioner of Administration

#### **RULE**

##### **Office of the Governor Division of Administration**

Under authority of Act No. 933 of the 1981 Legislative Session (R.S. 39:241), the Office of the Governor, Division of Administration, has adopted the following Rule relative to the establishment of a uniform fee schedule for copies of public records of the executive branch of state government.

#### **RULE**

##### **Uniform Fee Schedule For Copies of Public Records**

I. It shall not be mandatory for an agency to charge for copies of public documents, nor will there be any charge for examination or review of public records.

II. Charges for single page copies of public records on either microfiche or paper  $8\frac{1}{2} \times 14$  inches or smaller may be up to but no more than 15 cents for the first copy. Charges for each additional copy may be no more than one dollar. On multi-page documents, the cost shall be up to but no more than fifteen cents for the first copy of each page, and no more than one dollar for each additional copy of each page.

III. Charges for copies of public records on paper larger than  $8\frac{1}{2} \times 14$  inches shall be the same as the actual cost to the agency for copying same.

IV. Charges for copies of public records on preprinted computer reports shall be at the same rate specified in Parts II and III above. Each agency shall develop a uniform fee schedule for providing printouts of public records stored in a computer data base utilizing routine utility programs. Such uniform fee schedule shall first be approved by the Division of Administration, Office of Data Processing, and shall be published in the *Louisiana Register* at least annually and no later than July. An estimated cost shall be given for requests for reproduction of public records stored in a computer which require program modification or specialized programs. The requesting party shall be advised of the estimate, and that it is an estimate, but the actual cost for reproduction, including programming costs, shall be charged if it differs from the estimate.

V. Agencies that have an established fee for copying public records that is in excess of those set forth in this Rule must justify that fee in writing and have the established fee approved by the Division of Administration. This part does not apply to copies of public records, the fees for the reproduction of which are otherwise fixed by law.

VI. There shall be no charge for copies of public documents requested by indigent citizens.

Len Sanderson  
Assistant Commissioner of Administration

#### **RULE**

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

The Department of Health and Human Resources, Office of Family Security, increased the maximum allowable monthly income limit for long term care eligibility for an individual from \$794.10 to \$852.90, effective July 1, 1982. For a couple occupying the same room in a long term care facility, the double rate of \$1,705.80 would apply.

This increase allows the Medical Assistance Program to remain in compliance with Federal Regulation 42 CFR 435.1005 which sets the maximum income limit before deductions, at 300 percent of the Supplemental Security Income (SSI) payment amount.

Effective July 1, 1982 the monthly SSI payment was increased to \$284.30.

Roger P. Guissinger  
Secretary

#### **RULE**

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

In accordance with the provisions of R.S. 40:3 and R.S. 40:5, the areas as described below are closed to shellfish harvesting effective September 1, 1982:

Calcasieu Ship Channel from its intersection at the Gulf of Mexico at a point  $29^{\circ} 45' 30''$  north latitude and  $93^{\circ} 20' 35''$  west longitude to the junction of the Intercoastal Waterway at a point  $30^{\circ} 45' 30''$  north latitude and  $93^{\circ} 19' 25''$  west longitude.

This closure includes the entire channel from the east bank to the west bank of the channel.

East Pass in its entirety from the intersection of East Pass and the Calcasieu Ship Channel at a point 29° 49' 12" north latitude and 93° 20' 55" west longitude to the intersection of East Pass and Calcasieu Lake east of St. John's Island at a point 29° 50' 25" north latitude and 93° 19' 45" west longitude.

West Pass in its entirety from the intersection with the Calcasieu Ship Channel at a point 29° 49' 10" north latitude and 93° 18' 30" west longitude to the intersection of West Pass and West Cove at a point 29° 49' 30" north latitude and 93° 20' 30" west longitude.

The area described above was found to be substandard for shellfish harvesting in the respect that fecal coliform limits were exceeded during a recent sanitary survey of the area. Specifically these standards require that all shellfish (i.e. oyster, etc.) harvesting water whose bacteriological quality has exceeded the fecal coliform median of 14 fecal coliforms per 100 ml. and for which more than 10 percent of the samples ordinarily exceed a median of 43 fecal coliforms per 100 ml. be closed to shellfish harvesting.

Additionally, the area may be so contaminated with fecal material that consumption of shellfish might be hazardous.

