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Executive Orders

EXECUTIVE ORDER JBE 20-21

Small Purchase Procedures

WHEREAS, the Louisiana Procurement Code, in R.S. 39:1596, authorizes the governor to establish procedures for the procurement of small purchases with the caveat that “procurement requirements shall not be artificially divided so as to constitute a small purchase under this Section”;

WHEREAS, the Louisiana Procurement Code exempts small purchases from the competitive sealed bidding requirements of the code;

WHEREAS, Louisiana businesses are a driving force in the Louisiana economy;

WHEREAS, Executive Order No. JBE 17-18, signed July 31, 2017, established the procedure for the procurement of small purchases in accordance with the statutory guidelines of the Louisiana Procurement Code; and

WHEREAS, it is necessary to update the guidelines established in Executive Order Number JBE 17-18 through the issuance of a replacement executive order.

NOW THEREFORE I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: All departments, institutions, boards, commissions, budget units, and agencies of the executive branch of state government, and the officers and employees thereof, (hereafter “agency”) shall observe, be guided by, and implement the specific directives on small purchase procedures set forth in this Order. This Order in no way affects or changes the purchasing authority delegated to an agency by the chief procurement officer as defined in R.S. 39:1556. No provision of this Order shall be construed as a limitation on the number of quotations to be solicited prior to making a purchase or procurement. Louisiana businesses, especially certified small entrepreneurs and certified veteran-owned small entrepreneurs should be utilized to the greatest extent possible when soliciting prices.

SECTION 2: Unless the context clearly indicates otherwise, the words and terms used in this Order shall be defined as follows:

A. “Small purchases” means (1) any procurement of supplies or operating services not exceeding thirty thousand dollars (\$30,000), or (2) any procurement of those items listed in Section 5 of this Order, which are exempt from the competitive sealed bidding requirements of the Louisiana Procurement Code, as provided in that Section.

B. “Small Entrepreneurship” means a business currently certified as a small entrepreneurship by the Department of Economic Development, in accordance with the Provisions of the Louisiana Initiative for Small Entrepreneurships (Hudson Initiative), R.S. 39:2006; or a business currently certified as a small and emerging business

by the Department of Economic Development, in accordance with the Provisions of the Small and Emerging Business Development Program, R.S. 51:941, *et seq.*;

C. “Veteran-Owned Small Entrepreneurship” means a business currently certified as a veteran or service-connected disabled veteran-owned small entrepreneurship by the Department of Economic Development, in accordance with the provisions of the Louisiana Initiative for Veteran and Service-Connected Disabled Veteran-Owned Small Entrepreneurships (The Veteran Initiative), R.S. 39:2176;

D. “Authorized dealer” means a company that is specifically authorized by the manufacturer to sell and/or provide service for its products; and

E. “Louisiana authorized dealer” means a company that satisfies the requirements of a resident business as defined in R.S. 39:1556 and is specifically authorized by the manufacturer to sell and/or provide service for its products.

SECTION 3: The following items are not subject to the procedures set forth in this Order:

A. Those items covered by an existing state contract;

B. Labor and Material contracts which exceed ten thousand dollars (\$10,000); and

C. Professional, personal, consulting and social (PPCS) service contracts.

SECTION 4: Except as otherwise provided in this Order, all small purchases shall be made in accordance with the following minimum procedures:

A. No competitive process is required for purchases not exceeding ten thousand dollars (\$10,000) per single purchase transaction.

B. Price quotations shall be solicited from three (3) or more bona fide, qualified vendors for purchases exceeding ten thousand dollars (\$10,000) but not exceeding twenty thousand dollars (\$20,000).

1. Quotations may be made by telephone, facsimile, written, or other means and shall be awarded on the basis of the lowest responsive quotation. Whenever possible, at least one (1) of the bona fide, qualified vendors shall be a certified small entrepreneurship or a certified veteran-owned small entrepreneurship. Agency files shall document and list all solicited vendors and each vendor’s contact person, summarize quotations received, indicate the successful vendor and state the reason why any lower quotation was rejected. Agency files should also contain written confirmation of the quotation from the successful vendor.

2. When the price is determined to be reasonable, the requirement to solicit three (3) quotations may be waived when purchasing from a certified small entrepreneurship or a certified veteran-owned small entrepreneurship. Reasonable is a best-value determination based on price, delivery, service, and/or any other related factors. This determination is to be maintained in the file.

3. The requirement to solicit at least one (1) certified small entrepreneurship or certified veteran-owned small entrepreneurship is waived for procurements posted on LaPAC, Louisiana's internet based system for posting vendor opportunities and award information.

C. Price quotations shall be solicited from five (5) or more bona fide, qualified vendors for purchases exceeding twenty thousand (\$20,000) but not exceeding thirty thousand dollars (\$30,000).

1. Quotations may be made by facsimile or written means and shall be awarded on the basis of the lowest responsive price quotation received. Whenever possible, at least two (2) of the bona fide, qualified vendors shall be certified small entrepreneurs or certified veteran-owned small entrepreneurs. Agency files shall document and list all solicited vendors and each vendor's response, summarize quotations received, indicate the awarded quotation, and state the reason why any lower quotation was rejected.

2. When the price is determined to be reasonable, the requirement to solicit five (5) quotations may be waived when purchasing from a certified small entrepreneurship or a certified veteran-owned small entrepreneurship. Reasonable is a best-value determination based on price, delivery, service, and/or any other related factors. This determination is to be maintained in the file.

3. The requirement to solicit at least two (2) certified small entrepreneurs or certified veteran-owned small entrepreneurs is waived for procurements posted on LaPAC, Louisiana's internet based system for posting vendor opportunities and award information.

4. A minimum of three (3) working days shall be allowed for receipt of quotations.

5. All written or facsimile solicitations shall include the closing date, time, and all pertinent competitive specifications, including quantities, units of measure, packaging, delivery requirements, ship-to location, terms and conditions, and other information sufficient for a supplier to make an acceptable quotation. Precautionary measures shall be taken to safeguard the confidentiality of vendor responses prior to the closing time for receipt of quotations. No quotation shall be evaluated using criteria not disclosed in the solicitation.

SECTION 5: The following items are considered small purchases and may be procured in the following manner:

A. No competitive process is required for the following items:

1. Repair parts for equipment obtained from the original equipment manufacturer or an authorized dealer. A Louisiana authorized dealer shall be used if practicable. This provision does not apply to the stocking of parts;

2. Equipment repairs obtained from the original equipment manufacturer or an authorized dealer. A Louisiana authorized dealer shall be used if practicable;

3. Vehicle repairs not covered by a competitive state contract or the state fleet maintenance repair contract, obtained from an authorized dealer. A Louisiana authorized dealer shall be used if practicable.

4. Vehicle body repairs covered by insurance recovery and in accordance with insurance requirements;

5. Livestock procured at public auction or from an individual which has purebred certification approved by the Department of Agriculture & Forestry;

6. Purchasing or selling transactions between state budget units and other governmental agencies;

7. Publications, including electronic publications and subscriptions, and/or copyrighted materials purchased directly from the publisher or copyright holder;

8. Publications and/or copyrighted materials purchased by libraries or text rental stores from either subscription services or wholesale dealers which distribute for publishers and/or copyright holders;

9. Public utilities and services provided by local governments;

10. Prosthetic devices, implantable devices, and devices for physical restoration which are not covered by a competitive state contract;

11. Non-customized training, including educational instructor fees, and related resources (except equipment) used to enhance the performance of state employees and good standing of state agencies, including memberships in and accreditations by professional societies and organizations;

12. Procurements for clients of blind and vocational rehabilitation programs not covered by competitive state contract which are federally funded at a rate of at least 78.7%, regulated by Title 34, Parts 361, 365, 370, and 395 of the Code of Federal Regulations, and in accordance with OMB Circular A-102;

13. Materials, supplies, exhibitor fees, and exhibit booths for conferences, seminars, and workshops, or similar events (business, educational, promotional, cultural, etc.) for participation in promotional activities which enhance economic development or further the department's mission, duties and/or functions, with the approval of the department secretary, or agency equivalent, if not covered by competitive state contract;

14. Wire, related equipment, time and material charges to accomplish repairs, adds, moves, and/or changes to telecommunications systems not exceeding two thousand five hundred dollars (\$2,500);

15. Working class animals trained to perform special tasks, including but not limited to, narcotics detection, bomb detection, arson investigation, and rescue techniques;

16. Food, materials, and supplies for teaching and per course training not exceeding thirty thousand dollars (\$30,000) where the purchasing, preparing, and serving of food are part of the regularly prescribed course;

17. Renewal of termite service contracts;

18. Purchase of supplies, operating services, or equipment for Louisiana Rehabilitation Services, Traumatic Head and Spinal Cord Injury Trust Fund Program. Although competitive bidding is not required under this paragraph, whenever practicable, three (3) quotations from bona fide, qualified vendors should be obtained. Whenever possible, at least one (1) of the bona fide, qualified vendors shall be a

certified small entrepreneurship or a certified veteran-owned small entrepreneurship;

19. Purchasing of clothing at retail necessary to individualize clients at state developmental centers in compliance with Federal Regulations for ICF/MR facilities;

20. Health insurance for the managers of Randolph-Sheppard programs, as defined by 20 U.S.C. §107, et seq., and paid from income generated by unmanned vending locations;

21. Purchases made to resell as part of a merchandising program with the written approval on file from the secretary of the department, or agency equivalent, when it is not practical or feasible to obtain competitive price quotations;

22. Commercial Internet Service not exceeding one thousand five hundred dollars (\$1,500) per subscription per year;

23. Advertising, where permitted by law and the head of an agency or designee certifies that specific media is required to reach targeted audiences;

24. Scientific and laboratory supplies and equipment when procured by colleges and universities for laboratory or scientific research not to exceed thirty thousand dollars (\$30,000) per transaction;

25. Publication of articles, manuscripts, etc. in professional scientific, research, or educational journals/media and/or the purchase of reprints not;

26. Livestock sperm and ova;

27. Royalties and license fees for use rights to intellectual property, such as but not limited to: patents, trademarks, service marks, copyrights, music, artistic works, trade secrets, industrial designs, domain names, etc.;

28. Equipment moves by the original equipment manufacturer or authorized dealer to ensure equipment operation to original equipment manufacturer specifications, calibration, warranty, etc. not to exceed thirty thousand dollars (\$30,000) per transaction;

29. Mailing list rentals or purchases;

30. Art Exhibition rentals and/or loan agreements and associated costs of curatorial fees, transportation, and installation;

31. Registered breeding stock whose purchase price and quality has been approved by the Commissioner of Agriculture and Forestry and a specialist of Louisiana State University to be designated by the head of the College of Agriculture; and

32. Other livestock whose purchase price and quality has been approved by the Commissioner of Agriculture and Forestry, provided that the cost per head does not exceed \$1,500.

B. For the following items, when the purchase is in excess of the limit prescribed by Subsection 4.A of this Order, telephone, written, or facsimile price quotations shall be solicited, where feasible, from at least three (3) bona fide, qualified vendors. Whenever possible, at least one (1) of the bona fide, qualified vendors shall be a certified small entrepreneurship or a certified veteran-owned small entrepreneurship.

1. Farm products including, but not limited to, fresh vegetables, milk, eggs, fish, or other perishable foods, when it is determined that market conditions are unstable

and the competitive sealed bidding process is not conducive for obtaining the lowest prices;

2. Food, materials, and supplies needed for:

a. Operation of boats and/or facilities in isolated localities where only limited outlets of such supplies are available and the cost of the food, materials, and supplies do not exceed thirty thousand dollars (\$30,000); and/or

b. Juvenile detention homes and rehabilitation facilities/homes where the number of inmates, students, or clients is unstable and unpredictable;

3. Convention and meeting facilities including security services if applicable, provided that any associated food or lodging must be in accordance with Policy & Procedure Memorandum No. 49—General Travel Regulations;

4. Gasoline and fuel purchases not covered by competitive state contract;

5. Equipment for blind operated facilities not covered by competitive state contract;

6. Livestock feed commodities, including but not limited to soybean meal, cottonseed meal, and oats not exceeding thirty thousand dollars (\$30,000);

7. Seed commodities, including but not limited to rye grass, soybean seed, corn seed, cotton seed, etc. as well as related fertilizers, herbicides, insecticides, and fungicides when not covered by competitive state contract;

8. FAA PMA approved aircraft parts and/or repairs, inspections, and modifications performed by an FAA-certified mechanic and/or at an FAA certified repair station in accordance with FAA requirements with approval by the head of the agency or head of Office of Aircraft Services, Division of Administration;

9. Air and bus charters in accordance with PPM 49, including group travel that does not qualify for commercial rates available to individual travelers.

SECTION 6: In the absence of a good faith business basis, no purchase or procurement shall be artificially divided within a cost center, or its equivalent, to avoid the competitive process or the solicitation of competitive sealed bids.

SECTION 7: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of this Order.

SECTION 8: Executive Order Number JBE 17-18 is hereby rescinded.

SECTION 9: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana in the City of Baton Rouge, on this 9th day of November, 2020.

John Bell Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Aroin
Secretary of State
2011#052

Emergency Rules

DECLARATION OF EMERGENCY

Department of Children and Family Services Economic Stability Section

Jobs for America's Graduates
Louisiana (JAGS-LA) Program
(LAC 67:III.5591)

The Department of Children and Family Services (DCFS), Economic Stability, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III, Subpart 15 Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55 TANF Initiatives, Section 5591 Jobs for America's Graduates Louisiana (JAGS-LA) Program. This emergency rule shall be effective November 1, 2020 and shall remain in effect for a period of 120 days.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant, amendment of Section 5591 is required to update language concerning service provider.

The department considers emergency action necessary to facilitate the expenditure of TANF funds. The authorization to promulgate emergency rules to facilitate the expenditure of TANF funds is contained in Act 1 of the 2020 First Extraordinary Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Economic Stability

Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5591. Jobs for America's Graduates Louisiana (JAGS-LA) Program

A. Effective November 1, 2020, the department may enter into agreements for the purpose of administering the Jobs for America's Graduates Louisiana (JAG-LA) Program to help keep in school those students at risk of failing in school, to capture out-of-school youth in need of a high school education, to provide an avenue for achieving academically, and to assist students in ultimately earning recognized credentials that will make it possible for them to exit school and enter post-secondary education and/or the workforce.

B. These services meet TANF Goal 3 to prevent and reduce the incidence of out-of-wedlock pregnancies by providing intervention and improved life prospects for students who show evidence of failing, dropping out or engaging in negative behaviors that can lead to dependency, out-of-wedlock births, imprisonment, and/or other undesirable outcomes which may lead to the detriment and impoverishment of youth.

C. Eligible participants in the JAG-LA Program shall be 12-22 years of age and must face at least two designated barriers to success that include economic, academic, personal, environmental, or work related barriers.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; House Bill 1, 2007 Reg. Session Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:2468 (November 2007), amended LR 34:698 (April 2008), LR 35:1257 (July 2009), amended by the Department of Children and Family Services, Economic Stability Section, LR 46:

Marketa Garner Walters
Secretary

2011#024

DECLARATION OF EMERGENCY

Department of Children and Family Services Economic Stability Section

Vulnerable Communities and Peoples Initiative
(LAC 67:III.5553)

The Department of Children and Family Services (DCFS), Economic Stability, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt LAC 67:III, Subpart 15 Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55 TANF Initiatives, Section 5553 Vulnerable Communities and Peoples Initiative. This declaration is necessary to extend the original Emergency Rule since it is effective for a maximum of 120 days and will expire before the Final Rule takes effect. This Emergency Rule extension is effective on November 28, 2020, and shall remain in effect for a period of 120 days.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant, amendment of Section 5553 adopts provisions necessary to establish the Vulnerable Communities and Peoples Initiative to stabilize families and improve their economic opportunities.

The department considers emergency action necessary to facilitate the expenditure of TANF funds. The authorization to promulgate emergency rules to facilitate the expenditure of TANF funds is contained in Act 1 of the 2020 First Extraordinary Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Economic Stability

Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5553. Vulnerable Communities and Peoples Initiative

A. Effective August 1, 2020, the department shall enter into an agreement with the Southern University Law Center to establish the Vulnerable Communities and Peoples Initiative to stabilize families and improve their economic opportunities by reducing and/or eliminating disparities.

B. Services include, but are not limited to, research and development, community networking and partnership referrals, employment assistance, and direct and indirect legal services.

C. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies and TANF goal 4, to encourage the formation and maintenance of two-parent families by identifying direct and indirect barriers to resources and providing a network of supportive services through governmental agencies and community partnerships, such as application assistance, legal services, and referrals.

D. Eligibility for services is limited to needy, low-income family members identified and served by the Southern University Law Center.

E. Services are considered non-assistance by the department.

F. Services are subject to the availability of funds as approved and designated by the secretary.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231; and R.S. 36:474.

HISTORICAL NOTE: Promulgated by Department of Children and Family Services, Economic Stability Section, LR 46:

Marketa Garner Walters
Secretary

2011#025

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices (LAC 28:XL.6829)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement to revise *Bulletin 118—Statewide Assessment Standards and Practices*. The proposed revisions remove the requirement that Louisiana public and/or scholarship school students, who earned a high school assessment-eligible course credit in the spring of the 2019-2020 school year, take the LEAP 2025 high school assessment that corresponds to course credits earned in the spring of 2020, when no assessment was available to students in spring 2020. Use of the emergency provision will allow students to avoid a scenario whereby they would be expected to take and pass a subject test in a subsequent year when they have moved on to their next courses of study. This Declaration of Emergency, effective October 15, 2020, is for a period of 120 days from adoption, or until finally adopted as Rule.

Title 28

EDUCATION

Part XI. Accountability/Testing

Subpart 3. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 68. LEAP 2025 Assessments for High School Subchapter C. LEAP 2025 for High School

Administrative Rules

§6829. LEAP 2025 Transfer Rules

[Formerly LAC 28:CXL.1829]

A. The following applies to a transfer student who is a Louisiana resident transferring into a Louisiana public school district from an out-of-state school, nonpublic school, or approved home study program.

1. - 3. ...

B. Exception. A student who earned a high school assessment-eligible course credit in the spring of the 2019-2020 school year in a Louisiana public or scholarship school, and has never taken the corresponding LEAP 2025 test for the course, does not need to take or pass the LEAP 2025 subject test for the course in order to meet graduation requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:978 (May 2010), amended LR 37:820 (March 2011), LR 44:471 (March 2018), LR 46:

Sandy Holloway
President

2011#002

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Reopening School Facilities for the 2020-2021 School Year (LAC 28:LXXIX.Chapter 11 and 3303; CXV.Chapter 4 and 3703; and CXXXIX.103 and Chapter 41)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education (BESE) has adopted emergency amendments to *Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators*, *Bulletin 741—Louisiana Handbook for School Administrators*, and *Bulletin 126—Charter Schools*. Act 9 of the 2020 First Extraordinary Session requires that BESE adopt, no later than July 15, 2020, emergency rules reflective of the Centers for Disease Control and Prevention (CDC) guidelines to provide minimum standards, policies, medical exceptions, and regulations to govern the reopening of schools for the 2020-2021 school year. In response to this Act and in light of the coronavirus pandemic (COVID-19), these amendments were developed in coordination with the Louisiana Department of Health (LDH), using guidance provided by the CDC regarding school settings in which educational services are provided to children and provide minimum health and safety standards, ensuring the protection of students, faculty, staff, and others on school property during the instructional day to the greatest extent possible and practical, for the reopening of school facilities for the 2020-2021 school year. Use of the emergency provision provided in the APA will allow for these minimum health and safety standards to take immediate effect and inform local reopening plans for the 2020-2021 school year. This Declaration of Emergency, effective November 12, 2020, will remain in effect for a period of 120 days from the day of adoption, or until adopted as a final Rule.

Title 28

EDUCATION

Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators

Chapter 11. Health Subchapter A. General Provisions

§1101. Immunization

A. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, 44:411, 17:170(D), and 17:170(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003), amended LR 31:3078 (December 2005), LR 35:1232 (July 2009), LR 35:2348 (November 2009), LR 39:1443 (June 2013), repromulgated LR 46:

§1103. Diabetes Management and Treatment

NOTE: This Section was developed in coordination with the Louisiana State Board of Nursing (LSBN). Any waivers, deletions, additions, amendments, or alterations to this policy shall be approved by both BESE and LSBN.

A. - A.4.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, 17:411, 17:170(D), 17:170(A)(1), and 17:436.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:480 (March 2013), repromulgated LR 46:

Subchapter B. Reopening School Facilities for the 2020-2021 School Year

§1105. Purpose and Background

A. This Subchapter provides minimum health and safety standards regarding the reopening of school facilities for the 2020-2021 school year in response to the coronavirus disease (COVID-19) pandemic and to ensure that students, faculty, staff, and others on school property are protected to the maximum extent possible and practical.

B. The requirements contained within this Subchapter were developed by the LDE in coordination with the LDH using guidance provided by the Centers for Disease Control (CDC) regarding school settings, defined as a setting in which educational services are provided to children. As research and information about COVID-19 is updated, or if the LDH or CDC revise guidance regarding school settings, the LDE will review the standards contained within this Subchapter and, as appropriate and necessary, propose revisions of this Subchapter to BESE.

C. While the requirements outlined in this Subchapter are designed to mitigate the spread of COVID-19 and to create a safe and healthy environment for students, faculty, staff, and others on school property, no requirement or plan guarantees that individuals will not contract COVID-19.

D. By executive order, the governor establishes the statewide phase(s) of reopening (phase 1, phase 2, or phase 3). If the local governing authority of a parish or other municipality has established a more restrictive phase of reopening, the LEA located within that parish or municipality must conform to the more restrictive requirements.

E. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

F. For the purposes of this Subchapter, the following definition will apply.

Physical Distance—the act of an individual maintaining a space of six feet or more from another individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:

§1107. Minimum Requirements for Reopening and Operating School Facilities

A. Group Sizes

1. The maximum group size that may convene indoors in a single room, irrespective of room size, or outdoors at any given time are as follows:

- a. phase 1—10 individuals;
- b. phase 2—25 individuals; and
- c. phase 3—50 individuals.

2. Group Composition

a. Younger students who are unable to wear face coverings or maintain a physical distance from other students or adults should be assigned static groups. This should include, at a minimum, students in grades 2 or lower. The static group composition should be maintained for as long as possible over the course of the 2020-2021 school year.

b. The composition of a group may change if students are able to maintain a physical distance of at least six feet from other students and adults in a classroom or indoor setting, to the greatest extent possible.

c. Students with disabilities must continue to receive special education and related services in the least restrictive environment. School systems must factor in any additional service providers who may need to enter the classroom, students who receive services outside the classroom (e.g. resource, APE), and/or students who receive services through alternate instructional methods.

B. Physical Standards for the use of School Facilities

1. If a group convenes indoors, it must convene in a room enclosed by a wall or partition. This includes large rooms, such as a gymnasium or auditorium, which may include more than one group if each group is separated by a wall or partition.

2. If groups convene outdoors, a physical barrier is not required, but each group must remain separated.

3. To the greatest extent possible, schools must limit crowding at entry and exit points and maintain maximum group sizes and physical distance recommendations.

4. If a room is used by more than one group in a single day, high-touch surfaces contained in that room must be cleaned before and after use by each group.

C. Monitoring Students and Adults for Symptoms of COVID-19

1. Each school must establish an area used to isolate anyone showing signs of being sick. The isolation area must be cleaned after it is occupied by any sick student or adult.

2. Upon arriving at the school facility, each adult and student must be assessed for symptoms of COVID-19, as defined by the CDC. This includes an initial temperature check.

D. Environmental Cleaning and Personal Hygiene

1. High-touch surfaces must be cleaned multiple times per day, including bathrooms.

2. Students must wash or sanitize hands upon arrival at the school, at least every two hours, before and after eating, before and after using outdoor play equipment, and before exiting the school facility.

3. While inside the school facility, all adults and students in grades 3 through 12 must wear a face covering to the greatest extent possible and practical within the local community context.

4. While inside the school facility, students in grades prekindergarten through 2 may wear a face covering.

5. While inside the school facility, children under two years old and individuals with breathing difficulties should not wear a face covering.

E. Hygienic Supplies

1. School employees must be provided adequate access to hygienic supplies, including soap, hand sanitizer with at least 60 percent alcohol, disinfectant wipes or spray, paper towels, and tissues. Face coverings should also be provided when needed.

2. The quantity of hygienic supplies must be appropriately provided to the school employee, according to the role and the number and age of students or adults served by that employee.

F. Transportation

1. School buses used to transport students must not exceed the following maximum capacity requirements:

- a. phase 1—25 percent, including adults, of the school bus manufacturer capacity;
- b. phase 2—50 percent, including adults, of the school bus manufacturer capacity; and
- c. phase 3—75 percent, including adults, of the school bus manufacturer capacity.

2. Passengers on a school bus must be spaced to the greatest extent possible as follows:

- a. phase 1—passengers must ride one per seat. Every other seat must remain empty. Members of the same household may sit in the same seat or adjacent seats; and
- b. phase 2 and 3—passengers must be dispersed throughout the bus to the greatest extent possible.

G. Student Programming Determinations

1. Student placement determinations in a distance or in-person education program should be made in consultation with the parent or custodian.

2. Student placement determinations should take into consideration a student's unique academic, social, emotional, familial, and medical needs of a student, as identified by the student's parent or custodian.

H. Essential Visitors to School Facilities

1. Essential visitors are individuals who must enter schools or early learning centers in order to conduct visits in accordance with Louisiana law or policy. Essential visitors include, but are not limited to, individuals who:

- a. conduct CLASS[®] observations;
- b. observe teacher candidates as part of the teacher preparation quality rating system; or
- c. provide essential supports and services including, but not limited to, early intervention services, special education services, or mental health consultation.

2. Essential visitors must comply with the minimum health and safety standards in this Subchapter.

I. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1 and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:

§1109. Nonpublic School Board or Governing Authority Reopening Policies and Plans

A. Prior to the beginning of the 2020-2021 school year, each nonpublic school board or governing authority must adopt policies in accordance with the standards outlined in this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:

Chapter 33. Glossary

§3303. Definitions

* * *

Department or *LDE*—the Louisiana Department of Education.

* * *

Face Covering—a piece of material used to cover both the nose and mouth for the purpose of forming a barrier to droplets or airborne particles that are coughed, sneezed, or exhaled when talking. Face coverings are meant to protect both the wearer of the face covering and surrounding individuals.

* * *

High-Touch Surface—surfaces that are touched *frequently*, including but not limited to door handles, bathroom fixtures, drinking fountains, railings, desks, and other surfaces in school facilities or on school buses.

* * *

LDH—the Louisiana Department of Health.

* * *

Static Group—a group whose composition of students and *adults* does not change.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:230 (February 2008), amended LR 36:2848 (December 2010), LR 38:1405 (June 2012), LR 39:1457 (June 2013), LR 41:1486 (August 2015), LR 46:

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 4. Reopening School Facilities for the 2020-2021 School Year

§401. Purpose and Background

A. This Chapter provides minimum health and safety standards regarding the reopening of school facilities for the 2020-2021 school year in response to the coronavirus disease (COVID-19) pandemic in order to ensure that students, faculty, staff, and others on school property are protected to the maximum extent possible and practical.

B. The requirements contained within this Chapter were developed by the LDE in coordination with the LDH using guidance provided by the Centers for Disease Control (CDC) regarding school settings, defined as a setting in which educational services are provided to children. As research and information about COVID-19 is updated or if the LDH or CDC revise guidance regarding school settings, LDE will review the standards contained within this Chapter and, as appropriate and necessary, propose revisions of this Chapter to BESE.

C. While the requirements outlined in this Chapter are designed to mitigate the spread of COVID-19 and to create a safe and healthy environment for students, faculty, staff, and others on school property, no requirement or plan guarantees that individuals will not contract COVID-19.

D. By executive order, the governor establishes the statewide phase(s) of reopening (phase 1, phase 2, or phase 3). If the local governing authority of a parish or other municipality has established a more restrictive phase of reopening, the LEA located within that parish or municipality must conform to the more restrictive requirements.

E. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

F. For the purposes of this Chapter, the following definition will apply.

Physical Distance—the act of an individual maintaining a space of six feet or more from another individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:

§403. Minimum Requirements for Reopening and Operating School Facilities

A. Group Sizes

1. The maximum group size that may convene indoors in a single room, irrespective of room size, or outdoors at any given time are as follows:

- a. phase 1—10 individuals;
- b. phase 2—25 individuals; and
- c. phase 3—50 individuals.

2. Group Composition

a. Younger students who are unable to wear face coverings or maintain a physical distance from other students or adults should be assigned static groups. This must include, at a minimum, students in Grade 2 or lower. The static group composition should be maintained for as long as possible over the course of the 2020-2021 school year.

b. The composition of a group may change if students are able to maintain a physical distance of at least six feet from other students and adults in a classroom or indoor setting, to the greatest extent possible.

c. Students with disabilities must continue to receive special education and related services in the least restrictive environment. School systems must factor in any additional service providers who may need to enter the classroom, students who receive services outside the classroom (e.g. resource, APE), and/or students who receive services through alternate instructional methods.

B. Physical Standards for the use of School Facilities

1. If a group convenes indoors, it must convene in a room enclosed by a wall or partition. This includes large rooms, such as a gymnasium or auditorium, which may include more than one group if each group is separated by a wall or partition.

2. If groups convene outdoors, a physical barrier is not required, but each group must remain separated.

3. To the greatest extent possible, schools must limit crowding at entry and exit points and maintain maximum group sizes and physical distance recommendations.

4. If a room is used by more than one group in a single day, high-touch surfaces contained in that room must be cleaned before and after use by each group.

C. Monitoring Students and Adults for Symptoms of COVID-19

1. Each school must establish an area used to isolate anyone showing signs of being sick. The isolation area must be cleaned after it is occupied by any sick student or adult.

2. Upon arriving at the school facility, each adult and student must be assessed for symptoms of COVID-19, as defined by the CDC. This includes an initial temperature check.

D. Environmental Cleaning and Personal Hygiene

1. High-touch surfaces must be cleaned multiple times per day, including bathrooms.

2. Students must wash or sanitize hands upon arrival at the school, at least every two hours, before and after eating, before and after using outdoor play equipment, and before exiting the school facility.

3. While inside the school facility, all adults and students in grades 3 through 12 must wear a face covering to the greatest extent possible and practical within the local community context.

4. While inside the school facility, students in grades prekindergarten through 2 may wear a face covering.

5. While inside the school facility, children under two years old and individuals with breathing difficulties should not wear a face covering.

E. Hygienic Supplies

1. School employees must be provided adequate access to hygienic supplies, including soap, hand sanitizer with at least 60 percent alcohol, disinfectant wipes or spray, paper towels, and tissues. Face coverings should also be provided when needed.

2. The quantity of hygienic supplies must be appropriately provided to the school employee, according to the role and the number and age of students or adults served by that employee.

F. Transportation

1. School buses used to transport students must not exceed the following maximum capacity requirements:

- a. phase 1—25 percent, including adults, of the school bus manufacturer capacity;
- b. phase 2—50 percent, including adults, of the school bus manufacturer capacity; and
- c. phase 3—75 percent, including adults, of the school bus manufacturer capacity.

2. Passengers on a school bus must be spaced to the greatest extent possible as follows:

- a. phase 1—passengers must ride one per seat. Every other seat must remain empty. Members of the same household may sit in the same seat or adjacent seats; and
- b. phase 2 and 3—passengers must be dispersed throughout the bus to the greatest extent possible.

G. Student Programming Determinations

1. Student placement determinations in a distance or in-person education program should be made in consultation with the parent or custodian.

2. Student placement determinations should take into consideration a student's unique academic, social, emotional, familial, and medical needs of a student, as identified by the student's parent or custodian.

H. Essential Visitors to School Facilities

1. Essential visitors are individuals who must enter schools or early learning centers in order to conduct visits in accordance with Louisiana law or policy. Essential visitors include, but are not limited to, individuals who:

- a. conduct CLASS® observations;
- b. observe teacher candidates as part of the teacher preparation quality rating system; or
- c. provide essential supports and services including, but not limited to, early intervention services, special education services, or mental health consultation.

I. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:

§405. Local Education Agency (LEA) Reopening Policies and Plans

A. Prior to the beginning of the 2020-2021 school year, each local school board must adopt policies in accordance with the standards outlined in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:

Chapter 37. Glossary

§3703. Definitions

Board or *BESE*—the state Board of Elementary and Secondary Education.

Department or *LDE*—the Louisiana Department of Education.

Face Covering—a piece of material used to cover both the nose and mouth for the purpose of forming a barrier to droplets or airborne particles that are coughed, sneezed, or exhaled when talking. Face coverings are meant to protect both the wearer of the face covering and surrounding individuals.

High-Touch Surface—surfaces that are touched frequently, including but not limited to door handles, bathroom fixtures, drinking fountains, railings, desks, and other surfaces in school facilities or on school buses.

LDH—the Louisiana Department of Health.

Static Group—a group whose composition of students and adults does not change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1316 (June 2005), amended LR 39:2231 (August 2013), LR 46:

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 1. General Provisions

§103. Definitions

A. - A.2. ...

Face Covering—a piece of material used to cover both the nose and mouth for the purpose of forming a barrier to droplets or airborne particles that are coughed, sneezed, or exhaled when talking. Face coverings are meant to protect both the wearer of the face covering and surrounding individuals.

High-Touch Surface—surfaces that are touched frequently, including but not limited to door handles, bathroom fixtures, drinking fountains, railings, desks, and other surfaces in school facilities or on school buses.

LDH—the Louisiana Department of Health.

Static Group—a group whose composition of students and adults does not change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:439.1, 17:3391, 17:3981, and 17:3973.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1357 (July 2008), amended LR 37:867 (March 2011), LR 37:2383 (August 2011), LR 38:37 (January 2012), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:1583 (July 2012), LR 39:3062 (November 2013), LR 40:1321 (July 2014), LR 42:1018 (July 2016), LR 43:2476 (December 2017), LR 46:

Chapter 41. Reopening School Facilities for the 2020-2021 School Year

§4101. Purpose and Background

A. This Chapter provides minimum health and safety standards regarding the reopening of school facilities for the 2020-2021 school year in response to the coronavirus disease (COVID-19) pandemic in order to ensure that students, faculty, staff, and others on school property are protected to the maximum extent possible and practical.

B. The requirements contained within this Chapter were developed by the LDE in coordination with the LDH using guidance provided by the Centers for Disease Control (CDC) regarding school settings, defined as a setting in which educational services are provided to children. As research and information about COVID-19 is updated or if the LDH or CDC revise guidance regarding school settings, the LDE will review the standards contained within this Chapter and, as appropriate and necessary, propose revisions of this Chapter to BESE.

C. While the requirements outlined in this Chapter are designed to mitigate the spread of COVID-19 and to create a safe and healthy environment for students, faculty, staff, and others on school property, no requirement or plan guarantees that individuals will not contract COVID-19.

D. By executive order, the governor establishes the statewide phase(s) of reopening (phase 1, phase 2, or phase 3). If the local governing authority of a parish or other municipality has established a more restrictive phase of reopening, the LEA located within that parish or municipality must conform to the more restrictive requirements.

E. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

F. For the purposes of this Chapter, the following definition will apply.

Physical Distance—the act of an individual maintaining a space of six feet or more from another individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:

§4103. Minimum Requirements for Reopening and Operating School Facilities

A. Group Sizes

1. The maximum group size that may convene indoors in a single room, irrespective of room size, or outdoors at any given time are as follows:

- a. phase 1—10 individuals;
- b. phase 2—25 individuals; and
- c. phase 3—50 individuals.

2. Group Composition

a. Younger students who are unable to wear face coverings or maintain a physical distance from other students or adults should be assigned static groups. This must include, at a minimum, students in grades 2 or lower. The static group composition should be maintained for as long as possible over the course of the 2020-2021 school year.

b. The composition of a group may change if students are able to maintain a physical distance of at least six feet from other students and adults in a classroom or indoor setting, to the greatest extent possible.

c. Students with disabilities must continue to receive special education and related services in the least restrictive environment. School systems must factor in any additional service providers who may need to enter the classroom, students who receive services outside the classroom (e.g. resource, APE), and/or students who receive services through alternate instructional methods.

B. Physical Standards for the use of School Facilities

1. If a group convenes indoors, it must convene in a room enclosed by a wall or partition. This includes large rooms, such as a gymnasium or auditorium, which may include more than one group if each group is separated by a wall or partition.

2. If groups convene outdoors, a physical barrier is not required, but each group must remain separated.

3. To the greatest extent possible, schools must limit crowding at entry and exit points and maintain maximum group sizes and physical distance recommendations.

4. If a room is used by more than one group in a single day, high-touch surfaces contained in that room must be cleaned before and after use by each group.

C. Monitoring Students and Adults for Symptoms of COVID-19

1. Each school must establish an area used to isolate anyone showing signs of being sick. The isolation area must be cleaned after it is occupied by any sick student or adult.

2. Upon arriving at the school facility, each adult and student must be assessed for symptoms of COVID-19, as defined by the CDC. This includes an initial temperature check.

D. Environmental Cleaning and Personal Hygiene

1. High-touch surfaces must be cleaned multiple times per day, including bathrooms.

2. Students must wash or sanitize hands upon arrival at the school, at least every two hours, before and after eating, before and after using outdoor play equipment, and before exiting the school facility.

3. While inside the school facility, all adults and students in grades 3 through 12 must wear a face covering to the greatest extent possible and practical within the local community context.

4. While inside the school facility, students in grades prekindergarten through 2 may wear a face covering.

5. While inside the school facility, children under two years old and individuals with breathing difficulties should not wear a face covering.

E. Hygienic Supplies

1. School employees must be provided adequate access to hygienic supplies, including soap, hand sanitizer with at least 60 percent alcohol, disinfectant wipes or spray, paper towels, and tissues. Face coverings should also be provided when needed.

2. The quantity of hygienic supplies must be appropriately provided to the school employee, according to the role and the number and age of students or adults served by that employee.

F. Transportation

1. School buses used to transport students must not exceed the following maximum capacity requirements:

- a. phase 1—25 percent, including adults, of the school bus manufacturer capacity;
- b. phase 2—50 percent, including adults, of the school bus manufacturer capacity; and
- c. phase 3—75 percent, including adults, of the school bus manufacturer capacity.

2. Passengers on a school bus must be spaced to the greatest extent possible as follows:

- a. phase 1—passengers must ride one per seat. Every other seat must remain empty. Members of the same household may sit in the same seat or adjacent seats; and
- b. phase 2 and 3—passengers must be dispersed throughout the bus to the greatest extent possible.

G. Student Programming Determinations

1. Student placement determinations in a distance or in-person education program should be made in consultation with the parent or custodian.

2. Student placement determinations should take into consideration a student's unique academic, social, emotional, familial, and medical needs of a student, as identified by the student's parent or custodian.

H. Essential Visitors to School Facilities

1. Essential visitors are individuals who must enter schools or early learning centers in order to conduct visits in accordance with Louisiana law or policy. Essential visitors include, but are not limited to, individuals who:

- a. conduct CLASS® observations;
- b. observe teacher candidates as part of the teacher preparation quality rating system; or
- c. provide essential supports and services including, but not limited to, early intervention services, special education services, or mental health consultation.

2. Essential visitors must comply with the minimum health and safety standards in this Subchapter.

I. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an

individual basis by the LEA in accordance with local policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:

§4105. Local Education Agency (LEA) Reopening Policies and Plans

A. Prior to the beginning of the 2020-2021 school year, each local school board must adopt policies in accordance with the standards outlined in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:

Sandy Holloway
President

2011#035

DECLARATION OF EMERGENCY

**Office of the Governor
Board of Examiners of Certified Shorthand Reporters**

Certified Shorthand Reporter Fees (LAC 46:XXI.901)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), Act 5 of the First Extraordinary Session of 2020, and pursuant to the authority set forth in R.S. 3:1733 and R.S. 3:1734, the Board of Examiners of Certified Shorthand Reporters declares an emergency to exist and adopts by emergency process the attached Rule relative to the fees for the issuance of a reciprocal certificate of registration without board examination, the issuance and renewal of a certificate of registration, and reinstatement of a suspended or revoked certificate.

This Rule shall have the force and effect of law on October 29, 2020, and will remain in effect 120 days, unless renewed by the Board of Examiners of Certified Shorthand Reporters, or until permanent rules are promulgated in accordance with the law.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXI. Certified Shorthand Reporters

Chapter 9. Fees

§901. Fees

A. The following fees shall be paid to the board.

1. The fee to be paid for the issuance of a reciprocal certificate of registration without board examination is \$175 plus seal fee(s).

2. The fee to be paid upon the issuance and renewal of a certificate of registration is \$175 plus seal fee(s).

3. - 4. ...

5. The fee to be paid for reinstatement of a suspended or revoked certificate is the payment of all delinquent fees, plus \$50 for a certificate delinquent for a period of up to one year, \$175 for a certificate delinquent for a period of up to two years, \$250 for a certificate delinquent for a period of two or more years.

6. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554 and 2558.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:680 (October 1983), amended LR 10:279 (April 1984), amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 14:531 (August 1988), LR 17:34 (January 1991), LR 17:578 (June 1991), LR 19:1541 (December 1993), amended by the Office of the Governor, Board of Examiners of Shorthand Reporters, LR 34:434 (March 2008), LR 36:1781 (August 2010), LR 37:318 (January 2011), LR 46:

Nhung Nguyen
Administrator

2010#011

DECLARATION OF EMERGENCY

**Office of the Governor
Board of Examiners of Certified Shorthand Reporters**

**Continuing Education Credits
(LAC 46:XXI.661)**

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), Act 5 of the First Extraordinary Session of 2020, and pursuant to the authority set forth in R.S. 3:1733 and R.S. 3:1734, the Board of Examiners of Certified Shorthand Reporters declares an emergency to exist and adopts by emergency process the attached Rule relative to accepting live webinars for continuing education credits.

This Rule shall have the force and effect of law on October 24, 2020, and will remain in effect 120 days, unless renewed by the Board of Examiners of Certified Shorthand Reporters, or until permanent rules are promulgated in accordance with the law.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXI. Certified Shorthand Reporters

Chapter 6. Continuing Education

§611. Activities Not Acceptable for Continuing Education Credits

A. Completion of any certified pulmonary respiratory course will not be accepted for continuing education credits.

B. Attendance at or participation in tours, exhibits, entertainment, recreation, committee service, association business, home study, or on-line courses or seminars will not be accepted for continuing education credits, except that live webinars will be accepted for continuing education credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 21:931 (September 1995), amended by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 33:2420 (November 2007), LR 46:

Nhung Nguyen
Administrator

2011#010

DECLARATION OF EMERGENCY

Office of the Governor Board of River Port Pilot Commissioners

Restricted Duties Guidelines (LAC 46:LXX.3301)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 34:991 et seq. the Board of Commissioners declares an emergency to exist and adopts by emergency process the attached regulation of deputy pilot restrictions to allowing the commissioners to tailor deputy pilot guidelines to enhance their training and professional practice.

Due to the safety sensitive nature of the duties performed by state commissioned pilots, this board has a strong commitment to the public and maritime industry. The board has promulgated standards of conduct, in order to further enhance safety and wellbeing of the citizens of Louisiana and the River Pilots as well as to enhance the training of the deputy pilots and to achieve and maintain reliable, safe and efficient pilotage services.

The board has the authority to establish deputy pilot duties and responsibilities to enhance their professional development and training. Due to the decline in shipping caused by the pandemic and the changing design and size of vessels, the existing regulations regarding deputy professional development are inadequate limiting the training needed by the deputy pilot. The current regulations require amending in order to properly train and develop the piloting skills of deputy pilots.

This Emergency Rule becomes effective upon the signature of the President of the Board of River Port Pilot Commissioners and shall remain in effect for 120 days, unless rescinded or until a permanent rules and regulations become effective.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXX. River Pilots

Subpart 2. Board of River Port Pilot Commissioners

Chapter 33. Deputy Pilots

§3301. Restricted Duties Guidelines

A. The deputy pilot development program is a mandatory program administered by the board to develop pilot skill after the pilot receives a pilot commission or license.

B. The deputy pilots shall adhere to the guidelines and restrictions. established by the board which may factor the following considerations:

1. length of the vessel;
2. cargo carried by the vessel;
3. draft of the vessel
4. river stage;
5. visibility restrictions;
6. designating the deputy pilot to serve as a second pilot;
7. restrict the deputy pilot from performing certain pilot services during the deputy period;
8. any restrictions the board may seem appropriate.