**(Editor's Note: A map of this oyster closure area was included with the Notice of Intent on this subject on pages 374 and 375 of the July, 1982 Louisiana Register.)**

#### ORDER OF CLOSURE

Re: Shellfish Harvesting Waters  
West Pass, East Pass, and the  
Calcasieu Ship Channel  
Lower Cameron Parish

Reference LA R.S. 40:3, 5

The Department of Health and Human Resources, Office of Health Services and Environmental Quality hereby orders that the areas described below are closed to shellfish harvesting effective September 1, 1982:

Calcasieu Ship Channel

Calcasieu Ship Channel from its intersection with the Gulf of Mexico at a point 29° 45' 30" north latitude and 93° and 20' 35" west longitude to its junction with the Intercoastal Waterway at a point 30° 45' 30" north latitude and 93° 19' 25" west longitude; this closure includes the entire channel from the east bank to the west bank of the channel.

East Pass

East Pass in its entirety from the junction of East Pass and the Calcasieu Ship Channel at a point 29° 49' 12" north latitude and 93° 20' 55" west longitude to the intersection of East Pass and Calcasieu Lake at a point 29° 19' 45" north latitude and 93° 19' 45" west longitude.

West Pass

West Pass in its entirety from the junction of West Pass and the Calcasieu Ship Channel at a point 29° 49' 10" north latitude and 93° 18' 30" west longitude to the intersection of West Pass and West Cove at a point 29° 49' 30" north latitude and 93° 20' 30" west longitude.

All areas within the described areas and/or shown on the enclosed map are closed to shellfish harvesting.

Statistical evaluation of a recent sanitary survey revealed that the water quality of these areas described above is substandard and failed to meet State/Federal guidelines governing shellfish harvesting waters.

More specifically these standards require that all shellfish harvesting waters whose bacteriological quality has exceeded a

fecal coliform median of 14 fecal coliforms per 100 ml. and of which more than 10 percent of the samples ordinarily exceed a median of 43 fecal coliforms per 100 ml. be closed to shellfish harvesting. Additionally, the area may be so contaminated with fecal material that consumption of the shellfish may be hazardous.

So ordered this first day of September, 1982.

Sarah M. Braud, M.D.  
State Health Officer and  
Acting Assistant Secretary

Roger P. Guissinger  
Secretary

#### RULE

##### Department of Health and Human Resources Office of Licensing and Regulation

The Department of Health and Human Resources, Office of Licensing and Regulation, shall implement effective August 20, 1982 the following new policies and guidelines for Section 1122 Capital Expenditure Review in accordance with 42 CFR, Part 100.106 (a) 1. (38 FR 31381, November 13, 1973, as amended at 39 FR 32030, September 4, 1974)

#### INTRODUCTION

Section 1122 of the Social Security Act, as amended by Public Law 92-603, the Social Security Amendments of 1972, requires that a health facility which proposes to make a capital expenditure obtain prior approval by a designated planning agency in order to be reimbursed for costs related to the capital expenditure under the Medicare and Medicaid Programs. The purpose of this provision is to assure that Federal funds are not used to support unnecessary capital expenditures by health care facilities.

#### DEFINITIONS

1. Certificate of Need: Louisiana conducts certificate of need reviews in accordance with Section 1122 of the Social Security Act, as amended. This process is required of health care facilities in order to receive full reimbursement under the Medicare and Medicaid Programs. (This should not be confused with state legislated certificate of need programs which Louisiana, at present, does not have enacted.)

2. Division of Health Planning and Development (DHPD): the state agency designated to carry out in Louisiana the provisions of Section 1122 and P. L. 93-641, as amended by P. L. 96-79.

3. Division of Licensing and Certification: that Division of the Department of Health and Human Resources charged with the responsibility of carrying out licensure and certification functions for the state of Louisiana.

4. Hospital: an institution which is engaged in providing to inpatients or to outpatients by or under the supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment and care of injured, disabled, sick or pregnant persons, rehabilitation services for the rehabilitation of injured disabled; sick or pregnant persons; such term does include chronic care hospitals, but does not include psychiatric and tuberculosis hospitals.

5. Person: an individual, a trust or estate, a partnership, a corporation (including associations, joint-stock companies, and insurance companies, a state, or a political subdivision or instrumentality including a municipal corporation) of a state.

6. Psychiatric hospital: an institution which is primarily engaged in providing to inpatients, by or under the supervision of a

physician, psychiatric services for the diagnosis and treatment of mentally ill persons.

7. Tuberculosis hospital: an institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, medical services for the diagnosis and treatment of tuberculosis.

8. Nursing home: a licensed facility that provides nursing care, preventive health, health maintenance services, rehabilitative services, and necessary ancillary and supportive social services to persons who, by reason of illness, or physical infirmity or age, are unable to properly care for themselves.

9. Ambulatory surgical facility: a freestanding facility which is not a part of a hospital, and which provides surgical treatment to patients not requiring hospitalization. Such term does not include the offices of private physicians or dentists, whether for individual or group practice.

10. Home Health Agency: a public or private organization, or subdivision thereof, which is primarily engaged in the provision of skilled nursing services and at least one additional therapeutic health service in the place of residence used as a patient's home.

11. Change of Bed Capacity: any increase or decrease in the licensed bed capacity of a health care facility.

12. Substantial Change in Service: a capital expenditure which results in the addition of a clinically related (i.e., diagnostic, curative, or rehabilitative) service not previously provided in the facility or the termination of such a service which had previously been provided in the facility.

13. Emergency: means an unforeseen occurrence, condition or mischance or perplexing contingency or complication of circumstances bringing with it destruction or injury of life or property (movable and immovable) or the imminent threat of such destruction or injury or as the result of an order from any judicial body having jurisdiction therein to take any immediate action which requires construction, repair or acquisition of property or equipment, where the unforeseen occurrence, condition or mischance or perplexing contingency or complication of circumstances or court order will not permit a health care facility the time necessary for an application for full review under Section 1122.

14. Secretary: as used within the confines of this document, the term Secretary refers to the Secretary of the United States Department of Health and Human Services or his designee.

#### REVIEWING AGENCIES

Division of Health Planning and Development  
333 Laurel Street, Room 210

Baton Rouge, LA 70801  
Division of Licensing and Certification

333 Laurel Street, Room 610  
Baton Rouge, LA 70804

Any other agency deemed appropriate by DHPD.

#### RESPONSIBLE AGENCY

The state agency responsible for carrying out Section 1122 provisions in Louisiana is the Division of Health Planning and Development (DHPD), which is the state agency organized under P. L. 93-641, as amended by P. L. 96-79.

#### FACILITIES INCLUDED

For the purpose of Section 1122, "health care facility" includes hospitals, psychiatric hospitals, tuberculosis hospitals, skilled nursing facilities, kidney disease treatment centers including freestanding hemodialysis units, intermediate care facilities, and ambulatory surgical facilities, but does not include Christian Science sanatoriums operated or listed and certified by the First Church of Christ, Scientists, Boston, Massachusetts. Offices of physicians are also specifically excluded from such reviews.

#### EXPENDITURES SUBJECT TO REVIEW

Capital expenditures covered are those which are not pro-

perly chargeable as expenses of operation and maintenance and which either

(1) exceed \$100,000

OR

(2) change the bed capacity of the facility

OR

(3) substantially change the services of the facility.

Any questions regarding applicability of expenditures to review should be directed solely to DHPD for an official determination.

When making a determination of the total amount of any capital expenditure discussed herein, DHPD shall consider the costs of studies, surveys, designs, plans, working drawings, specifications and other activities essential to the acquisition, improvement, expansion or replacement of the plant and equipment with respect to which such expenditure is made.

Proposals for the acquisition of facilities or equipment by lease or comparable arrangement or through donation may be subject to review under Section 1122. DHPD should be contacted for a determination of applicability and assistance in computing amounts subject to Section 1122 review.

Section 1122 Certificate of Need approvals can neither be sold or transferred.

#### EFFECTIVE DATE

Any capital expenditure for which the obligation is incurred by or on behalf of a health care facility after December 31, 1972 is subject to review under these provisions.

#### EXCLUSIONS

1. A capital expenditure for which an obligation was incurred before January 1, 1973, is not subject to review requirements of Section 1122.

2. Section 1122 permits an exception to any health care facility providing services as of December 18, 1970, which as of that date was committed to a formal plan of expansion or replacement as approved by the facility's board of trustees. This can only occur if the facility spent \$100,000 or more during the three-year period ending December 17, 1970, for preliminary items on the plan including payments for studies, surveys, designs, plans, working drawings, specifications and site acquisition. In such a case, Section 1122 shall not apply to capital expenditures made in conformity with that plan. The exception shall, however, not apply to capital expenditures which are not included in the plan.