C. The deputy pilot shall be subject to restrictions until the board removes the restrictions.

D. The failure of the deputy pilot to adhere to these guidelines may subject the deputy pilot to disciplinary action at the board's discretion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2070 (October 2003), amended LR 35:1884 (September 2009), LR 38:2369 (September 2012), LR 46:

Capt. Jack Anderson President
Commissioners

2011#005

DECLARATION OF EMERGENCY

Department of Health Board of Drug and Device Distributors

Suspension of License Renewal Fee (LAC 46:XXXIV.801)

The Louisiana Board of Drug and Device Distributors hereby gives notice in accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B), and by authority through La. R.S. 37:3461-3482, and House Concurrent Resolution 71 of the 2020 Louisiana Legislative Regular Session, declaring an emergency exists to address the economic fallout felt by many Louisiana businesses due to the global pandemic caused by the novel coronavirus. This Emergency Rule will add temporary language to Chapter 8, Section 801 to suspend the license renewal fee for existing licensees physically located in Louisiana from July 1, 2020 until June 30, 2021. This Emergency Rule is effective on October 19, 2020 and will remain in effect for 120 days. The Emergency Rule is set forth below.

Title 46

PROFESSIONAL AND OCCUPATION STANDARDS

Part XXXIV. Drug and Device Distributors

Chapter 8. Fees

§801. Fees

A.1. - 6. ...

B. In accordance with House Concurrent Resolution 71 of the 2020 Louisiana Legislative Regular Session and in light of the economic fallout felt by many Louisiana businesses due to the global pandemic caused by the novel coronavirus:

1. The license renewal fee for licensees physically located in Louisiana that are existing as of July 1, 2020 shall be suspended from July 1, 2020 until June 30, 2021.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 32:403 (March 2006), amended LR 35:1540 (August 2009), LR 38:1961 (August 2012), amended by the Department of Health, Board of Drug and Device Distributors, LR 42:2186 (December 2016), LR 47:

George Lovecchio
Executive Director

2011#049

DECLARATION OF EMERGENCY

Department of Health Board of Optometry Examiners

2020-21 Continuing Education (LAC 46:LI.301)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority vested in the Louisiana State Board of Optometry Examiners by the Optometry Practice Act, R.S. 37:1041-1068, the Louisiana State Board of Optometry Examiners declares an emergency to exist and hereby adopts by emergency process the attached regulations to supersede the current permanent regulations found at Title 46, Part LI:301. The implementation of these regulations by the emergency process is necessary to protect the public health and safety of licensed optometrists during the COVID-19 pandemic.

The implementation of this Emergency Rule extends the time to complete continuing education requirements for calendar year 2020 to December 31, 2021 and extends the reporting requirement for continuing education for calendar year 2020 to March 1, 2022.

This Emergency Rule shall become effective upon signature and shall remain in effect for the maximum period allowed under the Administrative Procedures Act, R.S. 49:950, et seq.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LI. Optometrists

Chapter 3. License

§301. Continuing Education

A. Each licensed optometrist shall comply with the following continuing education requirements.

1. Standard optometry license holders and diagnostic pharmaceutical certificate holders shall complete between January 1 and December 31 of each calendar year at least 12 hours of continuing education courses., of which a minimum of 10 hours must be obtained in a classroom setting, approved by the Louisiana State Board of Optometry Examiners; provided, however, a minimum of 9 of 12 hours must be obtained in a classroom setting in the calendar year in which an optometrist holding a controlled dangerous substance license satisfies the one-time continuing education requirement for controlled dangerous substances set forth in §303.

2. License holders authorized to diagnose and treat pathology and use and prescribe therapeutic pharmaceutical agents shall complete between January 1 and December 31 of each calendar year at least 16 hours of continuing education courses., of which a minimum of 14 hours must be obtained in a classroom setting, approved by the Louisiana State Board of Optometry Examiners, and of which at least eight classroom hours shall consist of matters related to ocular and systemic pharmacology and current diagnosis and treatment of ocular disease; provided, however, a minimum of 13 of 16 hours must be obtained in a classroom setting in the calendar year in which an optometrist holding a controlled dangerous substance license satisfies the one-time continuing education requirement for controlled dangerous

substances set forth in §303. Such certificate holders will be entitled to apply the CPR continuing education to their required annual continuing education, provided that such CPR continuing education shall not count toward the required eight classroom hours related to ocular and system pharmacology and current diagnosis and treatment of ocular disease, and provided further that no more than two hours of CPR continuing education may be applied to the continuing education requirement in any two calendar year periods. The eight hours of continuing education relating to ocular and systemic pharmacology and/or current diagnosis and treatment of ocular disease shall be obtained solely from the following sources:

- a. the American Optometric Association;
- b. any state optometric association affiliated with the American Optometric Association;
- c. Great Western Council of Optometry, Mountain West Council of Optometrists, North Central States Optometric Council, and Southern Council of Optometrists;
- d. the American Academy of Optometry; or
- e. schools and colleges of optometry accredited by the American Optometric Association Accreditation Council on Optometric Education.

3. For the 2020-21 calendar years:

- a. the time to complete continuing education requirements for the calendar year 2020 is extended to December 31, 2021;

- b. all continuing education hours required for the calendar year 2020 may be obtained in the calendar year 2021; provided, however, any continuing education hours obtained in the calendar year 2021 that are used to meet the continuing education requirements for 2020 may not be used to also satisfy continuing education requirements for 2021.

- c. the reporting requirement for continuing education for calendar year 2020 is extended to March 1, 2022.

- d. the reporting requirement for continuing education for calendar year 2021 also remains March 1, 2022.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:631 (April 2006), amended LR 35:1111 (June 2009), LR 38:1590 (July 2012), amended by the Department of Health, Board of Optometry Examiners, LR 44:1248 (July 2018), amended LR 46:23 (January 2020).

Dr. James D. Sandefur O.D.
Secretary

2011#012

DECLARATION OF EMERGENCY

Department of Health Board of Pharmacy

Temporary Suspension of License Renewal Fees (LAC 46:LIII.1150)

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953(B), to promulgate an emergency

rule to implement a temporary suspension of license renewal fees for a limited period of time.

During their 2020 Regular Session, the Louisiana Legislature adopted House Concurrent Resolution 71 which directs professional licensing boards to adopt emergency rules to suspend the collection of license renewal fees for existing businesses located in Louisiana for licenses, certificates, permits and registrations scheduled to expire from July 1, 2020 through June 30, 2021.

The board has determined this Emergency Rule is necessary to comply with the legislative mandate in House Concurrent Resolution 71 of the 2020 Regular Session of the Louisiana Legislature. This emergency rule shall become effective October 27, 2020 and shall remain in effect for 120 days unless rescinded or renewed.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 11. Pharmacies

§1150. Temporary Suspension of License Renewal Fees

A. During their 2020 Regular Session, the Louisiana Legislature adopted House Concurrent Resolution 71, which requires professional licensing boards to adopt emergency rules to suspend the collection of license renewal fees for existing businesses located in Louisiana for licenses, certificates, permits and registrations scheduled to expire from July 1, 2020 through June 30, 2021.

B. Notwithstanding any other provision of this Part to the contrary, the board shall waive the collection of the renewal fee and any associated late renewal fee for any of the following credentials scheduled to expire at any time from July 1, 2020 through June 30, 2021, excluding any credentials issued to nonresident pharmacies, facilities, or other businesses located outside Louisiana:

1. pharmacy permits;
2. durable medical equipment permits;
3. emergency drug kit permits;
4. automated medication system registrations;
5. controlled dangerous substance licenses issued to the following business categories:
 - a. automated medication systems;
 - b. drug and device distributors;
 - c. hospitals;
 - d. laboratories;
 - e. manufacturers;
 - f. pharmacies;
 - g. registered outsourcing facilities;
 - h. substance abuse clinics; and
 - i. third party logistics providers.

C. All other types of fees associated with the issuance and renewal of various licenses, certificates, permits and registrations issued to existing businesses located in Louisiana, including reinstatement fees, prescription monitoring program assessments, pharmacy education support fees, administrative hearing fees, and other fees itemized in R.S. 37:1184 are excluded from this temporary suspension of license renewal fees.

D. All fees associated with the issuance and renewal of various licenses, certificates, permits and registrations issued

to new and existing businesses located outside Louisiana are excluded from this temporary suspension of license renewal fees.

E. All fees associated with the issuance and renewal of various licenses, certificates, permits and registration issued to individual persons located within or outside Louisiana are excluded from this temporary suspension of license renewal fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 46:

Malcolm J Broussard
Executive Director

2011#015

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Abortion Facilities—Licensing Standards
(LAC 48:I.4431)

The Department of Health, Bureau of Health Services Financing amends LAC 48:I.4431 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2175.1 et seq. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing repealed and replaced the provisions governing the licensing standards for abortion facilities in order to incorporate the changes imposed by legislation, and further revise and clarify those provisions (*Louisiana Register*, Volume 41, Number 4).

Act 97 of the 2016 Regular Session of the Louisiana Legislature increased the time period required for certain pre-operative services. Act 563 of the 2016 Regular Session of the Louisiana Legislature provides that at least 72 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of certain printed information, including resources, programs and services for pregnant women who have a diagnosis of fetal genetic abnormality, and given printed information about resources, programs and services for infants and children born with disabilities, as well as other related matters. Act 593 of the 2016 Regular Session of the Louisiana Legislature provides for the disposal, by interment or cremation, of fetal remains and designates procedures for giving patients options for arrangements. The department promulgated an Emergency Rule which amended the provisions governing outpatient abortion clinics in order to comply with the provisions of Acts 97, 563 and 593 (*Louisiana Register*, Volume 42, Number 12).

This Emergency Rule is being promulgated in order to continue the provisions of the December 3, 2016 Emergency Rule. This action is being taken to protect the health and

welfare of Louisiana citizens by assuring the health and safety of women seeking health care services at licensed abortion facilities.

Effective November 24, 2020, the Department of Health, Bureau of Health Services Financing amends the provisions governing the licensing standards for abortion facilities.

Title 48

PUBLIC HEALTH GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 44. Abortion Facilities

Subchapter C. Pre-operative, Intra-operative, and Post-Operative Procedures

§4431. Screening and Pre-Operative Services

A. - E.1. ...

2. Requirements

a. Except as provided in Subparagraph b below, at least 72 hours prior to the pregnant woman having any part of an abortion performed or induced, and prior to the administration of any anesthesia or medication in preparation for the abortion on the pregnant woman, the physician who is to perform the abortion or a qualified person who is the physician's agent shall comply with all of the following requirements:

i. perform an obstetric ultrasound on the pregnant woman, offer to simultaneously display the screen which depicts the active ultrasound images so that the pregnant woman may view them and make audible the fetal heartbeat, if present, in a quality consistent with current medical practice. Nothing in this Section shall be construed to prevent the pregnant woman from not listening to the sounds detected by the fetal heart monitor, or from not viewing the images displayed on the ultrasound screen;

ii. provide a simultaneous and objectively accurate oral explanation of what the ultrasound is depicting, in a manner understandable to a layperson, which shall include the presence and location of the unborn child within the uterus and the number of unborn children depicted, the dimensions of the unborn child, and the presence of cardiac activity if present and viewable, along with the opportunity for the pregnant woman to ask questions;

iii. offer the pregnant woman the option of requesting an ultrasound photograph or print of her unborn child of a quality consistent with current standard medical practice that accurately portrays, to the extent feasible, the body of the unborn child including limbs, if present and viewable;

iv. from a form that shall be produced and made available by the department, staff will orally read the statement on the form to the pregnant woman in the ultrasound examination room prior to beginning the ultrasound examination, and obtain from the pregnant woman a copy of a completed, signed, and dated form; and

v. retain copies of the election form and certification prescribed above. The certification shall be placed in the medical file of the woman and shall be kept by the outpatient abortion facility for a period of not less than seven years. If the woman is a minor, the certification shall be placed in the medical file of the minor and kept for at least ten years from the time the minor reaches the age of majority. The woman's medical files shall be kept confidential as provided by law.

b. If the pregnant woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, then the physician who is to perform the abortion or a qualified person who is the physician's agent shall comply with all of the requirements of §4431.E.2.a at least 24 hours prior to the woman having any part of an abortion performed or induced.

c. - e. Repealed.

E.3. - G.1. ...

a. Except as provided in Subparagraph b below, at least 72 hours before the abortion the physician who is to perform the abortion or the referring physician shall provide informed consent to the pregnant woman seeking an abortion, pursuant to all laws, rules and regulations regarding informed consent. The informed consent shall be communicated both orally and in-person, and in writing, and shall be provided in a private room. Documentation of all such informed consent provided shall be maintained in the patient's medical record.

b. If the woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, then the physician who is to perform the abortion or the referring physician shall comply with all of the requirements of §4431.G.1 at least 24 hours prior to the abortion.

I.c. - 3. ...

a. Except as provided in Subparagraph b below, at least 72 hours before a scheduled abortion the physician who is to perform the abortion, the referring physician, or a qualified person shall inform the pregnant woman seeking an abortion, orally and in-person that:

i. - iv. ...

b. If the woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, then the physician who is to perform the abortion the referring physician, or a qualified person shall comply with all of the requirements of §4431.G.3 at least 24 hours prior to the abortion.

4. ...

a. At least 72 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of the printed materials, pursuant to any applicable state laws, rules, and regulations, by the physician who is to perform the abortion, the referring physician, or a qualified person. These printed materials shall include any printed materials necessary for a voluntary and informed consent, pursuant to R.S. 40:1061.17. However, if the pregnant woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, she shall be given a copy of the printed materials at least 24 hours prior to an elective abortion procedure by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c).

i. - NOTE. Repealed.

b. At least 72 hours before the abortion, the pregnant woman or minor female considering an abortion shall be given a copy of the department's *Point of Rescue* pamphlet and any other materials described in R.S. 40:1061.16 by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c), except in the case of medical emergency defined by applicable state laws. However, if the pregnant woman or minor female considering an abortion certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, she shall be given a copy of these printed materials at least 72 hours prior to an elective abortion procedure by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c), except in the case of medical emergency defined by applicable state laws.

i. The physician or qualified person shall provide to the woman, or minor female seeking an abortion, such printed materials individually and in a private room for the purpose of ensuring that she has an adequate opportunity to ask questions and discuss her individual circumstances.

ii. The physician or qualified person shall obtain the signature of the woman or minor female seeking an abortion on a form certifying that the printed materials were given to the woman or minor female.

iii. In the case of a minor female considering an abortion, if a parent accompanies the minor female to the appointment, the physician or qualified person shall provide to the parent copies of the same materials given to the female.

iv. The signed certification form shall be kept within the medical record of the woman or minor female for a period of at least seven years.

c. At least 72 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of a printed informational document including resources, programs and services for pregnant women who have a diagnosis of fetal genetic abnormality and resources, programs and services for infants and children born with disabilities. However, if the pregnant woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, she shall be given a copy of these printed materials at least 24 hours prior to an elective abortion procedure by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c).

d. If the pregnant woman seeking an abortion is unable to read the materials, the materials shall be read to her. If the pregnant woman seeking an abortion asks questions concerning any of the information or materials, answers shall be provided to her in her own language.

NOTE: The provisions of this Section requiring a physician or qualified person to provide required printed materials to a woman considering an abortion shall become effective 30 days after the department publishes a notice of the availability of such materials.

5. ...

a. Prior to the abortion, the outpatient abortion facility shall ensure the pregnant woman seeking an abortion has certified, in writing on a form provided by the department that the information and materials required were provided at least 72 hours prior to the abortion, or at least 24 hours prior to the abortion in the case of a woman who has given prior certification in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy. This form shall be maintained in the woman's medical record.

b. ...

c. The pregnant woman seeking an abortion is not required to pay any amount for the abortion procedures until the 72-hour period has expired, or until expiration of the 24-hour period applicable in the case of a woman who has given prior certification in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy.

6. - 7.b....

8. Disposition of Fetal Remains

a. Each physician who performs or induces an abortion which does not result in a live birth shall ensure that the remains of the fetus are disposed of by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq., and the provisions of LAC 51:XXVI.102 of the *Sanitary Code*.

b. Prior to an abortion, the physician shall orally and in writing inform the pregnant woman seeking an abortion in the licensed abortion facility that the pregnant woman has the following options:

i. the option to make arrangements for the disposition and/or disposal of fetal remains by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq.; or

ii. the option to have the outpatient abortion facility/physician make the arrangements for the disposition and/or disposal of fetal remains by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq.

c. The pregnant woman shall sign a consent form attesting that she has been informed of these options, and shall indicate on the form whether she wants to make arrangements for the disposition of fetal remains or whether she wants the facility to make arrangements for the disposition and/or disposal of fetal remains.

d. the requirements of §4431.G.8 regarding dispositions of fetal remains, shall not apply to abortions induced by the administration of medications when the evacuation of any human remains occurs at a later time and not in the presence of the inducing physician or at the facility in which the physician administered the inducing medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:700 (April 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton

Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2011#044

DECLARATION OF EMERGENCY

**Department of Health
Bureau of Health Services Financing
and
Office of Aging and Adult Services
and
Office for Citizens with Developmental Disabilities**

Programs and Services Amendments Due to the Coronavirus Disease 2019 (COVID-19) Public Health Emergency

On January 30, 2020, the World Health Organization declared a public health emergency of international concern and on January 31, 2020, U.S. Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States, effective as of January 27, 2020, in response to the recent coronavirus disease 2019 (hereafter referred to as COVID-19) outbreak. On March 11, 2020, Governor John Bel Edwards declared a statewide public health emergency to exist in the State of Louisiana as a result of the imminent threat posed to Louisiana citizens by COVID-19. Likewise, the presidential declaration of a national emergency due to COVID-19 has an effective date of March 1, 2020.

In response to these public health emergency declarations and the rapid advancement of COVID-19 throughout Louisiana, the Department of Health, Bureau of Health Services Financing, the Office of Aging and Adult Services (OAAS), and the Office of Behavioral Health (OBH) amended the provisions of Title 50 of the *Louisiana Administrative Code* in order to adopt temporary measures to provide for the continuation of essential programs and services to ensure the health and welfare of the citizens of Louisiana in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. (*Louisiana Register*, Volume 46, Number 4). This Emergency Rule, adopted on March 19, 2020, also amended the provisions governing the reimbursement methodology for nursing facilities to include an add-on rate to the per diem. The department subsequently promulgated an Emergency Rule, adopted on April 8, 2020, which further amended Title 50 to temporarily adopt additional provisions to ensure the continuation of essential programs and services, and rescinded and replaced the nursing facility add-on provisions of the previous Emergency Rule in order to clarify the eligible nursing facility providers (*Louisiana Register*, Volume 46, Number 4). This Emergency Rule is being promulgated to amend the provisions of the Emergency Rule adopted on April 8, 2020 in order to require an attestation in order for adult day center providers to receive retainer payments. This Emergency Rule shall be in effect for the maximum period allowed under the Act or the

duration of the COVID-19 public health emergency declaration, whichever comes first.

Effective October 19, 2020, the Department of Health, Bureau of Health Services Financing, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities hereby amend the provisions of the Emergency Rule adopted April 8, 2020 and Title 50 of the *Louisiana Administrative Code* throughout the duration of the COVID-19 public health emergency declaration:

Nursing Facilities—Reimbursement Methodology – Reimbursement Adjustment (LAC 50:II.20006)

The per diem rate paid to privately owned or operated nursing facilities shall include an add-on of \$12 for the duration of the COVID-19 public health emergency declaration or to end at the discretion of the state.

Nursing Facilities—Reimbursement Methodology—Non-State, Government Owned or Operated Facilities and State-Owned or Operated Facilities (LAC 50:II.20009)

Non-state, government-owned or operated nursing facilities will be paid a case-mix reimbursement rate in accordance with §20005 with the following exception.

State-owned or operated and non-state, government-owned or operated nursing facilities are not eligible for, and will not receive, the State and/or Federal declared emergency add-on rate.

Nursing Facilities—Reimbursement Methodology—Leave of Absence Days (LAC 50:II.20021)

State-owned or operated, and non-state government-owned or operated, facilities are not eligible for, and will not receive, the State and/or Federal declared emergency modification to leave of absence day payments.

Medicaid Eligibility (LAC 50:III)

Throughout the duration of the COVID-19 public health emergency declaration, eligibility application and renewal time periods will be relaxed and self-attestation will be accepted for all eligibility criteria, excluding verification of citizenship and immigration status, and post-enrollment verification will be conducted for coverage under the Medical Assistance Program (Medicaid).

Home Health Program—Home Health Services (LAC 50:XIII.Subpart 1)

For the duration of the COVID-19 public health emergency declaration, non-physician practitioners (nurse practitioners and physician assistants) will be able to order and review home health services, including the completion of associated documentation, in order to meet the demand for services due to access issues and a shortfall in physician availability.

Services for Special Populations—Applied Behavior Analysis-Based Therapy Services—Covered Services and Limitations (LAC 50:XV.301.D)

Prior authorizations for persons currently approved to receive applied behavior analysis-based (ABA) therapy services will be extended for the duration of the COVID-19 public health emergency declaration.

Services for Special Populations—Early and Periodic Screening, Diagnosis and Treatment Personal Care Services—Provider Qualifications (LAC 50:XV.Subpart 5)

For the duration of the COVID-19 public health emergency declaration, the qualifications for providers of personal care services (PCS) to recipients receiving early

and periodic screening, diagnostic and treatment (EPSDT) services will be relaxed to allow:

Recipients and workers to live in the same setting so that the recipients may receive EPSDT PCS.

Legally responsible relatives/caregivers to be a temporary direct service worker (DSW) in the absence of DSW care.

The following individuals may provide services to the recipient of EPSDT PCS: the recipient's spouse; the recipient's curator; the recipient's tutor; the recipient's legal guardian; the recipient's responsible representative; or the person to whom the recipient has given representative and mandate authority (also known as power of attorney).

Payment to the legally responsible relatives/caregivers designated as the temporary DSW for EPSDT PCS, if necessary, during the absence of availability of agency DSW care.

LDH approval for these services will be required. Requests will be reviewed on a case-by-case basis. If approval is granted:

Providers will pay the temporary DSW directly for services rendered; and

Providers will follow hiring procedures that include background checks and training.

At a minimum, training must include abuse and neglect reporting and infection control prior to the temporary DSW providing services.

Family members, who live with the recipient and are being temporarily approved to provide services, are exempted from background check requirements.

Services for Special Populations—Targeted Case Management (LAC 50:XV.Subpart 7)

For the duration of the COVID-19 public health emergency declaration, the state makes the following allowances for early and periodic screening, diagnostic and treatment targeted case management services:

case managers may utilize telephone contacts (i.e., video or voice calls) in place of any required face-to-face contacts; and

case managers may complete initial assessments, quarterly reassessments, and annual reassessments without signatures from recipients.

Services for Special Populations—Pediatric Day Health Care Program—Pediatric Day Health Care Services (LAC 50:XV.27501.B)

For the duration of the COVID-19 public health emergency declaration, Pediatric Day Health Care (PDHC) program requirements will be temporarily changed as follows to permit skilled staff of PDHC centers that are not exhibiting any signs or symptoms of the COVID-19 infection to render PDHC services to those children who require skilled nursing, when families are not able to provide such care.

The PDHC program will allow for services to be provided in the recipient's home;

The PDHC program will allow for billing and payment of procedure code T1026 (hourly PDHC services – six hours or less per day) when billed at place of service 12 (home); and

Providers must obtain LDH approval to implement the temporary PDHC provisions. Requests for approval will be reviewed on a case-by-case basis.

Home and Community-Based Services Waivers—Adult Day Health Care Waiver (LAC 50:XXI.Subpart 3)

Due to the Department of Health (LDH) directed closures during the state of emergency, the state may make retainer payments to adult day health care (ADHC) providers. The purpose of such payments is to allow ADHC providers to retain staff and cover fixed expenses so that ADHC centers may reopen when allowed to by LDH.

LDH retains the right to recoup all or a portion of retainer payments from ADHC providers who furlough or lay off staff or fail to reopen.

LDH may review cost reports and other documentation of expenses in making this determination.

Home and Community-Based Services Waivers—Supports Waiver (LAC 50:XXI.Subpart 5)

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Supports Waiver are relaxed for the duration of the COVID-19 public health emergency declaration to:

Allow up to a total of 20 hours a week of respite services and or habilitation services in lieu of day habilitation or vocational services for these programs that have been closed;

Allow participants and direct support workers (DSWs) to live in the same setting so that the recipient may receive necessary respite and habilitation services;

Allow legally responsible relatives to be temporary respite or habilitation direct support, if necessary, in the absence of DSW care;

Background checks for legally responsible relatives who live in the same home with the participant prior to the declared emergency will be waived;

Documentation of services rendered is required and will be verified by the support coordination agency;

For initial waiver participants, allow the current statement of approval (SOA) of intellectual disabilities/developmental disabilities (ID/DD) services to suffice for the level of care (LOC) until the declared emergency is resolved so as not to delay waiver services for those who are waiting for services;

Re-evaluation requires a visit to a doctor's office (well visit) to obtain medical eligibility determination (Form 90-L) for waiver services initially and annually. To reduce potential exposure to participants, allow the current evaluation to remain in effect until resolution of emergency if needed;

Add hazard premium increase for service of respite or habilitation for direct support workers who go into the homes of persons who are either positive, presumptive positive, or quarantined for the coronavirus;

Extend the 10-day requirement for the initial in-home visit for initial plans;

Extend the 30-day time frame for the assessment;

Allow plans of care to be extended beyond the one year (annual) requirement;

Allow quarterly visits to be conducted via phone contact, FaceTime, or skype;

Monthly phone contacts will still occur;

Allow support coordinators to substitute phone contact, FaceTime on computers, or Skype, in lieu of home visits for individuals at risk of exposure who are medically fragile, elderly, both or who have medically fragile caregivers;

Allow assessments to be conducted via FaceTime, Skype, or phone call to avoid delay in services;

Allow the comprehensive plan of care by the support coordinator to be conducted via FaceTime, Skype, or by phone to avoid a delay in services;

Allow the home certification visit by the Office for Citizens with Developmental Disabilities (OCDD) or its designee to be conducted via FaceTime, Skype, or phone call to avoid a delay in services; and

Allow the state to make retainer payments to adult day habilitation centers when these providers are ordered to close by local, state, or federal officials. The purpose of such payments is to allow adult day center providers to retain staff and cover fixed expenses so they may reopen.

Retainer payments will be paid at 75 percent of the normal rate paid for the service provided.

LDH retains the right to recoup all or a portion of retainer payments from providers who furlough or lay off staff or fail to reopen.

LDH may review cost reports and other documentation of expenses in making this determination.

Home and Community-Based Services Waivers— Children’s Choice Waiver (LAC 50:XXI.Subpart 9)

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Children’s Choice Waiver are relaxed for the duration of the COVID-19 public health emergency declaration to:

Allow expansion of the current Children’s Choice Waiver cap to allow for an additional 20 hours per week of family support services as needed for health and safety due to school closures;

Allow participants and family support (FS) direct support workers (DSWs) to live in the same setting so that the participant may continue to receive services;

Allow legally responsible relatives to be temporary FS DSWs during the declared emergency, if necessary, in the absence of DSW care;

Documentation of services rendered is required and will be verified by the support coordination agency;

Reduce the minimum age of DSWs to 16 years of age, if necessary, in an emergency. Emergency being defined as no other staff or supports available;

Remove the requirement for DSWs to have a high school diploma or equivalent;

Temporarily suspend background checks for immediate family hired as DSWs who live in the same home as the recipient;

Re-evaluation requires a visit to a doctor’s office (well visit) to obtain medical eligibility determination (Form 90-L) for waiver services initially and annually. To reduce potential exposure to participants, allow the current evaluation to remain in effect until resolution of emergency, if needed;

For initial waiver participants, allow the current statement of approval of intellectual disabilities/developmental disabilities (ID/DD) services to suffice for the level of care requirement to avoid a delay in services;

Add hazard premium increase for family support services for DSWs who go into the homes of persons who are either positive, presumptive positive, or quarantined for the coronavirus;

Extend the 10-day requirement for the initial in-home visit for initial plans;

Extend the 30-day time frame for the assessment;

Allow plans of care to be extended beyond the one year (annual) requirement;

Allow quarterly visits to be conducted via phone contact versus face-to-face contact;

Monthly phone contacts will still occur;

Allow support coordinators to substitute phone contact, FaceTime on computers, or Skype in lieu of home visits for individuals at risk of exposure who are medically fragile, elderly, both, or who have medically fragile caregivers;

Allow assessments to be conducted via FaceTime, Skype, or phone call to avoid delay in services;

Allow the comprehensive plan of care by the support coordinator to be conducted via FaceTime, Skype, or phone to avoid a delay in services; and

Allow the home certification visit by the Office for Citizens with Developmental Disabilities (OCDD) or its designee to be conducted via FaceTime, Skype, or phone to avoid a delay in services.

Home and Community-Based Services Waivers—New Opportunities Waiver (LAC 50:XXI.Subpart 11)

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the New Opportunities Waiver are relaxed for the duration of the COVID-19 public health emergency declaration to:

Allow conversion of day habilitation and vocational service program hours to individual and family support (IFS) for participants whose day habilitation and/or vocational programs have closed;

Allow sharing of direct support staff when necessary;

Add monitored in-home caregiving (MIHC) as a service;

Allow participants and individual and family support (IFS) direct support workers (DSWs) to live in the same setting so that the participant may continue to receive services;

Allow legally responsible relatives to be temporary IFS DSWs during the declared emergency, if necessary, in the absence of DSW care;

Documentation of services rendered is required and will be verified by the support coordination agency;

Temporarily suspend background checks for immediate family hired as DSWs who live in the same home as the recipient;

Reduce the minimum age of DSWs to 16 years of age, if necessary, in an emergency. Emergency being defined as no other staff or supports available;

Remove the requirement for DSWs to have a high school diploma or equivalent;

For initial waiver participants, allow the current statement of approval (SOA) of intellectual disability/developmental disability (ID/DD) services to suffice for the level of care (LOC) until the declared emergency is resolved so as not to delay waiver services for those who are waiting for services;

Re-evaluation requires a visit to a doctor’s office (well visit) to obtain medical eligibility determination (Form 90-L) for annual waiver services. To reduce potential exposure to

participants, allow the current evaluation to remain in effect until resolution of emergency if needed;

Add hazard premium increase for service of individual and family supports, community living supports, family support, respite, and habilitation for DSWs who go into the homes of persons who are either positive, presumptive positive, or quarantined for the coronavirus;

Extend the 10-day requirement for the initial in-home visit for initial plans;

Extend the 30-day time frame for the assessment;

Allow plans of care to be extended beyond the one year (annual) requirement;

Allow quarterly visits to be conducted via phone contact versus face-to-face contact;

Monthly phone contacts will still occur;

Allow support coordinators and supported living coordinators to substitute phone contact, FaceTime, or Skype in lieu of home visits for individuals at risk of exposure who are medically fragile, elderly, both or who have medically fragile caregivers;

Allow assessments to be conducted via FaceTime, Skype, or phone call to avoid a delay in services;

Allow the comprehensive plan of care by the support coordinator to be conducted via FaceTime, Skype or phone to avoid a delay in services;

Allow the home certification visit by the Office for Citizens with Developmental Disabilities (OCDD) or its designee to be conducted via FaceTime, Skype, or phone to avoid a delay in services; and

Allow the state to make retainer payments to adult day centers when these providers are ordered to close by local, state, or federal officials. The purpose of such payments is to allow adult day center providers to retain staff and cover fixed expenses so they may reopen.

Retainer payments will be a paid at 75 percent of the normal rate paid for the service provided.

The adult day center must provide a signed attestation developed by the department agreeing to the following during the period of the retainer payments: (1) not to furlough or lay off staff, (2) maintain wages at existing levels, (3) the ADC has not received funding from any other sources, including but not limited to, unemployment benefits and Small Business Administration loans, that would exceed their revenue for the last full quarter prior to the public health emergency, or that the retainer payments at the level provided by the state would not result in their revenue exceeding that of the quarter prior to the public health emergency. If a provider has already received revenues in excess of the pre-public health emergency level, retainer payments are not available.

If a provider had not already received revenues in excess of the pre-public health emergency level but receipt of the retainer payment in addition to those prior sources of funding results in the provider exceeding the pre-public health emergency level, any retainer payment amounts in excess may be recouped.

LDH retains the right to recoup all or a portion of retainer payments from providers who furlough or lay off staff or fail to reopen. LDH may review cost reports and other documentation of expenses in making this determination.

Home and Community-Based Services Waivers—

Residential Options Waiver (LAC 50:XXI.Subpart 13)

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Residential Options Waiver are relaxed for the duration of the COVID-19 public health emergency declaration to:

Allow sharing of direct support staff when necessary;

Allow conversion of day habilitation and vocational services to community living supports (CLS) for participants whose day habilitation and or vocational program have been closed;

Add monitored in-home caregiving (MIHC) as a service;

Allow participants and community living support (CLS) direct support workers (DSWs) to live in the same setting so that the participant may continue to receive services;

Documentation of services rendered is required and will be verified by the support coordination agency;

Allow legally responsible relatives to be temporary community living support (CLS) DSWs during the declared emergency if necessary in the absence of DSW care;

Temporarily suspend background checks for immediate family hired as DSWs who live in the same home as the recipient;

Reduce the minimum age of DSWs to 16 years of age, if necessary, in an emergency. Emergency being defined as no other staff or supports available;

Remove the requirement for DSWs to have a high school diploma or equivalent;

For initial waiver participants, allow the current statement of approval (SOA) of intellectual disabilities/developmental disabilities (ID/DD) services to suffice for the level of care (LOC) until the declared emergency is resolved so as not to delay waiver services for those who are waiting for services;

Re-evaluation requires a visit to a doctor's office (well visit) to obtain medical eligibility determination (Form 90-L) for annual waiver services. To reduce potential exposure to participants, allow the current evaluation to remain in effect until resolution of emergency if needed;

Add hazard premium increase for service of individual and family supports, community living supports, family support, respite, and habilitation for DSWs who go into the homes of persons who are either positive, presumptive positive, or quarantined for the coronavirus;

Extend the 10-day requirement for the initial in-home visit for initial plans;

Extend the 30-day time frame for the assessment;

Allow plans of care to be extended beyond the one year (annual) requirement;

Allow quarterly visits to be conducted via phone contact versus face-to-face contact;

Monthly phone contacts will still occur;

Allow support coordinators to substitute phone contact, FaceTime on computers, or Skype in lieu of home visits for individuals at risk of exposure who are medically fragile, elderly, or both or who have medically fragile caregivers;

Allow assessments to be conducted via FaceTime, Skype, or phone call to avoid a delay in services;

Allow the comprehensive plan of care by the support coordinator to be conducted via FaceTime, Skype, or by phone to avoid a delay in services;

Allow the home certification visit by the Office for Citizens with Developmental Disabilities (OCDD) or its designee to be conducted via FaceTime, Skype, or phone to avoid delay in services; and

Allow the state to make retainer payments to adult day centers and adult day health care centers when these providers are ordered to close by local, state, or federal officials. The purpose of such payments is to allow adult day center providers to retain staff and cover fixed expenses so they may reopen.

Retainer payments will be a paid at 75 percent of the normal rate paid for the service provided.

The adult day center must provide a signed attestation developed by the department agreeing to the following during the period of the retainer payments: (1) not to furlough or lay off staff, (2) maintain wages at existing levels, (3) the ADC has not received funding from any other sources, including but not limited to, unemployment benefits and Small Business Administration loans, that would exceed their revenue for the last full quarter prior to the public health emergency, or that the retainer payments at the level provided by the state would not result in their revenue exceeding that of the quarter prior to the public health emergency. If a provider has already received revenues in excess of the pre-public health emergency level, retainer payments are not available.

If a provider had not already received revenues in excess of the pre-public health emergency level but receipt of the retainer payment in addition to those prior sources of funding results in the provider exceeding the pre-public health emergency level, any retainer payment amounts in excess may be recouped.

LDH retains the right to recoup all or a portion of retainer payments from providers who furlough or lay off staff or fail to reopen. LDH may review cost reports and other documentation of expenses in making this determination.

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2011#006

DECLARATION OF EMERGENCY

Department of Health Office of Public Health

COVID-19 Disease Reporting (LAC 51:II.105 and 107)

The Louisiana Department of Health, Office of Public Health (LDH/OPH), pursuant to the emergency rulemaking authority granted by R.S. 40:4(A)(13), hereby adopts the following Emergency Rule for the protection of public health. This Emergency Rule is promulgated specifically in accordance with R.S. 49:953(B) of the Administrative Procedure Act (R.S. 49:950, et seq.). The LDH/OPH expressly finds that an imminent peril to the public health, safety, or welfare requires adoption of this rule on an emergency basis.

The LDH/OPH finds it necessary to add Coronavirus Disease 2019 (COVID-19)/Infections with SARS-CoV-2 to the list of reportable diseases and conditions set forth in §105 of Part II of the Sanitary Code (LAC Title 51). On January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization declared the recent COVID-19 outbreak a “public health emergency of international concern” (PHEIC). On January 31, 2020, U.S. Health and Human Services Secretary Alex M. Azar II declared a public health emergency (PHE) for the United States to aid the nation’s healthcare community in responding to COVID-19.

The following Emergency Rule, effective November 3, 2020, shall remain in effect for a maximum of 120 days, or until the final Rule is promulgated, whichever occurs first.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part II. The Control of Diseases

Chapter 1. Disease Reporting Requirements

§105. Reportable Diseases and Conditions

A. - C. ...

D. The following diseases or conditions are hereby declared reportable with reporting requirements by class.

1. Class A Diseases or Conditions which Shall Require Reporting within 24 Hours

a. Class A diseases or conditions include diseases or conditions of major public health concern because of the severity of the disease or condition and the potential for epidemic spread. Class A diseases or conditions shall be reported to the Office of Public Health by telephone (or in another electronic format acceptable to the Office of Public Health) immediately upon recognition that a case, a suspected case, or a positive laboratory result is known. In addition, all cases of rare or exotic communicable diseases, unexplained death, unusual clusters of disease and all outbreaks shall be reported. Any class A disease or condition, rare or exotic communicable disease, unexplained death, or unusual cluster of disease and any disease outbreak, shall be reported to the Office of Public Health as soon as possible but no later than 24 hours from recognition that a case, a suspected case, a positive laboratory result, an unexplained death, an unusual cluster of disease, or a disease

outbreak is known. The following diseases or conditions shall be classified as class A for reporting requirements:

- i. - x. ...
- xi. coronavirus disease 2019 (COVID-19)/Infections with SARS-CoV-2;
- xii. diphtheria;
- xiii. *Enterobacteriaceae*, carbapenem-resistant;
- xiv. fish or shellfish poisoning (domoic acid poisoning, neurotoxic shellfish poisoning, ciguatera, paralytic shellfish poisoning, scombroid);
- xv. food-borne illness;
- xvi. glanders (*Burkholderia mallei*);
- xvii. *Haemophilus influenzae* (invasive infection);
- xviii. influenza-associated mortality;
- xix. measles (rubeola, imported or indigenous);
- xx. melioidosis (*Burkholderia pseudomallei*);
- xxi. *Neisseria meningitidis* (invasive infection);
- xxii. outbreaks of any infectious diseases;
- xxiii. pertussis;
- xxiv. plague (*Yersinia pestis*);
- xxv. poliomyelitis (paralytic and non-paralytic);
- xxvi. *Pseudomonas aeruginosa*, carbapenem-resistant;
- xxvii. Q fever (*Coxiella burnetii*);
- xxviii. rabies (animal and human);
- xxix. ricin poisoning;
- xxx. rubella (congenital syndrome);
- xxxi. rubella (German measles);
- xxxii. severe acute respiratory syndrome-associated coronavirus (SARS-CoV);
- xxxiii. *Staphylococcus aureus*, vancomycin intermediate or resistant (VISA, VRSA);
- xxxiv. staphylococcal enterotoxin B (SEB) pulmonary poisoning;
- xxxv. smallpox;
- xxxvi. tularemia (*Francisella tularensis*);
- xxxvii. viral hemorrhagic fever (Ebola, Lassa, Marburg, Crimean Congo, etc.); and
- xxxviii. yellow fever.

D.2. - E.6. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(2)(10)(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1212 (June 2002), amended LR 32:1050 (June 2006), LR 34:2173 (October 2008), repromulgated LR 34:2582 (December 2008), LR 36:1014 (May 2010), repromulgated LR 36:1253 (June 2010), amended LR 39:1053 (April 2013), LR 41:2653 (December 2015), amended by the Department of Health, Office of Public Health, amended LR 45:667 (May 2019), LR 47:

§107. Laboratory and Healthcare Facility Reporting Requirements (Formerly §113)

A. - E. ...

F. Electronic reporting by a laboratory/facility shall include any results, negative or positive, for all components of testing indicative of the following conditions:

- 1. coronavirus disease 2019 (COVID-19)/Infections with SARS-CoV-2;
- 2. hepatitis C virus;

3. human immunodeficiency virus (HIV), including nucleotide sequences; and

4. syphilis.

G. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(2)(10)(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1214 (June 2002), amended LR 32:1052 (June 2006), LR 39:1054 (April 2013), LR 41:2655 (December 2015), amended by Department of Health, Office of Public Health, LR 45:669 (May 2019), LR 47:

Interested persons may submit written comments to DeAnn Gruber, Bureau Director, Bureau of Infectious Diseases, Office of Public Health, 1450 Poydras St., Ste. 2136, New Orleans, LA, 70112 or faxed to (504) 568-7044.

Jimmy Guidry, MD
State Health Officer
and
Dr. Courtney N. Phillips
Secretary

2010#021

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Emergency Rule 45—Suspension of Certain Statutes Regarding Cancellations, Terminations, Non-Renewals, and Nonreinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana Caused by the State of Emergency Declared by Governor John Bel Edwards on August 21, 2020, Due to Hurricane Laura

In August and September 2020, President Donald J. Trump declared a State of Emergency in Louisiana due to the devastation caused by Hurricane Laura and its aftermath. Contemporaneously, Governor John Bel Edwards declared a State of Emergency in Louisiana for the same reasons. Furthermore, President Donald J. Trump invoked the Stafford Act and declared a national emergency regarding Hurricane Laura and its aftermath which has caused devastation to the lives and property of the citizens of Louisiana, and the residual effect of that storm poses a significant risk to the health, safety and welfare to a substantial number of the citizens of our state.

The Department of Insurance hereby exercises the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), as further specified by R.S. 22:11.1, and pursuant to the authority granted by R.S. 22:1 et seq., adopts, maintains, and continues in effect Emergency Rule 45 until November 18, 2020, unless terminated sooner, which is issued to address the statewide public health emergency declared to exist in the state of Louisiana. Emergency Rule 45 became effective August 27, 2020 and shall continue in effect until November 18, 2020, unless terminated sooner, as allowed under the Administrative Procedure Act.

Emergency Rule 45 is issued to address the devastation caused by Hurricane Laura and its aftermath that has created

emergency conditions threatening the health, safety and welfare of the citizens of Louisiana who are insureds and who either reside in or have insured property located in one of the following 16 parishes, to wit: Acadia; Allen; Beauregard; Calcasieu; Cameron; Grant; Jackson; Jefferson Davis; Lincoln; Natchitoches; Ouachita; Rapides; Sabine; Vermilion; Vernon; or Winn. Emergency Rule 45 is issued under the authority of the Commissioner of Insurance for the State of Louisiana, pursuant to the following: Proclamation No. JBE 2020-108 issued on August 21, 2020 by Governor John Bel Edwards declaring a State of Emergency extending from August 21, 2020 through September 20, 2020, unless terminated sooner; Proclamation No. JBE 2020-124 issued on September 18, 2020 renewing the State of Emergency and extending from September 20, 2020 through October 19, 2020, unless terminated sooner; Proclamation No. JBE 2020-115 issued on September 3, 2020 transferring authority over all insurance regulatory statutes in the Louisiana Insurance Code, Title 22 of the Louisiana Revised Statutes of 1950, to Commissioner of Insurance James J. Donelon (Commissioner); and Proclamation No. JBE 2020-141 issued October 19, 2020 renewing the State of Emergency and continuing the transfer of authority over all insurance regulatory statutes in the Louisiana Insurance Code, Title 22 of the Louisiana Revised Statutes of 1950, to the Commissioner, and extending from October 20, 2020 through November 18, 2020 unless terminated sooner.

Accordingly, Emergency Rule 45 shall apply to any and all types of insurers as set forth in R.S. 22:48, and any and all kinds of insurance as set forth in R.S. 22:47, including, but not limited to all property and casualty insurers, all life insurers, all annuity insurers, and all health maintenance organizations (HMOs), managed care organizations (MCOs), preferred provider organizations (PPOs), pharmacy benefit managers (PBMs), and third party administrators (TPAs) acting on behalf of an HMO, MCO, PPO, and any and all other insurance related entities licensed by the Commissioner or doing business in Louisiana (collectively known as “health insurance issuers”) and their insureds, policyholders, members, subscribers, enrollees and certificate holders.