#### PRE-APPLICATION CONFERENCE

Anytime prior to submitting an application for review or a request for an election not to review individuals contemplating a Section 1122 expenditure may request a formal conference with DHPD to discuss the proposed project. A mutually acceptable meeting time and place will be established between the applicant and the agency. Pre-application conferences are encouraged.

#### ELECTION NOT TO REVIEW

The DHPD at its option, may elect not to review a proposed capital expenditure which has been determined subject to review under Section 1122 of the Social Security Act. The option of election not to review, as permitted by the applicable statute and regulation, is designed to exempt from review a few proposed capital expenditures for which a review is not necessary. In order to be considered for a DHPD decision for an elect not to review, one of the following criteria must be met:

1. Renovations to meet Life Safety Codes.
2. Capital expenditures for emergency situations.
3. Replacement or modification of equipment up to \$1,000,000.

An applicant proposing a capital expenditure by or on behalf of a health care facility, which expenditure may qualify for election not to review according to the above criteria, must submit in writing to DHPD a request for an elect not to review. After

examining the information contained in such request, and any additional information DHPD may request, a determination will be made by DHPD whether or not to elect not to review the proposed expenditure. If DHPD elects not to review the proposed project, all required notifications will contain written reasons for DHPD's determination of election not to review. If DHPD determines that such proposal shall require full or expedited review, the applicant will be notified of such decision and will be supplied with appropriated application forms to provide information adequate for such review of the proposal.

#### EXPEDITED REVIEW

The DHPD at its option may elect to perform an expedited review of a proposed capital expenditure which has been determined subject to review under Section 1122 of the Social Security Act. In order to be considered for an expedited review, one of the following criteria must be met:

1. Replacement of equipment with an expenditure in excess of \$1,000,000.
2. Sale or lease of an existing facility with no change in services or beds.
3. Renovation of an existing facility up to \$500,000 that does not result in a change in existing services or beds.
4. Addition of a new service in an existing facility that will not exceed \$300,000.
5. A change of 10 licensed beds or 10 percent over a two year period whichever is less.
6. A cost overrun on an initially approved project.
7. Addition of non-medical equipment.

In order to qualify for an expedited review the project must not be a discrete portion of a larger capital expenditure or phased project.

An applicant proposing a capital expenditure which expenditure may be eligible for an expedited review must submit in writing to DHPD a request for an expedited review. After examination by DHPD a determination will be made whether to proceed with the expedited review process. If DHPD determines the expedited or full review process is applicable, the applicant shall be so notified in writing and provided with the necessary forms to begin the process.

#### REVIEW PROCEDURES

##### A. Notification Procedures

1. Any person, agency, organization or health care facility which proposes to make a capital expenditure subject to review under the provisions of Section 1122 of the Social Security Act should submit in writing to DHPD a request for such review. At any time during the review procedure should the contact person for the project change, it is incumbent upon the applicant to notify DHPD of such a change.

2. DHPD will promptly send to the applicant necessary form(s) in addition to a copy of these policies and guidelines.

3. Upon receipt of the completed form(s), DHPD may make the following determinations:

- a. The project will require full review, or
- b. The project will require an expedited review, or
- c. The project is subject to elect not to review.
4. In the case of a full review being required:
  - a. DHPD will forward to the proponent a questionnaire and a list of those documents which will be considered in the review;

b. The applicant shall submit the application in triplicate to Division of Health Planning and Development.

c. The staff of the DHPD shall review the application for completeness within 15 calendar days from date application is received by DHPD. If DHPD fails to mail within such period a written notice advising the applicant that the application is complete or additional information is needed, the application shall be

deemed to be complete for the purpose of determining the period of review. Failure of the applicant to respond and provide the information requested within 90 days shall be considered withdrawal of the application; and

d. The applicant may not incur an obligation in less than 60 days from the date the application was considered complete by DHPD. Incumbering an obligation prior to this 60 day time frame may subject the applicant to a timely notice penalty should the project subsequently be approved. Should approval be granted at any time prior to the end of the review period, an obligation may be entered into at that point.

##### B. Review Procedures

1. When DHPD determines that an application is complete, DHPD shall notify the applicant in writing that the period for review has begun. The review period will not exceed 90 days from the date of receipt of the application if it is declared complete. Or, in the case of an incomplete application, the period for review will not exceed 90 days from the date of receipt of the additional information (if it is determined the additional information completes the application) unless the applicant agrees to a longer period of time.

2. If additional or new information is submitted to DHPD after the review process has begun, DHPD will again deem the application complete or incomplete. If the additional information is allowed, the timetable must be adjusted so the DHPD has 90 days for project review after the receipt of the additional or new information.

3. When the application is determined complete by the DHPD, the DHPD shall issue a press release of its receipt of the completed application through local newspapers, public information channels and professional organizations. Publications to be used in required press releases should include the state journal, the major urban newspaper in the affected service area, the local newspaper in the impacted service area of the projects as specified by the applicant.

4. In the case of applications being subjected to a full review as opposed to an election not to review or expedited review, on the third Wednesday of each month at 10 a.m., the Director of the Division of Health Planning and Development shall conduct a public hearing at Division headquarters. The purpose of this hearing will be to receive written (in duplicate) and oral comments on applications having been declared complete by the Division 15 days prior to the hearing date. Oral presentations shall be limited to an amount of time to be specified by the individual in charge of the hearing at the time of the hearing. The same amount of time will be allowed to those in favor and those opposed to the application. Comments shall be accepted on only those applications which have not previously been reviewed at public hearing. Notice of applications to be considered at each hearing shall be provided to interested parties and professional organizations requesting such notice at least five calendar days prior to each public hearing.

5. DHPD shall send copies of the application to the Division of Licensing and Certification (LIC) solely for review and comments.

6. Findings pursuant to Part B. 5 above shall be received by DHPD within 60 days after start of the review period (or later if mutually agreed upon). In the case of an application which specifies that an obligation to make the capital expenditure will be incurred 60 days after start of the review period, DHPD shall coordinate with LIC to establish a date by which comments will be received by DHPD. Such date should allow sufficient time for LIC review, as well as a period for consideration of those comments. Applicants may request a meeting with DHPD to discuss their application at any time during the course of the review.

7. The DHPD, after having consulted with and taken into consideration written public comments and the comments of LIC

shall provide written notification to the proponent that:

- a. Such capital expenditure has been determined to be in conformity with the criteria, standards and plans; or
- b. Such capital expenditure has been determined not to be in conformity with the criteria, standards and plans; or
- c. The failure of the DHPD to provide any such notification within the time limitations set forth below, shall have an effect of a determination by the DHPD that the capital expenditure is in conformity. This step shall be completed not more than 90 days after the date DHPD has received completed application unless the applicant has indicated an earlier date for obligation of expenditure. (However, a minimum of 60 days from the date DHPD considers the application complete must be allotted for completion of the review. At an applicant's request or concurrence, the review period may be for a longer period of time as agreed.)

Notification in accordance with federal interpretation is deemed to be given upon the date of mailing of such notification by DHPD.

8. Copies of the findings of the DHPD shall also be sent to the other reviewing agencies, interested parties and professional organizations who request such notification, and shall be publicized through local newspapers and public information channels in the form of a press release.

#### C. EXPEDITED REVIEW PROCEDURES

1. In the case of a decision by DHPD to conduct an expedited review, DHPD shall notify the applicant of its decision and forward to the applicant an application which shall be completed and returned to DHPD in duplicate.

2. When DHPD determines that the application is complete, DHPD shall notify the applicant in writing that the period for review has begun. The review period shall not exceed 30 days from date of receipt of the application if it is declared complete. Or, in the case of an incomplete application, the period for review will not exceed 30 days from the date of receipt of the additional information (if it is determined the additional information completes the application) unless the applicant agrees to a longer period of time.

3. If additional information is submitted after the review period has begun, DHPD will again confer and deem the application information complete or incomplete. If the additional information is allowed, the timetable must be adjusted so that DHPD has 30 days for project review after the receipt of the additional or new information.

4. When the application is determined complete by the DHPD, the DHPD shall issue a press release of its receipt of the completed application through local newspapers and public information channels. Publications to be used in required press releases should include the state journal, the major urban newspaper in the affected area, and the local newspaper in the impacted service area of the projects as specified by the applicant.