Hurricane Laura and its aftermath has created a mass disruption to the normalcy previously enjoyed in Louisiana and is an immediate threat to the public health, safety, and welfare of Louisiana citizens. To minimize these threats, the State of Louisiana has had to impose significant measures that will certainly have a negative economic impact on the state, resulting in financial hardship for the citizens of Louisiana regarding all matters related to all types of insurers and all kinds of insurance and also threatening access to adequate insurance coverage following an event of this magnitude when such insurance coverage is especially important. In order to respond to the ongoing emergency and to protect and safeguard the public health, safety, and welfare of the citizens of this state, it is necessary to issue Emergency Rule 45.

**Title 37
INSURANCE
Part XI. Rules**

Chapter 45. Emergency Rule 45—Suspension of Certain Statutes Regarding Cancellations, Terminations, Non-Renewals, and Nonreinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana Caused by the State of Emergency Declared by Governor John Bel Edwards on August 21, 2020, Due to Hurricane Laura

§4501. Benefits, Entitlements, Protections and Applicable Parishes

A. The benefits, entitlements and protections of Emergency Rule 45 shall be applicable to insureds, policyholders, members, subscribers, enrollees and certificate holders (hereinafter “insureds”) who, as of 12:01 a.m. on August 27, 2020 have an insurance policy, insurance contract, or certificate of coverage for any of the kinds of insurance enumerated in §4503, as delineated below, and who meet one of the following criteria.

1. Any person who, as of August 27, 2020, resided in one of the following 16 parishes, to wit: Acadia; Allen; Beauregard; Calcasieu; Cameron; Grant; Jackson; Jefferson Davis; Lincoln; Natchitoches; Ouachita; Rapides; Sabine; Vermilion; Vernon; or Winn. Said person is entitled to the protections of Emergency Rule 45 for the kinds of insurance set forth in §4503.A and B.

2. For the kinds of insurance enumerated in §4503.B, any person whose primary place of employment was in, or whose permanent employer had assigned said person to a business located in, one of the 16 parishes identified in §4501.A.1, shall be eligible for the benefits, entitlements and protections of Emergency Rule 45 if said person verifies such employment status by written documentation to his health insurance issuer. No health insurance issuer shall unreasonably withhold eligibility to insureds upon receipt of such written documentation.

3. For the kinds of insurance enumerated in §4503.A, any insured who does not reside in one of the 16 parishes enumerated in §4501.A.1, but has filed with an authorized insurer or surplus lines insurer a notice of loss on a property claim for damage caused by Hurricane Laura and its aftermath to property located in one of the 16 parishes enumerated in §4501.A, shall be entitled to contact the insurer and request the benefits, entitlements, and protections of Emergency Rule 45. These insurers are directed to work with their insureds who have filed a notice of loss on a property claim for damage caused by Hurricane Laura and its aftermath and provide accommodation as applicable, relevant and appropriate.

B. Emergency Rule 45 shall apply to any authorized insurer as defined in R.S. 22:46(3) operating in Louisiana, and to any approved unauthorized insurer, eligible unauthorized insurer, or domestic surplus lines insurer as

defined in R.S. 22:46(17.1) operating in Louisiana (sometimes hereinafter referred to as a surplus lines insurer).

C. Emergency Rule 45 shall apply to every health and accident insurer, health maintenance organization (HMO), managed care organization (MCO), preferred provider organization (PPO), pharmacy benefit manager (PBM), and third party administrator (TPA) acting on behalf of a health insurance issuer, HMO, MCO, PPO, and any and all other insurance related entities licensed by the Commissioner or doing business in Louisiana (collectively known as “health insurance issuers”).

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115, Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4503. Applicability and Scope

A. Emergency Rule 45 shall apply to any and all kinds of insurance set forth in R.S. 22:47, including, but not limited to, life, vehicle, liability, workers’ compensation, burglary and forgery, fidelity, title, fire and allied lines, steam boiler and sprinkler leakage, crop, marine and transportation, miscellaneous, homeowners’, credit life, credit health and accident, credit property and casualty, annuity, surety, and industrial fire. The applicability of Emergency Rule 45 to health and accident insurance is specified in §4503.B.

B. Emergency Rule 45 shall apply to any and all kinds of health and accident insurance, including, but not limited to, group and individual health and accident insurance, limited benefit insurance, Medicare supplement insurance, Medicare select insurance, HMOs, PPOs, MCOs except those subject only to licensure and financial solvency regulation pursuant to R.S. 22:1016, excess loss insurance, stop loss insurance, disability income insurance, short-term health insurance, long-term care insurance, and any and all other health insurance.

C. Emergency Rule 45, §4515 and §4527.B and C shall apply to only those kinds of insurance provided for in §4503.A and those types of insurers specified in §4501.B.

D. Emergency Rule 45, §4513, §4519, §4521, §4525, §4527.A, §4531, §4533, and §4535 shall apply only to those kinds of insurance provided for in §4503.B and those health insurance issuers specified in §4501.C.

E. All provisions of Emergency Rule 45 not expressly limited in §4503.C and D shall apply to all types of insurers and all kinds of insurance as defined in §4501 and §4503.

F. Nothing in §4503 shall be interpreted to apply the provisions of Emergency Rule 45 to policies of insurance issued for the benefit of insureds not subject to the Benefits, Entitlements, and Protections enumerated in §4501.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115, Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4505. Cancellation, Nonrenewal, and Nonreinstatement

A. Emergency Rule 45 hereby suspends any notice of cancellation, notice of nonrenewal, nonreinstatement or any other notice related to any of the types of insurance enumerated in §4503 that was in force and effect at 12:01

a.m. on August 27, 2020, and any such notice shall be null and void and have no force of effect. Furthermore, any such notice shall be reissued de novo to the insured in accordance with existing statutory requirements after the expiration of Emergency Rule 45 as provided for in §4549.

B. Insurers may issue a notice of cancellation for non-payment of premium during the pendency of Emergency Rule 45. When any such notice is issued during the pendency of Emergency Rule 45, the applicable notice period required by statute or the policy may begin to run, but in no event may the insurer cancel the insurance policy for non-payment of premium until after the expiration of Emergency Rule 45.

C. No policy shall be cancelled or nonrenewed solely because of a claim that is filed during or is caused by Hurricane Laura or its aftermath.

D. Unless otherwise expressly authorized in writing by the Commissioner, the cancellation, nonrenewal or nonreinstatement of any insurance policy related to any of the types of insurance enumerated in §4503 is hereby suspended and shall not be allowed until after the expiration of Emergency Rule 45 as provided for in §4549.

E. All cancellation, nonrenewal, or nonreinstatement provisions, including, but not limited to, R.S. 22:272, 22:887, 22:977, 22:978, 22:1068, 22:1074, 22:1266, 22:1267, and 22:1335 are hereby suspended, except to the extent such provisions apply to acts or practices constituting fraud or intentional misrepresentations of material fact.

F. As set forth in §4537, Emergency Rule 45 shall not prevent an insurer from cancelling or terminating an insurance policy for fraud or material misrepresentation on the part of the insured.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115, Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4507. Renewal

A. The renewal conditions of all kinds of insurance enumerated in §4503 that are subject to renewal after the effective date of Emergency Rule 45 are suspended and shall be deferred until the expiration of Emergency Rule 45 as provided for in §4549. All policies subject to renewal after the effective date of Emergency Rule 45 shall continue in full force and effect at the previously established premium until the expiration of Emergency Rule 45 as provided for in §4549. The previously established premium for renewals by authorized insurers shall be based on the rate structure, rating plan and manual rules that are approved by the Commissioner of Insurance, regardless of whether their effective date was before or during Emergency Rule 45. The previously established premium by authorized insurers for renewals of commercial deregulated insurance policies shall be based on the rate structure, rating plan and manual rules set forth in any filing submitted to the Commissioner of Insurance before or during Emergency Rule 45.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115, Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4509. Written Request for Cancellation by Insured

A. Except as provided for in §4537 herein, a cancellation shall not occur prior to the expiration of Emergency Rule 45 unless upon the documented written request or written concurrence of the insured. This written consent may be in electronic format.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115, Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4511. New Policies

A. Emergency Rule 45 shall not apply to any new insurance policy for any of the kinds of insurance enumerated in §4503 if said insurance policy is issued on or after August 27, 2020.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115, Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4513. Claims Notification

A. All claims notification procedures, including, but not limited to, R.S. 22:975(A)(3)-(5), Regulation 33, and Regulation 74, are suspended.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115, Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4515. Premium Offset

A. All insurers subject to Emergency Rule 45 receiving a claim from an insured owing a premium may offset the premium owed by the insured against any claim payment made to the insured under the insurance policy. §4515 shall not apply to health insurance issuers as defined in §4501.C.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115, Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4517. Obligation of Insured to Pay Premium

A. Unless otherwise cancelled in accordance with the provisions of §4509 herein, nothing in Emergency Rule 45 shall be construed to exempt or excuse an insured from the obligation to pay the premiums otherwise due for actual insurance coverage provided.

B. Those insureds entitled to the benefits, entitlements and protections of Emergency Rule 45 are advised that this suspension is not a waiver, but only an extension or grace period to facilitate your payment of the premium.

C. Insurers are directed to work with and assist their affected insureds who reside in the impacted parishes with the payment of the premium that would have become due during this moratorium period by either establishing for the insured a payment plan for the unpaid premium or providing to the insured a further extension for the payment of the unpaid premium.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115,

Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4519. Timely Payment of Health Claims

A. Only to the extent necessary to permit the pending of claims during a premium payment delinquency by the insured, the provisions of R.S. 22:1832-1834 and Regulation 74 related to timely payment of claims are hereby suspended.

B. For any policy of insurance described in §4503.B which, as a result of nonpayment of premium, would be subject to cancellation or termination but for the suspension ordered in §4505, the health insurance issuer may pend all claims which would not have been denied under such cancellation or termination until the health insurance issuer receives the delinquent premium payment or until such time the health insurance issuer is subsequently entitled to cancel or terminate the policy for non-payment of premium.

C. Once a health insurance issuer receives the delinquent premium payment, all pending claims associated for the time period to which such payment applies shall be processed and adjudicated. The health insurance issuer shall notify the health care provider that the claim is no longer pending and is being processed and adjudicated for payment. Furthermore, the suspension provided for in §4519.A shall be automatically lifted and all applicable timely payment requirements reinstated upon the date of the payment of premium.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115, Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4521. Payment of Health Claims

A. In the event a health insurance issuer pends a claim, as permitted pursuant to §4519, and is subsequently entitled to cancel or terminate a policy for nonpayment of premium, the health insurance issuer shall pay that claim to the health care provider or health care profession at not less than the following rate or allowance:

1. for contracted health care providers or health care professionals, 50 percent of the contracted reimbursement rate;

2. for noncontracted health care providers or health care professionals, 50 percent of the non-participating rate or allowance;

3. with regard to claims submitted pursuant to this section, when the underlying policy is cancelled or terminated for nonpayment of premium, health insurance issuers shall be allowed to conduct medical necessity reviews on claims related to non-elective services. Non-elective services are those services that are emergent, urgent, or necessary in order to not place the health of the insured at risk;

4. with regard to any and all claims paid by health insurance issuers pursuant to the requirements of this Section, the provisions of R.S. 22:1838 and 22:1859 are hereby suspended, and recoupment is prohibited.

B. This Section shall not apply to any claim otherwise compensable under any federal public law or appropriation

made or adopted in response to the Hurricane Laura emergency, and subsequent guidance or regulations adopted by the U.S. Department of Homeland Security in furtherance thereof. Health insurance issuers may seek recoupment of payment for such claims if otherwise permitted by law.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115, Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4523. Insureds Obligation to Cooperate in Claim Process

A. Emergency Rule 45 shall not relieve an insured who has a claim filed before or during the pendency of Emergency Rule 45 from compliance with the insured's obligation to provide information and cooperate in the claim adjustment process relative to the claim.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115, Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4525. Physician Credentialing

A. The commissioner hereby suspends physician credentialing pursuant to R.S. 22:1009 such that there are no credentialing requirements with regard to any and all licensed physicians who provide medical services to insureds identified in §4501.A or §4501.B between 12:01 a.m. on August 27, 2020 and the expiration of Emergency Rule 45 as provided for in §4549.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115, Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4527. New Rate or Premium

A. For all health insurance issuers specified in §4501.C, any rate increases that were to take effect after the effective date of Emergency Rule 45 are suspended and shall be deferred until the expiration of Emergency Rule 45 as provided for in §4549.

B. For all other insurers, as specified in §4501.B, Emergency Rule 45 shall not affect the right of any insurer to file for and/or implement a new rate or premium for any insurance policy for the types of insurance enumerated in §4003.A if the new rate or premium has been approved by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115, Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4529. Imposition of Interest, Penalty, or Other Charge

A. The commissioner hereby suspends the imposition of any interest, penalty, or other charge and declares that no interest, penalty, or other charge shall accrue or be assessed against any insured as the result of the suspensions ordered in Emergency Rule 45.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115, Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4531. Continuation of Health Coverage

A. The commissioner hereby suspends R.S. 22:1046. In furtherance thereof, a health insurance issuer who has issued a group health insurance policy shall provide to all members or certificate holders under said group policy the option for the continuation of coverage, which said option shall begin on the day after the end the expiration of Emergency Rule 45 as provided for in §4549. This section is only applicable in those situations where the employer to whom the group policy had been issued remains in business and continues to offer said group health insurance to active employees for the duration of Emergency Rule 45.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115, Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4533. Prescription Drug Coverage

A. Health insurance issuers shall allow insured individuals to obtain refills of their prescriptions even if the prescription was recently filled, consistent with approval from patients' health care providers and/or pharmacists. This provision does not apply to prescription drugs with a high likelihood of abuse, such as opioids that are restricted to seven-day prescriptions.

B. The commissioner hereby suspends any provisions in the Louisiana Insurance Code which place restrictions on replacement prescriptions pertaining to mail order prescriptions. Mail order prescriptions shall be mailed to an alternate address if requested by the insured.

C. All health insurance issuers shall waive any and all restrictions relative to out-of-network access to pharmacy services or prescriptions.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115, Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4535. Telemedicine Access

A. Health insurance issuers shall waive any coverage limitations restricting telemedicine access to providers included within a plan's telemedicine network.

B. Health insurance issuers shall waive any requirement that the patient and provider have a prior relationship in order to have services delivered through telemedicine.

C. Health insurance issuers shall cover mental health services provided by telemedicine consultation to the same extent the services would be covered if provided through an in-person consultation. This shall not be interpreted to require coverage of telemedicine services that cannot be appropriately provided remotely.

D. Health insurance issuers shall waive any requirement limiting coverage to provider-to-provider consultations only

and shall cover telemedicine consultations between a patient and a provider to the extent the same services would be covered if provided in person.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115, Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4537. Fraud or Material Misrepresentation

A. Emergency Rule 45 shall not prevent an insurer from cancelling or terminating an insurance policy for fraud or material misrepresentation on the part of the insured.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115, Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4539. Exemption from Compliance

A. Notwithstanding any other provision contained herein, the commissioner may exempt any insurer from compliance with Emergency Rule 45 upon the written request by the insurer setting forth in detail each and every reason for the exemption and then only if the commissioner determines that compliance with Emergency Rule 45 may be reasonably expected to result in said insurer being subject to undue hardship, impairment, or insolvency.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115, Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4541. Sanctions for Violations

A. The commissioner retains the authority to enforce violations of Emergency Rule 45. Accordingly, any insurer enumerated in Emergency Rule 45 or any other entity doing business in Louisiana and/or regulated by the commissioner who violates any provision of Emergency Rule 45 shall be subject to regulatory action by the commissioner under any applicable provisions of the Louisiana Insurance Code.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115, Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4543. Sixty Day Period to Initiate Adjustment of Property Claims

A. In accordance with R.S. 22:1892(A)(3), Hurricane Laura and its aftermath qualifies as a catastrophic loss event that requires insurers to initiate loss adjustment of a property damage claim within 30 days after notification of loss by the insured claimant.

B. In furtherance of R.S. 22:1892(A)(3), the severity of the devastation caused by Hurricane Laura and its aftermath qualifies for an additional 30 days for insurers to initiate loss adjustment of a property claim after notification of loss by the insured claimant.

C. Therefore, insurers shall have a total of 60 days to initiate loss adjustment of a property damage claim after notification of loss by the insured claimant.

D. This declaration is based on the representation that the additional time period is necessary due to the large volume of claims resulting directly from Hurricane Laura and its aftermath, and with the admonition that insurers will promptly identify, evaluate, and resolve these claims. Insurers must continue to provide timely service to their insured claimants by promptly acknowledging receipt of claims and making appropriate assignments for the adjustment of claims.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115, Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4545. Authority

A. The commissioner reserves the right to amend, modify, alter, extend, or rescind all or any portion of Emergency Rule 45.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115, Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4547. Severability Clause

A. If any section or provision of Emergency Rule 45 or its application to any person or circumstance is held invalid, such invalidity or determination shall not affect other section or provision or the application of Emergency Rule 45 to any person or circumstance that can be given effect without the invalid section or provision or application, and for these purposes the sections and provisions of Emergency Rule 45 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115, Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4549. Effective Date

A. Emergency Rule 45 became effective at 12:01 a.m. on August 27, 2020 and shall continue in full force and effect until either 11:59 p.m. on November 18, 2020 or 11:59 p.m. on the cessation date of the governor's transfer of authority to the commissioner presently in effect, inclusive of any renewal thereof, whichever occurs first.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-108, Proclamation JBE 2020-115, Proclamation JBE 2020-124, Proclamation JBE 2020-141, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

James J. Donelon
Commissioner

2010#008

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

Class I-E Permit (LAC 55:IX.Chapter 1)

The Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act, to amend LAC 55:IX.Chapter 1, as authorized by R.S. 40:1846. Furthermore, the Liquefied Petroleum Gas Commission, hereafter referred to as the "Commission", has found an immediate need to adopt amendments to create an additional Class I permit, the Class I-E permit, the provisions of which are applicable to emergencies and/or disasters.

In August and September 2020, President Donald J. Trump declared a State of Emergency in Louisiana due to the devastation caused by Hurricane Laura and its aftermath. Concurrently, Governor John Bel Edwards declared a State of Emergency in Louisiana for the same reasons. Furthermore, President Donald J. Trump invoked the Stafford Act and declared a national emergency regarding Hurricane Laura and its aftermath, which has caused destruction and devastation to the lives and property of Louisiana residents.

Again, on October 6, 2020, Governor John Bel Edwards declared a State of Emergency ahead of Hurricane Delta. On October 7, 2020, Governor Edwards made a request for presidential emergency disaster to President Donald J. Trump to which President Trump approved said request. On October 9, 2020, Hurricane Delta, the record-tying fourth storm of 2020 to strike Louisiana, made landfall as a Category 2 hurricane near Creole, Louisiana.

As such, the residual effects of the storms present a substantial risk to the health, safety and welfare of a significant number of citizens in our state. Many people were forced to evacuate their homes and businesses, including numerous individuals who own, operate, and work in the liquefied petroleum gas trade, commonly known as the propane industry. From dealers whose businesses are currently inoperable to displaced employees who delivered propane and serviced tanks, the industry now faces a shortage in the workforce.

Liquefied petroleum gas, also referred to as propane or butane, is an efficient energy source used in home and water heating appliances and cooking equipment such as stoves and grills. In times of emergencies and/or disasters, it is also used to operate generators and power temporary/transient housing, such as FEMA trailers. Therefore, it is an imminent peril to the public health, safety and welfare that the industry supply the necessary propane needed to fulfill the supply and demand necessitated at this time. Due to the shortage of personnel, it is crucial to permit additional, qualified individuals from other jurisdictions.

In particular, the Emergency Rule amends LAC 55:IX.Chapter 1, Section 107, to permit nonresidents in other jurisdictions to enter any phase of the liquefied petroleum gas business during an emergency and/or disaster, only after the Commission has reached a reciprocal agreement with the liquefied petroleum gas regulating

authority of the state in which the permit applicant resides. The Class I-E permit is an exception to the Class I permit, as it omits the requirement that holders of the permit provide a storage capacity for liquefied petroleum gas of not less than 15,000 gallons in one location, under fence, located within the dealer trade area within the state of Louisiana. It also excludes the requirement that the permit holder show evidence of ownership of the storage tank, or in the alternative, a bona fide lease of five years minimum. This requirement is not applicable due to the fact that the Class I-E permit is only valid during an emergency and/or disaster and is issued for a period of 90 days. However, the permit may be renewed, prior to its expiration date, during the course of the emergency and/or disaster that it was initially applied for.

The adoption of this Rule on an emergency basis is also necessary due to the hazardous components of liquefied petroleum gas, which are flammable mixtures of hydrocarbon. As a result of the storm, many propane tanks may have been dislodged or flooded. In haste to evacuate, some may have failed to shut off the main gas supply valve to their homes or on propane tanks. In addition, water and debris may have inundated regulators and controls, causing potential safety issues, requiring a qualified propane dealer or service technician to inspect the propane system to ensure it is leak free. Fallen trees and power lines can create further safety concerns. The Commission finds that an imminent peril to the public health, safety and welfare requires adoption of this Rule. The Emergency Rule was adopted and became effective October 30, 2020, upon the signature of the agency head, John W. Alario, Executive Director. It shall remain in effect for the maximum period allowed under the Administrative Procedure Act, 120 days, or until adoption of the final Rule, whichever occurs first.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Subchapter A. New Dealers

A. The following terms, as used in this Part, have the meanings listed below.

* * *

Disaster—the result of a natural or man-made event which causes loss of life, injury, and property damage, including but not limited to natural disasters such as a hurricane, tornado, storm, flood, high winds, and other weather related events, forest and marsh fires, and man-made disasters, including but not limited to nuclear power plant incidents, hazardous materials incidents, oil spills, explosion, civil disturbances, public calamity, acts of terrorism, hostile military action, and other events related hereto.

* * *

Emergency—the actual or threatened condition which has been or may be created by a disaster or; any natural or man-made event which results in an interruption in the delivery of utility services to any consumer of such services and which affects the safety, health, or welfare of a Louisiana resident; or

a. any instance in which a utility's property is damaged and such damage creates a dangerous condition to the public;

b. any national or state emergency, including acts of terrorism or a congressional authorization or presidential declaration pursuant to the War Powers Resolution (50 U.S.C. 1541 et seq.).

* * *

State of Emergency or Disaster—any event declared by the governor of the state by his authority under the "Louisiana Homeland Security and Emergency Assistance and Disaster Act" under R.S. 29:721 et seq.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:459 (March 1998), LR 29:2508 (November 2003), LR 31:2556 (October 2005), LR 33:1139 (June 2007), effective July 1, 2007, LR 36:2571 (November 2010), LR 38:1255 (May 2012), LR 46:

§107. Requirements

A. Before any permit or registration may be issued from the office of the director, all applicants shall have complied with or agree to comply with the applicable requirements as follows:

1. Shall deposit filing fee of \$100 for Class I, I-E, IV and VI; \$50 for class VI-X and \$25 for all remaining permits. This fee shall accompany the application.

2. - 5.b. ...

c. Each location of Class I, Class I-E, Class VI and Class VIII dealers, which fill DOT specification cylinders of 200 lbs. or less, liquefied petroleum gas capacity, that are in commerce or transportation, shall provide a suitable weighing device (scales).

6. Applicants shall have paid a permit fee in the amount of \$150, Class I-E and Class III which shall be \$500 and R-1, R-2 registrations, which shall be \$37.50 and Class VI-X shall be in the amount of \$150 for each location. For fiscal year 2014-2015, and for each subsequent fiscal year, the permit fee shall be 0.1369 of 1 percent of annual gross sales of liquefied petroleum gas with a minimum of \$150 for each location. For classes not selling liquefied petroleum gases in succeeding years the permit fee shall be \$150, except registrations shall be \$37.50 per year.

6.a. - 10. ...

11. Applicants for change of name shall deposit a filing fee of \$25 with a formal application for a name change. The office of the director shall administratively grant the name change after all commission requirements are met. The commission shall ratify the name change at the next commission meeting after which a minimum of 20 days have elapsed since the administrative granting of the name change. A representative of the new firm or corporation shall be required to be present when the application is ratified by the commission, except in the cases of Class VI-X, and R-1 and R-2 registrations, when appearance is waived. All certificates of competency shall be changed to new name, except Class VI-X which does not require certificates of competency.

12. ...

13. The commission shall grant Class I and Class I-E Liquefied Petroleum Gas permits to nonresident applicants only after the commission has reached a reciprocal

agreement with the Liquefied Petroleum Gas regulating authority of the state in which the applicant resides.

14. - 15. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998), LR 24:2311 (December 1998), LR 25:1262 (July 1999), LR 25:2410 (December 1999), LR 26:1487 (July 2000), LR 27:2256 (December 2001), LR 28:2553 (December 2002), LR 29:2509 (November 2003), LR 31:2567 (October 2005), LR 33:1140 (June 2007), effective July 1, 2007, LR 35:2201 (October 2009), LR 35:2465 (November 2009), LR 38:1256 (May 2012), LR 41:395 (February 2015), LR 42:427 (March 2016), LR 42:1671 (October 2016), LR 43:967 (May 2017), LR 46:188 (February 2020), LR 46:

§109. Compliance with Rules

A. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement for all permit holders.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 25:2411 (December 1999), LR 31:2567 (October 2005), LR 38:1259 (May 2012), LR 46:188 (February 2020), LR 46:

§111. Re-Application

A. Any person, firm or corporation who has made application for a permit to enter the liquefied petroleum gas business and whose request for permit has been denied, may resubmit a permit application 90 days after the date of denial, with the exception of a Class I-E permit application. Any person, firm or corporation who has made application for a Class I-E permit to enter the liquefied petroleum gas business and whose request for permit has been denied, may resubmit a permit application any time during the same disaster and/or emergency that the initial permit application was submitted to the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 7:633 (December 1981), LR 38 1259 (May 2012), LR 46:

§113. Classes of Permits and Registrations

A. - A.1.f. ...

2. Class I-E. Holders of these permits may enter any phase of the liquefied petroleum gas business. These permits shall only be granted during an emergency and/or disaster. These permits are valid for 90 days from the date of issuance. Permits may be renewed prior to the expiration date of the permit during the course of the emergency and/or disaster that it was initially applied for.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 coverage per:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

b. Where fuel is used direct from cargo tank, an approved valve with proper excess flow device shall be used. Connector to vehicle's engine shall be approved for such use and protected from mechanical injury.

c. No truck shall be parked on a street or highway at night in any city, town, or village, except for the purpose of serving a customer.

d. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

e. The name of the dealer shall appear on all tank trucks, storage tank sites, and/or advertising being used by the dealer. At consumer premises, where the tank or the container is owned by the dealer, the dealer's name shall be affixed. This requirement is considered met if documentation is provided, upon demand, that the dealer's name was affixed at the time of installation. Consumer premises requirement is not retroactive.

3. Class II. Holders of these permits may install and service liquefied petroleum gas containers, piping, and appliances but shall not sell nor deliver gas with this permit. This class is also applicable to the installation and service of liquefied petroleum gas containers, piping, and appliances on mobile homes, modular homes, manufactured homes, motor homes, travel trailers homes or any other recreational vehicles.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 coverage per:

- i. products;
- ii. manufacturers and contractors; and
- iii. motor vehicle liability.

b. Louisiana manufacturers and dealers of mobile homes, manufactured homes, modular homes, motor homes, travel trailers, or any recreational vehicles shall comply with all state and federal safety standards and perform all safety tests on mobile homes, modular homes, manufacture homes, motor homes, travel trailers, or any recreational vehicles using liquefied petroleum gas.

c. Upon delivery of a mobile home, manufactured homes, modular homes, motor home, travel trailer, or any other recreational vehicle, new or used, the required installation report and inspection and testing of any liquefied petroleum gas system and appliances shall be performed by the dealer or any entity performing functions as a dealer using liquefied petroleum gas in the system. An installation report properly completed and signed by the customer or his/her authorized representative shall be sent to the office of the director verifying that the tests were performed and that the test was eye witnessed by the customer or his/her authorized representative.

d. The mobile home, manufactured homes, modular homes or recreational vehicle dealer or entity performing functions as a dealer shall have a permit with this commission and is responsible to this commission to make the required installation report, perform the required inspection and safety tests, or make arrangements for it to be made by a qualified permit holder.

e. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

4. Class III. Brokers/Special Vendors. Holders of these permits may purchase liquefied petroleum gas only from dealers who hold a valid liquefied petroleum gas permit and resell the aforementioned purchased liquefied petroleum gas product to end users utilizing floor maintenance machines and/or industrial trucks (forklifts) on their premises. Holders of these permits shall not deliver gas or engage in repairing liquefied petroleum gas containers or systems.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per products liability coverage.

b. Shall submit a completed "location approval form" for each physical location being served, with a handling fee of \$150 for each location being served.

c. Compliance with all other statutes, rules and regulations is a mandatory requirement.

d. Shall provide 24-hour emergency contact information at each liquefied petroleum gas storage location. The person deemed the emergency contact shall have basic knowledge regarding liquefied petroleum gas emergencies and shall maintain contact information per the servicing liquefied petroleum gas supplier.

e. The Class III permit holder shall post the servicing liquefied petroleum gas supplier's name (name on Louisiana liquefied petroleum gas permit) at each liquefied petroleum gas storage site and each end user's location.

5. Class IV. Resellers (Wholesalers). Holders of these permits may deliver and transport liquefied petroleum gas over the highways of the state; may sell liquefied petroleum gases only to manufacturers of liquefied petroleum gases, or manufacturers of products which liquefied petroleum gases form a component part, or to dealers who hold a permit with this commission; utilize aboveground steel storage and/or approved salt dome, shale and other underground caverns for the storage of liquefied petroleum gases; do general maintenance work on their equipment, using qualified personnel, but shall not sell or install systems and appliances.

a. Shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 coverage per:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

b. The name of the dealer shall appear on all tank trucks which require registration with the commission and storage tank sites.

c. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

6. Class V. Carburetion Permit. Holders of these permits may install equipment, including containers, and service liquefied petroleum gas equipment used on internal combustion engines. They shall not deliver liquefied petroleum gas.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per manufacturers and contractors liability coverage.

b. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

7. Class VI. Holders of these permits may engage in the filling of approved cylinders and motor fuel tanks with

liquefied petroleum gas on their premises, but shall not deliver gas.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per products liability coverage.

b. The name of the dealer shall appear on storage tank sites.

c. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

8. Class VI-X. Holders of these permits may engage in the exchange of approved liquefied petroleum gas cylinders on their premises, but shall not fill cylinders. They shall not deliver gas.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per products liability coverage.

b. Any current Class VI permit holder may convert to a Class VI-X permit by filing formal application with the commission and submitting a \$25 filing fee. Presence of the applicant at the commission meeting will be waived. Upon receipt of the application and filing fee, permit shall be issued.

c. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

9. Class VII. Holders of these permits may transport liquefied petroleum gas by motor vehicle over the highways of the state of Louisiana but shall not sell product in the state.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per automobile liability coverage.

b. Where fuel is used direct from cargo tank, an approved valve with proper excess flow device shall be used. Connector to vehicle's engine shall be approved for such use and protected from mechanical injury.

c. No truck shall be parked on a street or highway at night in any city, town, or village, except for the purpose of serving a customer.

d. The name of the dealer shall appear on all tank trucks which require registration with the commission.

e. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

10. Reserved.

11. Class VIII. Holders of these permits may store, transport and sell liquefied petroleum gas used solely in the cutting and metal working industry, sell and install piping and containers for those gases and engage in the filling of approved ASME tanks, ICC or DOT containers used in the metal working industry.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per products, manufacturers and contractors, and automobile liability coverage.

b. The name of the dealer shall appear on all tank trucks which require registration with the commission and storage tank sites.

c. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

12. Class IX. Holders of these permits may inspect, recertify and recondition DOT and ICC cylinders. They shall not sell or deliver liquefied petroleum gas or anhydrous ammonia.

a. Holders of these permits shall obtain from DOT a retesters identification number, and provide proof of such to the commission.

b. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per products liability coverage.

c. Holders of these permits shall provide drawing and description of equipment to be installed to retest cylinders. Drawing and description shall be submitted to the office of the director for his approval before installation.

d. Holders of these permits shall maintain an accurate log of all cylinders that have been retested by date, size, manufacturer name, and serial number. The commission reserves the right to inspect such logs at any time through its representative.

e. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

13. Registration 1 (R-1). Holders of these registrations shall be a person, firm, or corporation who is engaged in the business of plumbing and holds a master plumber's license issued by the state of Louisiana. They may install liquefied petroleum gas or anhydrous ammonia piping and make alterations or modifications to existing piping systems. These registrations shall be issued by the office of the director upon meeting the applicable requirements of §107 and the following:

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per manufacturers and contractors liability coverage.

b. Compliance with the provisions of NFPA Pamphlet Number 54 (*National Fuel Gas Code*) and NFPA Number 58 (*Standard for the Storing and Handling of Liquefied Petroleum Gas*) and ANSI K 61.1-1989 is a mandatory requirement.

c. Compliance with all other applicable statutes, rules and regulations of the commission is a mandatory requirement.

14. Registration 2 (R-2). Holders of these registrations shall be a person, firm, or corporation engaged in the mechanical contracting business. They may install liquefied petroleum gas and/or anhydrous ammonia appliances and equipment, and make alterations or modifications to existing liquefied petroleum gas and/or anhydrous ammonia appliances and equipment. These registrations shall be issued by the office of the director upon meeting the applicable requirements of §107 and the following:

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per products and manufacturers and contractors liability coverage.

b. Compliance with the provisions of NFPA Pamphlet Number 54 (*National Fuel Gas Code*) and NFPA Number 58 (*Standard for the Storing and Handling of Liquefied Petroleum Gas*) and ANSI K 61.1-1989 is a mandatory requirement.

c. Compliance with all other applicable statutes, rules and regulations of the commission is a mandatory requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated LR 3:315 (July 1977), amended LR 7:633 (December 1981), LR 8:53 (January 1982), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 12:841 (December 1986), LR 15:855 (October 1989), LR 16:1063 (December 1990), LR 19:904 (July 1993), LR 20:1400 (December 1994), LR 21:701 (July 1995), LR 24:461 (March 1998), LR 25:2411 (December 1999), LR 29:2509 (November 2003), LR 33:1141 (June 2007), effective July 1, 2007, LR 38:1259 (May 2012), LR 41:395 (February 2015), LR 43:967 (May 2017), LR 46:188 (February 2020), LR 46:

Subchapter B. Dealers

§119. Permit Fees

A. All fees pursuant to R.S. 40:1849 shall be paid before a new permit will be issued each year, with the exception of a Class I-E permit. For a Class I-E permit, all fees shall be paid prior to a renewal permit being issued by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 16:1063 (December 1990), LR 38:1262 (May 2012), LR 46:

§131. Compliance with Rules

A. Compliance with all other statutes, rules and regulations will be required for all permit holders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 46:

John W. Alario
Executive Director

2011#020

DECLARATION OF EMERGENCY

Department of Treasury Deferred Compensation Commission

Administration and Distributions
(LAC 32:VII.101, 701, 1103, 1105)

The Louisiana Deferred Compensation Commission has exercised the emergency provision in accordance with the Administrative Procedure Act, R.S. 49:953(B) and pursuant to the authority set forth in R.S. 42:1303, to amend LAC 32:VII.101, 701, 1103, and 1105 regarding qualified birth and adoption distributions, the age at which participants may make in-service distributions, coronavirus-related distributions, and repayment of certain loans to qualified participants. This Emergency Rule is necessary to allow plan participants who qualify for the relief provided by the Setting Every Community Up for Retirement Enhancement (“SECURE”) Act (effective December 20, 2019) and the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act (effective March 27, 2020).

The Louisiana Deferred Compensation Commission hereby finds that the following circumstances constitute an immediate danger to the public health, safety, or welfare.

Due to public health threat created by COVID-19, on March 11, 2020, Governor John Bel Edwards declared a public health emergency in the State of Louisiana (Proclamation No. JBE 2020-25). In addition, on March 13, 2020, President Donald J. Trump declared a national emergency. Governor Edwards additionally ordered the closing of many businesses, including malls, bars, restaurants, casinos, etc. In Louisiana, the public health emergency has subsequently been extended through November 6, 2020 (Proclamation Nos. JBE 2020-134 and 135). As of October 20, 2020, 176,678 cases of COVID-19 have been confirmed in Louisiana, resulting in 5,572 deaths. The economic impact to individuals in Louisiana, including plan participants has also been devastating. Many businesses and governmental entities have been forced to furlough or lay off employees, resulting in even greater financial hardship. The COVID-19 pandemic has caused an immediate threat to the public health, safety, and welfare of many participants in the Louisiana Deferred Compensation Plan.

In order to provide relief to those plan participants who have been adversely affected by the COVID-19 pandemic, the following emergency rule is necessary so that qualifying plan participants may take advantage of the relief provided in the SECURE Act and CARES Act.

This Emergency Rule was adopted on October 20, 2020, and shall be effective on October 20, 2020. This Emergency Rule shall remain in effect until December 31, 2020, unless renewed by the Louisiana Deferred Compensation Commission, the provisions of the SECURE and/or CARES Acts are extended by the U.S. Congress, or until permanent rules are promulgated in accordance with the law.

Title 32

EMPLOYEE BENEFITS

Part VII. Public Employee Deferred Compensation

Subpart 1. Deferred Compensation Plan

Chapter 1. Administration

§101. Definitions

* * *

Coronavirus-Related Distribution—shall have the same meaning as provided in Sec. 2202(a) of the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”). The CARES Act defines a coronavirus-related distribution as a distribution made on or after January 1, 2020, and before December 31, 2020, to a participant who meets one of the following criteria:

1. the participant is diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by the Centers for Disease Control and Prevention;

2. the participant’s *spouse* or *dependent* (as defined in section 152 of the Internal Revenue Code of 1986) is diagnosed with such virus or disease by such a test; or

3. the participant experiences adverse financial consequences as a result of being quarantined, being furloughed or laid off or having work hours reduced due to such virus or disease, being unable to work due to lack of child care due to such virus or disease, closing or reducing hours of a business owned or operated by the individual due to such virus or disease, or other factors as determined by the Secretary of the U.S. Treasury.

* * *

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1962 (October 1998), amended LR 28:1494 (June 2002), LR 32:118 (January 2006), LR 37:1617 (June 2011), LR 40:2281 (November 2014), LR 46:

Chapter 7. Distributions

§701. Conditions for Distributions

A. Payments from the participants §457 Deferred Compensation Plan account to the participant or beneficiary shall not be made, or made available, earlier than:

1. - 4. ...

5. the participant makes a qualified birth or adoption distribution pursuant to Section 113 of the Setting Every Community Up for Retirement Act of 2019. Any such qualified birth or adoption distribution shall not exceed \$5,000 per birth or adoption. The commission or plan administrator may rely upon a participant's birth or adoption certificate for purposes of determining eligibility; or

6. the participant makes a *coronavirus-related distribution*, as defined in LAC 32:VII.101. The aggregate amount of any participant's coronavirus-related distributions shall not exceed \$100,000. The commission or plan administrator may rely upon a participant's certification that the distribution is an eligible coronavirus-related distribution.

7. the calendar year in which an in-service participant attains age 59 1/2, but only if such participant revokes all deferrals of compensation into the plan prior to beginning distributions.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1497 (June 2002), LR 32:121 (January 2006), LR 46:

Chapter 11. Participant Loans

§1103. Maximum Loan Amount

A. In no event shall any loan made to a participant, other than a loan made pursuant to LAC 32:VII.1103.B, be in an amount which shall cause the outstanding aggregate balance of all loans made to such participant under this plan exceed the lesser of:

1. - 2. ...

B. For a period of 180 days, commencing March 27, 2020, no loan made to a participant shall be in an amount which shall cause the outstanding aggregate balance of all loans made to such participant under this plan exceed the lesser of:

1. \$100,000, reduced by the excess (if any) of:

a. the highest outstanding balance of loans from the plan to the participant during the one-year period ending on the day before the date on which the loan is made;

b. over the outstanding balance of loans from the plan to the participant or the beneficiary on the date on which the loan is made; or

2. The participant's account balance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:1500 (June 2002), amended LR 32:123 (January 2006), LR 46:

§1105. Repayment of Loan

A. Each loan shall mature and be payable, in full and with interest, within five years from the date such loan is made, unless:

1. the loan is used to acquire any dwelling unit that within a reasonable time (determined at the time the loan is made) will be used as the principal residence of the participant; or

2. loan repayments are, at the employer's election, suspended as permitted by IRC §414(u)(4) (with respect to qualified military service); or

3. the loan is made to a qualified participant, is outstanding on or after March 27, 2020, and is due during the period beginning March 27, 2020, and ending December 31, 2020. The due date for any such loan shall be delayed for a period of one year, and any subsequent repayments pursuant to that loan shall be appropriately adjusted to reflect the delayed due date.

a. For purposes of LAC 32:VII.1105.A.3, the term *qualified participant* shall mean the same as *qualified individual* under Sec. 2202(a) of the CARES Act, which defines a qualified individual as an individual:

i. who is diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by the Centers for Disease Control and Prevention;

ii. whose *spouse* or *dependent* (as defined in section 152 of the Internal Revenue Code of 1986) is diagnosed with such virus or disease by such a test; or

iii. who experiences adverse financial consequences as a result of being quarantined, being furloughed or laid off or having work hours reduced due to such virus or disease, being unable to work due to lack of child care due to such virus or disease, closing or reducing hours of a business owned or operated by the individual due to such virus or disease, or other factors as determined by the Secretary of the U.S. Treasury.

AUTHORITY NOTE: Promulgated in accordance with R.S. §42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:1500 (June 2002), amended LR 46:

Whit Kling
Chairman

2011#009

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Reduction of Sack Limits for the
Calcasieu Lake Oyster Season

In accordance with the emergency provisions of Louisiana Revised Statutes (R.S.) 49:953, under the authority of R.S. 56:433, and under the authority of a Declaration of Emergency passed by the Wildlife and Fisheries Commission on September 3, 2020 which authorized the Secretary of the Department of Wildlife and Fisheries to take emergency action if oyster resources and/or reefs are being adversely impacted, notice is hereby given that the Secretary of Wildlife and Fisheries hereby declares that the daily take

and possession limit is reduced to 10 sacks in Calcasieu Lake Public Oyster Area effective one half hour before sunrise on October 30, 2020.

Biological data collected following Hurricane Laura and Hurricane Delta have indicated reduced oyster stocks in Calcasieu Lake. The higher harvest levels as originally set forth by the Commission may threaten the long-term sustainability of remaining oyster resources and reefs in these areas. Protection of these remaining oyster reef resources from injury is in the best interest of this public oyster area.

Notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such action unless such closure is ordered by the Louisiana Department of Health for public health concerns.

Jack Montoucet
Secretary

2011#013

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Suspension of Mandatory Deer Check Requirement on Alexander State Forest Wildlife Management Area

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under authority of R.S. 56:6.1, the secretary of the Department of Wildlife and Fisheries hereby adopts the following emergency rule:

Due to the potential effects of Hurricane Delta, the mandatory deer check requirement for primitive firearm deer season at Alexander State Forest Wildlife Management Area is suspended for October 10-11, 2020. Hunters will still be required to complete a self-clearing permit and validate their harvest by phone or online.

This Declaration of Emergency shall become effective October 10, 2020, and shall remain in effect through October 11, 2020.

Jack Montoucet
Secretary

2011#001

DECLARATION OF EMERGENCY

Workforce Commission Rehabilitation Services

Financial
(LAC 67:VII.115)

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency (PHE) for the United States to aid the nation's healthcare community in responding to the coronavirus disease (COVID-19). The United States Centers for Disease Control and Prevention (CDC) has declared COVID-19 a worldwide pandemic due to its global effect. COVID-19 has resulted in widespread unemployment,

economic hardship, and financial uncertainty, which has adversely affected the public health, safety, and welfare of Louisiana citizens, including Louisiana citizens with disabilities. Louisiana citizens with disabilities are even more vulnerable to the financial uncertainties, widespread unemployment, and economic hardships resulting from COVID-19. The LWC/LRS expressly finds that imminent peril to the public health, safety, or welfare requires adoption of this rule on an emergency basis. This Emergency Rule is adopted on November 8, 2020, to continue in effect those provisions of the Emergency Rule adopted by Rehabilitation Services on July 10, 2020.