5. The DHPD, after having reviewed the application, shall provide written notification to the proponent that:

- a. Such capital expenditures have been determined to be in conformity with the criteria, standards and plans;
- b. Such capital expenditure has been determined not to be in conformity with the criteria, standards and plans; or
- c. The failure of the DHPD to provide any such notification within the time limitations set forth below, shall have an effect of a determination by the DHPD that the capital expenditure is in conformity. This step shall be completed not more than 30 days after the date DHPD has received the completed application unless at an applicant's request or concurrence, the review period may be for a longer period of time as agreed.

Notification in accordance with federal interpretation is deemed to be given upon the date of mailing of such notification by DHPD.

6. Copies of the findings and recommendations of the DHPD shall also be publicized through local newspapers and public information channels and sent to interested parties and professional organizations who request such notification.

#### D. Appeal Procedures

In the case of a negative finding, a fair hearing will be offered to the applicant to determine whether the proposed expenditure is consistent with the standards, criteria and plans specified in the applicable statutes. The correctness, completeness, adequacy or appropriateness of the standards, criteria, and plans against which the proposed expenditure was measured are *not* appealable, although the question of DHPD's adherence to its procedures as outlined in the federal regulations and State Health Plan and these policies may be considered. The applicant may introduce evidence and argument on the issue of whether exclusion of expenses related to the proposed expenditure would discourage the operation or expansion of the facility or organization or would discourage the operation or expansion of the facility or organization otherwise be inconsistent with the effective organization or delivery of health services or the effective administration of Titles XVIII and XIX. Whether a proposed capital expenditure is subject to review under Section 1122 will not be a question in the fair hearing. The applicant is encouraged to retain counsel for this process.

1. Should the applicant wish to appeal, he must respond in writing to DHPD not more than 30 days after the date of notification of disapproval requesting a fair hearing on his case or he forfeits his right of appeal. The hearing must begin within 30 days after receipt of the request or later at the option of the applicant. If the applicant requests an extension beyond the required 30 day time frame, the hearing must be finalized not later than six months after the date of the original request for a fair hearing or the decision of DHPD will be considered upheld.

2. DHPD will notify the Hearing Officer who is responsible for conducting the appeal. He will select a hearing date and notify all parties.

3. DHPD will issue a news release of the hearing.

4. The applicant is required to notify the hearing officer in writing at least 10 days in advance of the hearing of those witnesses whom he wishes to be subpoenaed.

5. As soon as possible, but not later than 45 days after the conclusion of the hearing, the hearing officer will notify the applicant, DHPD and Regional Health Administrator ("DHHS") of the appeal decision. Notification in accordance with federal interpretation is deemed to be given upon the date of mailing of such notification by the Hearing Officer. The exclusive options available to the hearing officer are as follows:

- a. uphold the DHPD findings.
- b. overturn the DHPD findings.
- c. revise the DHPD findings.
- d. order further action by DHPD.

6. DHPD will issue a press release of the appeal decision.

7. Copies of the decision shall be sent to interested parties requesting notification and professional organizations.

#### RECONSIDERATION BY DHPD

In any case in which the secretary of the United States Department of Health and Human Services has determined pursuant to a finding by DHPD that a proposed capital expenditure is not in conformity with the standards, criteria or plans and that costs related to such capital expenditure shall not be included in determining Federal reimbursement, the health care facility shall be entitled upon its request to DHPD in the form of revised applications as required in original submission procedures, to a reconsideration by DHPD of such finding whenever:

- a. there has been a substantial change (since the previous DHPD finding) in existing or proposed health facilities or services,

of the type proposed, in the area served; or

b. there has been a substantial change (since the previous DHPD finding) in the need for health facilities or services, of the type proposed, in the area served, as reflected in the plans, criteria or standards (see Criteria for Section 1122 Reviews); or

c. at least three years have elapsed from the date of the most recent negative finding of DHPD.

If DHPD finds, after such reconsiderations, that the facilities or services provided by the capital expenditure involved are in conformity with the applicable standards, criteria, or plans, and so notifies the secretary of DHHS, the secretary will include, in determining future payments under Titles XVIII and XIX, expenses related to such capital expenditure. However, such expenses will be included only for payments following the date of notification to the secretary of DHHS by DHPD of its reconsideration.

#### EVIDENCE OF OBLIGATION: TERMINATION OF APPROVAL

Evidence of obligation to make the capital expenditure must be received by DHPD within one year after approval of the project, or the approval will expire. As provided in the regulation, the one year approval period may be extended for up to six months at the discretion of DHPD upon showing one of the following conditions exist:

a. Delays caused by review bodies beyond control of the applicant. This includes delays caused in the process of obtaining financing due to excessive interest rates substantially greater than those projected in the application.

b. An extension may be granted at the discretion of the designated planning agency when refusal of an extension would be detrimental to the best interest of the community involved.

As provided in the regulations, an obligation to make a capital expenditure shall be incurred not more than one year following the date of approval, unless a six month extension has been granted. An obligation shall be deemed to have been incurred by or on behalf of health care facility:

a. When an enforceable contract is entered into by such facility or organization or by a person proposing such capital expenditure on behalf of such facility or organization for the construction, acquisition, lease or financing of a capital asset; or

b. Upon formal internal commitment of funds by such facility or organization for a force account expenditure which constitutes a capital expenditure; or

c. In the case of donated property, the date on which the gift is completed in accordance with applicable Louisiana law.

It is the sole responsibility of the proponent to keep DHPD informed of its progress during the one year approval period and to submit documentary evidence as proof that at least one of the above conditions have been fulfilled. The following conditions have been established regarding the acceptance of certain documents as proof of an obligation.

a. In the case of a construction contract, such document must be duly executed by the appropriate parties and filed with DHPD.

b. In the case of a purchase or lease arrangement, a purchase or lease agreement signed by lessor and lessee must be submitted.

c. In the case of a financial commitment, such commitment must be a documented binding commitment from a lending institution for permanent or interim financing accompanied by an acceptance signature from the proponent. (Loan guarantees do not fulfill the requirements set forth above).

d. In the case of bonds, an obligation is deemed to have been incurred whenever the bonds have been approved for sale or issuance by either an election or board action of an official public body acting on behalf of a health care facility.

#### EFFECT OF NEGATIVE RECOMMENDATION

If DHPD recommends that the capital expenditure not be

made, the secretary of DHHS shall, in determining the Federal payments to be made under Titles XVIII, and XIX of the Social Security Act to the health care facility, ordinarily exclude certain expenses related to such capital expenditure. However, if the secretary, after submitting the matters involved to the National Advisory Council on Health Planning and Development and after taking into consideration the recommendations of DHPD and other reviewing agencies, determines that an exclusion of costs for a capital expenditure would discourage the operation or expansion of a health care facility (or any facility of such an organization) which has demonstrated capability to provide comprehensive health care services efficiently, effectively, and economically or would otherwise be inconsistent with the effective organization and delivery of health services or the effective administration of Titles XVIII, and XIX, he shall include such expenses in Federal payments under such titles.

#### EFFECT OF FAILURE TO GIVE TIMELY NOTICE OF PROPOSED EXPENDITURE

When DHPD has good cause to believe that an obligation for a capital expenditure has been incurred by or on behalf of a health care facility and that timely notice of at least 60 days was not provided, DHPD shall send written notification to such health care facility, the secretary and all other agencies deemed appropriate by DHPD of a proposed finding that an obligation for a capital expenditure subject to review has been incurred and that timely notice was not provided. Procedures for processing such a finding shall be according to Section 100.108 (a) of the Regulations, and the policy on lack of timely notice as published in the *Federal Register* on January 26, 1977, Vol. 42, No. 17, and on December 16, 1981, Vol. 46, No. 241.

#### CRITERIA FOR SECTION 1122 REVIEWS

In making recommendations concerning projects reviewed under Section 1122 of the Social Security Act, the review body or agency at each level designated in the review process shall consider, but not be limited to, the following criteria, as required under P.L. 93-641 and 96-79 and implementing Rules and Regulations:

I. The relationship of the health services being reviewed to the applicable Health Systems Plan, Annual Implementation Plan and the State Health Plan.

II. The relationship of services reviewed to the long range development plan (if any) of the person providing or proposing such services.

III. The need that the population served or to be served by such services has for such services.

In considering the need for a proposed project, DHPD will review, but not be limited to, the following information:

A. The availability of similar facilities, services and institutional beds within the service area, including but not limited to:

1. Number of similar facilities, services and beds in the service area.

2. Ratio of institutional beds to the population, as a whole and where appropriate, to age groups.

3. Comparison of service area bed ratio with other health service areas in the state and other relevant areas.

4. Distribution of institutional beds, services, and facilities within the area.

B. Accessibility of the target population of the proposed project to existing and proposed facilities and services. (This would include physical and financial accessibility.)