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953 (B)(1) et seq., the Louisiana Workforce Commission, Louisiana Rehabilitation Services (LWC/LRS), amends LAC 67:VII.115 in the Vocational Rehabilitation Program, as authorized by R.S. 23:3022. The LWC/LRS finds it necessary to amend the provisions of the Louisiana Administrative Code related to the income scale that will be used for financial needs and budgetary analysis tests. This proposed rule amendment will add greater flexibility to the budgetary analysis and financial needs test by revising language, which requires a financial need analysis to determine the ability of an individual to financially contribute to the cost of "vocational and other training services, such as college/university, vocational and proprietary school training". The current rule limits the number of Louisiana citizens with disabilities who are eligible to receive vocational and other training services, such as college/university, vocational and proprietary school training. The proposed rule alleviates this burden and will allow more of Louisiana's citizens with disabilities to take advantage of training and educational opportunities that are designed to help succeed in the labor market by equipping them with the additional skill(s) to compete in the post-COVID economy for in-demand jobs. Failure to adopt the proposed rule amendment on an emergency basis will result in continued financial restrictions thereby limiting the number of Louisiana disabled citizens who can take advantage of financial assistance for vocational and other available training services offered through the LRS programs. This Emergency Rule shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Title 67

SOCIAL SERVICES

PART VII. Rehabilitation Services

Chapter 1. General Provisions

§115. Financial

A. Comparable Services and Similar Benefits

1. Determination of Availability

a. Prior to providing any vocational rehabilitation service to an eligible individual, except those services specified below in Subclauses c.i.(a)-(f), LRS will determine whether comparable services and benefits are available under any other program (other than a program carried out under Title IV, Rehabilitation Act Amendments of 2014) unless such a determination would interrupt or delay:

- i. the progress of the individual toward achieving the employment outcome identified in the IPE of the individual;
- ii. an immediate job placement; or

iii. the provision of such service to any individual at extreme medical risk.

b. Awards and Scholarships. For purposes of the determination of availability in Paragraph A.1 above, comparable benefits do not include awards and scholarships based on merit.

c. Exceptions to Use of Comparable Services and Benefits

i. The following vocational rehabilitation services can be provided without making a determination of the availability of comparable services and benefits:

(a). services provided through LRS's information and referral system;

(b). assessment for determining eligibility and vocational rehabilitation needs, including if appropriate, assessment by personnel skilled in rehabilitation technology;

(c). counseling and guidance, including information and support services to assist an individual in exercising informed choice;

(d). referral and other services needed to secure necessary services from other agencies through cooperative agreements, if such services are not available from LRS;

(e). job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

(f). rehabilitation technology, including telecommunications, sensory, and other technological aids and devices.

B. Individual's Participation in the Cost of Vocational Rehabilitation Services

1. Neither a financial needs test nor a budgetary analysis of assets, income, and disability-related expenses shall be applied as a condition for furnishing any vocational rehabilitation service if the individual in need of the service has been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act.

2. LRS will consider, through budgetary analysis of assets, income, disability-related expenses and comparable services and benefits, the financial need of eligible individuals; and individuals who are participating in trial work periods—for purposes of determining the extent of the individual's participation in the costs of certain vocational rehabilitation services.

a. Neither a financial needs test, nor a budgetary analysis, is applied and no financial participation is required as a condition for furnishing the following vocational rehabilitation services:

i. assessment for determining eligibility and priority for services, except those non-assessment services that are provided during an evaluation to explore the individual's abilities, capabilities, and capacity to perform in work situations (trial work periods);

ii. assessment for determining vocational rehabilitation needs;

iii. counseling, guidance, including information and support services to assist an individual in exercising informed choice;

iv. referral and other services to secure needed services from other agencies through cooperative agreements, if such services are not available from LRS;

v. job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

vi. rehabilitation technology assessments;

vii. supported employment;

viii. on-the-job training;

ix. assistive technology devices and services (except hearing aids);

x. personal assistance services provided simultaneously with any of the above-listed vocational rehabilitation services; (Examples include attendant, reader, scribe, interpreter, ASL, braille, notetaker, and adjustment/orientation and mobility training services.)

b. A financial need analysis will be applied to determine the ability of the individual to financially contribute to the cost of the following vocational rehabilitation services:

i. physical restoration and/or mental restoration;

ii. hearing aids;

iii. maintenance;

iv. transportation;

v. books and supplies;

vi. occupational tools and equipment;

vii. cost services to other family members;

viii. occupational licenses;

ix. discretionary training fees such as car registration fees, student health service fees, etc. not included in tuition;

x. vocational and other training services, such as college/university, vocational and proprietary school training;

xi. other goods and services, not specifically identified in Subparagraph d below;

xii. post employment services consisting of the services listed above.

c. The only exception to Clause x above is as follows.

i. To preserve LRS' Continuity of Services provision in the Order of Selection, LRS exempted those eligible individuals who had an IWRP/IPE in effect prior to July 20, 1999, which is the date of the adoption of this rule change; therefore, Clause x in Subparagraph b above will only apply to those individuals who had an IWRP/IPE developed after July 20, 1999.

d. The following services are exempt from the application of a budget surplus, if the counselor determines that a surplus exists:

i. adjustment/orientation and mobility services;

ii. attendant services;

iii. reader services;

iv. scribe, notetaker/Braille services;

v. interpreter services;

vi. assistive technology services.

e. When it is determined by a counselor and an eligible client that self-employment, through establishment of a small business enterprise, is the best option for the client, the client must provide a minimum cash capital contribution of 20 percent of the total transaction. (Refer to LRS Policy on Small Business Enterprise.)

f. Individuals who do not provide LRS with necessary financial information to perform the budget analysis will be eligible only for those vocational rehabilitation services that are not conditioned upon an analysis to determine the extent of the individual's participation in the costs of such services.

g. Individuals who have defaulted on a student loan must make good faith efforts with the lender to clear the default or to defer payment before LRS will participate in the cost of the client's vocational rehabilitation program.

h. Simultaneously with the comprehensive assessment, at the annual review of the IPE, and at any time there is a change in the financial situation of either the client or the family, the counselor will perform a budget analysis for each client requiring vocational rehabilitation services as listed above in § 115.B.2.b.i-xii. The amount of client participation in the cost of their vocational rehabilitation program will be based upon the most recent budget analysis at the time the relevant IPE or amendment is developed.

3. State and Departmental Purchasing Procedures. All applicable state, departmental and agency purchasing policies and procedures must be followed.

a. LRS does not purchase vehicles or real estate.

b. Fee Schedule. Services and rates of payment must be authorized in accordance with LRS's Medical Fee Schedule and LRS's Technical Assistance and Guidance Manual, Section 500 which lists approved service providers.

c. Approval of Service Providers

i. Any service provider approved by the agency must agree not to make any additional charge to or accept any additional payment from the client or client's family for services authorized by the agency.

ii. Relatives of vocational rehabilitation clients will not be approved as a paid service provider unless such individuals are professionally and occupationally engaged in the delivery of such services by offering their services to the general public on a regular and consistent basis.

d. Prior Written Authorization and Encumbrance

i. Either before or at the same time as the initiation or delivery of goods or services, the agency must be in possession of the proper authorizing document. The only exception is in an emergency situation.

ii. If oral authorization of approved services is made in an emergency situation, there must be prompt documentation, and the authorization must be confirmed in writing and forwarded to the provider of the services.

C. LRS shall determine an individual's financial need for certain vocational rehabilitation services, as listed in B.2.b above, is based on the individual's disability related expenses, available assets, and a multiple of 250-500 percent of the current U.S. Department of Health and Human Services' poverty guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:837 (August 1995), LR 24:959 (May 1998), LR 25:1273 (July 1999), LR 27:212 (February 2001), LR 27:1561 (September 2001), LR 29:47 (January 2003), LR 30:1488 (July 2004), LR 34:1038 (June 2008), amended by the Workforce Commission, Rehabilitation Services, LR 41:1775 (September 2015), repromulgated LR 41:2180 (October 2015).

Ava Dejoie
Secretary

2011#048

Rules

RULE

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences Advisory Commission on Pesticides

Certification of Agricultural Consultants (LAC 7:XXIII.715)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority set forth in R.S. 3:3203, the Department of Agriculture and Forestry (“Department”), through the Office of Agricultural and Environmental Sciences, has amended LAC 7:XXIII.715. Agricultural consultants are required to renew their certification every three years by attending a recertification meeting or training course. Agricultural technologies are rapidly evolving and these continuing education courses are crucial to offering current, sustainable, and profitable recommendations by agricultural consultants to their clients. The amendment to LAC 7:XXIII.715 requires any agricultural consultant that fails to renew their certification within three years of the date of issuance to reapply to take the agricultural consultant examination or submit a request in writing to the ad hoc committee for approval to retest. This Rule is hereby adopted on the day of promulgation.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticides

Chapter 7. Examinations, Certification and Licensing

Subchapter B. Certification

§715. Certification of Agricultural Consultants

A. - E.2.d.iv. ...

F. Each person that has been certified in any category or subcategory as an agricultural consultant, and whose certification has not been revoked, or suspended, or expired, may renew that certification by attending a recertification meeting or training course for that category as approved by the commissioner.

1. Each person that fails to renew their certification prior to the expiration of the certification shall submit an application to the commission for approval to take the agricultural consultant’s examination as set forth in this Section or submit a request in writing to the department and the ad hoc committee to retest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3246 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:184 (April 1983), amended LR 11:943 (October 1985), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:281 (February 1998), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides LR

28:39 (January 2002), LR 35:627 (April 2009), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3474 (December 2011), LR 44:2126 (December 2018), LR 46:1540 (November 2020).

Mike Strain, DVM
Commissioner

2011#018

RULE

Department of Agriculture and Forestry Structural Pest Control Commission

Structural Pest Control (LAC 7:XXV.Chapter 1)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in R.S. 3:3366, the Department of Agriculture and Forestry (“Department”) and the Structural Pest Control Commission has amended LAC 7:XXV. 101, 111, 117, 119, 121, 141, and 147. The amendments revise the rules regulating structural pest control in Louisiana by making technical corrections, defining and clarifying certain terms, and modernizing and updating the rules and regulations.

The amendments to §101 define and clarify terms used by the structural pest control industry and the term certified fumigation technician is removed from §101. The category of certified fumigation technician is repealed from the rules and regulations by the deletion of §111 and all references to certified fumigation technician are removed from §147. Pesticide fumigant labels and federal rules and regulations require that at least one licensed fumigator be present at every fumigation which does not allow for a certified fumigation technician to perform work without a licensed certified fumigator being present. Additionally, the exam requirements for certification of fumigation technicians were never implemented and no persons in Louisiana are licensed as a certified fumigation technician.

The amendments to §117 include simplification of the licensee recertification period, the addition of a term for clarification, and the addition of information to be recorded by pest control businesses for improved enforceability of pest control inspections and waivers. The amendments to §119 include the addition of terms for clarification. The amendment to §121 limits coverage for wood destroying insect reports to termites found in readily accessible areas within 90 days from the date of inspection. The amendments to §141 include the addition of a term for clarification, clarification of the time period required to treat an infested property, and clarification and elimination of redundant content regarding waivers.

This Rule is hereby adopted on the day of promulgation.

Title 7
AGRICULTURE AND ANIMALS
Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§101. Definitions

A. - B. ...

* * *

Active Infestation—the presence of living insects in or on a structure.

* * *

Certified Fumigation Technician—repealed.

* * *

c. *Termite Control*—the application of remedial or preventative measures for the control, prevention, or eradication of termites, powder post beetles, and old house borers and the inspection of structures for wood-destroying insects.

* * *

Readily Accessible Area—areas that are unobstructed and that are able to be reached and entered for visible examination at the time of inspection. Readily accessible areas do not include areas that are concealed by walls, ceilings, floor coverings, furniture, appliances, equipment, or stored articles; and crawl spaces and attics inaccessible due to openings too small to enter or without permanent ladders or staircases or due to undecked areas.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3362 and R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:323 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission LR 15:954 (November 1989), 17:251 (March 1991), LR 23:855 (July 1997), LR 30:1143 (June 2004), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 31:26 (January 2005), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 32:796 (May 2006), repromulgated LR 32:1015 (June 2006), amended LR 33:39 (January 2007), LR 35:204 (February 2009), LR 35:1468 (August 2009), LR 37:272 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:300 (February 2013), LR 41:333 (February 2015), LR 42:213 (February 2016), LR 44:1235 (July 2018), LR 46:1541 (November 2020).

§111. Certified Fumigation Technician

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3369.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, amended LR 17:251 (March 1991), LR 19:1010 (August 1993), LR 37:279 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:300 (February 2013), repealed LR 46:1541 (November 2020).

§117. Obligations of the Licensee\Permittee

A. - E.1.a. ...

b. recertification at least once every three years; such recertification shall be completed by December 31 of the third year following the original certification or the most recent recertification;

E.1.c - F. ...

G. The permittee or the primary licensee shall report all termite control contracts and all wood-destroying insect reports and pay all required fees as set forth in §119 hereof.

H. Any person applying pesticides for a fee and the permittee or the primary licensee shall maintain records according to LAC 7:XXV.117.H, at the physical address listed on the place of business permit of all applications of pesticides and inspections for wood destroying insects on a record keeping form or in a format approved by the director of Pesticide and Environmental Programs of the department. These records shall be retained for a period of two years after the date of the pesticide application for ship and commodity fumigation, general pest control and commercial vertebrate control, and a period of two years after the expiration of applicable contracts for termite control. The licensee shall make a copy of these records available to any employee of the department for inspection during normal working hours within 48 hours upon notification, excluding legal holidays.

1. Records for applications of pesticides and inspections for termite control shall contain the following information:

a - o. ...

p. inspection date and time;

q. waiver (if applicable); and

r. WDIR (if applicable).

H.2. - Q. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3368.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 21:930 (September 1995), LR 23:855 (July 1997), LR 26:2437 (November 2000), LR 29:1062 (July 2003), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 30:196 (February 2004), LR 31:2761 (November 2005), LR 35:1468 (August 2009), LR 37:280 (January 2011), LR 39:301 (February 2013), LR 42:214 (February 2016), LR 46:1541 (November 2020).

§119. Contracts for Termite Control Work

A. The permittee or licensee shall enter into a written contract for termite control work with the property owner/agent employing him. The contract shall:

1. - 5. ...

6. provide for the treatment of all subterranean termites, dry-wood termites, powder post beetles, or old house borers; and

A.7. - C. ...

D. The permittee or a licensee shall report to the commission, no later than the tenth day of each month, each termite control contract and initial treatment for a pre-treatment contract for termite work which he has entered into, and performed or completed during the previous month. If no contracts were entered into or performed during the previous month, the permittee or a licensee shall report this fact to the commission no later than the tenth of each month.

E. - G.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and R.S. 3:3370.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:957 (November 1989), LR 26:2437 (November 2000), LR 27:1179 (August 2001), LR 27:2084 (December 2001), LR 28:1171 (June 2002), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 30:196 (February 2004), LR 30:1144 (June 2004), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 31:26 (January 2005), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 35:1468 (August 2009), LR 37:282 (January 2011), LR 46:1541 (November 2020).

§121. Wood Destroying Insect Report

A. - A.2. ...

B. A wood destroying insect report shall be issued by a person who is licensed by the commission in termite control or a certified WDIR technician who is working under the supervision of a person who is licensed by the commission in termite control. The report shall carry a guarantee that the property will be treated without charge should live subterranean termites covered by the report be found in any readily accessible area within 90 days from the date of inspection.

B.1. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3670.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:856 (July 1997), LR 24:631 (April 1998), LR 25:235 (February 1999), LR 25:829 (May 1999), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 31:26 (January 2005), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 32:797 (May 2006), repromulgated LR 32:1017 (June 2006), amended LR 37:282 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:301 (February 2013), LR 39:3238 (December 2013), LR 46:1542 (November 2020).

§141. Minimum Specifications for Termite Control Work

A. - G. ...

1. Whenever an active infestation of subterranean termites, dry-wood termites, powder post beetles, or old house borers is found at any property under a current contract for that type of wood destroying insect, the pest control business that is responsible for the contract shall retreat within 30 days of discovery or notification.

2. Repealed.

H. ...

1. A pest control operator shall request from the owner/agent of the structure(s) to be treated, a waiver of the requirements set out in these regulations whenever it is impossible or impractical to treat one or more areas of the structure in accordance with these minimum specifications for initial treatment or retreatment of properties. The waiver shall be signed by the owner/agent of the structure(s) to be treated prior to or during treatment. A signed copy of the waiver shall be given to the owner/agent. The waiver shall include, but not be limited to, the following information:

a - c. ...

2. - 2.c. Repealed.

H.3. - L.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:958 (November 1989), LR 20:644 (June 1994), LR 21:931 (September 1995), LR 23:1285 (October 1997), LR 25:235 (February 1999), LR 25:1620 (September 1999), LR 26:2437 (November 2000), LR 27:1180 (August 2001), LR 29:1063 (July 2003), LR 30:1145 (June 2004), repromulgated LR 30:1614 (August 2004), amended LR 35:207 (February 2009), LR 35:1469 (August 2009), repromulgated LR 35:1872 (September 2009), amended, LR 37:286 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:301 (February 2013), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:1413 (June 2013), LR 41:333 (February 2015), LR 42:214 (February 2016), LR 46:1542 (November 2020).

§147. Fumigation

A. - A.1. ...

2. The licensee shall comply with the Structural Pest Control Commission rules and regulations and shall follow all other applicable state and federal rules and regulations.

3. - 5. ...

6. The licensee shall remove all signs, fumigation containers and/or materials, and any other debris which accumulated as a direct result from the fumigation.

A.7. - B.3. ...

4. A licensed fumigator shall seal or supervise the sealing or the area to be fumigated and assure that there is proper and secure sealing to confine the fumigant to the area that is to be fumigated, prior to the release of the fumigant.

5. A licensed fumigator shall see that a sign or signs of sufficient size as to be conspicuous and bearing the word "poison" and the skull-and-crossbones symbol, is prominently displayed at all entrances to the area being fumigated continuously from the time the area is sealed until ventilation is completed.

6. - 9. ...

10. A licensed fumigator shall be present when the fumigant is released and immediately prior to the time when the fumigated area is declared safe for occupancy. At least one other person, trained in fumigation in addition to the above, shall be present when the fumigant is released and immediately prior to the time when the fumigation area is declared safe for occupancy.

11. A licensed fumigator shall personally inspect the area which was fumigated when ventilation is completed to assure that the fumigated area, and adjacent areas as appropriate, is safe for occupancy.

C. - D.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 11:332 (April 1985), amended LR 17:251 (March 1991), LR 37:293 (January 2011), LR 44:1237 (July 2018), LR 46:1542 (November 2020).

Mike Strain, DVM
Commissioner

2011#017

RULE

Department of Children and Family Services Child Support Enforcement Section

Criminal History Records Checks for Access to Federal Tax Information (LAC 67:I.205)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953 (A), the Department of Children and Family Services (DCFS) has amended LAC 67:I.205, Criminal History Records Checks for Access to Federal Tax Information (FTI).

R.S. 46:51.3 grants the Department of Children and Family Services authority to perform criminal history records checks of current and prospective employees, contractors and subcontractors. The statute mandates that the department promulgate rules to implement the requirements specified in R.S. 15:587.5. DCFS proposes to amend §205 Criminal History Checks for Access to Federal Tax Information to align the process with other agencies subject to Internal Revenue Service oversight, including Department of Revenue and Department of Health. This amendment includes additional details of procedures the department will follow in performance of federally required criminal history checks. This Rule is hereby adopted on the day of promulgation and is effective November 1, 2020.

Title 67

SOCIAL SERVICES

Part I. General Administration

Chapter 2. Criminal Background and State Central Registry Checks

§205. Criminal History Records Checks for Access to Federal Tax Information

A. Purpose

1. As required by the IRS statute found at 26 USCS 6103(p)(4) and its supplemental publication 1075, the Department of Children and Family Services (DCFS) will conduct fingerprinting, along with national, state and local criminal history record checks on all individuals handling and those who may handle Federal Tax Information (FTI). The criminal history record checks will be used to determine the suitability of individuals to access FTI in performance of their job duties or services for the Department of Children and Family Services.

B. Applicability

1. Pursuant to R.S. 46:51.3, this regulation applies to all current and prospective employees, contractors, or subcontractors of the office of family support or child support enforcement that have access to federal tax information (FTI). This provision shall also apply to employees of contractors or subcontractors of the office of family support or child support enforcement who require access to FTI.

C. Definitions

Criminal History Record Check—a review of an individual's criminal history using fingerprints sent to the Louisiana Bureau of Criminal Identification and Information for submission to the Federal Bureau of Investigation (FBI) and compilation of data from state and local law enforcement agencies.

Federal Tax Information (FTI)—consists of federal tax returns and return information (and information derived from it) that is in the department's possession or control which is covered by the confidentiality protections of the Internal Revenue Code and subject to its safeguarding requirements, including IRS oversight.

FTI Suitable (no reports)—an employee, contractor or subcontractor whose criminal history records check results in a report containing no information and who is permitted to access FTI in the performance of his duties, function or service to the department.

FTI Suitable (with reports)—an employee, contractor or subcontractor whose criminal history records check results in a report containing criminal cases, convictions, or arrests and access to FTI for the performance of his duties, functions or service of the department is permitted after determination.

FTI Unsuitable—an employee, contractor or subcontractor whose criminal history records check results in a report containing criminal cases, convictions or arrests who deemed not suitable to access federal tax information in the performance of his duties, function or service of the department after determination.

D. General Provisions

1. All current or prospective employees, contractors, or subcontractors within the office of family support and child support enforcement requiring access to FTI shall be required to submit to a criminal history records check by providing authorization, fingerprints and other identifying information to DCFS.

2. Fingerprints and other identifying information shall be submitted to the Louisiana Bureau of Criminal Identification and Information for performance of the criminal history records check.

3. The department may request local criminal history from any jurisdiction where the current or prospective employee, contractor, or subcontractor has lived, worked, or attended school.

3. Criminal history records checks shall be used by the department to determine the suitability of current or prospective employees, contractors, or subcontractors within the office of child support enforcement and family support sections to access FTI and records.

a. Prospective employees shall be subject to criminal history records checks only after a conditional offer of employment has been made.

b. Current employees, contractors and subcontractors shall be subject to fingerprinting and national, state, and local criminal history records checks, at a minimum of every 10 years.

c. Criminal history record checks on prospective contractors or prospective employees of contracts must be performed prior to obtaining access to FTI.

4. The costs of providing the criminal history records check for current employees, contractors, or subcontractors within the office of child support enforcement and family support shall be charged to the department by the Louisiana Bureau of Criminal Identification and Information for furnishing information contained in its criminal history and identification files, including any additional costs of providing the national and local criminal history records

checks, which pertains to the current or prospective employee, contractor or subcontractor.

E. Suitability Standards

1. Any criminal history record check resulting in a report containing criminal cases, convictions, or arrests must receive a case by case assessment.
2. The case by case assessment must consider:
 - a. the nature of the offense;
 - b. the relation of the offense to the duties of the employee, contractor or subcontractor;
 - c. any aggravating or mitigating circumstances, including the passage of time; and
 - d. any evidence of rehabilitation of the subject or the lack thereof.
3. An individual is deemed to be FTI suitable or FTI unsuitable based on the following table.

Criminal History Record Check Result	FTI Access Determination
No Reports	
Report resulting from criminal history records check contains no information.	FTI Suitable
Reports	
A case-by-case assessment must be performed.	
Reports of criminal cases, convictions, arrests or serious misconduct that includes but is not limited to: <ul style="list-style-type: none"> • Misappropriation Crimes (as designated in Louisiana Revised Statutes) • Computer Related Crimes (as designated in Louisiana Revised Statutes) • Offenses Affecting Organized Government, subparts B through F (as listed in Louisiana Revised Statutes) • Tax, Alcohol Beverage, Tobacco or Charitable Gaming offenses where the federal or state statute exposes the offender to a penalty of imprisonment with or without hard labor. Compelling mitigation documentation to show the offense irrelevant to duties of the position or FTI suitability may be provided during appeal.	FTI Unsuitable
No reports of open criminal cases, convictions, or arrests with relevance to the duties of the position requiring access to FTI. Reports of open criminal cases, convictions, or arrests related to the duties of the position or access to FTI but compelling mitigation documentation has been provided during appeal.	FTI Suitable (with reports)

F. Impact of Suitability Determination

1. Individuals who have been deemed FTI suitable (no reports) or FTI suitable (with reports) will be able to exercise one of the options below that is applicable to their status:
 - a. continue to or be allowed to access FTI in the performance of job duties;
 - b. continue to or be allowed to access FTI in the performance of job duties with special restrictions or caveats; or
 - c. be considered for a vacant position with FTI access.

2. If a current or prospective employee, contractor or subcontractor has been deemed FTI unsuitable, the department will exercise one of the options below:
 - a. access or use of FTI will immediately be denied, suspended or prevented;
 - b. the job offer may be rescinded;
 - c. the contract may be terminated; or
 - d. the contractor or subcontractor’s employee may be removed or prohibited from performing work on the contract.
3. A determination of FTI unsuitable may be appealed using the procedures outlined in Subsection G of this Section.
4. A successful appeal is the only mechanism in which the impact of a FTI unsuitable determination can be avoided.

G. Appeal Procedures

1. In the event the criminal history record check reveals information that leads to a determination of FTI unsuitable for a current or prospective department employee, contractor or subcontractor, the impacted person will be notified. This notification will also inform the impacted person of their right to challenge the accuracy of the criminal history record check.
2. The impacted person will have 30 days to present documentation to refute or mitigate the determination.
3. The department will review the documentation and notify the impacted person of its determination. The department may also use this information to request a new or updated criminal history record check, if allowed by the national, state and/or local law enforcement agencies.

AUTHORITY NOTE: Promulgated in accordance with Act 147 of the 2017 Regular Legislative Session.
HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Child Support Enforcement Section, LR 45:651 (May 2019), LR 46:1543 (November 2020).

Marketa Garner Walters
Secretary

2011#014

RULE

**Department of Environmental Quality
Office of the Secretary
Legal Affairs and Criminal Investigations Division**

Water Quality Standards Triennial Revision
(LAC 33:IX.Chapter 11)(WQ097)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX.1101, 1105, 1107, 1109, 1113, 1115, 1119, 1121, and 1123. (WQ097)

This Rule corrects typographical errors, incorrect spelling and incorrect references throughout Chapter 11 in the water quality regulations. Where needed for clarification, language in Chapter 11 has been revised. There have been additions and deletions made to the definitions in §1105. In §1109, language has been revised to be in agreement with the

federal Water Quality Standards Regulatory Revisions final rule (80 FR 51019). In §1113, the ambient water quality criteria toxic substances for the protection of human health in Table 1 has been updated based primarily on EPA's final updated recommendations (80 FR 36986). An ammonia criterion for freshwater has been added in §1113. Language revisions have been made in §§1115, 1119, and 1121. In §1123, Table 3, subsegment descriptions and boundaries have been revised using up-to-date technology. The basis and rationale for this Rule are to conform to §303(c) of the Clean Water Act and to maintain and protect state waters. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

This Rule is hereby adopted upon promulgation.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 11. Surface Water Quality Standards

§1101. Introduction

A. The purpose of this Chapter is to establish surface water quality standards that will:

1. - 2. ...

3. protect or enhance the quality of state waters for designated uses; and

A.4. - B.2. ...

3. criteria that protect the designated uses by specifying general and numeric limitations for various water quality parameters.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 20:883 (August 1994), amended by the Office of the Secretary, Legal Affairs Division, LR 33:826 (May 2007), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:1544 (November 2020).

§1105. Definitions

* * *

Brackish Marshes—those areas inundated or saturated by surface water or groundwater of moderate salinity at a frequency and duration sufficient to support, and that under normal circumstances do support, brackish emergent vegetation. Typical vegetation includes bulltongue (*Sagittaria* spp.), wild millet (*Echinochloa walteri*), bullwhip (*Scirpus californicus*), sawgrass (*Cladium jamaicense*), wiregrass (*Spartina patens*), three-cornered grass (*Scirpus olneyi*), and widgeongrass (*Ruppia maritima*). *Brackish marshes* are also characterized by interstitial water salinity that normally ranges between 3 and 15 parts per thousand.

* * *

Cypress-Tupelo Swamps—those areas inundated or saturated by surface water or groundwater of negligible to very low salinity at a frequency and duration sufficient to support, and that under normal circumstances do support, cypress-tupelo vegetation. Typical vegetation includes water tupelo (*Nyssa sylvatica* var. *aquatica*), bald cypress

(*Taxodium distichum*), red maple (*Acer rubrum*), buttonbush (*Cephalanthus occidentalis*), and common wax myrtle (*Myrica cerifera*). *Cypress-tupelo swamps* can tolerate continuously flooded conditions and are divided into two subtypes: continuously flooded and seasonally flooded. Continuously flooded swamps are those areas that have standing water present all year round. They range from forests with a closed canopy to open canopy conditions with understory freshwater emergent wetland vegetation. Seasonally flooded swamps are those areas that are typically flooded for more than six months per year. They typically have a closed canopy that limits understory vegetation.

* * *

Effluent Limitation—any applicable state or federal qualitative or quantitative limitation that imposes any restriction or prohibition on quantities, discharge rates, and concentrations of pollutants discharged into the waters of the state.

* * *

Fresh Warmwater Biota—aquatic life species whose populations typically inhabit waters with warm temperatures (seasonal averages above 20°C, 68°F) and low salinities (less than two parts per thousand), including, but not limited to, black bass; freshwater sunfish; freshwater catfish; and characteristic freshwater aquatic invertebrates and wildlife.

* * *

Freshwater Emergent Wetlands (including *freshwater marshes*)—those areas inundated or saturated by surface water or groundwater of negligible to very low salinity at a frequency and duration sufficient to support, and that under normal circumstances do support, freshwater emergent vegetation. Typical vegetation includes cattail (*Typha angustifolia*), bulltongue (*Sagittaria* spp.), maiden cane (*Panicum hemitomon*), water hyacinth (*Eichhornia crassipes*), pickerelweed (*Pontederia cordata*), alligator weed (*Alternanthera philoxeroides*), and pennywort (*Hydrocotyle* spp.). *Freshwater emergent wetlands* also are characterized by interstitial water salinity that is normally less than 2 parts per thousand. There are two subtypes of *freshwater emergent wetlands*: floating and attached. Floating wetlands are those areas where the wetland surface substrate is detached and is floating above the underlying deltaic plain (also called "buoyant" and "flotant"). Attached wetlands are those areas where the vegetation is attached to the wetland surface and is contiguous with the underlying wetland substrate and can be submerged or emergent.

* * *

Highest Attainable Use—the modified aquatic life, wildlife, or recreation use that is both closest to the uses specified in section 101(a)(2) of the Clean Water Act and attainable, based on the evaluation of the factor(s) in LAC 33:IX.1109.B.3 that preclude(s) attainment of the use and any other information or analyses that were used to evaluate attainability. There is no required highest attainable use where the state demonstrates the relevant use specified in section 101(a)(2) of the Clean Water Act and subcategories of such a use are not attainable.

* * *

LC50—the numeric limit or concentration of a test material that is lethal to 50 percent of the exposed aquatic organisms within a specified period of time.

* * *

Non-101(a)(2) Use—any use unrelated to the protection and propagation of fish, shellfish, wildlife or recreation in or on the water.

* * *

Pollutant Minimization Program—a structured set of activities to improve processes and pollutant controls that will prevent and reduce pollutant loadings in the context of LAC 33:IX.1109.E.

* * *

Practicable—technologically possible, economically viable, and able to be put into practice, in the context of LAC 33:IX.1109.A.2.b.

* * *

Salt (Saline) Marshes—those areas that are inundated or saturated by surface water or groundwater of salinity characteristic of nearshore Gulf of Mexico ambient water at a frequency and duration sufficient to support, and that under normal circumstances do support, saline emergent vegetation. Typical vegetation includes oystergrass (*Spartina alterniflora*), glasswort (*Salicornia* spp.), black rush (*Juncus roemerianus*), saltwort (*Batis maritima*), black mangrove (*Avicennia germinans*), and saltgrass (*Distichlis spicata*). *Salt marshes* are also characterized by interstitial water salinity that normally exceeds 16 parts per thousand.

* * *

Water Quality Standard—an established set of provisions consisting of antidegradation requirements (policy and/or procedures), designated uses, and water quality criteria (narrative or numeric) to protect the designated uses and general policies included at the state's discretion, in order to meet the objectives in section 101(a) of the Clean Water Act.

Water Quality Standards Variance (WQS Variance)—a time-limited designated use and criterion for a specific pollutant(s) or water quality parameter(s) that reflect the highest attainable condition during the term of the *water quality standards variance*.

Waters of the State (or State Waters)—all surface and underground waters and watercourses within the state of Louisiana, whether natural or man-made, including but not limited to, all rivers, streams, lakes, wetlands, and groundwaters, within the confines of the state, and all bordering waters extending three miles into the Gulf of Mexico.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2401 (December 1999), LR 26:2545 (November 2000), LR 29:557 (April 2003), LR 30:1473 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:456 (March 2007), LR 33:827 (May 2007), LR 35:445 (March 2009), amended by the Office of the Secretary, Legal Division, LR 40:2243 (November 2014), LR 42:736 (May 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:1545 (November 2020).

§1107. Enforcement

A. ...

B. Since aquatic systems receive organic and inorganic materials from natural and man-made sources and receive

physical inputs from natural and man-made sources, due allowances will be made for situations where low dissolved oxygen concentrations or other water quality conditions attributable to natural sources are at variance with the standards. To allow for such situations, the numeric criteria will not be applied below the 7Q10 or other appropriate critical flow as defined in LAC 33:IX.1115.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 20:883 (August 1994), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:1546 (November 2020).

§1109. Policy

Water quality standards policies concerned with the protection and enhancement of water quality in the state are discussed in this Section. Policy statements on antidegradation, water use, water body exception categories, compliance schedules and variances, short-term activity authorization, errors, severability, revisions to standards, and sample collection and analytical procedures are described.

A. Antidegradation Policy

1. The existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.

2. Where the water quality exceeds levels necessary to support the protection and propagation of fish, shellfish, and wildlife and recreation in and on the water, that water quality shall be maintained and protected unless the state finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the state's continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. The state shall assure water quality adequate to fully protect existing uses with such degradation or lower water quality. The state shall assure the highest statutory and regulatory requirements shall be achieved for all new and existing point sources and all cost-effective and reasonable best management practices for nonpoint source control.

a. Waters may be identified for the protections described in Paragraph 2 of this Subsection on a parameter-by-parameter basis or on a water body-by-water body basis. Where the state identifies waters for antidegradation protection, the state shall provide an opportunity for public involvement in any decisions about whether the protections described in Paragraph 2 of this Subsection will be given to a water body, and the factors considered when making those decisions. A water body shall not be excluded from the protections described in Paragraph 2 of this Subsection solely because water quality does not exceed levels necessary to support all of the uses specified in section 101(a)(2) of the Clean Water Act.

b. Before allowing any lowering of high water quality, according to Paragraph 2 of this Subsection, the state shall find, after an analysis of alternatives, that such a lowering is necessary to accommodate important economic or social development in the area in which the waters are located. The analysis of alternatives shall evaluate a range of practicable alternatives that would prevent or lessen the degradation associated with the proposed activity. When the

analysis of alternatives identifies one or more practicable alternatives, the state shall only find that a lowering is necessary if one such alternative is selected for implementation.

3. Waste discharges shall comply with applicable state and federal laws for the attainment of water quality goals. Any new, existing, or expanded point source or nonpoint source discharging into state waters, including any land clearing which is the subject of a federal permit application, shall be required to provide the necessary level of waste treatment to protect state waters as determined by the administrative authority. Further, the highest statutory and regulatory requirements shall be achieved for all existing point sources and best management practices (BMPs) for nonpoint sources. Additionally, no degradation shall be allowed in high-quality waters designated as *outstanding natural resource waters*, as defined in LAC 33:IX.1111.A. Waters included in the Louisiana Natural and Scenic Rivers System, under the administration of the Louisiana Department of Wildlife and Fisheries, will be considered by the department for designation as outstanding natural resource waters. Those water bodies presently designated as outstanding natural resource waters are listed in LAC 33:IX.1123. The administrative authority shall not approve any wastewater discharge or certify any activity for federal permit that would impair water quality or use of state waters, including waters in the Natural and Scenic Rivers System that are waters of the state.

4. The antidegradation policy and implementation method shall be consistent with section 316 of the Clean Water Act where a potential water quality impairment is associated with a thermal discharge.

5. An implementation plan for this antidegradation policy is provided in LAC 33:IX.1119. The state's methods for implementing the antidegradation policy shall be, at a minimum, consistent with the state's policy and with the federal regulations at 40 CFR 131.12(a). The state shall provide an opportunity for public involvement during the development and any subsequent revisions of the implementation methods.

B. - B.3.f. ...

4. The department shall ensure that the water quality standards provide for the attainment and maintenance of the water quality standards of the downstream waters when designating water body uses and the appropriate criteria for those uses.

5. A subcategory of a use may be adopted and the appropriate criteria set to reflect the varying needs of such a subcategory of a use.

C. Water Body Exception Classification. Some water bodies may qualify for a water body exception classification. This classification will be made on a case-by-case basis. Whenever data indicate that a water body exception classification is warranted, the department will recommend the exception to the administrative authority for approval. In all cases where exceptions are proposed, the concurrence of EPA must be obtained and the opportunity for public participation must be provided during the exceptions review process. The general criteria of these standards shall apply to all water bodies classified as a water body exception except where a particular water body is specifically exempted. A use attainability analysis shall be conducted to justify a

water body exception classification if an accompanying downgrade of a 101(a)(2) and application of less stringent criteria is being proposed. Exceptions are allowed for the following three classifications of water bodies.

1. - 2.d. ...

3. Naturally Dystrophic Waters

a. Naturally dystrophic waters are include waters that receive large amounts of natural organic material largely of terrestrial plant origin, are commonly stained by the decomposition of such organic material, and are low in dissolved oxygen because of natural conditions. Only those water bodies primarily affected by nonanthropogenic sources of oxygen-demanding substances or naturally occurring cycles of oxygen depletion will be considered for classification as naturally dystrophic waters. These water bodies typically include or are surrounded by wetlands (e.g., bottomland hardwood forests, freshwater swamps and marshes, or intermediate, brackish, or saline marshes) and have sluggish, low-gradient flows most of the year. Naturally dystrophic water bodies, though seasonally deficient in dissolved oxygen, may fully support fish and wildlife propagation and other water uses. Low dissolved oxygen concentrations (less than 5 mg/l) may occur seasonally during the warmer months of the year in naturally dystrophic water bodies.

b. No water body may be classified as naturally dystrophic without the approval of both the administrative authority and the EPA. A use attainability analysis may be conducted to gather data to document the characteristics of a naturally dystrophic water body. A use attainability analysis must be conducted to support the modification of dissolved oxygen criteria and/or the seasonality of dissolved oxygen criteria in naturally dystrophic waters. Applicable general and numeric criteria not specifically exempt shall remain applicable to waters classified as naturally dystrophic.

c. A wastewater discharge to an approved naturally dystrophic water body may be proposed only if the discharge will not by itself or in conjunction with other discharges, cause impairment of the applicable designated uses, nor cause exceedance of any applicable general and site-specific criteria in the receiving water body, as determined in the exception approval process, nor cause exceedance of any applicable general and site-specific criteria in LAC 33:IX.1113 and 1123 in any water body that receives water from the naturally dystrophic water body.

d. A wastewater discharge may be proposed for an approved, designated naturally dystrophic water body in a wetland only if the discharge will not by itself, or in conjunction with other discharges, cause inundation of the receiving area such that regeneration of characteristic vegetative species would be significantly reduced, will not significantly modify species composition of the receiving area, and will not increase biological succession of the receiving area above naturally occurring levels. Natural background conditions and proposed significant changes will be determined through use attainability analyses prior to the addition of any discharge.

D. Compliance Schedules in LPDES Permits. Upon permit issuance, modification, or renewal, compliance schedules may be incorporated into a permit to allow a permittee adequate time to make treatment facility modifications necessary to comply with water quality-based

permit limitations determined to be necessary to implement new or revised water quality standards. Compliance shall be achieved at the earliest practicable time. The department will establish interim conditions which may consist of, but are not limited to, compliance schedules, monitoring requirements, temporary limits, and milestone dates so as to measure progress toward final project completion (e.g., design completion, construction start, construction completion, date of compliance).

E. Water Quality Standards (WQS) Variances

1. The state may adopt a WQS variance, as defined in Section 1105 of this Chapter. The WQS variance is subject to the provisions of this Subsection and public participation requirements at 40 CFR 131.14 and is a water quality standard subject to EPA review and approval or disapproval under section 303(c) of the Clean Water Act.

a. Applicability

i. A WQS variance may be adopted for a permittee(s) or water body/water body segment(s), but only applies to the permittee(s) or water body/water body segment(s) specified in the WQS variance.

ii. When adopting a WQS variance the underlying designated use and criterion addressed by the WQS variance shall be retained, unless a revision to the underlying designated use and criterion is adopted by the department and approved by EPA consistent with federal regulations. All other applicable standards not specifically addressed by the WQS variance remain applicable.

iii. Once the WQS variance is adopted by the state and approved by EPA, it shall be the applicable standard for purposes of the Clean Water Act under 40 CFR 131.21(d)-(e), for the following limited purposes of developing LPDES permit limits and requirements under federal regulations, where appropriate, consistent with Clause E.1.a.i of this Subsection.

iv. A WQS variance will not be adopted if the designated use and criterion addressed by the WQS variance can be achieved by implementing technology-based effluent limits required under sections 301(b) and 306 of the Clean Water Act.

b. Requirements for Submission to EPA. The following information shall be included in the WQS variance submitted to EPA when granting a variance request for a permittee(s), or water body/water body segment(s).

i. Identify the pollutant(s) or water quality parameter(s) and the water body/water body segment(s) to which the WQS variance applies. A discharger(s)-specific WQS variance shall also identify the permittee(s) subject to the WQS variance.

ii. Provide the requirements that apply throughout the term of the WQS variance. The requirements shall represent the highest attainable condition of the water body or water body segment applicable throughout the term of the WQS variance based on the required supporting documentation. The requirements shall not result in any lowering of the currently attained ambient water quality, unless a WQS variance is necessary for restoration activities, consistent with LAC 33:IX.1109.E.1.c.i.(a).(ii). The state shall specify the highest attainable condition of the water body or water body segment as a quantifiable expression that is one of the following:

(a). for a discharger(s)-specific WQS variance:
(i). the highest attainable interim criterion;
(ii). the interim effluent condition that reflects the greatest pollutant reduction achievable; or

(iii). if no additional feasible pollutant control technology can be identified, the interim criterion or interim effluent condition that reflects the greatest pollutant reduction achievable with the pollutant control technologies installed at the time the state adopts the WQS variance, and the adoption and implementation of a pollutant minimization program, as defined in Section 1105 of this Chapter:

(b). for a WQS variance applicable to a water body or water body segment:

(i). the highest attainable interim use and interim criterion; or

(ii). if no additional feasible pollutant control technology can be identified, the interim use and interim criterion that reflect the greatest pollutant reduction achievable with the pollutant control technologies installed at the time the state adopts the WQS variance, and the adoption and implementation of a pollutant minimization program.

iii. Provide a statement that the requirements of the WQS variance are either the highest attainable condition identified at the time of the adoption of the WQS variance, or the highest attainable condition later identified during any reevaluation consistent with Clause E.1.b.v of this Subsection, whichever is more stringent.

iv. State the term of the WQS variance, expressed as an interval of time from the date of EPA approval or a specific date. The term of the WQS variance shall only be as long as necessary to achieve the highest attainable condition and consistent with the demonstration provided in Subparagraph E.1.c of this Subsection. The state may adopt a subsequent WQS variance consistent with this Subsection.

v. For a WQS variance with a term greater than five years, specify a frequency to reevaluate the highest attainable condition using all existing and readily available information and stipulate a provision how the state intends to obtain public input on the reevaluation. Such reevaluations shall occur no less frequently than every five years after EPA approval of the WQS variance and the results of such reevaluation shall be submitted to EPA within 30 days of completion of the reevaluation.

vi. A provision of the WQS variance shall stipulate the WQS variance will no longer be the applicable water quality standard for purposes of the Clean Water Act if the state does not conduct a reevaluation consistent with the frequency specified in the WQS variance or the results are not submitted to EPA as required by Clause E.1.b.v of this Subsection until the state conducts the reevaluation and submits the results to EPA.

c. The supporting documentation submitted to EPA shall include the following.

i. Documentation that shall demonstrate the need for a WQS variance.

(a). For a WQS variance to a Clean Water Act section 101(a)(2) use or a subcategory of such a use, the state shall demonstrate that attaining the designated use and criterion is not feasible throughout the term of the WQS variance because:

(i). one of the factors listed in Clause B.3 of this Section is met; or

(ii). actions necessary to facilitate lake, wetland, or stream restoration through dam removal or other significant reconfiguration activities preclude attainment of the designated use and criterion while the actions are being implemented.

(b). For a WQS variance to a non-Clean Water Act section 101(a)(2) use, the state shall submit documentation justifying how its consideration of the use and value of the water for those uses listed in 40 CFR 131.10(a) appropriately supports the WQS variance and term. A demonstration consistent with Subclause E.1.c.i.(a) of this Subsection may be used to satisfy this requirement.

ii. Documentation that shall demonstrate that the term of the WQS variance is only as long as necessary to achieve the highest attainable condition. Such documentation shall justify the term of the WQS variance by describing the pollutant control activities to achieve the highest attainable condition, including those activities identified through a pollutant minimization program, which serve as milestones for the WQS variance.

iii. In addition to Clause E.1.c.i and ii of this Subsection, for a WQS variance that applies to a water body or water body segment:

(a). Identify and document any cost-effective and reasonable best management practices for nonpoint source controls related to the pollutant(s) or water quality parameter(s) and water body or water body segment(s) specified in the WQS variance that could be implemented to make progress towards attaining the underlying designated use and criterion (The state shall provide public notice and comment for any such documentation).

(b). Any subsequent WQS variance for a water body or water body segment shall include documentation of whether and to what extent best management practices for nonpoint source controls were implemented to address the pollutant(s) or water quality parameter(s) subject to the WQS variance and the water quality progress achieved.

d. Implementation of a WQS variance in an LPDES permit. A WQS variance serves as the applicable water quality standard for implementation of LPDES permitting requirements pursuant to LAC 33:IX.2707.D for the term of the WQS variance. Any limitations and requirements necessary to implement the WQS variance shall be included as enforceable conditions of the LPDES permit for the permittee(s) subject to the WQS variance.

F. Short-Term Activity Authorization. The administrative authority may exempt from water quality standards certain short-term activities that the state determines are necessary to accommodate activities, emergencies, or to protect the public health and welfare. Such activities shall not cause long-term or permanent impact on designated water uses. These activities may include, but are not limited to, mosquito abatement projects, algae and weed control projects, and fish eradication projects. No short-term activity authorization shall supersede any applicable state or federal law or regulation including permitting process or the terms or conditions of any permit.

G. Errors. Errors resulting from inadequate or erroneous data and human or clerical errors will be subject to correction by the state, and the discovery of such errors does not render the remaining or unaffected standards invalid.

H. Severability. If any provisions of these standards or the application of any provision of these standards to any person or circumstance is held invalid, the application of such provision to other persons or circumstances and the remainder of the standards shall not be affected thereby.

I. Water Quality Standards Revision Process

1. It is the position of the state of Louisiana that the standards contained herein are those that are reasonable on the basis of the actual or potential quality of the state's waters, present and future water uses, and the best practicable wastewater treatment under any conditions. However, standards are not fixed for all time, but are subject to future revision. The nature of future revisions of these standards will be strongly influenced by many factors. Among these are the following.

a. As a downstream or bordering state in all cases involving interstate streams, Louisiana's standards will be affected by the quality of water received from its upstream and neighboring states.

b. Because it is the state farthest downstream, Louisiana's water quality will be affected by mean low flows when interstate rivers and tributaries become subject to flow regulation and diversion projects.

c. Changes in technology or natural conditions, or the availability of new data, may require a revision of numeric criteria at any time. Such revisions, however, will be accomplished only after proper consideration of designated water uses. Any proposed revision will be consistent with state and federal regulations.

d. Advances in scientific knowledge concerning the toxicity, cancer potency, metabolism, or exposure pathways of toxic pollutants that affect the assumptions on which existing criteria are based may necessitate a revision of numeric criteria at any time. Such revisions, however, will be accomplished only after proper consideration of designated water uses. Any proposed revision will be consistent with state and federal regulations.

2. The state shall hold public hearings at least once every three years to review applicable water quality standards and, as appropriate, modify and adopt standards. The revised standards will be reviewed in accordance with the state Administrative Procedure Act (R.S. 49:950 et seq.) and appropriate EPA procedures.

J. Sample Collection and Analytical Procedures. Procedures for collecting and analyzing samples to be used to determine whether the standards have been attained shall be subject to the following requirements as well as those specified in the department's Quality Assurance (QA) Plan for water monitoring and analysis.

1. Samples will be obtained at a depth or depths representative of the average water quality at the sampling station in question.

2. Samples will be collected from sampling locations as necessary to assess attainment of standards.

3. Collection and preservation of samples will be in accordance with accepted practices as specified in the department's QA Plan.

4. Numeric values of the various parameters will typically be determined by analytical procedures as specified in the QA Plan.

K. Wetlands

1. Wetlands, as defined in LAC 33:IX.1105, are a valuable resource to the state of Louisiana. Because of the state's natural low elevations, extensive riverine and riparian environments, and the presence of the Mississippi River delta, Louisiana has a large and diverse amount of wetland habitat. Specific values of Louisiana wetlands include commercial, recreational, and cultural uses. In addition, Louisiana wetlands provide important biological and physiochemical functions that include, but are not limited to, buffering against hurricanes and storms, holding excess floodwaters during high rainfall or high tides, recharging groundwater aquifers used for drinking water and irrigation, and improving water quality by filtering pollutants and taking up nutrients.

2. There are two basic types of Louisiana wetlands: forested wetlands and non-forested, or marsh, wetlands. Forested wetlands include bottomland hardwood swamps, continuously flooded cypress-tupelo swamps, seasonally flooded cypress-tupelo swamps, and oligotrophic seasonally flooded pine forests. Non-forested or marsh wetlands include floating freshwater emergent wetlands, attached freshwater emergent wetlands, brackish marshes, and salt (saline) marshes. Each of these wetland types are defined in LAC 33:IX.1105.

3. Wetlands approved by the administrative authority for wastewater assimilation projects pursuant to the Water Quality Management Plan, Volume 3, Section 10, Permitting Guidance Document for Implementing Louisiana Surface Water Quality Standards, are assigned the following designated uses: secondary contact recreation and fish and wildlife propagation.

4. Applicable Criteria. Wetlands provide several values and functions that necessitate water quality criteria protective primarily of vegetative productivity. Additionally, wetlands can periodically become anoxic or anaerobic, or lack water altogether. Therefore, the following criteria are applicable to wetlands approved by the administrative authority for wastewater assimilation projects pursuant to the Water Quality Management Plan, Volume 3, Section 10, Permitting Guidance Document for Implementing Louisiana Surface Water Quality Standards.

a. A numeric dissolved oxygen criterion is not necessary to protect the beneficial use of fish and wildlife propagation.

b. The general criteria found in LAC 33:IX.1113.B, except for LAC 33:IX.1113.B.3 and 9, apply.

c. Numeric criteria found in LAC 33:IX.1113.C.4, 5.b, and 6 apply.

d. The biological criteria found in LAC 33:IX.1113.B.12.b apply.

e. Additional or site-specific criteria may be necessary to protect other existing or beneficial uses identified by the administrative authority.

5. A wastewater discharge may be proposed for a wetland of any defined type only if the discharge will not

cause impairment of the wetland or exceedance of applicable general or site-specific criteria.

6. Discharges to wetlands approved by the administrative authority for wastewater assimilation projects will only be permitted following procedures pursuant to the Water Quality Management Plan, Volume 3, Section 10, Permitting Guidance Document for Implementing Louisiana Surface Water Quality Standards.

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§1113. Criteria

A. Introduction

1. Water quality criteria are elements of the water quality standards that set general and numeric limitations on the permissible amounts of a substance or other characteristics of state waters. General and numeric criteria are established to promote restoration, maintenance, and protection of state waters. A criterion for a substance represents the limits for that substance at which water quality will remain sufficient to support a designated use.

2. Water quality criteria for the waters of Louisiana are based on their present and potential uses and the existing water quality indicated by data accumulated through monitoring programs of the department and other state and federal agencies as well as universities and private sources. In some cases, available water quality and flow data are not adequate to establish criteria. Criteria in these cases are established on the basis of the best information available from water bodies that are similar in hydrology, water quality, and physical configuration.

3. General and numeric water quality criteria may be modified to take into account site-specific, local conditions. Whenever data acquired from the sources named in LAC 33:IX.1113.A.2 or other sources indicate that criteria should be modified, the department will develop and recommend revised site-specific criteria. The revised criteria will be submitted to the EPA for approval and promulgated in accordance with established procedures including, but not limited to, those in the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

B. - B.4. ...

5. Toxic Substances. No substances shall be present in the waters of the state or the sediments underlying said waters in quantities that alone or in combination will be toxic to human, plant, or animal life or significantly increase health risks due to exposure to the substances or consumption of contaminated fish or other aquatic life. The numeric criteria (LAC 33:IX.1113.C.6) specify allowable concentrations in water for several individual toxic substances to provide protection from the toxic effects of these substances. Requirements for the protection from the

toxic effects of other toxic substances not included in the numeric criteria and required under the general criteria are described in LAC 33:IX.1121.

6. - 13. ...

C. Numeric Criteria. Numeric criteria identified in LAC 33:IX.1123, Table 3, apply to the specified water bodies, and to their tributaries, distributaries, and interconnected streams and water bodies contained in the water management subsegment if they are not specifically named therein, unless unique chemical, physical, and/or biological conditions preclude the attainment of the criteria. In those cases, natural background levels of these conditions may be used to establish site-specific water quality criteria. Those water bodies officially approved and designated by the state and EPA as intermittent streams, man-made water bodies, or naturally dystrophic waters may be excluded from some or all numeric criteria as stated in LAC 33:IX.1109. Although naturally occurring variations in water quality may exceed criteria, water quality conditions attributed to human activities must not exceed criteria when flows are greater than or at critical conditions (as defined in LAC 33:IX.1115.C).

1. ...

2. Chlorides, Sulfates, and Total Dissolved Solids. Numeric criteria for these parameters generally represent the arithmetic mean of existing data from the nearest sampling location plus three standard deviations. For estuarine and coastal marine waters subsegments in Table 3 that have no listed criteria (i.e., designated N/A), criteria will be established on a case-by-case basis using field determination of ambient conditions and the designated uses. For water bodies not specifically listed in the Numeric Criteria and Designated Uses Table, increases over background levels of chlorides, sulfates, and total dissolved solids may be permitted. Such increases will be permitted at the discretion of the department on a case-by-case basis and shall not cause in-stream concentrations to exceed 250, 250, and 500 mg/L for chlorides, sulfates, and total dissolved solids, respectively, except where a use attainability analysis indicates that higher levels will not affect the designated uses. In permitting such increases, the department shall consider their potential effects on resident biota and downstream water bodies in addition to the background conditions. Under no circumstances shall an allowed increase over background conditions cause any numeric criteria to be exceeded in any listed water body or any other general or numeric criteria to be exceeded in either listed or unlisted water bodies.

3. - 5.c. ...

d. Oyster Propagation. The fecal coliform median shall not exceed 14 fecal coliforms per 100 mL, and not more than 10 percent of the samples shall exceed 43 fecal coliforms per 100 mL in those portions of the area most probably exposed to fecal contamination during the most unfavorable hydrographic and pollution conditions.

6. Toxic Substances. Numeric criteria for specific toxic substances are listed in Table 1.

a. Numeric criteria for specific toxic substances are mostly derived from the following publications of the Environmental Protection Agency: Water Quality Criteria, 1972 (commonly referred to as the "Blue Book"; Quality Criteria for Water, 1976 (commonly referred to as the "Red Book"; Ambient Water Quality Criteria, 1980 (EPA 440/5-80); Ambient Water Quality Criteria, 1984 (EPA 440/5-84-85); and Quality Criteria for Water, 1986—with updates (commonly referred to as the "Gold Book"). Natural background conditions, however, are also considered. These toxic substances are selected for criteria development because of their known or suspected occurrence in Louisiana waters and potential threat to attainment of designated water uses.

b. The criteria for protection of aquatic life are based on acute and chronic concentrations in fresh and marine waters (see LAC 33:IX.1105) as specified in the EPA criteria documents and are developed primarily for attainment of the fish and wildlife propagation use. Where a specific numeric criterion is not derived in EPA criteria documents, a criterion is developed by applying an appropriate application factor for acute and chronic effects to the lowest LC50 value for a representative Louisiana species. The application of either freshwater toxics criteria or marine toxics criteria in brackish waters will be determined by the average salinity of the water body (see LAC 33:IX.1105). In cases where the average salinity is 2 parts per thousand or greater and less than 10 parts per thousand, the more stringent criteria will be used unless an alternative site-specific criterion is developed (as described in EPA-822-R-02-047, November 2002).

c. - e. ...

f. The use of clean techniques may be required to definitively assess ambient levels of some pollutants (e.g., EPA Method 1669 for metals) or to assess such pollutants when numeric or narrative water quality criteria are not being attained. *Clean techniques* are defined in LAC 33:IX.1105.

Table 1
Numeric Criteria for Specific Toxic Substances
[In micrograms per liter (µg/L)]

Toxic Substance Chemical Abstracts Service (CAS) Registry Number	Aquatic Life Protection						Human Health Protection	
	Freshwater		Marine Water		Brackish Water		Drinking Water Supply ¹	Non-Drinking Water Supply ²
	Acute	Chronic	Acute	Chronic	Acute	Chronic		
Aldrin309-00-2	3.00	--	1,300	--	1,300	--	4x10 ⁻⁵	4x10 ⁻⁵
Benzene 71-43-2	2,249	1,125	2,700	1,350	2,249	1,125	0.58	6.59
Benzidine 92-87-5	250	125	--	--	250	125	8x10 ⁻⁵	1.7x10 ⁻⁴
Bromodichloromethane 75-27-4	--	--	--	--	--	--	0.52	6.884
Bromoform (Tribromomethane) 75-25-2	2,930	1,465	1,790	895	1,790	895	3.9	34.7
Carbon Tetrachloride (Tetrachloromethane) 56-23-5	2,730	1,365	15,000	7,500	2,730	1,365	0.22	1.2
Chlordane 57-74-9	2.40	0.0043	0.090	0.0040	0.090	0.0040	1.9x10 ⁻⁴	1.9x10 ⁻⁴
Chloroform (Trichloromethane) 67-66-3	2,890	1,445	8,150	4,075	2,890	1,445	5.3	70
2-Chlorophenol 95-57-8	258	129	--	--	258	129	0.10	126.4
3-Chlorophenol 108-43-0	--	--	--	--	--	--	0.10	--
4-Chlorophenol 106-48-9	383	192	535	268	383	192	0.10	--
Cyanide 57-12-5	45.9	5.4	1.0	--	1.0	--	663.8	12,844
DDE 72-55-9	52.5	10.5000	0.700	0.1400	0.700	0.1400	1.9x10 ⁻⁴	1.9x10 ⁻⁴
DDT 50-29-3	1.10	0.0010	0.130	0.0010	0.130	0.0010	1.9x10 ⁻⁴	1.9x10 ⁻⁴
Dibromochloromethane 124-48-1	--	--	--	--	--	--	0.39	5.08
1,2-Dichloroethane (EDC) 107-06-2	11,800	5,900	11,300	5,650	11,300	5,650	0.36	6.8
1,1-Dichloroethylene 75-35-4	1,160	580	22,400	11,200	1,160	580	0.05	0.58
2,4-Dichlorophenoxyacetic acid (2,4-D) 94-75-7	--	--	--	--	--	--	100.00	--
2,3-Dichlorophenol 576-24-9	--	--	--	--	--	--	0.04	--
2,4-Dichlorophenol 120-83-2	202	101	--	--	202	101	0.30	232.6
2,5-Dichlorophenol 583-78-8	--	--	--	--	--	--	0.50	--
2,6-Dichlorophenol 87-65-0	--	--	--	--	--	--	0.20	--
3,4-Dichlorophenol 95-77-2	--	--	--	--	--	--	0.30	--
1, 3-Dichloropropene 542-75-6	606	303	79	39.5	79	39.5	0.33	5.51
Dieldrin 60-57-1	0.2374	0.0557	0.710	0.0019	0.2374	0.0019	5x10 ⁻⁵	5x10 ⁻⁵
Endosulfan ⁷ 115-29-7	0.22	0.0560	0.034	0.0087	0.034	0.0087	0.47	0.64
Endrin 72-20-8	0.0864	0.0375	0.037	0.0023	0.037	0.0023	0.26	0.26
Ethylbenzene 100-41-4	3,200	1,600	8,760	4,380	3,200	1,600	247	834
Heptachlor 76-44-8	0.52	0.0038	0.053	0.0036	0.053	0.0036	7x10 ⁻⁵	7x10 ⁻⁵
Hexachlorobenzene 118-74-1	--	--	--	--	--	--	2.5x10 ⁻⁴	2.5x10 ⁻⁴
Hexachlorobutadiene ³ 87-68-3	5.1	1.02	1.6	0.32	1.6	0.32	0.09	0.11
Hexachlorocyclohexane (gamma BHC; Lindane) 58-89-9	5.30	0.21	0.160	--	0.160	--	0.11	0.20
Methyl chloride (Chloromethane) 74-87-3	55,000	27,500	27,000	13,500	27,000	13,500	--	--

Table 1 Numeric Criteria for Specific Toxic Substances [In micrograms per liter (µg/L)]								
Toxic Substance Chemical Abstracts Service (CAS) Registry Number	Aquatic Life Protection						Human Health Protection	
	Freshwater		Marine Water		Brackish Water		Drinking Water Supply ¹	Non-Drinking Water Supply ²
	Acute	Chronic	Acute	Chronic	Acute	Chronic		
Methylene chloride (Dichloromethane) 75-09-2	19,300	9,650	25,600	12,800	19,300	9,650	4.4	87
Phenol (Total) ⁴ 108-95-2	700	350	580	290	580	290	5.00	50.0
Polychlorinated Biphenyls, Total ⁶ (PCBs) 1336-36-3	2.00	0.0140	10.000	0.0300	2.00	0.0140	5.59x10 ⁻⁵	5.61x10 ⁻⁵
TDE (DDD) 72-54-8	0.03	0.0060	1.250	0.2500	0.03	0.0060	2.7x10 ⁻⁴	2.7x10 ⁻⁴
2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD) ⁵ 1746-01-6	--	--	--	--	--	--	0.71x10 ⁻⁶	0.72x10 ⁻⁶
1,1,2,2-Tetrachloroethane 79-34-5	932	466	902	451	902	451	0.16	1.8
Tetrachloroethylene 127-18-4	1,290	645	1,020	510	1,020	510	0.65	2.5
Toluene 108-88-3	1,270	635	950	475	950	475	6,100	46,200
Toxaphene 8001-35-2	0.73	0.0002	0.210	0.0002	0.210	0.0002	2.4x10 ⁻⁴	2.4x10 ⁻⁴
1,1,1-Trichloroethane 71-55-6	5,280	2,640	3,120	1,560	3,120	1,560	200.0	--
1,1,2-Trichloroethane 79-00-5	1,800	900	--	--	1,800	900	0.56	6.9
Trichloroethylene 79-01-6	3,900	1,950	200	100	200	100	2.8	21
2-(2,4,5-Trichlorophenoxy) propionic acid (2,4,5-TP; Silvex) 93-72-1	--	--	--	--	--	--	10.00	--
Vinyl Chloride (Chloroethylene) 75-01-4	--	--	--	--	--	--	2.37x10 ⁻²	0.45

⁶ Total refers to the sum of the Aroclor analyses: PCB-1016 (CAS 12674-11-2), PCB-1221 (CAS 11104-28-2), PCB-1232 (CAS 11141-16-5), PCB-1242 (CAS 53469-21-9), PCB-1248 (CAS 12672-29-6), PCB-1254 (CAS 11097-69-1), and PCB-1260 (CAS 11096-82-5).

⁷ Endosulfan is the sum of Endosulfan α (959-98-8) and Endosulfan β (33213-65-9).

Table 1A Numeric Criteria for Metals and Inorganics [In micrograms per liter (µg/L) or parts per billion (ppb)]				
Toxic Substance Chemical Abstracts Service (CAS) Registry Number	Aquatic Life Protection			Human Health Protection
	Freshwater	Marine Water	Brackish Water ^d	Drinking Water Supply ^e
Ammonia (in mg TAN/L) ^g 7664-41-7	Acute: $0.7249 \times \left(\frac{0.0274}{(1 + 0.0274e^{-0.117})} + \frac{2.6291}{(1 + 0.0274e^{-0.117})} \right) \times \min(51.99, 29.12 \times 10^{0.00025(20-7)})$ Chronic: $0.8876 \times \left(\frac{0.0274}{(1 + 0.0274e^{-0.117})} + \frac{2.6291}{(1 + 0.0274e^{-0.117})} \right) \times (2.126 \times 10^{0.00025(20-7)})$	--	--	--
Arsenic ^a 7440-38-2	Acute: 339.8 Chronic: 150	Acute: 69 Chronic: 36	Acute: 69 Chronic: 36	10
Cadmium ^{a,b} 7440-43-9	Acute: $e^{(1.1280[\ln(\text{hardness})] - 1.6774)} \times CF_1$ Chronic: $e^{(0.7852[\ln(\text{hardness})] - 3.4900)} \times CF_2$	Acute: 45 Chronic: 10	Acute: * Chronic: *	10
Chromium III (Tri) ^{a,b} 16065-83-1	Acute: $e^{(0.8190[\ln(\text{hardness})] + 3.6880)} \times 0.316$ Chronic: $e^{(0.8190[\ln(\text{hardness})] + 1.5610)} \times 0.86$	Acute: 515 Chronic: 103	Acute: * Chronic: *	50
Chromium VI (Hex) ^a 18540-29-9	Acute: 16 Chronic: 11	Acute: 1,100 Chronic: 50	Acute: 16 Chronic: 11	50
Copper ^{a,b,h} 7440-50-8	Acute: $e^{(0.9422[\ln(\text{hardness})] - 1.3844)} \times 0.960$ Chronic: $e^{(0.8545[\ln(\text{hardness})] - 1.3860)} \times 0.960$	Acute: 3.63 Chronic: 3.63	Acute: * Chronic: *	1,000

Table 1A
Numeric Criteria for Metals and Inorganics
[In micrograms per liter (µg/L) or parts per billion (ppb)]

Toxic Substance	Aquatic Life Protection			Human Health Protection
	Freshwater	Marine Water	Brackish Water ^d	Drinking Water Supply ^e
Lead ^{a,b} 7439-92-1	Acute: $e^{(1.2730[\ln(\text{hardness})] - 1.4600)} \times CF_3$ Chronic: $e^{(1.2730[\ln(\text{hardness})] - 4.7050)} \times CF_3$	Acute: 209 Chronic: 8.08	Acute: * Chronic: *	50
Mercury 7439-97-6	Acute: 2.04 ^e Chronic: 0.012 ^f	Acute: 2 ^c Chronic: 0.025 ^f	Acute: 2 ^c Chronic: 0.012 ^f	2.0
Nickel ^{a,b} 7440-02-0	Acute: $e^{(0.8460[\ln(\text{hardness})] + 3.3612)} \times 0.998$ Chronic: $e^{(0.8460[\ln(\text{hardness})] + 1.1645)} \times 0.997$	Acute: 74 Chronic: 8.2	Acute: * Chronic: *	--
Zinc ^{a,b} 7440-66-6	Acute: $e^{(0.8473[\ln(\text{hardness})] + 0.8604)} \times 0.978$ Chronic: $e^{(0.8473[\ln(\text{hardness})] + 0.7614)} \times 0.986$	Acute: 90 Chronic: 81	Acute: * Chronic: *	5,000
Conversion Factor (CF)	CF ₁ calculated as: 1.136672-[ln (hardness)(0.041838)] CF ₂ calculated as: 1.101672-[ln (hardness)(0.041838)] CF ₃ calculated as: 1.46203-[ln (hardness)(0.145712)]			

* For hardness-dependent criteria, values are calculated using average hardness (mg/L CaCO₃) from two-year data compilations contained in the latest Louisiana Water Quality Data Summary or other comparable data compilations or reports, as described in LAC 33:IX.1113.C.6.

a Freshwater and saltwater metals criteria are expressed in terms of the dissolved metal in the water column. The standard was calculated by multiplying the previous water quality criteria by a conversion factor. The conversion factor represents the EPA-recommended conversion factors found in EPA-822-R-02-047, November 2002.

b Hardness-dependent criteria for freshwater are based on the natural logarithm formulas multiplied by conversion factors for acute and chronic protection. The minimum and maximum hardness values used for criteria calculation are 25 mg/L and 400 mg/L CaCO₃, as specified in 40 CFR 131.36.

c Applies to surface water bodies designated as drinking water supply and also protects for primary and secondary contact recreation and fish consumption.

d According to LAC 33:IX.1113.C.6.d, the most stringent criteria (freshwater or marine) will be used.

e Conversion factor is from: Office of Water Policy and Technical Guidance on Interpretation and Implementation of Aquatic Life Metals Criteria, October 1, 1993. Factors were expressed to two decimal places.

f It is not appropriate to apply a conversion factor to the chronic value for mercury since it is based on mercury residues in aquatic organisms rather than toxicity.

g For temperature (T, in °C) and pH dependent criteria, values are calculated using the temperature and pH measured at the time of sampling in coordination with the ambient water quality monitoring program.

h Upon request the administrative authority may grant the use of the Biotic Ligand Model for deriving site-specific copper criteria utilizing the procedures identified in EPA's Aquatic Life Ambient Freshwater Quality Criteria - Copper (2007), EPA-822-R-07-001. Site-specific criteria derived using the Biotic Ligand Model are new and revised water quality standards that require EPA review under section 303(e) of the Clean Water Act.

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33:829 (May 2007), LR 35:446 (March 2009), amended by the Office of the Secretary, Legal Division, LR 42:736 (May 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:1188 (September 2019), LR 46:1550 (November 2020).

§1115. Application of Standards

A. Background

1. The water quality standards set forth in this Chapter are the foundation for a range of programs that establish water quality goals for water body segments thereby ensuring suitable aquatic ecosystems. Water quality standards are derived for individual water segments on the basis of the designated use or uses of the segment and the natural qualities of the waters.

2. An established water quality criterion represents the general or numeric concentration limit or characteristic of a constituent in a water body segment that is allowed by the state. For some toxic substances, however, criteria provide both acute and chronic limits for the protection of aquatic life in fresh and marine waters, and separate limits for the protection of human health. Criteria apply at all times, except where natural conditions cause them to be exceeded or where specific exemptions in the standards apply. Water uses, pollution sources, natural conditions, and the water quality criteria are all considered in the department's determination of appropriate permit limits for each wastewater discharge to a water body.

3. The difference between an ambient concentration and a water quality criterion should not be construed as the amount of a constituent that can be discharged. The antidegradation statement requires that all waters which exceed the water quality standards be maintained at their existing high quality, which can be lowered only after demonstrating that allowing lower water quality is necessary to accommodate important economic and or social development in the area in which the waters are located. In addition, before a lowering of high water quality can be allowed, an analysis of alternatives shall be performed to demonstrate that the lowering of high water quality is

necessary. More stringent requirements apply to those waters designated as outstanding natural resource waters, as described in LAC 33:IX.1109.A.3.

B. - C.1. ...

2. Mixing zones are exempted from general and numeric criteria as specified in LAC 33:IX.1113, except as required in Paragraph C.5 of this Section. The waters outside of mixing zones must meet all the standards for that particular body of water. For toxic substances, this requires meeting chronic aquatic life criteria beginning at the edge of the mixing zone.

3. - 5.b. ...

c. materials in concentrations that will cause acute toxicity to aquatic life. Acute toxicity refers to aquatic life lethality or other deleterious effects caused by the passage through a mixing zone of migrating fish moving up or downstream, or by the passage through a mixing zone of less mobile forms such as zooplankton that drift through the mixing zone. Numeric acute criteria or other acute quantitative limits for toxic substances will be applied in the mixing zone to protect aquatic life from acute toxicity.

6. - Table 2b. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

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§1119. Implementation Plan for Antidegradation Policy

A. - B.2. ...

a. The state establishes the water quality standards specified in this Chapter to reflect the goals for individual water bodies and provide the legal basis for antidegradation and for water pollution control. This Chapter also defines and designates water uses and criteria to protect those uses.

B.2.b. - C.3. ...

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§1121. Regulation of Toxic Substances Based on the General Criteria

A. Introduction

1. The water quality standards in this Chapter provide for the protection of human, plant, and animal life from the deleterious effects of toxic substances. The general criteria (LAC 33:IX.1113.B.5), in particular, require that state waters be free from the effects of toxic substances. This

requirement is especially applicable to those toxic substances for which no numeric criteria are established.

2. The following methods are developed to protect state waters from the effects of toxic substances as required under the general criteria and where no numeric criteria exist. The methods follow the permitting policies of the department. The resulting permit (effluent) limitations imposed on discharges prevent toxic in-stream conditions as required under the general criteria.

B. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2404 (December 1999), LR 26:2548 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2507 (October 2005), LR 33:832 (May 2007), LR 33:2163 (October 2007), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:1555 (November 2020).

§1123. Numeric Criteria and Designated Uses

A. - A.2. ...

* * *

B. Explanation of Water Body Code Number. The water body subsegment number and unique water body identification code are designated as follows:

AABBCC

where:

AA = Water Quality Management Basin Number

BB = Segment Number

CC = Subsegment Number

Example:

090207 = Water Body Subsegment and Identification Code for Middle Pearl River and West Middle Pearl River

where:

09 = Pearl River Management Basin

0902 = Segment 0902 of the Pearl River Management Basin

090207 = Subsegment 090207 of Pearl River Management Basin Segment 02

C. Numeric Criteria Unit Definitions

1. Parameter Abbreviations. The following abbreviations of water quality parameters are used in Table 3 under the subheading "Numeric Criteria."

* * *

2. Bacterial Criteria (BAC)

a. The code numbers associated with the following designated uses are used in Table 3 under the Numeric Criteria subheading "BAC."

* * *

b. The code number identified under the Numeric Criteria subheading "BAC" in Table 3 represents the most stringent bacterial criteria that apply to each individual subsegment. Where applicable, additional bacterial criteria also apply, depending on the designated uses of the subsegment and the geographic location of the subsegment. The specified numeric bacterial criteria for each designated use listed in this Paragraph can be found in LAC 33:IX.1113.C.

D. - E. ...

Table 3. Numeric Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numeric Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
Atchafalaya River Basin (01)									

010401	East Atchafalaya Basin and Morganza Floodway South to Interstate 10 Canal	A B C	65	70	5.0	6.5-8.5	1	33	440
010501	Lower Atchafalaya Basin Floodway—From Whiskey Bay Pilot Channel at mile 54 to US Highway 90 bridge in Morgan City; includes Grand Lake and Six-Mile Lake	A B C D	65	70	5.0	6.5-8.5	1	33	440

010801	Atchafalaya River—From ICWW south of Morgan City to Atchafalaya Bay; includes Sweetbay Lake and Bayou Shaffer	A B C	500	150	5.0	6.5-9.0	1	35	1,000
010802	Wax Lake Outlet—From ICWW to Atchafalaya Bay; includes Wax Lake	A B C	500	150	5.0	6.5-9.0	1	35	1,000
010803	Intracoastal Waterway—From Bayou Boeuf Lock to Bayou Sale; includes Wax Lake Outlet to US Highway 90	A B C	65	70	5.0	6.0-8.5	1	32	440

Barataria Basin (02)									

020201	Bayou Des Allemands—From Lac Des Allemands to US Highway 90 (Scenic)	A B C G	600	100	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	1,320

020301	Bayou Des Allemands—From US Highway 90 to Lake Salvador (Scenic)	A B C G	600	100	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	1,320

020303	Lake Cataouatche and Tributaries	A B C	500	150	3.3 April-Sept.; 5.0 Oct.-Mar.	6.0-8.5	1	32	1,000
020304	Lake Salvador	A B C	600	100	3.3 April-Sept.; 5.0 Oct.-Mar.	6.0-8.5	1	32	1,320
020305	Luling Wetland—Forested wetland located 1.8 miles south of US Highway 90 at Luling, east of the Luling wastewater treatment pond, bordered by Cousin Canal to the west and Louisiana Cypress Lumber Canal to the south	B C	[23]	[23]	[23]	[23]	2	[23]	[23]

020903	Barataria Waterway—From Bayou Rigolettes to Grand Bayou (Estuarine)	A B C	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	1 [25]	35	N/A

Calcasieu River Basin (03)									
030101	Calcasieu River—From headwaters to La. Highway 8	A B C F	65	35	5.0	6.0-8.5	1	32	225

Table 3. Numeric Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numeric Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
030102	Calcasieu River—From La. Highway 8 to the Rapides-Allen Parish line (Scenic)	A B C F G	65	35	5.0	6.0-8.5	1	32	225
030103	Calcasieu River—From Rapides-Allen Parish line to Marsh Bayou (Scenic) [10]	A B C F G-[10]	65	35	5.0	6.0-8.5	1	32	225
030104	Mill Creek—From headwaters to Calcasieu River	A B C	60	60	5.0	6.0-8.5	1	32	250
030105	Kinder Ditch—From confluence of unnamed tributary with Bayou Serpent to confluence with Calcasieu River	B C	65	35	3.0	6.0-8.5	1	32	225

030401	Calcasieu River—From Moss Lake to the Gulf of Mexico; includes Ship Channel, West Cove and Monkey Island Loop (Estuarine)	A B C E	N/A	N/A	4.0	6.0-8.5	4 [25]	35	N/A

030506	Bundicks Creek—From headwaters to Bundicks Lake (Scenic)	A B C	20	20	5.0	6.0-8.5	1	30	150

030508	Bundicks Creek—From Bundicks Lake to Whiskey Chitto Creek (Scenic)	A B C	20	20	5.0	6.0-8.5	1	30	150
030601	Barnes Creek—From headwaters to Little Barnes Creek (Scenic)	B C	60	60	[2]	6.0-8.5	2	30	150
030602	Barnes Creek—From Little Barnes Creek to Calcasieu River (Scenic)	A B C	60	60	5.0	6.0-8.5	1	32	250

030701	Bayou Serpent—From headwaters to Calcasieu River	A B C F	250	75	5.0	6.0-8.5	1	32	300

030802	Hickory Branch—From headwaters to West Fork Calcasieu River (Scenic)	A B C F	250	75	5.0	6.0-8.5	1	32	500
030803	Beckwith Creek—From headwaters to West Fork Calcasieu River (Scenic)	A B C F	25	25	5.0	6.0-8.5	1	32	100

030806	Houston River—From Bear Head Creek at La. Highway 12 to West Fork Calcasieu River	A B C F	250	75	[3]	6.0-8.5	1	32	500
030807	Bear Head Creek—From headwaters to Houston River at La. Highway 12	A B C	250	75	5.0	6.0-8.5	1	32	500
030808	Houston River Canal—From 1 mile west of La. Highway 388 to its terminus at Mossville and the Houston River	A B C D F	250	75	[3]	6.0-8.5	1	32	500

031002	Intracoastal Waterway—From Calcasieu River Basin western boundary to Calcasieu Ship Channel; includes Old Canal (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1 [25]	35	N/A
031101	Intracoastal Waterway—From Calcasieu River to Creole Canal at Gibbstown	A B C	250	75	5.0	6.5-9.0	1	32	500

Lake Pontchartrain Basin (04)									
040101	Comite River, Comite Creek, and Little Comite Creek—From Mississippi state line to Wilson-Clinton Highway	A B C	25	10	5.0	6.0-8.5	1	32	150

Table 3. Numeric Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numeric Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
040305	Colyell Bay; includes Colyell Creek and Middle Colyell Creek—From Hood Road to Amite River	A B C	25	10	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	150

040401	Blind River—From Amite River Diversion Canal to Lake Maurepas (Scenic)	A B C G	250	75	2.3 Mar.-Nov.; 4.0 Dec.-Feb. [9]	6.0-8.5	1	30	500

040502	Tickfaw River—From La. Highway 42 to Lake Maurepas	A B C	10	5	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	30	55

040506	Blood River—From headwaters to George White Road	A B C	10	5	5.0	6.0-8.5	1	30	55

040604	South Slough; includes Anderson Canal and Interstate Highway 55 borrow pit canal to North Pass	A B C	30	20	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	30	150
040605	Mississippi Bayou and associated canals; includes Dutch Bayou, Reserve Relief Canal and Hope Canal	A B C	1,600	200	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	3,000

040607	South Slough Wetland—Forested freshwater and brackish marsh bounded to the north by South Slough, west by Interstate Highway 55 borrow pit canal, and south by North Pass	B C	[23]	[23]	[23]	[23]	2	[23]	[23]

040704	Chappepeela Creek—From headwaters to Tangipahoa River	A B C G	20	20	5.0	6.0-8.5	1	30	140

040802	Tchefuncte River—From US Highway 190 to Bogue Falaya River; includes tributaries (Scenic)	A B C G	20	10	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	30	110

040806	East Tchefuncte Marsh Wetland—Freshwater and brackish marsh, bounded on the south by Lake Pontchartrain, west by Tchefuncte River, north by La. Highway 22, and east by Sanctuary Ridge	B C	[23]	[23]	[23]	[23]	2	[23]	[23]
040807	Ponchitolawa Creek—From headwaters to US Highway 190	A B C	850	135	5.0	6.0-8.5	1	30	1,850

041001	Lake Pontchartrain—West of US Highway 11 bridge (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1 [25]	32	N/A

041802	Bayou Chaperon (Scenic) (Estuarine)	A B C G	N/A	N/A	4.0	6.5-9.0	1 [25]	35	N/A

041901	Mississippi River Gulf Outlet (MRGO)—From ICWW to MRGO closure structure at mile 23.8	A B C E	N/A	N/A	5.0	6.5-9.0	4 [25]	35	N/A

Table 3. Numeric Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numeric Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
Mermentau River Basin (05)									

050402	Lake Arthur and Lower Mermentau River to ICWW	A B C	90	30	5.0	6.0-8.5	1	32	260

050601	Lacassine Bayou—From headwaters to ICWW	A B C F	90	10	[16]	6.0-8.5	1	32	400

050802	Big Constance Lake (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1 [25]	35	N/A

Vermilion-Teche River Basin (06)									

060201	Bayou Cocodrie—From US Highway 167 to Bayou Boeuf-Cocodrie Diversion Canal (Scenic)	A B C G	45	35	[19]	6.0-8.5	1	32	100

060210	Bayou Carron—From headwaters to Little Bayou Teche	A B C	40	30	5.0	6.0-8.5	1	32	220

060212	Chatlin Lake Canal and Bayou DuLac—From Alexandria to Bayou des Glaives Diversion Canal; includes a portion of Bayou des Glaives	A B C	45	35	5.0	6.0-8.5	1	32	100

060701	Tete Bayou—From headwaters to Lake Fausse Point	A B C	80	50	5.0	6.0-8.5	1	32	350
060702	Lake Fausse Point and Dauterive Lake	A B C D	80	50	5.0	6.0-8.5	1	32	350
060703	Bayou Du Portage—From headwaters to Dauterive Lake	A B C	80	50	5.0	6.0-8.5	1	32	350
060801	Vermilion River—From headwaters to La. Highway 3073 bridge	A B C F	230	70	5.0	6.0-8.5	1	32	440
060802	Vermilion River—From La. Highway 3073 bridge to ICWW	A B C F	230	70	[6]	6.0-8.5	1	32	440

060805	Breaux Bridge Swamp—Forested wetland in St. Martin Parish, 1/2 mile southwest of Breaux Bridge, southeast of La. Highway 94, west of Bayou Teche, east of Vermilion River, and north of Evangeline and Ruth Canals; also called Cyprière Perdue Swamp	B C	[5]	[5]	[5]	[5]	2	[5]	[5]
060806	Cypress Island Coulee Wetland—Forested wetland located in St. Martin Parish, 2 miles west of St. Martinville, 1/2 mile north of La. Highway 96, west of Bayou Teche, and east of Vermilion River	B C	[23]	[23]	[23]	[23]	2	[23]	[23]
060807	Cote Gelee Wetland—Forested wetland located in Lafayette Parish, 2 miles east of Broussard, 2 miles northeast of US Highway 90, and west of Bayou Tortue	B C	[23]	[23]	[23]	[23]	2	[23]	[23]

060902	Bayou Carlin—From Lake Peigneur to Bayou Tigre; also called Delcambre Canal (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1 [25]	35	N/A

Mississippi River Basin (07)									

Table 3. Numeric Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numeric Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
070504	Monte Sano Bayou—From US Highway 61 to Mississippi River [7], [8]	B L	[7]	[7]	3.0	6.0-9.0	1	35 [8]	[7]
* * *									
Ouachita River Basin (08)									
* * *									
080401	Bayou Bartholomew—From Arkansas state line to Ouachita River; also known as Bayou Desiard and Lake Bartholomew (Scenic to Dead Bayou)	A B C G	55	35	5.0	6.0-8.5	1	32	420
* * *									
080801	South Cheniere Creek—From headwaters to Cheniere Brake Lake	A B C	25	25	5.0	6.0-8.5	1	32	100
* * *									
080904	Bayou Lafourche—From headwaters to Boeuf River near Columbia	A B C	500	200	5.0	6.0-8.5	1	32	1,500
* * *									
081201	Tensas River—From headwaters to confluence with Ouachita River; includes Tensas Bayou	A B C	45	30	5.0	6.0-8.5	1	32	500
* * *									
081301	Little River—From dam at Archie to Ouachita River	A B C	95	10	5.0	6.0-8.5	1	32	265
* * *									
081601	Little River—From Castor Creek-Dugdemonia River confluence to Bear Creek (Scenic)	A B C G	250	500	5.0	6.0-8.5	1	33	1,000
081602	Little River—From Bear Creek to Catahoula Lake (Scenic)	A B C G	50	75	5.0	6.0-8.5	1	33	260
* * *									
081605	Little River—From Catahoula Lake to dam at Archie	A B C	50	75	5.0	6.0-8.5	1	33	260
* * *									
081612	Georgetown Reservoir	A B C D G	250	500	5.0	6.0-8.5	1	33	1,000
Pearl River Basin (09)									
* * *									
090102	East Pearl River—From Holmes Bayou to Interstate 10	A B C	20	15	5.0	6.0-8.5	1	32	180
090103	East Pearl River—From Interstate 10 to Lake Borgne (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1 [25]	35	N/A
* * *									
090202	West Pearl River—From Holmes Bayou to The Rigolets; includes east and west mouths (Scenic)	A B C G	90	20	5.0	6.0-8.5	1	32	235
090203	Lower Bogue Chitto—From Pearl River Navigation Canal to Wilson Slough	A B C	15	10	5.0	6.0-8.5	1	32	105
090204	Pearl River Navigation Canal—From below Lock No. 3 to West Pearl River	A B C	15	10	5.0	6.0-8.5	1	32	105
090205	Wilson Slough and Bradley Slough—From Pearl River to West Pearl River (Scenic)	A B C G	15	10	5.0	6.0-8.5	1	32	105
090207	Middle Pearl River and West Middle Pearl River—From West Pearl River to Little Lake	A B C	90	20	5.0	6.0-8.5	1	32	235
090208	Little Lake (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1 [25]	32	N/A
090209	Morgan River—From Porters River to West Pearl River (Scenic)	A B C G	90	20	5.0	6.0-8.5	1	32	235
* * *									

Table 3. Numeric Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numeric Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
090503	Little Silver Creek—From headwaters to Big Silver Creek	A B C	15	10	5.0	6.0-8.5	1	35	105
* * *									
Red River Basin (10)									
100101	Red River—From Arkansas state line to US Highway 165 in Alexandria	A B C D F	185	110	5.0	6.0-8.5	1	34	780
100201	Red River—From US Highway 165 to Old River Control Structure Outflow Channel	A B C	185	110	5.0	6.0-8.5	1	34	780
* * *									
100301	Black Bayou—From Texas state line to La. Highway 1 at Black Bayou Lake	A B C F	250	25	5.0	6.0-8.5	1	33	500
100302	Black Bayou Lake—From La. Highway 1 to spillway	A B C	250	25	5.0	6.0-8.5	1	33	500
* * *									
100601	Bayou Pierre—From headwaters to Rolling Lake Bayou	A B C F	150	75	5.0	6.0-8.5	1	32	500
* * *									
100606	Bayou Pierre—From Rolling Lake Bayou to Red River	A B C D F	150	75	5.0	6.0-8.5	1	32	500
* * *									
100704	Kepler Creek—From headwaters to Kepler Creek Lake	A B C F	25	25	5.0	6.0-8.5	1	32	79
100705	Kepler Creek Lake	A B C F	25	25	5.0	6.0-8.5	1	32	79
100706	Kepler Creek—From Kepler Creek Lake to Black Lake Bayou	A B C F	25	25	5.0	6.0-8.5	1	32	79
* * *									
100902	Nantaches Lake	A B C F	25	25	5.0	6.0-8.5	1	32	100
101001	Sibley Lake	A B C D F	25	25	5.0	6.0-8.5	1	32	100
* * *									
101507	Old Saline Bayou—From headwaters to control structure at Saline Bayou	A B C	45	10	5.0	6.0-8.5	1	32	165
* * *									
101605	Bayou Cocodrie—From Lake Concordia to La. Highway 15	A B C	250	75	5.0	6.0-8.5	1	32	500
* * *									
101607	Bayou Cocodrie—From La. Highway 15 to Little Cross Bayou	B L	250	75	[13]	6.0-8.5	2	32	500
Sabine River Basin (11)									
* * *									
110401	Bayou Toro—From headwaters to La. Highway 473	A B C	25	25	5.0	6.0-8.5	1	32	150
110402	Bayou Toro—From La. Highway 473 to Sabine River	A B C	25	25	5.0	6.0-8.5	1	32	150
* * *									
Terrebonne Basin (12)									
* * *									
120103	Bayou Choctaw—From Bayou Poydras to ICWW	A B C	250	75	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	500
120104	Bayou Grosse Tete—From headwaters to ICWW	A B C	25	25	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	200
* * *									

Table 3. Numeric Criteria and Designated Uses									
A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numeric Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
120503	Bayou Petit Caillou—From Bayou Terrebonne to La. Highway 24 bridge	A B C E	500	150	3.8 April-Aug.; 5.0 Sept.-Mar.	6.0-9.0	4	32	1,000
120504	Bayou Petit Caillou—From La. Highway 24 bridge to Boudreaux Canal (Estuarine)	A B C E	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.0-9.0	4 [25]	32	N/A

120507	Bayou Chauvin—From ICWW to Lake Boudreaux (Estuarine)	A B C	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	1 [25]	32	N/A

120604	Bayou Blue—From Company Canal to Grand Bayou Canal	A B C	445	105	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	1	32	1,000

120705	Houma Navigation Canal—From 1 mile south of Bayou Grand Caillou to Terrebonne Bay (Estuarine)	A B C E	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	4 [25]	35	N/A

120709	Bayou Petit Caillou—From Houma Navigation Canal to Terrebonne Bay	A B C E	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.0-9.0	4 [25]	32	N/A

ENDNOTES:

[1]. - [4]. ...