C. Measures of utilization of existing facilities and services:

1. Admission rates per 1,000 persons.

2. Occupancy rate: Average Daily Census

3. Length of stay (average):  $\frac{\text{Number of beds} \times \text{Census} \times 365}{\text{Annual Admissions}}$

- 4. Other appropriate utilization material.
- D. Projections of utilization.
- E. A delineation of the proposed service area.
- F. Various projections of bed need.
- G. The projected population growth or lack of growth of the proposed service area.

IV. the availability of alternative, less costly, or more effective methods of providing such services.

A. Potential availability of such services.

V. The immediate and long term financial feasibility of the proposal.

VI. The relationship of the services proposed to be provided to the existing health care system of the area in which such services are proposed to be provided.

The DHPD will review, but not be limited to, the following information:

A. Documentation of coordination and/or linkage agreements between the applicant and existing or planned health care institutions and/or providers within the service area.

VII. The availability of resources (including health manpower, management personnel, and funds for capital and operating needs) for the provision of the services proposed to be provided and the availability of alternative uses of such resources for the provision of other health services.

The DHPD will review, but not be limited to, the following information regarding health care staffing:

A. Physicians

a. Availability in the service area

b. Projected availability in the service area

B. Nursing Personnel

a. Availability in the service area

b. Projected availability in the service area

c. Adequacy of proposed staffing according to required standards

C. Management and Other Personnel

a. Availability in the service area

b. Projected availability for the proposal

VIII. The relationship, including the organizational relationship, of the health services proposed to be provided to ancillary or support services.

IX. The special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas. Such entities may include medical and other health professional schools, multi-disciplinary clinics, and specialty centers.

X. The special needs and circumstances of health maintenance organizations for which assistance may be provided under Title XIII of the Act.

XI. The special needs and circumstances of biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantage.

XII. In the case of a construction project —

A. The cost and methods of the proposed construction, including the costs and methods of energy provision; and

B. The probable impact of the construction project reviewed on the cost of providing health services by the person proposing such construction project.

XIII. In the case of a new facility the applicant must specify the specific site where the facility will be located in addition to a legal property description of the site and must present evidence of ownership or option to acquire such site.

XIV. The applicant shall provide disclosure of those natural persons who are registered agents, directors, officers and prin-

cipal shareholders of the corporation proposing the capital expenditure.

XV. The extent of cooperation with other facilities in the area; and

XVI. Support of the project by the local community, including health related agencies and professional organizations.

The criteria adopted for reviews in accordance with the above may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed.

In the review of proposed expenditures for new facilities or services, the following general criteria also will be considered:

1. Need

2. Accessibility

3. Availability

4. Financial Feasibility

5. Cost

#### DATA SOURCES USED IN REVIEWS

Data sources to be used in considerations of full reviews, expedited reviews and election not to reviews shall include, but not be limited to, the following:

A. Information compiled by the DHPD Bureau of Research and Information as published on a quarterly basis.

B. Population projections recognized by the State Planning Office as official projections to be used by DHPD in the conduct of its reviews.

Please be advised: An approval issued in accordance with Section 1122 of the Social Security Act in no way relieves an applicant of responsibility for fulfilling other state and/or federal requirements.

Notification of intent to make a capital expenditure subject to Section 1122 review should be addressed to DHPD at the address set forth below. Also, questions in regard to applicability of Section 1122 to proposed expenditures or in regard to statewide review policies and procedures should be directed to DHPD.

For assistance in preparing Section 1122 applications contact the Division of Health Planning and Development, 333 Laurel Street, Room 210, Baton Rouge, LA 70801 (Phone: 504/342-2001).

Roger P. Guissinger  
Secretary

#### RULE

#### Department of Health and Human Resources Board of Nursing

##### R.N. 1.077 Fees for Registration and Licensure

The Board shall collect in advance fees for registration and licensure services as follows:

(1) Examination, registration and initial licensure . . . . .	\$35.00
(2) Renewal of license . . . . .	15.00
(3) Late renewal of license . . . . .	20.00
(4) Verification to other states . . . . .	15.00
(5) Repeat examination . . . . .	35.00
(6) Qualifying examination . . . . .	35.00
(7) Proctor service (for other state) . . . . .	35.00

Merlyn M. Maillian, R.N.  
Executive Director