[5] Designated Naturally Dystrophic Waters Segment. The following criteria are applicable:

[5].(a). - [25]....

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1130 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2405 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:1814, 1817 (September 2003), LR 30:1474 (July 2004), amended by the Office of Environmental Assessment, LR 30:2468 (November 2004), LR 31:918, 921 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:815, 816, 817 (May 2006), LR 33:832 (May 2007), LR 34:1901 (September 2008), LR 35:446 (March 2009), repromulgated LR 35:655 (April 2009), amended LR 36:2276 (October 2010) amended by the Office of the Secretary, Legal Division, LR 41:2603 (December 2015), LR 42:737 (May 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations

Division, LR 45:1178 (September 2019), LR 46:1555 (November 2020).

2011#030

Courtney J. Burdette
General Counsel

RULE

**Department of Health
Bureau of Health Services Financing
and
Office of Behavioral Health**

Behavioral Health Services
Substance Use Disorders Services
(LAC 50:XXXIII.14501)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health has amended LAC 50:XXXIII.14501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative

Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 15. Substance Use Disorders Services

Chapter 145. Provider Participation

§14501. Provider Responsibilities

A. Each provider of SUD services shall enter into a contract with one or more of the managed care organizations (MCOs) and with the Coordinated System of Care (CSoC) contractor for youth enrolled in the Coordinated System of Care program in order to receive reimbursement for Medicaid covered services.

B. Providers shall deliver all services in accordance with their license, scope of practice, federal and state laws and regulations, the provisions of this Rule, the provider manual, and other notices or directives issued by the department. The provider shall create and maintain documentation to substantiate that all requirements are met.

C. - E.9. Repealed.

F. - F.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1891 (October 2018), LR 45:270 (February 2019), LR 46:1563 (November 2020).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Dr. Courtney N. Phillips
Secretary

2011#046

RULE

**Department of Health
Bureau of Health Services Financing**

**Hospice Services—Pediatric Concurrent Care
(LAC 50:XV.3503 and 4315)**

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XV.3503 and adopted §4315 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 3. Hospice

Chapter 35. Recipient Eligibility

§3503. Waiver of Payment for Other Services

A. Hospice providers must provide services to beneficiaries that are comparable to the Medicaid-covered services that could have been received prior to the election of hospice. This requirement refers to all Medicaid-covered services including, but not limited to, durable medical equipment, prescription drugs, and physician-administered drugs.

1. - 4. Repealed.

B. Beneficiaries who are age 21 and over may be eligible for additional personal care services as defined in the Medicaid State Plan. Services furnished under the personal care services benefit may be used to the extent that the hospice provider would otherwise need the services of the hospice beneficiary's family in implementing the plan of care.

1. - 3. Repealed.

C. Beneficiaries under age 21 who are approved for hospice may continue to receive life-prolonging treatments. Life-prolonging treatments are defined as Medicaid-covered services provided to a beneficiary with the purpose of treating, modifying, or curing a medical condition to allow the beneficiary to live as long as possible, even if that medical condition is also the hospice qualifying diagnosis. The hospice provider and other providers must coordinate life-prolonging treatments and these should be incorporated into the plan of care.

D. Beneficiaries under the age of 21 who are approved for hospice may also receive early and periodic screening, diagnostic and treatment personal care, extended home health, and pediatric day health care services concurrently. The hospice provider and the other service providers must coordinate services and develop the patient's plan of care as set forth in §3705.

E. For beneficiaries under the age of 21, the hospice provider is responsible for making a daily visit, unless specifically declined by the beneficiary or family, to coordinate care and ensure that there is no duplication of services. The daily visit is not required if the beneficiary is not in the home due to hospitalization or inpatient respite or inpatient hospice stays.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1467 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:129 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 46:1563 (November 2020).

Chapter 43. Reimbursement

§4315. Life-Prolonging Treatments for Beneficiaries under the Age of 21

A. Reimbursement for life-prolonging treatments is separate from hospice payments and is made to the providers furnishing the services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Health, LR 46:1564 (November 2020).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Dr. Courtney N. Phillips
Secretary

2011#047

RULE

Office of the Governor Board of Examiners of Certified Shorthand Reporters

Digital Signature Certification (LAC 46:XXI.1109 and 1111)

The Louisiana Board of Examiners of Certified Shorthand Reporters, has adopted LAC 46:XXI.1109 and pursuant to Act 268. This Rule is promulgated in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq.

The Louisiana Board of Examiners of Certified Shorthand Reporters adopts changes to establish technology standards, as well as the procedure for affixing a digital signature and certification to transcripts. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXI. Certified Shorthand Reporters

Chapter 11. Court Reporting Procedures

§1109. Digital Signature Certification Procedures

A. Effective January 1, 2020, the reporter by whom a deposition is taken may seal the deposition at the request of all parties by using secure electronic means to affix a digital signature certification statement in accordance with procedures approved by the board. A reporter must not seal the deposition electronically without first reviewing and approving the accuracy of the transcript to which the digital signature is affixed. The reporter must promptly and simultaneously distribute the sealed deposition to the party at whose request the deposition was taken and to all other parties to the action who have ordered a copy of the deposition transcript. The party at whose request the deposition was taken shall then become the custodian of the record.

B. *Digital Signature Certification* means the use by a reporter of technology approved by the board to seal a deposition by using a unique embedded code that identifies the particular reporter and that invalidates the reporter's

digital signature if either the text or the format of the deposition is altered after sealing.

C. Digital Signature Certification Statement. Effective January 1, 2020, each certified court reporter who seals a deposition electronically must attest to the accuracy of the transcript by dating, signing, and sealing a digital signature certification statement containing substantially the following language:

This certification is valid only for a transcript accompanied by my original signature and original required seal on this page.

I, [reporter's name], Certified Court Reporter in and for the State of Louisiana, as the officer before whom this testimony was taken, do hereby certify that [name of person(s) to whom oath was administered], after having been duly sworn by me upon authority of R.S. 37:2554, did testify as hereinbefore set forth in the foregoing [number of] pages; that this testimony was reported by me in the [stenotype; stenomask; penwriter; electronic] reporting method, was prepared and transcribed by me or under my personal direction and supervision, and is a true and correct transcript to the best of my ability and understanding; that the transcript has been prepared in compliance with transcript format guidelines required by statute or by rules of the board, and that I am informed about the complete arrangement, financial or otherwise, with the person or entity making arrangements for deposition services; that I have acted in compliance with the prohibition on contractual relationships, as defined by Louisiana Code of Civil Procedure Article 1434 and in rules and advisory opinions of the board; that I have no actual knowledge of any prohibited employment or contractual relationship, direct or indirect, between a court reporting firm and any party litigant in this matter nor is there any such relationship between myself and a party litigant in this matter. I am not related to counsel or to the parties herein, nor am I otherwise interested in the outcome of this matter.

D. A reporter must not give the reporter's username or password to another or permit their use by a proxy to affix the digital signature certification statement to a deposition.

E. Any indication that the content or format of a transcript has been altered after affixing the reporter's digital signature certification statement to the deposition shall invalidate the digital signature certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554 and 2558.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 46:1564 (November 2020).

§1111. Technological Standards and Criteria

A. The board is guided in its approval of digital signature certification technology by standards and criteria developed and periodically updated by the following:

1. National Digital Transcript Certification Authority (NDTCA);
2. Adobe Approved Trusted List (AATL);
3. American Society of Notaries.

B. In approving or disapproving digital signature certification technology, the board may consider the long-term viability of an electronically sealed document.

C. The board will maintain on its website a list of approved technologies and may from time to time add or delete technologies upon the affirmative vote of a majority of members attending a board meeting. The board may also list on its website certain technologies that are not approved for use in affixing a digital signature certification statement

to a deposition and may from time to time add or delete technologies upon the affirmative vote of a majority of members attending a board meeting. A reporter who uses electronic means to seal a deposition must review the website and assure that only approved technologies are used to affix a digital signature certification statement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554 and 2558.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 46:1564 (November 2020).

Judge John J. Lee, Jr.
Chairman

2011#049

RULE

Office of the Governor Board of Examiners of Certified Shorthand Reporters

Fees (LAC 46:XXI.901)

The Louisiana Board of Examiners of Certified Shorthand Reporters, has adopted LAC 46:XXI.901 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedures Act, R. S. 49:950 et seq.

The Louisiana Board of Examiners of Certified Shorthand Reporters adopted changes to increase the fees paid to the CSR Board by those reporters wishing to obtain a certificate of registration, as current operating expenditures exceed revenue collections. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXI. Certified Shorthand Reporters

Chapter 9. Fees

§901. Fees

A. The following fees shall be paid to the board.

1. The fee to be paid for the issuance of a reciprocal certificate of registration without board examination is \$175 plus seal fee(s).

2. The fee to be paid upon the issuance and renewal of a certificate of registration is \$175 plus seal fee(s).

3. - 4. ...

5. The fee to be paid for reinstatement of a suspended or revoked certificate is the payment of all delinquent fees, plus \$50 for a certificate delinquent for a period of up to one year, \$175 for a certificate delinquent for a period of up to two years, \$250 for a certificate delinquent for a period of two or more years.

6. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554 and 2558.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:680 (October 1983), amended LR 10:279 (April 1984), amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 14:531 (August 1988), LR 17:34 (January 1991), LR 17:578 (June 1991), LR 19:1541 (December 1993), amended by the Office of the Governor, Board of Examiners of Shorthand Reporters, LR 34:434 (March

2008), LR 36:1781 (August 2010), LR 37:318 (January 2011), LR 46:1565 (November 2020).

Judge John J. Lee, Jr.
Chairman

2011#043

RULE

Office of the Governor Board of Examiners of Certified Shorthand Reporters

Online Continuing Education (LAC 46:XXI.611)

The Louisiana Board of Examiners of Certified Shorthand Reporters, has adopted LAC 46:XXI.611 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedures Act, R. S. 49:950 et seq.

The Louisiana Board of Examiners of Certified Shorthand Reporters adopted changes that allow certified shorthand reporters to obtain continuing education credit by live webinar. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXI. Certified Shorthand Reporters

Chapter 6. Continuing Education

§611. Activities Not Acceptable for Continuing Education Credits

A. Completion of any certified pulmonary respiratory course will not be accepted for continuing education credits.

B. Attendance at or participation in tours, exhibits, entertainment, recreation, committee service, association business, home study, or on-line courses or seminars will not be accepted for continuing education credits, except that live webinars will be accepted for continuing education credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 21:931 (September 1995), amended by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 33:2420 (November 2007), LR 46:1565 (November 2020).

Judge John J. Lee, Jr.
Chairman

2011#042

RULE

Office of the Governor Board of Examiners of Certified Shorthand Reporters

Reciprocal Certification for Military Personnel and Spouses (LAC 46:XXI.513)

The Louisiana Board of Examiners of Certified Shorthand Reporters, has adopted LAC 46:XXI.901 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedures Act, R. S. 49:950 et seq. Notice is

hereby given that the Louisiana Board of Examiners of Certified Shorthand Reporters proposes to establish the requirements for military personnel and spouses to obtain reciprocal certification. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXI. Certified Shorthand Reporters

Chapter 5. Certificates

§513. Reciprocal Certification for Military Personnel and Spouses

A. The board may issue a license without examination to military personnel or their spouses who hold a current license, certification, or registration in another jurisdiction where requirements are substantially equivalent to the requirements for licensing in Louisiana, if the other jurisdiction grants reciprocity without more onerous requirements for military personnel and their spouses who apply from Louisiana. An applicant must comply with the following requirements.

1. An applicant who has completed a military program of training, been awarded a military occupational specialty, and performed satisfactorily in that specialty at a level that is substantially equivalent to the requirements for licensing in Louisiana is eligible for certification upon presenting the following:

a. verified documentary proof that the applicant has successfully completed a military program of training and been awarded a military occupational specialty in court reporting, identifying the methodology in which the applicant is certified to practice court reporting within the jurisdiction;

b. two affidavits from a lawyer or judge who has worked with the applicant, attesting that the applicant has performed satisfactorily in providing court reporting services;

c. two copies of transcripts produced by the applicant within one year before the date on which an application is submitted; and

d. an affidavit from the licensing authority attesting that the applicant is in good standing and has not been disciplined for an act that constitutes grounds for refusal, suspension, or revocation of a license to practice court reporting in Louisiana.

2. A military spouse who applies for certification must provide the following:

a. verified documentary proof of a current license, certification, or registration from another jurisdiction where requirements for licensing, certification, or registration are substantially equivalent to the requirements for licensing, certification, or registration in Louisiana;

b. an affidavit from the licensing authority in the other jurisdiction attesting that:

i. the applicant is in good standing and has not been disciplined; and

ii. identifying the methodology in which the applicant is certified to provide court reporting services within the jurisdiction;

c. two affidavits from a lawyer or judge who has worked with the applicant, attesting that the applicant

performed satisfactorily in providing court reporting services; and

d. an affidavit from the applicant attesting that the applicant is in good standing and has not been disciplined in any jurisdiction for an act that constitutes grounds for refusal, suspension, or revocation of a license to practice court reporting in Louisiana.

3. Paragraphs 1 and 2 of this Subsection do not apply to dishonorably discharged military personnel or the spouses of dishonorably discharged military personnel.

B. An applicant certified pursuant to the provisions of this section must obtain the mandatory hours of continuing education in ethics within not less than 12 months after obtaining a license.

C. An applicant who attains reciprocal admission as a certified digital reporter may only practice for a judge or court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554, 2555, 2556 and R.S. 37:2557.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 20:997 (September 1994), LR 37:318 (January 2011), LR 46:1566 (November 2020).

Judge John J. Lee, Jr.
Chairman

2011#041

RULE

Office of the Governor Division of Administration Office of Facility Planning and Control

Procedure Manual (LAC 34:III.Chapter 1)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950, et seq.) and the provisions of RS 39:1410, The Division of Administration, Facility Planning and Control, has amended LAC 34:III.Chapter 1, Subchapter A. Procedure Manual. This change updates and clarifies the rules on budget, compensation, payments, and contractual terms for the designer's contracts. The requirements for sections regarding detailed technical responsibilities, however, have been deleted and relegated to the more appropriate procedure manual, which is published on Facility Planning and Control's website, and remains a part of the designer's contract. This Rule change, therefore, updates and clarifies the critical budget, compensation, and certain contractual aspects of the designer contract, which should remain within the administrative code, yet allows the technical sections to more easily adapt to required changes. This Rule is hereby adopted on the day of promulgation.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part III. Facility Planning and Control

Chapter 1. Capital Improvement Projects

Subchapter A. Designer Contracts

§101. Condition of the Contract

A. The following rules shall be a part and condition of the contract between owner and designer, herein referred to as the "contract."

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:473 (September 1982), amended LR 11:849 (September 1985), LR 31:1076 (May 2005), LR 32:2047 (November 2006), LR 46:1566 (November 2020).

§103. Definitions

Available Funds for Construction (AFC)—the budgeted amount of funds, established by the owner prior to bidding, available for awarding the construction contract(s).

Consultants—individuals or organizations engaged by the owner or the designer to provide professional consultant services complementing or supplementing the designer's services. As applicable, consultants shall be licensed to practice in accordance with laws of the state of Louisiana. The owner shall engage or have the designer furnish as part of the designer's services the services of consultants, which are deemed necessary for the project. Typical consultants are architects, landscape architects, civil, structural, mechanical, and electrical engineers, and others required to provide the services required or implied by the scope of the project, compensation for which is included in designer's fee for basic services. Special consultants are those, other than the above, which the owner may approve to perform special services and for which compensation will be in accordance with §109.C.

Designer—a person or organization professionally qualified and licensed to practice architecture, engineering, or landscape architecture in accordance with the laws of the state of Louisiana, who is to perform basic services for the project, as named in the contract.

Owner—the State of Louisiana, Office of the Governor, Division of Administration, the responsibilities of which shall be exercised by the Commissioner of Administration or the designated representative, the Office of Facility Planning and Control (FP and C).

Project—a Capital Outlay Project for which funds have been appropriated or other public government project for which funds are available, as specifically defined in the program attached to and stated in the contract between owner and designer.

Standard of Care—the designer and their professional consultants shall perform their services consistent with the skill and care ordinarily provided by similar professionals practicing in the same or similar locality under the same or similar circumstances.

User Agency—the agency, department, division, board or institution which will be the principal user of and for which the facility is being designed and constructed, as named in the contract. Where reference is made hereinafter to the *user agency*, it will refer to both the "umbrella" and "local" entities of the department, board, agency, division, etc. (Examples: The LSU Board of Supervisors and the Department of Health are "umbrella" using agencies and "local" using agencies such as LSU-Alexandria and Pinecrest Support and Services Center are under their respective jurisdiction and administration).

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and

Control, LR 8:473 (September 1982), amended LR 11:849 (September 1985), LR 31:1076 (May 2005), LR 46:1567 (November 2020).

§105. Owner-User Agency Responsibilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:473 (September 1982), amended LR 11:849 (September 1985), LR 31:1076 (May 2005), LR 32:2047 (November 2006), repealed LR 46:1567 (November 2020).

§107. Available Funds for Construction (AFC)

A. The AFC, as defined by §103, shall be stated in the contract between owner and designer.

B. The designer shall be responsible for designing the project so that the base bid does not exceed the AFC. The use of any alternate bids must be pre-approved by the owner. The owner will take into consideration abnormal escalation in construction costs that can be substantiated prior to bid.

C.1. At the completion of the program completion phase the designer shall make recommendations regarding whether the AFC is realistic for the project when compared with the completed program. At this point, or at any other submissions of the project's statement of probable cost (construction cost estimate) by the designer, if such statement of probable cost is in excess of the AFC, the owner shall have the option to:

a. instruct the user agency to collaborate with the designer to revise the program so that the anticipated base bid will be within the AFC; such program revisions shall be done without additional compensation to the designer, except for extensive program revisions authorized in writing by the owner;

- b. provide additional funds to increase the AFC; or
- c. abandon or suspend the project.

2. Any adjustment in the AFC, approved in writing by the owner during design shall include an appropriate adjustment in the fee. The fee shall not be modified at any time after advertising for bids, except as allowed per §109.A.1.d and §109.A.3.

D.1. When the lowest bona fide base bid exceeds the AFC, the owner shall have the option to:

- a. have the designer, without additional compensation, modify the construction documents as required in order to rebid the project to be within the AFC;
- b. provide additional funds to award the construction contract without adjustment of the fee if the project scope remains the same; or
- c. abandon the project.

2. The lowest bona fide base bid is defined as the lowest base bid submitted by a responsible and responsive bidder, not withdrawn in accordance with R.S. 38:2214, and which complies in every respect with the bidding requirements of the contract documents.

E. When the lowest bona fide base bid is less than 90 percent of the AFC and the designer has reduced the original program scope to reduce costs, the owner shall have the option to have the designer, without additional compensation, modify the construction documents to restore elements of the program that were eliminated to reduce cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:474 (September 1982), amended LR 11:850 (September 1985), LR 31:1076 (May 2005), LR 32:2047 (November 2006), LR 46:1567 (November 2020).

§109. Compensation

A. The fee for basic services to be paid to the designer shall be as follows.

1. The fee for basic services, shall be calculated as the product of the fee percentage, adjusted for inflation, and the Available Funds for Construction (AFC), adjusted for inflation. The fee percentage shall be computed by the formula.

$$\text{FEE PERCENTAGE} = \frac{46.10}{\text{Log (AFC (1975 BCI/Current BCI))}}$$

The fee shall be computed by the following formula:

$$\text{FEE} = \text{FEE PERCENTAGE (AFC(1975 BCI/Current BCI)(Current CPI/1975 CPI)}$$

Where "BCI" = Building Cost Index as published by Engineering News Record and "CPI" = Consumer Price Index as published by U.S. Department of Labor, Bureau of Labor Statistics. Since the annual averages computed in December of the BCI and CPI are used, fee calculations are based upon the most current calendar year average of both indices.

a. Should fee modifications occur during the course of the project, the BCI and CPI index factors used to calculate the original fee shall be used.

b. If a project, through no fault of the designer, is inactive for more than 24 months, the current BCI and CPI index factors shall be applied to the project's remaining phases once re-activated, unless the new index factors reduce the fee. In that case, the index factors shall not be revised.

c. Multiple construction contracts. If the owner determines that the best interest of the project is served by bidding and constructing the project under two or more separate construction contracts, the design fee shall be established for each portion by application of the formula and modification factors herein.

d. Fee adjustments for alternates are as follows.

i. If an alternate, pre-approved by the owner, has a cost estimate within the AFC, the designer's compensation for said alternate is already included within the designer's base fee.

ii. If an alternate, pre-approved by the owner, has a cost estimate in excess of the AFC, the designer shall receive compensation for the value above the AFC for that portion of the phase completed as described in §111.A.1.a. (by increasing the AFC for designer fee purposes). If an alternate is based on a substitute system requiring additional design effort, then the total estimated cost shall be used in determining the AFC for design fee purposes for phases completed. If the scope contained in that alternate is not awarded at bid, but later included as a change order and the designer compensated per §111.A.1.a, the compensation shall be adjusted such that the designer shall not be compensated twice for the same work.

iii. If the lowest bona fide base bid, is less than 90 percent of the AFC, refer to §107.E regarding any additional compensation for alternates and change orders.

2. Modification Factors. Prior to selection, the owner shall have the discretion to evaluate the scope, function,

complexity, image, and context of the project and apply modification factors listed below to the designer's compensation for basic services.

a. Complexity factor shall be based upon the complexity of the project scope as determined by the owner.

i. Simple (0.85 of basic compensation), to be determined by owner—single use projects generally of utilitarian character without complication or detail, such as pre-engineered buildings. Buildings with a high degree of repetition may be included in this classification.

ii. Average (1.00 of basic compensation), to be determined by owner—projects of conventional character requiring normal attention to design and detail, including complete mechanical and electrical systems.

iii. Medium complex (1.1 of basic compensation), to be determined by owner—projects of special character and/or function requiring an above average level of skill in design and containing more than ordinary requirements of scientific, mechanical and electrical equipment.

iv. Complex (1.15 of basic compensation), to be determined by owner—projects of highly specialized design character and function requiring a high degree of design skill and requiring extensive, or special scientific, electronic, mechanical and electrical equipment and design expertise.

b. A renovation factor of up to 1.25 of applied fees, to be established and set by the owner for each individual project, will be multiplied by the fee percentage to arrive at the fee for renovation projects, when determined by the owner to be justified. This fee shall include verifying existing conditions and/or any other additional work incidental to renovation projects. The renovation factor will be set in proportion to additional work anticipated by the owner. The renovation factor will not be applied to re-roofing projects, except in unusual circumstances.

c. An adjustment factor shall be applied, by the owner, based on the design phases required in relation to typical basic services as described in §111. If all design phases are required, the adjustment factor shall be 1.0. If design phases, based on those described in §111, are not required due to previous work, or for other reasons as determined by the owner, eliminated or reduced, then this factor may be reduced below 1.0, prior to designer selection, or negotiated with the designer if an existing contract is amended. If an adjustment factor less than 1.0 is applied, the reduction in total designer fee shall not be applied to each phase, but rather to reflect the phases reduced or eliminated, such that the designer earns the proper fee for work performed at each phase.

3. Change Orders. Preparation of documents required for change orders for any cause shall not be started without owner's written approval. Fee adjustments for change orders shall be as follows.

a. Routine change orders, which involve a small amount of effort, will not involve extra compensation. The designer shall notify and obtain the owner's prior written approval before preparing a change order for which he/she feels is due extra compensation for the extra effort involved. At the construction close-out phase, all such change orders will be reviewed by the owner and the designer's contract will be amended to reflect extra compensation for the change orders which the owner has determined merit additional fee. The fee will be computed by increasing the AFC (for

designer fee purposes) by the amount of change orders that qualify for additional fee as described above and recalculating the fee.

b. Designer shall prepare change orders caused by errors or omissions of the designer without additional compensation. The designer shall be financially responsible for costs that result from errors. The owner shall participate in the cost of omissions to the extent of the value received by the owner. The designer will be notified of any claims of error or omission designations made to a change order prior to execution by the owner.

Errors—changes to the work caused by the designer for which the contractor is entitled to payment but for which the owner receives no value. Typically, these involve work that has been constructed and must be demolished and replaced. Therefore, where the owner receives no value, the designer is responsible for 100 percent of the cost.

Omissions—changes to the work caused by the designer for which the contractor is entitled to payment for which the owner receives value. Typically, these involve work that must be added to contract with little or no change to the work that has been constructed.

B. Payment to the designer for additional services shall be made on the basis of a detailed scope of work, a proposal from the designer, and negotiations between the owner and designer. All additional services must be pre-approved in writing by the owner prior to start.

Direct Personnel Expense—if referenced as part of the designer's proposal, the normal, straight-time direct salaries of all the designer's personnel engaged in the project (technical but not clerical). This shall also include the direct salaries of designer's consultants involved in the additional services.

C. Reimbursable expenses are in addition to the compensation for basic and additional services and include actual expenditures made by the designer, his/her employees or professional consultants in the interest of the project as directed and authorized by the owner in writing prior to their occurrence.

1. The owner shall reimburse the designer the direct cost for all geotechnical investigations, topographic surveys, and other related information, prior approved by the owner and necessary for the design of the project.

2. The designer shall pay for the cost of printing and distribution of construction documents for the owner's and user agency's use, for regulatory agencies' approvals, and as required for the designer and consultant's own use. The owner will reimburse the designer the direct cost of printing and distribution of all other sets of construction documents, over and above the amount of the deposits on same retained by the designer. This will include necessary sets for the contractor to construct the project. If the designer proposes and the owner agrees to an alternative form of document distribution, such as an electronic format, the designer will be reimbursed the direct cost of this method in lieu of the reimbursement described above. The intent remains the same for the designer to bear costs for internal and consultant use.

D. Designer will be paid for prolonged contract administration and observation of construction should the contract time, as may be extended, be exceeded due to no fault of the designer and liquidated damages are required per

the contract documents. The amount of such payment shall be computed by dividing 20 percent of the basic total fee by the number of days' construction time, as extended, and multiplying by the number of days of liquidated damages as required by the contract documents.

E. When the designer exceeds the established time schedule, including any extensions of time approved by the owner, unless the extension is due to actions by the owner or user, then the amount of the fee shall be reduced by an amount, as liquidated damages, as stated in the advertisement for designer's selection, for each calendar day past the original or extended date that the designer has not delivered all construction documents to the owner sufficiently complete, coordinated and ready to bid. Completeness of the construction document phase will be determined by the owner as described in §111.A.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:474 (September 1982), amended LR 11:850 (September 1985), LR 31:1077 (May 2005), LR 32:2047 (November 2006), LR 46:1568 (November 2020).

§111. Payments to the Designer

A. Payments on account of designer's services shall be made as follows.

1. Basic Services

a. Upon satisfactory completion of all basic services for each phase, submission of all documents to the owner and upon the owner's and user's approval of same, which approval shall not be arbitrarily withheld, payment for the following phases of the designer's services will be made in one lump sum (with the exception of the construction documents phase as described below in Paragraph 2); such payments shall be up to the following percentages of the designer's fixed fee, either interim or final, as applicable, which percentages are cumulative.

Program completion phase	5 percent
Schematic design phase	15 percent
Design development phase	35 percent
Construction documents phase	60 percent
Bidding and contract phase	65 percent

b. Monthly in proportion to the contractor's certificate for payment for the following phase: Construction phase—95 percent.

c. Upon satisfactory completion and furnishing required documents to the owner for the following phase: Construction close-out phase—100 percent.

i. One percent of the designer's fee up to \$2,000 maximum may be withheld from construction close-out payment until completion of the one-year warranty inspection period.

2. A partial payment for the construction documents phase shall be made when the designer has completed 100 percent of the construction documents and has submitted these to the owner, the user agency, and the other required statutory agencies and the owner determines by inventory check and conformity that all required documents have been submitted, and are sufficiently complete, coordinated and ready to bid, then the designer shall be entitled to a payment of 80 percent of the fee for the

construction documents phase. Should the owner's approval of the construction documents not be issued within 45 days of submittal due to no fault of the designer, then the designer shall be paid an additional payment of 10 percent of the fee for the construction documents phase. The balance of the fee for this phase will be due upon the completion of review by owner and user, when corrections have been made, and a complete set of bid documents are submitted to the owner. For projects with an AFC over \$10 million, interim payments up to 50 percent of the fee for the construction document phase may be made by agreement between the owner and the designer.

3. If any phase or phase payment is delayed through no fault of the designer, the owner and designer may negotiate a partial payment.

4. The designer shall promptly pay consultants. By signing the professional design services invoice, the designer agrees that all consultants will be promptly paid those amounts due them out of the amount paid to the designer within 45 days. Upon receipt of reasonable evidence of the designer's failure to pay consultants' amounts due them, the owner may withhold all or part of the designer's payment until the owner is satisfied that any amounts owed have been paid or otherwise settled.

B. Payments on account of designer's additional services and for reimbursable expenses shall be made on submission of designer's invoices with supporting data, and their written approval by owner and user agency and issuance of an amendment to the contract covering such services.

C. Payments to the designer on termination, abandonment or suspension shall be made in accordance with §§117 and 119, hereinafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:474 (September 1982), amended LR 11:851 (September 1985), LR 13:656 (November 1987), LR 31:1078 (May 2005), LR 46:1569 (November 2020).

§113. Designer's Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:475 (September 1982), amended LR 11:851 (September 1985), LR 31:1079 (May 2005), LR 32:2048 (November 2006), repealed LR 46:1570 (November 2020).

§115. Designer's Accounting Records

A. Records of direct reimbursable expenses and expenses pertaining to additional services on the project, and for services performed on the basis of multiplier times direct personnel expense, shall be kept on the basis of generally accepted accounting principles and shall be furnished and/or made available to the owner or the owner's authorized representative on request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:477 (September 1982), amended LR 11:854 (September 1985), LR 46:1570 (November 2020).

§117. Termination of Contract

A. The contract between owner and designer may be terminated by either party upon 30 days' written notice to the other party, should said other party fail to perform in accordance with its terms, through no fault of the terminating party, or the contract may be terminated by mutual consent.

B. In the event of termination by the owner due to failure of the designer to perform satisfactorily, the designer shall receive no compensation beyond that already paid or due for the last satisfactorily completed phase. Any work done shall become the property of the owner to be used at the owner's discretion without additional compensation to the designer. No compensation shall be paid to the designer for any uncompleted phase, except by written agreement between owner and designer prior to termination. Such termination shall constitute the designer being held at fault under the terms of R.S. 38:2313(B)(5), which provides that problems with time delays, cost overruns or design inadequacies for which the designer is held to be at fault, shall be taken into account by the selection boards in considering past performance on public projects.

C. In the event the contract is terminated by mutual consent, the designer shall be paid for all work completed prior to termination, and all work done shall become the property of the owner to be used at the owner's discretion without additional compensation to the designer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:478 (September 1982), amended LR 11:854 (September 1985), LR 46:1570 (November 2020).

§119. Abandonment or Suspension

A. If any work designed or specified by the designer is abandoned or suspended in whole or part by the owner, the designer is to be paid for the services rendered up to receipt of written notice from the owner, as follows.

1. If the abandonment or suspension occurs at the completion of a phase, the designer shall submit to the owner all required deliverables and shall be paid the full amount due on completion of such phase as described in §111.A.1.

2. If the abandonment or suspension occurs during a phase, the designer shall submit to the owner all documents prepared by him/her up to receipt of written notice from the owner, and the owner shall compensate the designer up to the percentage completion of that phase.

B. Should the project be reactivated, the new fee will be computed on the basis of the revised AFC and §109.A.1.b if inactive for more than 24 months. The designer's fee for the phases of work required to complete the project shall be the percentages for such phases stated in §111.A.1 applied to the new fee. Any required code update or scope change may merit additional services per §109.B, as the anticipated project design effort warrants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and

Control, LR 8:478 (September 1982), amended LR 11:854 (September 1985), LR 46:1570 (November 2020).

§121. Ownership of Documents

A. Per R.S. 38:2317, any and all plans, designs, specifications, or other construction documents resulting from professional services paid for by the owner shall remain the property of the owner whether the project for which they were prepared was constructed or not. If a project is terminated for any reason prior to completion of the project, electronic copies of the most current drawings and specifications shall be transmitted by the designer to the owner.

B. Upon completion of the project, record drawings (as-builts) shall be furnished to the owner and the user agency. The designer shall have the right to re-use the construction documents on other projects not constructed for the owner.

C. The right of ownership provided for above shall not be transferable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control in LR 8:478 (September 1982), amended LR 11:854 (September 1985), LR 46:1571 (November 2020).

§123. Successors and Assigns

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:478 (September 1982), amended LR 11:855 (September 1985), repealed LR 46:1571 (November 2020).

§125. Extent of Agreement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control in LR 8:478 (September 1982), amended LR 11:855 (September 1985), repealed LR 46:1571 (November 2020).

§127. Governing Law

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:478 (September 1982), amended LR 11:855 (September 1985), LR 31:1080 (May 2005), repealed LR 46:1571 (November 2020).

§129. Other Conditions

A. Insurance. Prior to the signing of the contract between owner and the designer, the designer shall furnish to the owner proof of coverage for the following.

1. Insurance. Professional liability insurance shall be required as per the owner's requirements on a project by project basis. Refer to Exhibit B of the contract for the extent of coverage required. Insurance will be required at the time of contract execution between the owner and the designer. Proof of coverage will be required at that time. No deductible shall be in excess of 5 percent of the amount of the policy.

2. Comprehensive general liability with minimum limits of \$500,000 per accident/occurrence.

3. Comprehensive automobile liability insurance with minimum limits of \$300,000 per accident/occurrence.

4. The designer shall provide a certificate of insurance as proof of workmen's compensation coverage.

B. Affidavit. The designer, on signing the contract, shall submit to the owner, on such form as the owner shall designate, a noncollusion affidavit.

C. When the time schedule has been established by the owner and designer, a completion date shall be set up for delivery of 100 percent completed, coordinated and ready to bid construction documents to the owner. If the designer is delayed through no fault of his/her own, then the completion date shall be extended accordingly, provided the designer makes such request in writing before starting the subsequent phase and the owner approves such as justified. The designer shall continue to work during this process.

D. Non-Binding Mediation

1. In an effort to resolve any conflicts that arise during or following the completion of the project, the owner and the designer agree that all disputes between them arising out of or relating to this agreement shall be submitted to non-binding mediation unless the parties mutually agree otherwise. If non-binding mediation is not successful, then arbitration is the only remedy available to all parties of the contract. Arbitration, mediation and/or any legal action resulting from this contract shall take place in East Baton Rouge Parish.

2. The owner and designer further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the project and to require all independent contractors and consultants to likewise include providing for mediation as the primary method for dispute resolution between the parties to those agreements.

3. If this non-binding mediation fails to resolve any conflicts, then the following arbitration clause shall take effect. All claims, disputes and other matters arising from the contract shall, at the option of the owner, be decided by arbitration. To the extent possible, such arbitration proceedings shall be conducted in accordance with the construction industry association rules of the American Arbitration Association. Any such arbitration proceeding shall, at the option of the owner, be consolidated with or joined to other arbitration proceedings between the owner and other persons or entities under contract with the state for the construction, repair or alterations of the project in question.

E. Fault. Time delays, cost overruns, design inadequacies or other problems with performance of the designer may result in the designer being held "at fault." The owner shall determine if the designer is to be held at fault as provided in R.S. 38:2313.B.(5).

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:478 (September 1982), amended LR 11:855 (September 1985), LR 13:656 (November 1987), LR 31:1081 (May 2005), LR 46:1571 (November 2020).

Mark A. Moses
Director

2011#026

RULE

Department of Insurance Office of the Commissioner

Regulation 81—Automobile Liability Insurance Premium Discount and Insurer Premium Tax Credit (LAC 37:XIII.Chapter 95)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended Regulation 81—Automobile Liability Insurance Premium Discount and Insurer Premium Tax Credit. The purpose of the amendment to Regulation 81 is to clarify the applicability and calculation of the discount offered through the insurance premium discount program for active military personnel based in Louisiana and to update statutory references that have changed due to recodification. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 95. Regulation Number 81—Automobile Liability Insurance Premium Discount and Insurer Premium Tax Credit

§9501. Authority

A. This regulation is adopted pursuant to R.S. 22:11 and 22:1482.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 2005), amended LR 46:1572 (November 2020).

§9503. Purpose

A. The purpose of this regulation is to implement the provisions of Acts 2004, No. 770 of the Louisiana Legislature, Regular Session, as well as to implement the amendment thereto as set forth in Acts 2005, No. 408 of the Louisiana Legislature, Regular Session. The original law created an insurance premium discount program for active military personnel based in Louisiana. The amendment creates a program whereby an insurer is entitled to a tax credit against the premium taxes imposed under R.S. 22:838 and R.S. 22:831 for the amount of the military discount provided to qualified active military personnel for the liability portion of their personal automobile liability policy. Both laws require the commissioner to adopt a regulation to implement the military discount program and to develop procedures for an insurer to follow to claim a tax credit and for other related matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 20, 2005), amended LR 32:94 (January 2006), LR 46:1572 (November 2020).

§9509. Definitions

A. For the purposes of this regulation the following terms shall have the meaning ascribed herein unless the context clearly indicates otherwise.

Active Military Personnel—

a. a single or married person who is based in this state and serving on full time active duty status in the military as a member of:

- i. the Army, Navy, Marine Corps or Air Force; or
- ii. the Reserve or National Guard; or
- iii. the Coast Guard.

b. *Active military personnel* who are deployed out-of-state or overseas whose spouse and dependents remain in this state shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1482 and §9515 of this regulation.

AMP—active military personnel.

Authorized Insurer—shall have the meaning found in R.S. 22:46(3), hereinafter “insurer.”

Automobile Liability Insurance Policy—a policy of insurance acquired in this state, insuring personal motor vehicles of the types described in R.S. 22:1266(A)(1)(a)-(b), and motorcycles of the types described in R.S. 32:1252(30), which provides coverage for bodily injury and property damage liability, medical payments and uninsured motorists coverage as provided in R.S. 22:1266(A)(2). Golf carts, go-carts, off-road vehicles, all-terrain vehicles and other similar motorized vehicles are not motor vehicles for the purposes of R.S. 22:1266(A)(1)(a)-(b) and are not motorcycles for the purposes of R.S. 32:1252(30).

Commissioner—the Commissioner of Insurance for the state of Louisiana.

Direct Written Premium—the premium charged by an insurer as consideration for an automobile liability insurance policy.

Insured—the individual who qualifies as *active military personnel*. The spouse and/or any dependents who are under the age of 18 or unmarried full-time students under the age of 24 who are insured under the same policy as the *active military personnel* are also included in this definition.

LDI—the Louisiana Department of Insurance.

Named Insured—the person identified as such on the policy.

State—the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 2005), amended LR 32:94 (January 2006), LR 46:1572 (November 2020).

§9511. Calculation of the Premium Discount; Proof of Eligibility

A. All insurers shall grant a discount equal to 25 percent of the premium charged for an automobile liability insurance policy. The discount shall apply to new and renewal business if the named insured retains the status of active military personnel as defined in Regulation 81. For calculation purposes the discount shall only be applied to the premium charged for bodily injury and property damage liability, medical payments and uninsured motorists coverage as per R.S. 22:1266(A)(2) and shall include, but shall not be limited to, all fixed expenses, variable expenses, and policy fees. For interim policy changes, the discount mandated by this Subsection shall be applied on a pro-rata basis in the

same manner as similar discount programs, such as good-student discounts, are applied by an insurer.

B. The initial obligation to demonstrate eligibility for the premium discount rests with the AMP. Thus, prior to an insurer applying the premium discount mandated by R.S. 22:1482(A), the AMP shall provide to the insurer a properly executed Louisiana Application for Military Discount on the current form approved by the LDI.

C. An insurer who obtains from an AMP a properly executed Louisiana application for military discount shall be eligible for a rebuttable presumption that the insurer is entitled to claim a tax credit against the premium taxes levied pursuant to R.S. 22:838 and 831.

D. An insurer shall be barred from claiming the benefit of the rebuttable presumption if the insurer knew or should have known that the AMP provided false or fraudulent information on the Louisiana application for military discount and/or the insurer fails, neglects or refuses to report said false or fraudulent information regarding the AMP to the LDI.

E. The initial Louisiana Application for Military Discount shall be properly executed by the AMP and delivered to the insurer. The insurer is required to maintain the original and all subsequent renewals on file for inspection, verification and audit by the LDI to ensure that the AMP is entitled to the premium discount mandated by R.S. 22:1482(A).

F. Active military personnel who is deployed out-of-state or overseas and who is:

1. single, shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1482 and §9515 of this regulation; or

2. married, and has a spouse and dependents who remain in this state, shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1482 and §9515 of this regulation; or

3. is single, and who has dependents who remain in this state, shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1482 and §9515 of this regulation.

G. ...

H. Although it is the obligation of the AMP to demonstrate eligibility for the premium discount, an insurer has the obligation to act with due diligence with regard to the premium discount program. In furtherance of this due diligence obligation, the insurer may request additional documentation or proof from an AMP to determine initial or continuing eligibility for the discount if the insurer has a legitimate concern with regard to the authenticity or accuracy of any of the information provided by the AMP.

I. ...

J. The Louisiana Application for Military Discount that must be properly executed by the AMP is set forth in §9519, Louisiana Application for Military Discount—Appendix, of this regulation and is incorporated herein as if set forth herein *in extenso*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 2005), amended LR 32:94 (January 2006), LR 33:1661 (August 2007), LR 46:1572 (November 2020).

§9513. Requests for Tax Credit; Documentation; Dispute Resolution

A. The tax credit authorized by R.S. 22:1482(B), as amended, will be requested by an insurer on an annual calendar year basis. The tax credit will be calculated based upon direct written premium. An insurer is eligible to receive a tax credit against the premium tax levied pursuant to R.S. 22:838 and R.S. 22:831 if it is an authorized insurer and the insurer makes a timely request for the tax credit.

B. Insurers seeking a tax credit shall submit a request for premium tax credit to the LDI in accordance with the reporting schedule for premium taxes levied pursuant to R.S. 22:838 and 831 as set forth in the reporting form(s) designed by the commissioner. Insurers shall submit the information required to be maintained by §9515.B of this regulation. A premium tax filing with the tax credit authorized hereunder that does not include the proof required by this regulation will be considered untimely.

C. If the commissioner approves the premium tax filing as being both timely filed and containing all proof required by this regulation, there shall be a rebuttable presumption in favor of the insurer that the insurer is entitled to the tax credit against the premium taxes levied pursuant to R.S. 22:838 and R.S. 22:831.

D. - D.3. ...

E. As explained above, if the commissioner disapproves, in whole or in part, a tax credit filed by an insurer, he shall give written notice to the insurer, stating the grounds for disapproval. The notice shall be sent to the address shown on the records of the LDI. An insurer shall have 30 days from the date of the notice to dispute the disapproval by the commissioner. If, within this initial 30-day period the insurer can demonstrate, in writing to the commissioner, good cause for not being able to provide the required documents to dispute the disapproval, the commissioner may grant one 60-day extension to dispute the disapproval by the commissioner. No other extensions shall be granted. Any documents submitted by the insurer in rebuttal to the commissioner's disapproval notice shall be verified as true and accurate by an officer of the insurer.

F. Within 30 days of submission of the verified rebuttal, the commissioner shall enter an order either approving or disapproving, in whole or in part, the request by the insurer for a tax credit against the premium taxes levied pursuant to R.S. 22:838 and R.S. 22:831.

1. ...

2. If the tax credit is disapproved in its entirety, the commissioner shall enter an order denying the entirety of the requested tax credit. The commissioner's order of disapproval shall be given, in writing, to the insurer by certified mail, return receipt requested. Any demand for a hearing shall be filed by an insurer with the commissioner within 30 days after mailing of notice of the order of disapproval to the insurer's last known address or within 30 days after the delivery of notice of the order of disapproval to the insurer, as provided for by R.S. 22:2191.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:674 (March 2005), amended LR 32:95 (January 2006), LR 46:1573 (November 2020).

§9515. Recordkeeping; Annual Report

A. An insurer issuing an automobile liability insurance policy to an individual who qualifies for the military discount program shall maintain the following records:

1. the items obtained in compliance with §9511 of this regulation;

2. a copy of the declarations page for each policy for which a tax credit is sought.

B. The request for the tax credit shall be made on a form(s) designed by the commissioner. The request for the tax credit form shall require, among other things, that the insurer provide the following information to the LDI with regard to the personal automobile liability insurance coverage issued to an AMP and that this information be provided to the LDI in either an electronic format as per R.S. 22:42 or written format.

1. A detailed listing of all policies for which the tax credit is sought. The listing shall include, at a minimum:

a. - d. ...

e. the net direct written premium for the liability coverages of the automobile liability insurance policy prior to application of the military discount; and

f. the dollar value of the applicable military discount as applied to the amount set forth in Section 9515.B.1.e above.

2. - 5. ...

C. The insurer shall keep the records required by this section in either electronic or written form and the records shall be maintained by the insurer for a period of five years from the date of issuance of the insurance policy to which the military discount has been applied. Upon request, the insurer shall produce such records for examination or audit by the commissioner or any person acting on behalf of the commissioner. The records required by this section shall be considered confidential pursuant to R.S. 22:1983 and R.S. 22:1984 and are exempt from the Public Records Act found at R.S. 44:4.

D. The tax credit filed by an insurer shall cover the calendar year ending December 31 and shall be filed on or before March 1 of each year thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:674 (March 20, 2005), amended LR 32:96 (January 2006), LR 46:1574 (November 2020).

§9517. Overpayments; Collection Proceedings; Fines and Hearings

A. - B. ...

C. An insurer's failure or refusal to refund a tax credit overpayment shall constitute grounds for the commissioner to suspend the insurer's certificate of authority, or to impose a fine not to exceed 10 percent of the tax credit overpayment or \$2,500, whichever is more, or both. Any demand for a hearing shall be filed by an insurer with the commissioner within 30 days after mailing of notice of the order of disapproval to the insurer's last known address or within 30 days after the delivery of notice of the order of disapproval to the insurer, as provided for by R.S. 22:2191.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:675 (March 20, 2005), amended LR 32:96 (January 2006), LR 46:1574 (November 2020).

§9521. Effective Date; Implementation

A. This regulation, as amended, shall take effect on January 1, 2021. Insurers shall take steps to timely implement the military discount program so that it is available for all new and renewal business effective January 1, 2021.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:675 (March 20, 2005), amended LR 32:98 (January 2006), LR 46:1574 (November 2020).

James J. Donelon
Commissioner

2011#031

RULE

**Department of Natural Resources
Office of Conservation**

Pipeline Safety

(LAC 43:XIII.Chapters 3-33 and LAC 33:V.Chapter 3)

The Department of Natural Resources, Office of Conservation has amended LAC 43:XIII and LAC 33 Part V Subpart 3 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana.

The Rule changes are required as a part of the Department of Natural Resources certification agreement with the US Department of Transportation and are intended to adopt existing federal regulations as state regulations. This Rule is hereby adopted on the day of promulgation.

Title 43

NATURAL RESOURCES

Subpart 2. Transportation of Natural Gas and Other Gas by Pipeline

[49 CFR Part 191]

Chapter 3. Annual Reports, Incident Reports and Safety Related Condition Reports [49 CFR Part 191]

§301. Scope

[49 CFR 191.1]

A. This Chapter prescribes requirements for the reporting of incidents, safety-related conditions, annual pipeline summary data, National Registry of Operators information, and other miscellaneous conditions by operators of underground natural gas storage facilities and natural gas pipeline facilities located in the United States or Puerto Rico, including underground natural gas storage facilities and pipelines within the limits of the Outer Continental Shelf, as that term is defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331). [49 CFR 191.1(a)]

B. - B.4.b. ...

c. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:218 (April 1983), amended LR 10:510 (July 1984), LR 11:255 (March 1985), LR 18:854 (August 1992), LR 27:1536 (September 2001), LR 30:1220 (June 2004), LR 33:473 (March 2007), LR 38:110 (January 2012), LR 45:66 (January 2019), LR 46:1574 (November 2020).

§303. Definitions
[49 CFR 191.3]

A. ...

* * *

Incident—any of the following events:

a. an event that involves a release of gas from a pipeline, gas from an underground natural gas storage facility (UNGSF), liquefied natural gas, liquefied petroleum gas, refrigerant gas, or gas from an LNG facility, and that results in one or more of the following consequences:

i. a death, or personal injury necessitating in-patient hospitalization;

ii. estimated property damage of \$50,000 or more, including loss to the operator and others, or both, but excluding cost of gas lost;

iii. unintentional estimated gas loss of three million cubic feet or more;

b. an event that results in an emergency shutdown of an LNG facility or a UNGSF. Activation of an emergency shutdown system for reasons other than an actual emergency does not constitute an incident;

c. an event that is significant in the judgment of the operator, even though it did not meet the criteria of Subparagraphs a or b of this definition.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:255 (March 1985), amended LR 18:854 (August 1992), LR 20:442 (April 1994), LR 27:1536 (September 2001), LR 30:1221 (June 2004), LR 33:473 (March 2007), LR 38:110 (January 2012), LR 44:1032 (June 2018), LR 45:66 (January 2019), LR 46:1575 (November 2020).

§315. Transmission Systems; Gathering Systems; and Liquefied Natural Gas Facilities: Incident Report
[49 CFR 191.15]

A. - B. ...

C. Underground Natural Gas Storage Facility. Each operator of a UNGSF must submit DOT Form PHMSA F7100.2 as soon as practicable but not more than 30 days after the detection of an incident required to be reported under §505. [49 CFR 191.15(c)]

D. Supplemental Report. Where additional related information is obtained after an operator submits a report under Subsection A, B, or C of this Section, the operator must make a supplemental report as soon as practicable, with a clear reference by date to the original report. [49 CFR 191.15(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:219 (April 1983), amended LR 10:511 (July 1984), LR 11:255 (March 1985), LR

30:1222 (June 2004), LR 38:111 (January 2012), LR 45:67 (January 2019), LR 46:1575 (November 2020).

§317. Transmission Systems; Gathering Systems; and Liquefied Natural Gas Facilities: Annual Report
[49 CFR 191.17]

A. - B. ...

C. Underground Natural Gas Storage Facility. Each operator of a UNGSF must submit an annual report through DOT Form PHMSA 7100.4-1. This report must be submitted each year, no later than March 15, for the preceding calendar year. [49 CFR 191.17(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:219 (April 1983), amended LR 10:511 (July 1984), LR 11:256 (March 1985), LR 30:1222 (June 2004), LR 38:111 (January 2012), LR 45:67 (January 2019), LR 46:1575 (November 2020).

§322. National Registry of Operators
[49 CFR 191.22]

A. OPID Request. Effective January 1, 2012, each operator of a gas pipeline, gas pipeline facility, UNGSF, LNG plant, or LNG facility must obtain from PHMSA an Operator Identification Number (OPID). An OPID is assigned to an operator for the pipeline, pipeline facility, or pipeline system for which the operator has primary responsibility. To obtain an OPID, an operator must submit an OPID Assignment Request DOT Form PHMSA F 1000.1 through the National Registry of Operators in accordance with §307. For intrastate facilities subject to the jurisdiction of the Office of Conservation, the operator must concurrently file an online OR-1 Submission (Operator Registration) for Pipeline Safety with the same name as the OPID request at <http://www.sonris.com>. Each operator must validate the OR-1 annually by January 1 each year. [49 CFR 191.22(a)]

B. OPID Validation. An operator who has already been assigned one or more OPIDs by January 1, 2011, must validate the information associated with each OPID through the National Registry of Operators at <https://portal.phmsa.dot.gov>, and correct that information as necessary, no later than June 30, 2012. [49 CFR 191.22(b)]

C. Changes. Each operator of a gas pipeline, gas pipeline facility, UNGSF, LNG plant, or LNG facility must notify PHMSA electronically through the National Registry of Operators at <https://portal.phmsa.dot.gov> of certain events. For intrastate facilities subject to the jurisdiction of the Office of Conservation, a copy must also be submitted to Office of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275 or by electronic mail to PipelineInspectors@la.gov. Any change in an operator name, the operator must concurrently file an online OR-1 Submission for Pipeline Safety with the same name as the OPID operator name at <http://www.sonris.com/>. [49 CFR 191.22(c)]

1. - 1.a. ...

b. construction of 10 or more miles of a new pipeline [49 CFR 191.22(c)(1)(ii)]

c. construction of a new LNG plant, LNG facility, or UNGSF; or [49 CFR 191.22(c)(1)(iii)]

d. maintenance of a UNGSF that involves the plugging or abandonment of a well, or that requires a

workover rig and costs \$200,000 or more for an individual well, including its wellhead. If 60-days' notice is not feasible due to an emergency, an operator must promptly respond to the emergency and notify PHMSA as soon as practicable; [49 CFR 191.22(c)(1)(iv)]

1.e. - 2.b. ...

c. a change in the entity (e.g., company, municipality) responsible for an existing pipeline, pipeline segment, pipeline facility, UNGSF, or LNG facility; [49 CFR 191.22(c)(2)(iii)]

d. ...

e. the acquisition or divestiture of 50 or more miles of a pipeline or pipeline system subject to Subpart 3 of this Part; or [49 CFR 191.22(c)(2)(v)]

f. the acquisition or divestiture of an existing UNGSF, or an LNG plant or LNG facility subject to Subpart 5 of this Part. [49 CFR 191.22(c)(2)(vi)]

D. Reporting. An operator must use the OPID issued by PHMSA for all reporting requirements covered under this Part and for submissions to the National Pipeline Mapping System. [49 CFR 191.22(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:112 (January 2012), amended LR 44:1032 (June 2018), LR 45:67 (January 2019), LR 46:1575 (November 2020).

§323. Reporting Safety-Related Conditions **[49 CFR 191.23]**

A. - A.1. ...

2. in the case of a UNGSF, general corrosion that has reduced the wall thickness of any metal component to less than that required for the well's maximum operating pressure, or localized corrosion pitting to a degree where leakage might result; [49 CFR 191.23(a)(2)]

3. unintended movement or abnormal loading by environmental causes, such as an earthquake, landslide, or flood, that impairs the serviceability of a pipeline or the structural integrity or reliability of a UNGSF or LNG facility that contains, controls, or processes gas or LNG; [49 CFR 191.23(a)(3)]

4. any crack or other material defect that impairs the structural integrity or reliability of a UNGSF or an LNG facility that contains, controls, or processes gas or LNG; [49 CFR 191.23(a)(4)]

5. any material defect or physical damage that impairs the serviceability of a pipeline that operates at a hoop stress of 20 percent or more of its specified minimum yield strength, or the serviceability or the structural integrity of a UNGSF; [49 CFR 191.23(a)(5)]

6. any malfunction or operating error that causes the pressure, plus the margin (build-up) allowed for operation of pressure limiting or control devices, to exceed either the maximum allowable operating pressure of a distribution or gathering line, the maximum well allowable operating pressure of an underground natural gas storage facility, or the maximum allowable working pressure of an LNG facility that contains or processes gas or LNG; [49 CFR 191.23(a)(6)]

7. a leak in a pipeline, UNGSF, or LNG facility containing or processing gas or LNG that constitutes an emergency; [49 CFR 191.23(a)(7)]

8. ...

9. any safety-related condition that could lead to an imminent hazard and causes (either directly or indirectly by remedial action of the operator), for purposes other than abandonment, a 20 percent or more reduction in operating pressure or shutdown of operation of a pipeline, UNGSF, or an LNG facility that contains or processes gas or LNG. [49 CFR 191.23(a)(9)]

10. for transmission pipelines only, each exceedance of the maximum allowable operating pressure that exceeds the margin (build-up) allowed for operation of pressure-limiting or control devices as specified in the applicable requirements of §§1161, 2720.E, and 2939. The reporting requirement of this Paragraph A.10 is not applicable to gathering lines, distribution lines, LNG facilities, or underground natural gas storage facilities (See Paragraph A.6 of this Section); [49 CFR 191.23(a)(10)]

11. any malfunction or operating error that causes the pressure of a UNGSF using a salt cavern for natural gas storage to fall below its minimum allowable operating pressure, as defined by the facility's state or federal operating permit or certificate, whichever pressure is higher; [49 CFR 191.23(a)(11)]

B. - B.2. ...

3. exists on a pipeline (other than an UNGSF or an LNG facility) that is more than 220 yards (200 meters) from any building intended for human occupancy or outdoor place of assembly, except that reports are required for conditions within the right-of-way of an active railroad, paved road, street, or highway; or [49 CFR 191.23(b)(3)]

4. is corrected by repair or replacement in accordance with applicable safety standards before the deadline for filing the safety-related condition report. Notwithstanding this exception, a report must be filed for: [49 CFR 191.23(b)(4)]

a. conditions under Paragraph A.1 of this Section, unless the condition is localized corrosion pitting on an effectively coated and cathodically protected pipeline; and [49 CFR 191.23(b)(4)(i)]

b. any condition under Paragraph A.10 of this Section; [49 CFR 191.23(b)(4)(ii)]

5. exists on an UNGSF, where a well or wellhead is isolated, allowing the reservoir or cavern and all other components of the facility to continue to operate normally and without pressure restriction. [49 CFR 191.23(b)(5)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, amended LR 30:1223 (June 2004), LR 45:68 (January 2019), LR 46:1576 (November 2020).

§325. Filing Safety-Related Condition Reports **[49 CFR 191.25]**

A. Each report of a safety-related condition under §323.A.1-9 of this Part must be filed (received by the associate administrator/commissioner) in writing within five working days (not including Saturday, Sunday, or federal holidays) after the day a representative of an operator first determines that the condition exists, but not later than 10 working days after the day a representative of an operator discovers the condition. Separate conditions may be described in a single report if they are closely related.

Reporting methods and report requirements are described in Subsection C of this Section. [49 CFR 192.25(a)]

B. Each report of a maximum allowable operating pressure exceedance meeting the requirements of criteria in §323.A.10 for a gas transmission pipeline must be filed (received by the associate administrator/commissioner) in writing within five calendar days of the exceedance using the reporting methods and report requirements described in Subsection C of this Section. [49 CFR 191.25(b)]

C. Reports shall be mailed to the Commissioner of Conservation, Office of Conservation, PO Box 94275, Baton Rouge, LA 70804-9275 or may be transmitted by electronic mail to PipelineInspectors@la.gov and concurrently to the Office of Pipeline Safety Administration, U.S. Department of Transportation at InformationResourcesManager@dot.gov or by facsimile at (202) 366-7128. For a report made pursuant to §323.A.1-9, the report must be headed "Safety-Related Condition Report." For a report made pursuant to §323.A.10, the report must be headed "Maximum Allowable Operating Pressure Exceedances." All reports must provide the following information: [49 CFR 191.25(c)]

1. name and principal address of operator; [49 CFR 191.25(c)(1)]
2. date of report; [49 CFR 191.25(c)(2)]
3. name, job title, and business telephone number of person submitting the report; [49 CFR 191.25(c)(3)]
4. name, job title, and business telephone number of person who determined that the condition exists; [49 CFR 191.25(c)(4)]
5. date condition was discovered and date condition was first determined to exist; [49 CFR 191.25(c)(5)]
6. location of condition, with reference to the state (and town, city, or parish) or offshore site, and as appropriate, nearest street address, offshore platform, survey station number, milepost, landmark, or name of pipeline; [49 CFR 191.25(c)(6)]
7. description of the condition, including circumstances leading to its discovery, any significant effects of the condition on safety, and the name of the commodity transported or stored; [49 CFR 191.25(c)(7)]
8. the corrective action taken (including reduction of pressure or shutdown) before the report is submitted and the planned follow-up or future corrective action, including the anticipated schedule for starting and concluding such action. [49 CFR 191.25(c)(8)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1223 (June 2004), amended LR 35:2800 (December 2009), LR 44:1033 (June 2018), LR 46:1576 (November 2020).

Subpart 3. Transportation of Natural Gas or Other Gas by Pipeline: Minimum Safety Standards [49 CFR Part 192]

Chapter 5. General [Subpart A]

§503. Definitions

[49 CFR 192.3]

A. As used in this Part:

* * *

Engineering Critical Assessment (ECA)—a documented analytical procedure based on fracture mechanics principles, relevant material properties (mechanical and fracture

resistance properties), operating history, operational environment, in-service degradation, possible failure mechanisms, initial and final defect sizes, and usage of future operating and maintenance procedures to determine the maximum tolerable sizes for imperfections based upon the pipeline segment maximum allowable operating pressure.

* * *

Moderate Consequence Area—

a. an onshore area that is within a potential impact circle, as defined in § 3303, containing either:

i. five or more buildings intended for human occupancy; or

ii. any portion of the paved surface, including shoulders, of a designated interstate, other freeway, or expressway, as well as any other principal arterial roadway with 4 or more lanes, as defined in the Federal Highway Administration's Highway Functional Classification Concepts, Criteria and Procedures, Section 3.1 of the 2013 Edition (see: https://www.fhwa.dot.gov/planning/processes/statewide/related/highway_functional_classifications/fcauab.pdf), and that does not meet the definition of high consequence area, as defined in §3303;

b. the length of the moderate consequence area extends axially along the length of the pipeline from the outermost edge of the first potential impact circle containing either five or more buildings intended for human occupancy; or any portion of the paved surface, including shoulders, of any designated interstate, freeway, or expressway, as well as any other principal arterial roadway with 4 or more lanes, to the outermost edge of the last contiguous potential impact circle that contains either five or more buildings intended for human occupancy, or any portion of the paved surface, including shoulders, of any designated interstate, freeway, or expressway, as well as any other principal arterial roadway with four or more lanes.

* * *

Underground Natural Gas Storage Facility (UNGSF)—

a gas pipeline facility that stores natural gas underground incidental to the transportation of natural gas, including:

a. a depleted hydrocarbon reservoir;

b. an aquifer reservoir; or

c. a solution-mined salt cavern

d. In addition to the reservoir or cavern, a UNGSF includes injection, withdrawal, monitoring, and observation wells; wellbores and downhole components; wellheads and associated wellhead piping; wing-valve assemblies that isolate the wellhead from connected piping beyond the wing-valve assemblies; and any other equipment, facility, right-of-way, or building used in the underground storage of natural gas.

* * *

Weak Link—a device or method used when pulling polyethylene pipe, typically through methods such as horizontal directional drilling, to ensure that damage will not occur to the pipeline by exceeding the maximum tensile stresses allowed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1224 (June 2004), amended LR 31:679 (March 2005), LR 33:474 (March

2007), LR 35:2800 (December 2009), LR 38:112 (January 2012), LR 44:1033 (June 2018), LR 45:68 (January 2019), LR 46:1577 (November 2020).

§505. Class Locations
[49 CFR 192.5]

A. - C.2. ...

D. An operator must have records that document the current class location of each gas transmission pipeline segment and that demonstrate how the operator determined each current class location in accordance with this Section. [49 CFR 192.5(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:219 (April 1983), amended LR 10:511 (July 1984), LR 20:443 (April 1994), LR 24:1307 (July 1998), LR 27:1537 (September 2001), LR 30:1226 (June 2004), LR 46:1578 (November 2020).

§507. What Documents are Incorporated by Reference Partly or Wholly in this Part?
[49 CFR 192.7]

A. - A.1.a. ...

b. the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fedreg.legal@nara.gov or go to www.archives.gov/federal-register/cfr/ibr-locations.html.

A.1.c. - B.11. ...

Source and Name of Referenced Material	Approved for Title 43 Reference
B. - B.11. ...	
12. API STANDARD 1163, "In-Line Inspection Systems Qualification," Second edition, April 2013, Reaffirmed August 2018, (API STD 1163).	§2145
C. - C.1. ...	
2. ASME/ANSI B16.5 - 2003, "Pipe Flanges and Flanged Fittings," October 2004, (ASME/ANSI B16.5).	§§ 1107.A; 1509; 2707
3. ASME B16.40-2008, "Manually Operated Thermoplastic Gas Shutoffs and Valves in Gas Distribution Systems," March 18, 2008, approved by ANSI, (ASME B16.40- 2008).	§5103, Item 1
3. ...	
4. ASME/ANSI B31G - 1991 (Reaffirmed 2004), "Manual for Determining the Remaining Strength of Corroded Pipelines," 2004, (ASME/ANSI B31G)., IBR approved for §§ 2137.C, 2732.A, 2912.B, and 3333.A.	§§ 2137.C; 2732.A; 2912; 3333
5. - 10. ...	
D. American Society for Nondestructive Testing (ASNT), P.O. Box 28518, 1711 Arlington Lane, Columbus, OH 43228, phone: 800-222-2768, website: https://www.asnt.org/ .	
1. ANSI/ASNT ILI - PQ - 2005(2010), "In-line Inspection Personnel Qualification and Certification," Reapproved October 11, 2010, (ANSI/ASNT ILI - PQ)	§§913; 5103 Item I
2. [Reserved]	
3 - 15. Repealed.	
E. American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428, phone: (610) 832-9585, Web site: http://www.astm.org/ .	
1. ASTM A53/A53M-10, "Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless," approved October 1, 2010, (ASTM A53/A53M)	§§913; 5103 Item I

Source and Name of Referenced Material	Approved for Title 43 Reference
2. ASTM A106/A106M-10, "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service," approved October 1, 2010, (ASTM A106/A106M)	§§913; 5103 Item I
3. ASTM A333/A333M-11, "Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service," approved April 1, 2011, (ASTM A333/A333M)	§§913; 5103 Item I
4. ASTM A372/A372M-10, "Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels," approved October 1, 2010, (ASTM A372/A372M)	§1137.B
5. ASTM A381-96 (reapproved 2005), "Standard Specification for Metal-Arc Welded Steel Pipe for Use with High-Pressure Transmission Systems," approved October 1, 2005, (ASTM A381)	§§ 913; 5103 Item I
6. ASTM A578/A578M-96 (reapproved 2001), "Standard Specification for Straight-Beam Ultrasonic Examination of Plain and Clad Steel Plates for Special Applications," (ASTM A578/A578M)	§ 912.C
7. ASTM A671/A671M-10, "Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures," approved April 1, 2010, (ASTM A671/A671M)	§§ 913; 5103 Item I
8. ASTM A672/A672M-09, "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures," approved October 1, 2009, (ASTM A672/672M)	§§ 913; 5103 Item I
9. ASTM A691/A691M-09, "Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High-Pressure Service at High Temperatures," approved October 1, 2009, (ASTM A691/A691M)	§§ 913; 5103 Item I
10. ASTM D638-03, "Standard Test Method for Tensile Properties of Plastics," 2003, (ASTM D638)	§§ 1513.A; 1513.B
11. ASTM D2513-12ae1, "Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fittings," April 1, 2012, (ASTM D2513-12ae1).	§5103, Item 1
12. ASTM D2517-00, "Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings," (ASTM D 2517).	§§ 1151.A; 1511.D; 1513.A; 5103 Item I
13. ASTM D2564-12, "Standard Specification for Solvent Cements for Poly (Vinyl Chloride) (PVC) Plastic Piping Systems," Aug. 1, 2012, (ASTM D2564-12).	§ 1511.B.2
14. ASTM F1055-98 (Reapproved 2006), "Standard Specification for Electrofusion Type Polyethylene Fittings for Outside Diameter Controlled Polyethylene Pipe and Tubing," March 1, 2006, (ASTM F1055-98 (2006)).	§§ 1513.A; 5103 Item I
15. ASTM F1924-12, "Standard Specification for Plastic Mechanical Fittings for Use on Outside Diameter Controlled Polyethylene Gas Distribution Pipe and Tubing," April 1, 2012, (ASTM F1924-12).	§ 5103 Item I
16. ASTM F1948-12, "Standard Specification for Metallic Mechanical Fittings for Use on Outside Diameter Controlled Thermoplastic Gas Distribution Pipe and Tubing," April 1, 2012, (ASTM F1948-12).	§ 5103 Item I
17. ASTM F1973-13, "Standard Specification for Factory Assembled Anodeless Risers and Transition Fittings in Polyethylene (PE) and Polyamide 11 (PA11) and Polyamide 12 (PA12) Fuel Gas Distribution Systems," May 1, 2013, (ASTM F1973-13)	§§ 1164.B; 5103 Item I

Source and Name of Referenced Material	Approved for Title 43 Reference
18. ASTM F2145-13, "Standard Specification for Polyamide 11 (PA 11) and Polyamide 12 (PA12) Mechanical Fittings for Use on Outside Diameter Controlled Polyamide 11 and Polyamide 12 Pipe and Tubing," May 1, 2013, (ASTM F2145-13)	§ 5103 Item I
19. ASTM F 2600-09, "Standard Specification for Electrofusion Type Polyamide-11 Fittings for Outside Diameter Controlled Polyamide-11 Pipe and Tubing," April 1, 2009, (ASTM F 2600-09)	§ 5103 Item I
20. ASTM F2620-12, "Standard Practice for Heat Fusion Joining of Polyethylene Pipe and Fittings," Aug. 1, 2012, (ASTM F2620-12)	§§ 1511.C; 1515.B.2.a
21. ASTM F2767-12, "Specification for Electrofusion Type Polyamide-12 Fittings for Outside Diameter Controlled Polyamide-12 Pipe and Tubing for Gas Distribution," Oct. 15, 2012, (ASTM F2767-12)	§ 5103 Item I
22. ASTM F2785-12, "Standard Specification for Polyamide 12 Gas Pressure Pipe, Tubing, and Fittings," Aug. 1, 2012, (ASTM F2785-12)	§ 5103 Item I
23. ASTM F2817-10, "Standard Specification for Poly (Vinyl Chloride) (PVC) Gas Pressure Pipe and Fittings for Maintenance or Repair," Feb. 1, 2010, (ASTM F2817-10)	§ 5103 Item I
24. ASTM F2945-12a "Standard Specification for Polyamide 11 Gas Pressure Pipe, Tubing, and Fittings," Nov. 27, 2012, (ASTM F2945-12a)	§ 5103 Item I
F. Gas Technology Institute (GTI), formerly the Gas Research Institute (GRI), 1700 S. Mount Prospect Road, Des Plaines, IL 60018, phone: 847-768-0500, Web site: www.gastechnology.org.	
1. GRI 02/0057 (2002) "Internal Corrosion Direct Assessment of Gas Transmission Pipelines Methodology"	§ 3327.C
2. [Reserved]	
G. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park St. NE., Vienna, VA 22180, phone: 703-281-6613, Web site: http://www.mss-hq.org/.	
1. MSS SP-44-2010, Standard Practice, "Steel Pipeline Flanges," 2010 edition, (including Errata (May 20, 2011)), (MSS SP-44).	§ 1107.A
2. [Reserved]	
H. NACE International (NACE), 1440 South Creek Drive, Houston, TX 77084: phone: 281-228-6223 or 800-797-6223, Web site: http://www.nace.org/Publications/.	
1. ANSI/NACE SP0502-2010, Standard Practice, "Pipeline External Corrosion Direct Assessment Methodology," revised June 24, 2010, (NACE SP0502).	§§ 3323.B; 3325.B; 3331.D; 3335.B; 3339.A
2. NACE Standard Practice 0102 - 2010, "In-Line Inspection of Pipelines," Revised 2010 - 03 - 13, (NACE SP0102).	§§ 1110.A; 2145
I. National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, Massachusetts 02169, phone: 1 617 984-7275, Web site: http://www.nfpa.org/.	
1. NFPA-30 (2012), "Flammable and Combustible Liquids Code," 2012 edition, June 20, 2011, including Errata 30-12-1 (September 27, 2011) and Errata 30-12-2 (November 14, 2011), (NFPA-30).	§2935.B
2. NFPA-58 (2004), "Liquefied Petroleum Gas Code (LP-Gas Code)," (NFPA-58).	§§ 511.A; 511.B; 511.C
3. NFPA-59 (2004), "Utility LP-Gas Plant Code," (NFPA-59).	§§ 511.A; 511.B; 511.C
4. NFPA-70 (2011), "National Electrical Code," 2011 edition, issued August 5, 2010, (NFPA-70).	§§ 1123.E; 1149.C

Source and Name of Referenced Material	Approved for Title 43 Reference
J. Pipeline Research Council International, Inc. (PRCI), c/o Technical Toolboxes, 3801 Kirby Drive, Suite 520, P.O. Box 980550, Houston, TX 77098, phone: 713-630-0505, toll free: 866-866-6766, Web site: http://www.ttoolbox.com/. (Contract number PR-3-805.)	
1. AGA, Pipeline Research Committee Project, PR-3-805, "A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe," (December 22, 1989), (PRCI PR-3-805 (R-STRENG)).	§§ 2732.A; 2912.B; 3333.A; 3333.D
2. [Reserved]	
K. Plastics Pipe Institute, Inc. (PPI), 105 Decker Court, Suite 825 Irving TX 75062, phone: 469-499-1044, http://www.plasticpipe.org/.	
1. PPI TR-3/2012, HDB/HDS/PDB/SDB/MRS/CRS, Policies, "Policies and Procedures for Developing Hydrostatic Design Basis (HDB), Hydrostatic Design Stresses (HDS), Pressure Design Basis (PDB), Strength Design Basis (SDB), Minimum Required Strength (MRS) Ratings, and Categorized Required Strength (CRS) for Thermoplastic Piping Materials or Pipe," updated November 2012, (PPI TR-3/2012)	§ 921
2. PPI TR-4, HDB/HDS/SDB/MRS, Listed Materials, "PPI Listing of Hydrostatic Design Basis (HDB), Hydrostatic Design Stress (HDS), Strength Design Basis (SDB), Pressure Design Basis (PDB) and Minimum Required Strength (MRS) Rating For Thermoplastic Piping Materials or Pipe," updated March, 2011, (PPI TR-4/2012)	§ 921

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1226 (June 2004), amended LR 31:680 (March 2005), LR 33:474 (March 2007), LR 35:2801 (December 2009), LR 38:113 (January 2012), LR 44:1033 (June 2018), LR 46:1578 (November 2020).

§509. What Requirements Apply to Gathering Lines?
[49 CFR 192.9]

A. ...

B. Offshore Lines. An operator of an offshore gathering line must comply with requirements of this part applicable to transmission lines, except the requirements in §§1110, 1515.E, 2145, 2306, 2707, 2719.E, 2724, 2910, 2912, and Chapter 33 of this Subpart. [49 CFR 192.9(b)].

C. Type A Lines. An operator of a Type A regulated onshore gathering line must comply with the requirements of this part applicable to transmission lines, except the requirements in §§1110, 1515.E, 2145, 2306, 2707, 2719.E, 2724, 2910 2912, and in Chapter 33 of this Subpart. However, operators of Type A regulated onshore gathering lines in a Class 2 location may demonstrate compliance with Chapter 31 by describing the processes it uses to determine the qualification of persons performing operations and maintenance tasks. [49 CFR 192.9(c)].

D. ...

1. if a line is new, replaced, relocated, or otherwise changed, the design, installation, construction, initial inspection, and initial testing must be in accordance with requirements of this Part applicable to transmission lines except the requirements in §§717, 927, 1165, 1307.C, 1515.E, and 2305; [49 CFR 192.9(d)(1)];

2. if the pipeline is metallic, control corrosion according to requirements of Chapter 21 of this Part

applicable to transmission lines except the requirements in §2145; [49 CFR 192.9(d)(2)];

3. if the pipeline contains plastic pipe or components, the operator must comply with all applicable requirements of this part for plastic pipe components; [49 CFR 192.9(d)(3)];

4. carry out a damage prevention program under §2714; [49 CFR 192.9(d)(4)];

5. establish a public education program under §2716; [49 CFR 192.9(d)(5)];

6. establish the MAOP of the line under §2719.A,B and C. [49 CFR 192.9(d)(6)];

7. install and maintain line markers according to the requirements for transmission lines in §2907; and [49 CFR 192.9(d)(7)];

8. conduct leakage surveys in accordance with the requirements for transmission lines in §2906 using leak detection equipment and promptly repair hazardous leaks in accordance with §2903(c). [49 CFR 192.9(d)(8)]

E. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:220 (April 1983), amended LR 10:511 (July 1984), LR 20:443 (April 1994), LR 21:821 (August 1995), LR 24:1307 (July 1998), LR 30:1227 (June 2004), LR 31:681 (March 2005), LR 33:477 (March 2007), LR 44:1035 (June 2018), LR 46:1579 (November 2020).

§512. Underground Natural Gas Storage Facilities [49 CFR 192.12]

A. Underground natural gas storage facilities (UNGSFs), as defined in §503, are not subject to any requirements of this Part aside from this Section.

1. Salt Cavern UNGSFs [49 CFR 192.12(a)]

a. Each UNGSF that uses a solution-mined salt cavern for natural gas storage and was constructed after March 13, 2020, must meet all the provisions of API RP 1170 (incorporated by reference, see §507), the provisions of section 8 of API RP 1171 (incorporated by reference, see §507) that are applicable to the physical characteristics and operations of a solution-mined salt cavern UNGSF, and Paragraphs A.3 and A.4 of this Section prior to commencing operations. [49 CFR 192.12(a)(1)]

b. Each UNGSF that uses a solution-mined salt cavern for natural gas storage and was constructed between July 18, 2017, and March 13, 2020, must meet all the provisions of API RP 1170 (incorporated by reference, see §507) and Paragraph A.3 of this Section prior to commencing operations, and must meet all the provisions of section 8 of API RP 1171 (incorporated by reference, see §507) that are applicable to the physical characteristics and operations of a solution-mined salt cavern UNGSF, and Paragraph A.4 of this Section, by March 13, 2021. [49 CFR 192.12(a)(2)]

c. Each UNGSF that uses a solution-mined salt cavern for natural gas storage and was constructed on or before July 18, 2017, must meet the provisions of API RP 1170 (incorporated by reference, see §507), sections 9, 10, and 11, and Paragraph A.3 of this Section, by January 18, 2018, and must meet all provisions of section 8 of API RP 1171 (incorporated by reference, see §507) that are applicable to the physical characteristics and operations of a solution-mined salt cavern UNGSF, and Paragraph A.4 of this Section, by March 13, 2021. [49 CFR 192.12(a)(3)]

2. Depleted Hydrocarbon and Aquifer Reservoir UNGSFs [49 CFR 192.12(b)]

a. Each UNGSF that uses a depleted hydrocarbon reservoir or an aquifer reservoir for natural gas storage and was constructed after July 18, 2017, must meet all provisions of API RP 1171 (incorporated by reference, see §507), and Paragraphs A.3 and A.4 of this Section, prior to commencing operations. [49 CFR 192.12(b)(1)]

b. Each UNGSF that uses a depleted hydrocarbon reservoir or an aquifer reservoir for natural gas storage and was constructed on or before July 18, 2017, must meet the provisions of API RP 1171 (incorporated by reference, see §507), sections 8, 9, 10, and 11, and Paragraph A.3 of this Section, by January 18, 2018, and must meet all provisions of Paragraph A.4 of this Section by March 13, 2021. [49 CFR 192.12(b)(2)]

3. Procedural Manuals. Each operator of a UNGSF must prepare and follow for each facility one or more manuals of written procedures for conducting operations, maintenance, and emergency preparedness and response activities under Paragraphs A.1 and A.2 of this Section. Each operator must keep records necessary to administer such procedures and review and update these manuals at intervals not exceeding 15 months, but at least once each calendar year. Each operator must keep the appropriate parts of these manuals accessible at locations where UNGSF work is being performed. Each operator must have written procedures in place before commencing operations or beginning an activity not yet implemented. [49 CFR 192.12(c)]

4. Integrity Management Program [49 CFR 192.12(d)]

a. Integrity Management Program Elements. The integrity management program for each UNGSF under this Paragraph A.4 must consist, at a minimum, of a framework developed under API RP 1171 (incorporated by reference, see §507), section 8 ("Risk Management for Gas Storage Operations"), and that also describes how relevant decisions will be made and by whom. An operator must make continual improvements to the program and its execution. The integrity management program must include the following elements: [49 CFR 192.12(d)(1)]

i. a plan for developing and implementing each program element to meet the requirements of this Section; [49 CFR 192.12(d)(1)(i)]

ii. an outline of the procedures to be developed; [49 CFR 192.12(d)(1)(ii)]

iii. the roles and responsibilities of UNGSF staff assigned to develop and implement the procedures required by this Paragraph A.4; [49 CFR 192.12(d)(1)(iii)]

iv. a plan for how staff will be trained in awareness and application of the procedures required by this Paragraph A.4; [49 CFR 192.12(d)(1)(iv)]

v. timelines for implementing each program element, including the risk analysis and baseline risk assessments; and [49 CFR 192.12(d)(1)(v)]

vi. a plan for how to incorporate information gained from experience into the integrity management program on a continuous basis. [49 CFR 192.12(d)(1)(vi)]

b. Integrity Management Baseline Risk-Assessment Intervals. No later than March 13, 2024, each UNGSF operator must complete the baseline risk assessments of all reservoirs and caverns, and at least 40 percent of the baseline risk assessments for each of its UNGSF wells (including

wellhead assemblies), beginning with the highest-risk wells, as identified by the risk analysis process. No later than March 13, 2027, an operator must complete baseline risk assessments on all its wells (including wellhead assemblies). Operators may use prior risk assessments for a well as a baseline (or part of the baseline) risk assessment in implementing its initial integrity management program, so long as the prior assessments meet the requirements of API RP 1171 (incorporated by reference, see §507), section 8, and continue to be relevant and valid for the current operating and environmental conditions. When evaluating prior risk-assessment results, operators must account for the growth and effects of indicated defects since the time the assessment was performed. 49 CFR 192.12(d)(2)]

c. Integrity Management Re-Assessment Intervals. The operator must determine the appropriate interval for risk assessments under API RP 1171 (incorporated by reference, see §507), subsection 8.7.1, and this Paragraph A.4 for each reservoir, cavern, and well, using the results from earlier assessments and updated risk analyses. The re-assessment interval for each reservoir, cavern, and well must not exceed seven years from the date of the baseline assessment for each reservoir, cavern, and well. 49 CFR 192.12(d)(3)]

d. Integrity Management Procedures and Recordkeeping. Each UNGSF operator must establish and follow written procedures to carry out its integrity management program under API RP 1171 (incorporated by reference, see §507), section 8 ("Risk Management for Gas Storage Operations"), and this Paragraph A.4. The operator must also maintain, for the useful life of the UNGSF, records that demonstrate compliance with the requirements of this Paragraph A.4. This includes records developed and used in support of any identification, calculation, amendment, modification, justification, deviation, and determination made, and any action taken to implement and evaluate any integrity management program element. 49 CFR 192.12(d)(4)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 45:69 (January 2019), amended LR 46:1580 (November 2020).

§518. How to Notify PHMSA **[49 CFR 192.18]**

A. An operator must provide any notification required by this Section by: [49 CFR 192.18(a)]

1. sending the notification by electronic mail to InformationResourcesManager@dot.gov; or [49 CFR 192.18(a)(1)]

2. sending the notification by mail to ATTN: Information Resources Manager, DOT/PHMSA/OPS, East Building, 2nd Floor, E22 - 321, 1200 New Jersey Ave. SE, Washington, DC 20590. [49 CFR 192.18(a)(2)]

B. For intrastate facilities subject to the jurisdiction of the Office of Conservation, a copy must also be submitted to Office of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275 or by electronic mail to PipelineInspectors@la.gov. [49 CFR 192.18(b)]

C. Unless otherwise specified, if the notification is made pursuant to §2305.B, §2707.E.4, §2707.E.5, §2724.C.2.c, §2724.C.6, §2732.B.3, §2910.C.7, §2912.D.3.d, §2912.E.2.i.e, §3321.A.7, or §3337.C.7 to use a different integrity assessment method, analytical method, sampling

approach, or technique (i.e., "other technology") that differs from that prescribed in those Sections, the operator must notify PHMSA at least 90 days in advance of using the other technology. An operator may proceed to use the other technology 91 days after submittal of the notification unless it receives a letter from the Associate Administrator for Pipeline Safety informing the operator that PHMSA objects to the proposed use of other technology or that PHMSA requires additional time to conduct its review. [49 CFR 192.18(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:1581 (November 2020).

Chapter 7. Materials **[49 CFR Part 192 Subpart B]**

§709. Plastic Pipe **[49 CFR 192.59]**

A. ...

1. it is manufactured in accordance with a listed specification; [49 CFR 192.59(a)(1)]

2. it is resistant to chemicals with which contact may be anticipated; and [49 CFR 192.59(a)(2)]

3. it is free of visible defects. [49 CFR 192.59(a)(3)]

B. - B.2. ...

3. it has been used only in gas service; [49 CFR 192.59(b)(3)]

B.4. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:221 (April 1983), amended LR 10:512 (July 1984), LR 30:1229 (June 2004), LR 44:1035 (June 2018), LR 46:1581 (November 2020).

§713. Marking of Materials **[49 CFR 192.63]**

A. Except as provided in Subsection D and E of this Section each valve, fitting, length of pipe, and other component must be marked as prescribed in the specification or standard to which it was manufactured. [49 CFR 192.63(a)]

B. - D.2. ...

E. All plastic pipe and components must also meet the following requirements. [49 CFR 192.63(e)]

1. All markings on plastic pipe prescribed in the listed specification and the requirements of Paragraph E.2 of this Section must be repeated at intervals not exceeding two feet. [49 CFR 192.63(e)(1)]

2. Plastic pipe and components manufactured after December 31, 2019 must be marked in accordance with the listed specification. [49 CFR 192.63(e)(2)]

3. All physical markings on plastic pipelines prescribed in the listed specification and Paragraph E.2 of this Section must be legible until the time of installation. [49 CFR 192.63(e)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:221 (April 1983), amended LR 10:512 (July 1984), LR 18:854 (August 1992), LR 20:443 (April 1994), LR 24:1308 (July 1998), LR 30:1229 (June 2004), LR 38:114 (January 2012), LR 44:1036 (June 2018), LR 46:1581 (November 2020).

§717. Records: Material Properties
[49 CFR 192.67]

A. For steel transmission pipelines installed after July 1, 2020, an operator must collect or make, and retain for the life of the pipeline, records that document the physical characteristics of the pipeline, including diameter, yield strength, ultimate tensile strength, wall thickness, seam type, and chemical composition of materials for pipe in accordance with §§703 and 705. Records must include tests, inspections, and attributes required by the manufacturing specifications applicable at the time the pipe was manufactured or installed. [49 CFR 192.67(a)]

B. For steel transmission pipelines installed on or before July 1, 2020, if operators have records that document tests, inspections, and attributes required by the manufacturing specifications applicable at the time the pipe was manufactured or installed, including diameter, yield strength, ultimate tensile strength, wall thickness, seam type, and chemical composition in accordance with §§703 and 705, operators must retain such records for the life of the pipeline. [49 CFR 192.67(b)]

C. For steel transmission pipeline segments installed on or before July 1, 2020, if an operator does not have records necessary to establish the MAOP of a pipeline segment, the operator may be subject to the requirements of §2724 according to the terms of that Section. [49 CFR 192.67(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:1582 (November 2020).

§719. Storage and Handling of Plastic Pipe and Associated Components
[49 CFR 192.69]

A. Each operator must have and follow written procedures for the storage and handling of plastic pipe and associated components that meet the applicable listed specifications. [49 CFR 192.69(a)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:01582 (November 2020).

Chapter 9. Pipe Design [49 CFR Part 192 Subpart C]
§921. Design of Plastic Pipe [49 CFR 192.121]

A. Design Formula. Design formulas for plastic pipe are determined in accordance with either of the following formulas.

$$P = 2S \frac{t}{D - t} (DF)$$

$$P = \frac{2S}{(SDR - 1)} (DF)$$

where:

P = Design pressure, gauge, psig (kPa)

S = For thermoplastic pipe, the HDB is determined in accordance with the listed specification at a temperature equal to 73 °F (23°C), 100°F (38°C), 120°F (49°C), or 140°F (60°C). In the absence of an HDB established at the specified temperature, the HDB of a higher temperature may be used in determining a design pressure rating at the specified temperature by arithmetic interpolation using the procedure in Part D.2 of PPI TR-3/2012, HDB/PDB/SDB/MRS

Policies”, (incorporated by reference, see §507). For reinforced thermosetting plastic pipe, 11,000 psig (75,842 kPa).

t = Specified wall thickness, in. (mm)

D = Specified outside diameter, in (mm)

SDR = Standard dimension ratio, the ratio of the average specified outside diameter to the minimum specified wall thickness, corresponding to a value from a common numbering system that was derived from the American National Standards Institute preferred number series 10.

DF = Design Factor, a maximum of 0.32 unless otherwise specified for a particular material in this section. [49 CFR 192.121(a)]

B. General Requirements for Plastic Pipe and Components [49 CFR 192.121(b)]

1. Except as provided in Subsections C through F of this Section, the design pressure for plastic pipe may not exceed a gauge pressure of 100 psig (689 kPa) for pipe used in: [49 CFR 192.121(b)(1)]

a. distribution systems; or [49 CFR 192.121(b)(1)(i)]

b. transmission lines in Class 3 and 4 locations [49 CFR 192.121(b)(1)(ii)]

2. Plastic pipe may not be used where operating temperatures of the pipe will be: [49 CFR 192.121(b)(2)]

a. below -20°F (-29°C), or -40°F (-40°C) if all pipe and pipeline components whose operating temperature will be below -20°F (-29°C) have a temperature rating by the manufacturer consistent with that operating temperature; or [49 CFR 192.121(b)(2)(i)]

b. above the temperature at which HDB used in the design formula under this Section is determined. [49 CFR 192.121(b)(2)(ii)]

3. Unless specified for a particular material in this Section, the wall thickness for thermoplastic pipe may not be less than 0.062 in. (1.57 millimeters). [49 CFR 192.121(b)(3)]

4. All plastic pipe must have a listed HDB in accordance with PPI TR-4/2012). (incorporated by reference, see §507) [49 CFR 192.121(b)(4)]

C. Polyethylene (PE) Pipe Requirements [49 CFR 192.121(c)]

1. For PE pipe produced after July 14, 2004, but before January 22, 2019, a design pressure of up to 125 psig may be used, provided: [49 CFR 192.121(c)(1)]

a. The material designation code is PE2406 or PE3408. [49 CFR 192.121(c)(1)(i)]

b. The pipe has a nominal size (Iron Pipe Size (IPS) or Copper Tubing Size (CTS)) of 12 inches or less (above nominal pipe size of 12 inches, the design pressure is limited to 100 psig); and [49 CFR 192.121(c)(1)(ii)]

c. The wall thickness is not less than 0.062 inches (1.57 millimeters). [49 CFR 192.121(c)(1)(iii)]

2. For PE pipe produced after January 22, 2019, a DF of 0.40 may be used in the design formula, provided: [49 CFR 192.121(c)(2)]

a. the design pressure does not exceed 125 psig; [49 CFR 192.121(c)(2)(i)]

b. the material designation code is PE2708 or PE4710; [49 CFR 192.121(c)(2)(ii)]

c. the pipe has a nominal size (IPS or CTS) of 12 inches or less; and [49 CFR 192.121(c)(2)(iii)]

d. the wall thickness for a given outside diameter is not less than that listed in the following table: [49 CFR 192.121(c)(2)(iv)]

PE Pipe: Minimum Wall Thickness and SDR Values		
Pipe Size (inches)	Minimum Wall Thickness	Corresponding SDR (values)
1/2" CTS	0.090	7
3/4" CTS	0.090	9.7
1/2" IPS	0.090	9.3
3/4" IPS	0.095	11
1" CTS	0.119	11
1" IPS	0.119	11
1 1/4" IPS	0.151	11
1 1/2" IPS	0.173	11
2"	0.216	11
3"	0.259	13.5
4"	0.265	17
6"	0.315	21
8"	0.411	21
10"	0.512	21
12"	0.607	21

D. Polyamide (PA-11) Pipe Requirements [49 CFR 192.121(d)]

1. For PA-11 pipe produced after January 23, 2009, but before January 22, 2019, a DF of 0.40 may be used in the design formula, provided: [49 CFR 192.121(d)(1)]

a. the design pressure does not exceed 200 psig; [49 CFR 192.121(d)(1)(i)]

b. the material designation code is PA32312 or PA32316; [49 CFR 192.121(d)(1)(ii)]

c. the pipe has a nominal size (IPS or CTS) of 4 inches or less; and [49 CFR 192.121(d)(1)(iii)]

d. the pipe has a standard dimension ratio of SDR-11 or less (i.e., thicker wall pipe). [49 CFR 192.121(d)(1)(iv)]

2. For PA-11 pipe produced on or after January 22, 2019, a DF of 0.40 may be used in the design formula, provided: [49 CFR 192.121(d)(2)]

a. the design pressure does not exceed 250 psig; [49 CFR 192.121(d)(2)(i)]

b. the material designation code is PA32316; [49 CFR 192.121(d)(2)(ii)]

c. the pipe has a nominal size (IPS or CTS) of 6 inches or less; and [49 CFR 192.121(d)(2)(iii)]

d. the minimum wall thickness for a given outside diameter is not less than that listed in the following table. [49 CFR 192.121(d)(2)(iv)]

PE Pipe: Minimum Wall Thickness and SDR Values		
Pipe Size (inches)	Minimum Wall Thickness	Corresponding SDR (values)
1/2" CTS	0.090	7.0
3/4" CTS	0.090	9.7
1/2" IPS	0.090	9.3
3/4" IPS	0.095	11
1" CTS	0.119	11
1" IPS	0.119	11
1 1/4" IPS	0.151	11
1 1/2" IPS	0.173	11
2" IPS	0.216	11

PE Pipe: Minimum Wall Thickness and SDR Values		
Pipe Size (inches)	Minimum Wall Thickness	Corresponding SDR (values)
3" IPS	0.259	13.5
4" IPS	0.333	13.5
6" IPS	0.491	13.5

E. Polyamide (PA-12) Pipe Requirements [49 CFR 192.121(e)]

1. For PA-12 pipe produced after January 22, 2019, a DF of 0.40 may be used in the design formula, provided: [49 CFR 192.121(e)(1)]

a. the design pressure does not exceed 250 psig; [49 CFR 192.121(e)(1)(i)]

b. the material designation code is PA42316; [49 CFR 192.121(e)(1)(ii)]

c. the pipe has a nominal size (IPS or CTS) of 6 inches or less; and [49 CFR 192.121(e)(1)(iii)]

d. the minimum wall thickness for a given outside diameter is not less than that listed in the following table. [49 CFR 192.121(e)(1)(iv)]

PE Pipe: Minimum Wall Thickness and SDR Values		
Pipe Size (inches)	Minimum Wall Thickness	Corresponding SDR (values)
1/2" CTS	0.090	7
3/4" CTS	0.090	9.7
1/2" IPS	0.090	9.3
3/4" IPS	0.095	11
1" CTS	0.119	11
1" IPS	0.119	11
1 1/4" IPS	0.151	11
1 1/2" IPS	0.173	11
2" IPS	0.216	11
3" IPS	0.259	13.5
4" IPS	0.333	13.5
6" IPS	0.491	13.5

F. Reinforced Thermosetting Plastic Pipe Requirements [49 CFR 192.121(f)]

1. Reinforced thermosetting plastic pipe may not be used at operating temperatures above 150 °F (66 °C). [49 CFR 192.121(f)(1)]

2. The wall thickness for reinforced thermosetting plastic pipe may not be less than that listed in the following table. [49 CFR 192.121(f)(2)]

Nominal Size in Inches (Millimeters)	Minimum Wall Thickness Inches (Millimeters)
2 (51)	0.060 (1.52)
3 (76)	0.060 (1.52)
4 (102)	0.070 (1.78)
6 (152)	0.100 (2.54)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:222 (April 1983), amended LR 10:515 (July 1984), LR 18:855 (August 1992), LR 24:1308 (July 1998), LR 27:1538 (September 2001), LR 30:1231 (June 2004), LR 31:682 (March 2005), LR 33:478 (March 2007), LR 35:2804 (December 2009), LR 38:115 (January 2012), LR 46:1582 (November 2020).

§923. Design Limitations for Plastic Pipe

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:222 (April 1983), amended LR 10:515 (July 1984), LR 24:1308 (July 1998), LR 27:1538 (September 2001), LR 30:1231 (June 2004), LR 31:682 (March 2005), LR 33:478 (March 2007), LR 35:2804 (December 2009), LR 38:115 (January 2012), repromulgated LR 38:828 (March 2012), amended LR 44:1037 (June 2018), repealed LR 46:1583 (November 2020).

§927. Records: Pipe Design
[49 CFR 192.127]

A. For steel transmission pipelines installed after July 1, 2020, an operator must collect or make, and retain for the life of the pipeline, records documenting that the pipe is designed to withstand anticipated external pressures and loads in accordance with §903 and documenting that the determination of design pressure for the pipe is made in accordance with §905 [49 CFR 192.127(a)]

B. For steel transmission pipelines installed on or before July 1, 2020, if operators have records documenting pipe design and the determination of design pressure in accordance with §§903 and 905, operators must retain such records for the life of the pipeline. [49 CFR 192.127(b)]

C. For steel transmission pipeline segments installed on or before July 1, 2020, if an operator does not have records necessary to establish the MAOP of a pipeline segment, the operator may be subject to the requirements of §2724 according to the terms of that Section. [49 CFR 192.127(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:1584 (November 2020).

Chapter 11. Design of Pipeline Components
[49 CFR Part 192 Subpart D]

§1103. General Requirements
[49 CFR 192.143]

A. - B. ...

C. Except for excess flow valves, each plastic pipeline component installed after January 22, 2019 must be able to withstand operating pressures and other anticipated loads in accordance with a listed specification. [49 CFR 192.143(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:223 (April 1983), amended LR 10:515 (July 1984), LR 30:1232 (June 2004), LR 35:2805 (December 2009), LR 46:1584 (November 2020).

§1105. Valves
[49 CFR 192.145]

A. - E. ...

F. Except for excess flow valves, plastic valves installed after January 22, 2019, must meet the minimum requirements of a listed specification. A valve may not be used under operating conditions that exceed the applicable pressure and temperature ratings contained in the listed specification. [49 CFR 192.145(f)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:223 (April 1983), amended LR 10:515 (July 1984), LR 18:855 (August 1992), LR 27:1539 (September 2001), LR 30:1232 (June 2004), LR 31:682

(March 2005), LR 33:479 (March 2007), LR 38:115 (January 2012), LR 44:1037 (June 2018), LR 46:1584 (November 2020).

§1109. Standard Fittings
[49 CFR 192.149]

A. - B. ...

C. Plastic fittings installed after January 22, 2019, must meet a listed specification. [49 CFR 192.149(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:223 (April 1983), amended LR 10:515 (July 1984), LR 30:1233 (June 2004), LR 46:1584 (November 2020).

§1110. Passage of Internal Inspection Devices
[49 CFR 192.150]

A. Except as provided in Subsections B and C of this Section, each new transmission line and each replacement of line pipe, valve, fitting, or other line component in a transmission line, must be designed and constructed to accommodate the passage of instrumented internal inspection devices in accordance with NACE SP0102, section 7 (incorporated by reference, see §507). [49 CFR 192.150(a)].

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 21:821 (August 1995), amended LR 27:1539 (September 2001), LR 30:1233 (June 2004), LR 31:682 (March 2005), LR 33:479 (March 2007), LR 46:1584 (November 2020).

§1151. Design Pressure of Plastic Fittings

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:226 (April 1983), amended LR 10:518 (July 1984), LR 30:1238 (June 2004), LR 38:115 (January 2012), LR 44:1038 (June 2018), repealed LR 46:1584 (November 2020).

§1164. Instrument, Control, and Sampling Pipe and Components
[49 CFR 192.204]

A. Riser designs must be tested to ensure safe performance under anticipated external and internal loads acting on the assembly. [49 CFR 192.204(a)]

B. Factory assembled anodeless risers must be designed and tested in accordance with ASTM F1973-13 (incorporated by reference, see § 507). [49 CFR 192.204(b)]

C. All risers used to connect regulator stations to plastic mains must be rigid and designed to provide adequate support and resist lateral movement. Anodeless risers used in accordance with this Section must have a rigid riser casing. [49 CFR 192.204(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:1584 (November 2020).

§1165. Records: Pipeline components.
[49 CFR 192.205]

A. For steel transmission pipelines installed after July 1, 2020, an operator must collect or make, and retain for the life of the pipeline, records documenting the manufacturing

standard and pressure rating to which each valve was manufactured and tested in accordance with this Subpart. Flanges, fittings, branch connections, extruded outlets, anchor forgings, and other components with material yield strength grades of 42,000 psi (X42) or greater and with nominal diameters of greater than 2 inches must have records documenting the manufacturing specification in effect at the time of manufacture, including yield strength, ultimate tensile strength, and chemical composition of materials. [49 CFR 192.205(a)]

B. For steel transmission pipelines installed on or before July 1, 2020, if operators have records documenting the manufacturing standard and pressure rating for valves, flanges, fittings, branch connections, extruded outlets, anchor forgings, and other components with material yield strength grades of 42,000 psi (X42) or greater and with nominal diameters of greater than 2 inches, operators must retain such records for the life of the pipeline. [49 CFR 192.205(b)]

C. For steel transmission pipeline segments installed on or before July 1, 2020, if an operator does not have records necessary to establish the MAOP of a pipeline segment, the operator may be subject to the requirements of §2724 according to the terms of that Section. [49 CFR 192.205(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:1584 (November 2020).

Chapter 13. Welding of Steel in Pipelines [49 CFR Part 192 Subpart E]

§1307. Qualification of Welders [49 CFR 192.227]

A. - B. ...

C. For steel transmission pipe installed after July 1, 2021, records demonstrating each individual welder qualification at the time of construction in accordance with this Section must be retained for a minimum of five years following construction. [49 CFR 192.227(c)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:229 (April 1983), amended LR 10:521 (July 1984), LR 24:1309 (July 1998), LR 30:1241 (June 2004), LR 31:683 (March 2005), LR 33:479 (March 2007), LR 44:1038 (June 2018), LR 46:1585 (November 2020).

Chapter 15. Joining of Materials Other Than by Welding [49 CFR Part 192 Subpart F]

§1511. Plastic Pipe [49 CFR 192.281]

A. - B.1. ...

2. The solvent cement must conform to ASTM D 2620-12 for PVC (incorporated by reference, see §507) [49 CFR 192.281(b)(2)]

3. The joint may not be heated or cooled to accelerate the setting of the cement. [49 CFR 192.281(b)(3)]

C. Heat-Fusion Joints. Each heat-fusion joint on a PE pipe or component, except for electrofusion joints, must comply with ASTM F2620-12 (incorporated by reference in §507) and the following. [49 CFR 192.281(c)]

1. A butt heat-fusion joint must be joined by a device that holds the heater element square to the ends of the piping

or component, compresses the heated ends together, and holds the pipe in proper alignment in accordance with the appropriate procedure qualified under §1513. [49 CFR 192.281(c)(1)]

2. A socket heat-fusion joint must be joined by a device that heats the mating surfaces of the pipe or component, uniformly and simultaneously to establish the same temperature. The device used must be the same device specified in the operator's joining procedure for socket fusion. [49 CFR 192.281(c)(2)]

3. An electrofusion joint must be made using the equipment and techniques prescribed by the fitting manufacturer, or using equipment and techniques shown, by testing joints to the requirements of §1513.A.1.c, to be at least equivalent to or better than the requirements of the fitting manufacturer. [49 CFR 192.281(c)(3)]

C.4. - E.2. ...

3. All mechanical fittings must meet a listed specification based upon the applicable material. [49 CFR 192.281(e)(3)]

4. All mechanical joints or fittings installed after January 22, 2019, must be Category 1 as defined by a listed specification for the applicable material, providing a seal plus resistance to a force on the pipe joint equal to or greater than that which will cause no less than 25 percent elongation of pipe, or the pipe fails outside the joint area if tested in accordance with the applicable standard. [49 CFR 192.281(e)(4)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:231 (April 1983), amended LR 10:523 (July 1984), LR 20:445 (April 1994), LR 24:1309 (July 1998), LR 30:1243 (June 2004), LR 38:116 (January 2012), LR 44:1039 (June 2018), LR 46:1585 (November 2020).

§1513. Plastic Pipe: Qualifying Joining Procedures [49 CFR 192.283]

A. Heat Fusion, Solvent Cement, and Adhesive Joints. Before any written procedure established under §1503.B is used for making plastic pipe joints by a heat fusion, solvent cement, or adhesive method, the procedure must be qualified by subjecting specimen joints made according to the procedure to the following tests, as applicable: [49 CFR 192.283(a)]

1. the test requirements of: [49 CFR 192.283(a)(1)]

a. in the case of thermoplastic pipe, based on the pipe material, the Sustained Pressure Test or the Minimum Hydrostatic Burst Test per the listed specification requirements. Additionally, for electrofusion joints, based on the pipe material, the Tensile Strength Test or the Joint Integrity Test per the listed specification; [49 CFR 192.283(a)(1)(i)]

b. in the case of thermosetting plastic pipe, paragraph 8.5 (minimum hydrostatic burst pressure) or paragraph 8.9 (sustained static pressure test) of ASTM D2517-00 (incorporated by reference, see §507); or [49 CFR 192.283(a)(1)(ii)]

c. in the case of electrofusion fittings for polyethylene pipe (PE) and tubing, paragraph 9.1 (minimum hydraulic burst pressure test), paragraph 9.2 (sustained pressure test), paragraph 9.3 (tensile strength test), or paragraph 9.4 (joint integrity tests) of ASTM Designation

F1055-98(2006) (incorporated by reference, see §507) [49 CFR 192.283(a)(1)(iii)]

2. for procedures intended for lateral pipe connections, subject a specimen joint made from pipe sections joined at right angles according to the procedure to a force on the lateral pipe until failure occurs in the specimen. If failure initiates outside the joint area, the procedure qualifies for use. [49 CFR 192.283(a)(2)]

3. for procedures intended for non-lateral pipe connections, perform testing in accordance with a listed specification. If the test specimen elongates no more than 25 percent or failure initiates outside the joint area, the procedure qualifies for use. [49 CFR 192.283(a)(3)].

B. Mechanical Joints. Before any written procedure established under §1503.B is used for making mechanical plastic pipe joints, the procedure must be qualified in accordance with a listed specification based upon the pipe material. [49 CFR 192.283(b)]

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:231 (April 1983), amended LR 10:523 (July 1984), LR 20:445 (April 1994), LR 24:1310 (July 1998), LR 27:1541 (September 2001), LR 30:1244 (June 2004), LR 31:683 (March 2005), LR 33:479 (March 2007), LR 38:116 (January 2012), LR 44:1039 (June 2018), LR 46:1585 (November 2020).

§1515. Plastic Pipe: Qualifying Persons to Make Joints **[49 CFR 192.285]**

A. - B.2. ...

a. tested under any one of the test methods listed under §1513.A or for PE heat fusion joints (except for electrofusion joints) visually inspected and tested in accordance with ASTM F2620-12 (incorporated by reference, see §507) applicable to the type of joint and material being tested; [49 CFR 192.285(b)(2)(i)]

B.2.b. - D. ...

E. For transmission pipe installed after July 1, 2021, records demonstrating each person's plastic pipe joining qualifications at the time of construction in accordance with this Section must be retained for a minimum of five years following construction. [49 CFR 192.285(e)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:231 (April 1983), amended LR 10:524 (July 1984), LR 30:1244 (June 2004), LR 33:480 (March 2007), LR 44:1039 (June 2018), LR 46:1586 (November 2020).

Chapter 17. General Construction Requirements for Transmission Lines and Mains **[49 CFR Part 192 Subpart G]**

§1713. Bends and Elbows **[49 CFR 192.313]**

A. - C. ...

D. An operator may not install plastic pipe with a bend radius that is less than the minimum bend radius specified by the manufacturer for the diameter of the pipe being installed. [49 CFR 192.313(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:232 (April 1983), amended LR 10:524 (July 1984), LR 27:1542 (September 2001), LR 30:1246 (June 2004), LR 46:1586 (November 2020).

§1721. Installation of Plastic Pipe **[49 CFR 192.321]**

A. Plastic pipe must be installed below ground level except as provided by Subsections G, H, and I of this Section. [49 CFR 192.321(a)]

B. - C. ...

D. Plastic pipe must have a minimum wall thickness in accordance with §921. [49 CFR 192.321(d)]

E. ...

F. Plastic pipe that is being encased must be inserted into the casing pipe in a manner that will protect the plastic. Plastic pipe that is being encased must be protected from damage at all entrance and all exit points of the casing. The leading end of the plastic must be closed before insertion. [49 CFR 192.321(f)]

G. - H.3. ...

I. Plastic mains may terminate above ground level provided they comply with the following. [49 CFR 192.321(i)]

1. The above-ground level part of the plastic main is protected against deterioration and external damage. [49 CFR 192.367(i)(1)]

2. The plastic main is not used to support external loads. [49 CFR 192.367(i)(2)]

3. Installations of risers at regulator stations must meet the design requirements of §1164. [49 CFR 192.367(i)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:233 (April 1983), amended LR 10:525 (July 1984), LR 24:1310 (July 1998), LR 27:1542 (September 2001), LR 30:1247 (June 2004), LR 31:684 (March 2005), LR 46:1586 (November 2020).

§1725. Installation of Plastic Pipelines By Trenchless Excavation **[49 CFR 192.329]**

A. Plastic pipelines installed by trenchless excavation must comply with the following. [49 CFR 192.329]

1. Each operator must take practicable steps to provide sufficient clearance for installation and maintenance activities from other underground utilities and/or structures at the time of installation. [49 CFR 192.329(a)]

2. For each pipeline section, plastic pipe and components that are pulled through the ground must use a weak link, as defined by § 503, to ensure the pipeline will not be damaged by any excessive forces during the pulling process. [49 CFR 192.329(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:1586 (November 2020).

Chapter 19. Customer Meters, Service Regulators, and Service Lines

[49 CFR Part 192 Subpart H]

§1917. Service Lines: General Requirements for Connections to Main Piping
[49 CFR 192.367]

A. - B.

1. be designed and installed to effectively sustain the longitudinal pullout or thrust forces caused by contraction or expansion of the piping, or by anticipated external or internal loading; [49 CFR 192.367(b)(1)]

2. if gaskets are used in connecting the service line to the main connection fitting, have gaskets that are compatible with the kind of gas in the system; and [49 CFR 192.367(b)(2)]

3. if used on pipelines comprised of plastic, be a Category 1 connection as defined by a listed specification for the applicable material, providing a seal plus resistance to a force on the pipe joint equal to or greater than that which will cause no less than 25 percent elongation of pipe, or the pipe fails outside the joint area if tested in accordance with the applicable standard. [49 CFR 192.367(b)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:234 (April 1983), amended LR 10:526 (July 1984), LR 30:1249 (June 2004), LR 46:1587 (November 2020).

§1925. Service Lines: Plastic
[49 CFR 192.375]

A. - A.2. ...

a. the above ground level part of the plastic service line is protected against deterioration and external damage; [49 CFR 192.375(a)(2)(i)]

b. the plastic service line is not used to support external loads; and [49 CFR 192.375(a)(2)(ii)]

c. the riser portion of the service line meets the design requirements of §1164. [49 CFR 192.375(a)(2)(iii)]

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:234 (April 1983), amended LR 10:527 (July 1984), amended LR 24:1310 (July 1998), LR 30:1250 (June 2004), LR 46:1587 (November 2020).

§1926. Installation of Plastic Service Lines by Trenchless Excavation
[49 CFR 192.376]

A. Plastic service lines installed by trenchless excavation must comply with the following. [49 CFR 192.376]

1. Each operator shall take practicable steps to provide sufficient clearance for installation and maintenance activities from other underground utilities and structures at the time of installation. [49 CFR 192.376(a)]

2. For each pipeline section, plastic pipe and components that are pulled through the ground must use a weak link, as defined by §503, to ensure the pipeline will not be damaged by any excessive forces during the pulling process. [49 CFR 192.376(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:1587 (November 2020).

§1933. Excess Flow Valve Customer Installation
[49 CFR 192.383]

A. ...

* * *

B. Installation Required. An EFV installation must comply with the performance standards in §1931. After April 14, 2017, each operator must install an EFV on any new or replaced service line serving the following types of services before the line is activated: [49 CFR 192.383(b)]

B.1. - D. ...

E. Operator notification of customers concerning EFV installation. Operators must notify customers of their right to request an EFV in the following manner: [49 CFR 192.383(c)]

E.1 - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:1544 (September 2001), amended LR 30:1251 (June 2004), LR 38:116 (January 2012), LR 44:1040 (June 2018), LR 46:1587 (November 2020).

Chapter 21. Requirements for Corrosion Control
[49 CFR Part 192 Subpart I]

§2107. External Corrosion Control: Buried or Submerged Pipelines Installed after July 31, 1971
[49 CFR 192.455]

A. Except as provided in Subsections B, C, F, and G of this Section, each buried or submerged pipeline installed after July 31, 1971, must be protected against external corrosion, including the following. [49 CFR 192.455(a)]

A.1. - F.2. ...

G. Electrically isolated metal alloy fittings installed after January 22, 2019, that do not meet the requirements of Subsection F must be cathodically protected, and must be maintained in accordance with the operator's integrity management plan. [49 CFR 192.455(g)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:235 (April 1983), amended LR 10:527 (July 1984), LR 24:1311 (July 1998), LR 27:1544 (September 2001), LR 30:1252 (June 2004), LR 46:1587 (November 2020).

§2145. In-Line Inspection of Pipelines
[49 CFR 192.493]

A. When conducting in-line inspections of pipelines required by this part, an operator must comply with API STD 1163, ANSI/ASNT ILI-PQ, and NACE SP0102, (incorporated by reference, see §507). Assessments may be conducted using tethered or remotely controlled tools, not explicitly discussed in NACE SP0102, provided they comply with those sections of NACE SP0102 that are applicable. [49 CFR 192.493]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:1587 (November 2020).

Chapter 23. Test Requirements

[49 CFR Part 192 Subpart J]

§2306. Transmission Lines: Spike Hydrostatic Pressure Test [49 CFR 192.506]

A. Spike Test Requirements. Whenever a segment of steel transmission pipeline that is operated at a hoop stress level of 30 percent or more of SMYS is spike tested under this part, the spike hydrostatic pressure test must be conducted in accordance with this Section. [49 CFR 192.506(a)]

1. The test must use water as the test medium. [49 CFR 192.506(a)(1)]

2. The baseline test pressure must be as specified in the applicable Paragraphs of §2719.A.2 or §2720.A.2, whichever applies. [49 CFR 192.506(a)(2)]

3. The test must be conducted by maintaining a pressure at or above the baseline test pressure for at least eight hours as specified in §2305. [49 CFR 192.506(a)(3)]

4. After the test pressure stabilizes at the baseline pressure and within the first two hours of the eight-hour test interval, the hydrostatic pressure must be raised (spiked) to a minimum of the lesser of 1.5 times MAOP or 100 percent SMYS. This spike hydrostatic pressure test must be held for at least 15 minutes after the spike test pressure stabilizes. [49 CFR 192.506(a)(4)]

B. Other Technology or Other Technical Evaluation Process. Operators may use other technology or another process supported by a documented engineering analysis for establishing a spike hydrostatic pressure test or equivalent. Operators must notify PHMSA 90 days in advance of the assessment or reassessment requirements of this subchapter. The notification must be made in accordance with §518 and must include the following information: [49 CFR 192.506(b)]

1. descriptions of the technology or technologies to be used for all tests, examinations, and assessments; [49 CFR 192.506(b)(1)]

2. procedures and processes to conduct tests, examinations, assessments, perform evaluations, analyze defects, and remediate defects discovered; [49 CFR 192.506(b)(2)]

3. data requirements, including original design, maintenance and operating history, anomaly or flaw characterization; [49 CFR 192.506(b)(3)]

4. assessment techniques and acceptance criteria; [49 CFR 192.506(b)(4)]

5. remediation methods for assessment findings; [49 CFR 192.506(b)(5)]

6. spike hydrostatic pressure test monitoring and acceptance procedures, if used; [49 CFR 192.506(b)(6)]

7. procedures for remaining crack growth analysis and pipeline segment life analysis for the time interval for additional assessments, as required; and [49 CFR 192.506(b)(7)]

8. evidence of a review of all procedures and assessments by a qualified technical subject matter expert. [49 CFR 192.506(b)(8)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:1588 (November 2020).

§2313. Test Requirements for Plastic Pipelines [49 CFR 192.513]

A. - B. ...

C. The test pressure must be at least 150 percent of the maximum operating pressure or 50 psi (345 kPa) gage, whichever is greater. However, the maximum test pressure may not be more than 2.5 times the pressure determined under §921, at a temperature not less than the pipe temperature during the test. [49 CFR 192.513(c)]

D. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:238 (April 1983), amended LR 10:530 (July 1984), LR 24:1312 (July 1998), LR 27:1546 (September 2001), LR 30:1257 (June 2004), LR 46:1588 (November 2020).

§2317. Records

[49 CFR 192.517]

A. An operator must make, and retain for the useful life of the pipeline, a record of each test performed under §§2305, 2306 and 2307. The record must contain at least the following information: [49 CFR 192.517(a)]

A.1. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:238 (April 1983), amended LR 10:531 (July 1984), LR 30:1258 (June 2004), LR 46:1588 (November 2020).

Chapter 27. Operations

[49 CFR Part 192 Subpart L]

§2707. Verification of Pipeline Material Properties and Attributes: Onshore Steel Transmission Pipelines.

[49 CFR 192.607]

A. Applicability. Wherever required by this part, operators of onshore steel transmission pipelines must document and verify material properties and attributes in accordance with this Section. [49 CFR 192.607(a)]

B. Documentation of Material Properties and Attributes. Records established under this Section documenting physical pipeline characteristics and attributes, including diameter, wall thickness, seam type, and grade (e.g., yield strength, ultimate tensile strength, or pressure rating for valves and flanges, etc.), must be maintained for the life of the pipeline and be traceable, verifiable, and complete. Charpy v-notch toughness values established under this Section needed to meet the requirements of the ECA method at §2724.C.3 or the fracture mechanics requirements at §2912 must be maintained for the life of the pipeline. [49 CFR 192.607(b)]

C. Verification of Material Properties and Attributes. If an operator does not have traceable, verifiable, and complete records required by Subsection B of this Section, the operator must develop and implement procedures for conducting nondestructive or destructive tests, examinations, and assessments in order to verify the material properties of aboveground line pipe and components, and of buried line pipe and components when excavations occur at the following opportunities: Anomaly direct examinations, in situ evaluations, repairs, remediations, maintenance, and

excavations that are associated with replacements or relocations of pipeline segments that are removed from service. The procedures must also provide for the following. [49 CFR 192.607(c)]

1. For nondestructive tests, at each test location, material properties for minimum yield strength and ultimate tensile strength must be determined at a minimum of 5 places in at least 2 circumferential quadrants of the pipe for a minimum total of 10 test readings at each pipe cylinder location. [49 CFR 192.607(c)(1)]

2. For destructive tests, at each test location, a set of material properties tests for minimum yield strength and ultimate tensile strength must be conducted on each test pipe cylinder removed from each location, in accordance with API Specification 5L. [49 CFR 192.607(c)(2)]

3. Tests, examinations, and assessments must be appropriate for verifying the necessary material properties and attributes. [49 CFR 192.607(c)(3)]

4. If toughness properties are not documented, the procedures must include accepted industry methods for verifying pipe material toughness. [49 CFR 192.607(c)(4)]

5. Verification of material properties and attributes for non-line pipe components must comply with Subsection F of this Section. [49 CFR 192.607(c)(5)]

D. Special requirements for nondestructive Methods. Procedures developed in accordance with Subsection C of this Section for verification of material properties and attributes using nondestructive methods must: [49 CFR 192.607(d)]

1. use methods, tools, procedures, and techniques that have been validated by a subject matter expert based on comparison with destructive test results on material of comparable grade and vintage; [49 CFR 192.607(d)(1)]

2. conservatively account for measurement inaccuracy and uncertainty using reliable engineering tests and analyses; and [49 CFR 192.607(d)(2)]

3. use test equipment that has been properly calibrated for comparable test materials prior to usage. [49 CFR 192.607(d)(3)]

E. Sampling Multiple Segments of Pipe. To verify material properties and attributes for a population of multiple, comparable segments of pipe without traceable, verifiable, and complete records, an operator may use a sampling program in accordance with the following requirements. [49 CFR 192.607(e)]

1. The operator must define separate populations of similar segments of pipe for each combination of the following material properties and attributes: nominal wall thicknesses, grade, manufacturing process, pipe manufacturing dates, and construction dates. If the dates between the manufacture or construction of the pipeline segments exceeds two years, those segments cannot be considered as the same vintage for the purpose of defining a population under this Section. The total population mileage is the cumulative mileage of pipeline segments in the population. The pipeline segments need not be continuous. [49 CFR 192.607(e)(1)]

2. For each population defined according to Paragraph E.1 of this Section, the operator must determine material properties at all excavations that expose the pipe associated with anomaly direct examinations, in situ evaluations, repairs, remediations, or maintenance, except for pipeline

segments exposed during excavation activities pursuant to §2714, until completion of the lesser of the following: [49 CFR 192.607(e)(2)]

a. one excavation per mile rounded up to the nearest whole number; or [49 CFR 192.607(e)(2)(i)]

b. 150 excavations if the population is more than 150 miles. [49 CFR 192.607(e)(2)(ii)]

3. Prior tests conducted for a single excavation according to the requirements of Subsection C of this Section may be counted as one sample under the sampling requirements of this Subsection E. [49 CFR 192.607(e)(3)]

4. If the test results identify line pipe with properties that are not consistent with available information or existing expectations or assumed properties used for operations and maintenance in the past, the operator must establish an expanded sampling program. The expanded sampling program must use valid statistical bases designed to achieve at least a 95 percent confidence level that material properties used in the operation and maintenance of the pipeline are valid. The approach must address how the sampling plan will be expanded to address findings that reveal material properties that are not consistent with all available information or existing expectations or assumed material properties used for pipeline operations and maintenance in the past. Operators must notify PHMSA in advance of using an expanded sampling approach in accordance with §518. [49 CFR 192.607(e)(4)]

5. An operator may use an alternative statistical sampling approach that differs from the requirements specified in Paragraph E.2 of this Section. The alternative sampling program must use valid statistical bases designed to achieve at least a 95 percent confidence level that material properties used in the operation and maintenance of the pipeline are valid. The approach must address how the sampling plan will be expanded to address findings that reveal material properties that are not consistent with all available information or existing expectations or assumed material properties used for pipeline operations and maintenance in the past. Operators must notify PHMSA in advance of using an alternative sampling approach in accordance with §518. [49 CFR 192.607(e)(5)]

F. Components. For mainline pipeline components other than line pipe, an operator must develop and implement procedures in accordance with Subsection C of this Section for establishing and documenting the ANSI rating or pressure rating [in accordance with ASME/ANSI B16.5 (incorporated by reference, see §507)]. [49 CFR 192.607(f)]

1. Operators are not required to test for the chemical and mechanical properties of components in compressor stations, meter stations, regulator stations, separators, river crossing headers, mainline valve assemblies, valve operator piping, or cross-connections with isolation valves from the mainline pipeline. [49 CFR 192.607(f)(1)]

2. Verification of material properties is required for non-line pipe components, including valves, flanges, fittings, fabricated assemblies, and other pressure retaining components and appurtenances that are: [49 CFR 192.607(f)(2)]

a. larger than 2 inches in nominal outside diameter, [49 CFR 192.607(f)(2)(i)]

b. material grades of 42,000 psi (Grade X - 42) or greater, or [49 CFR 192.607(f)(2)(ii)]

c. appurtenances of any size that are directly installed on the pipeline and cannot be isolated from mainline pipeline pressures. [49 CFR 192.607(f)(2)(iii)]

3. Procedures for establishing material properties of non-line pipe components must be based on the documented manufacturing specification for the components. If specifications are not known, usage of manufacturer's stamped, marked, or tagged material pressure ratings and material type may be used to establish pressure rating. Operators must document the method used to determine the pressure rating and the findings of that determination. [49 CFR 192.607(f)(3)]

G. Up-rating. The material properties determined from the destructive or nondestructive tests required by this Section cannot be used to raise the grade or specification of the material, unless the original grade or specification is unknown and MAOP is based on an assumed yield strength of 24,000 psi in accordance with §907.B.2. [49 CFR 192.607(g)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:1588 (November 2020).

§2719. What is the Maximum Allowable Operating Pressure for Steel or Plastic Pipelines?
[49 CFR 192.619]

A. No person may operate a segment of steel or plastic pipeline at a pressure that exceeds a maximum allowable operating pressure determined under Subsection C, D, or E of this Section, or the lowest of the following: [49 CFR 192.619(a)]

1. - 1.b....

2. the pressure obtained by dividing the pressure to which the pipeline segment was tested after construction as follows: [49 CFR 192.619(a)(2)]

a. for plastic pipe in all locations, the test pressure is divided by a factor of 1.5; [49 CFR 192.619(a)(2)(i)]

b. for steel pipe operated at 100 psi (689 kPa) gage or more, the test pressure is divided by a factor determined in accordance with the following table to Subparagraph A.2.b. [49 CFR 192.619(a)(2)(ii)]

Table 1 to Subparagraph A.2.b				
Factors ¹ , Segment				
Class Location	Installed before (Nov. 12, 1970)	Installed after (Nov. 11, 1970) and before July 1, 2020	Installed on or after July 1, 2020	Converted under CFR §192.14
1	1.1	1.1	1.25	1.25
2	1.25	1.25	1.25	1.25
3	1.4	1.5	1.5	1.5
4	1.4	1.5	1.5	1.5

¹For offshore segments installed, uprated or converted after July 31, 1977, that are not located on an offshore platform, the factor is 1.25. For segments installed, uprated or converted after July 31, 1977, that are located on an offshore platform or on a platform in inland navigable waters, including a pipe riser, the factor is 1.5.

3. ...

4. the pressure determined by the operator to be the maximum safe pressure after considering and accounting for records of material properties, including material properties

verified in accordance with §2707, if applicable, and the history of the segment, particularly known corrosion and the actual operating pressure. [49 CFR 192.619(a)(4)]

B. - D. ...

E. Notwithstanding the requirements in Subsections A through D of this Section, operators of onshore steel transmission pipelines that meet the criteria specified in §2724.A must establish and document the maximum allowable operating pressure in accordance with §2724. [49 CFR 192.619(e)]

F. Operators of onshore steel transmission pipelines must make and retain records necessary to establish and document the MAOP of each pipeline segment in accordance with Subsections A through E of this Section as follows: [49 CFR 192.619(f)]

1. operators of pipelines in operation as of [July 1, 2020 must retain any existing records establishing MAOP for the life of the pipeline; [49 CFR 192.607(f)(1)]

2. operators of pipelines in operation as of July 1, 2020 that do not have records establishing MAOP and are required to reconfirm MAOP in accordance with §2724, must retain the records reconfirming MAOP for the life of the pipeline; and [49 CFR 192.607(f)(2)]

3. operators of pipelines placed in operation after July 1, 2020 must make and retain records establishing MAOP for the life of the pipeline. [49 CFR 192.607(f)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:242 (April 1983), amended LR 10:534 (July 1984), LR 24:1312 (July 1998), LR 27:1547 (September 2001), LR 30:1264 (June 2004), LR 33:481 (March 2007), LR 35:2807 (December 2009), LR 46:1590 (November 2020).

§2724. Maximum Allowable Operating Pressure Reconfirmation: Onshore Steel Transmission Pipelines
[49 CFR 192.624]

A. Applicability. Operators of onshore steel transmission pipeline segments must reconfirm the maximum allowable operating pressure (MAOP) of all pipeline segments in accordance with the requirements of this Section if either of the following conditions are met: [49 CFR 192.624(a)]

1. Records necessary to establish the MAOP in accordance with §2719.A.2, including records required by §2317.A, are not traceable, verifiable, and complete and the pipeline is located in one of the following locations: [49 CFR 192.624(a)(1)]

a. a high consequence area as defined in § 3303; or [49 CFR 192.624(a)(1)(i)]

b. a Class 3 or Class 4 location. [49 CFR 192.624(a)(1)(ii)]

2. The pipeline segment's MAOP was established in accordance with §2719.C, the pipeline segment's MAOP is greater than or equal to 30 percent of the specified minimum yield strength, and the pipeline segment is located in one of the following areas: [49 CFR 192.624(a)(2)]

a. a high consequence area as defined in §3303; [49 CFR 192.624(a)(2)(i)]

b. a Class 3 or Class 4 location; or [49 CFR 192.607(a)(2)(ii)]

c. a moderate consequence area as defined in §503, if the pipeline segment can accommodate inspection by

means of instrumented inline inspection tools. [49 CFR 192.624(a)(2)(iii)]

B. Procedures and Completion Dates. Operators of a pipeline subject to this Section must develop and document procedures for completing all actions required by this Section by July 1, 2021. These procedures must include a process for reconfirming MAOP for any pipelines that meet a condition of §2724.A, and for performing a spike test or material verification in accordance with §§2306 and 2707, if applicable. All actions required by this Section must be completed according to the following schedule. [49 CFR 192.624(b)]

1. Operators must complete all actions required by this Section on at least 50 percent of the pipeline mileage by July 3, 2028. [49 CFR 192.624(b)(1)]

2. Operators must complete all actions required by this Section on 100 percent of the pipeline mileage by July 2, 2035 or as soon as practicable, but not to exceed four years after the pipeline segment first meets a condition of §2724.A (e.g., due to a location becoming a high consequence area), whichever is later. [49 CFR 192.624(b)(2)]

3. If operational and environmental constraints limit an operator from meeting the deadlines in §2724, the operator may petition for an extension of the completion deadlines by up to 1 year, upon submittal of a notification in accordance with §518. The notification must include an up-to-date plan for completing all actions in accordance with this Section, the reason for the requested extension, current status, proposed completion date, outstanding remediation activities, and any needed temporary measures needed to mitigate the impact on safety. [49 CFR 192.624(b)(3)]

C. Maximum allowable operating pressure determination. Operators of a pipeline segment meeting a condition in Subsection A of this Section must reconfirm its MAOP using one of the following methods. [49 CFR 192.624(c)]

1. Method 1: Pressure test. Perform a pressure test and verify material properties records in accordance with §2707 and the following requirements. [49 CFR 192.624(c)(1)]

a. Pressure Test. Perform a pressure test in accordance with Chapter 23 of this Subpart. The MAOP must be equal to the test pressure divided by the greater of either 1.25 or the applicable class location factor in §2719.A.2.b. [49 CFR 192.624(c)(1)(i)]

b. Material Properties Records. Determine if the following material properties records are documented in traceable, verifiable, and complete records: Diameter, wall thickness, seam type, and grade (minimum yield strength, ultimate tensile strength). [49 CFR 192.624(c)(1)(ii)]

c. Material Properties Verification. If any of the records required by Subparagraph C.1.b of this Section are not documented in traceable, verifiable, and complete records, the operator must obtain the missing records in accordance with §2707. An operator must test the pipe materials cut out from the test manifold sites at the time the pressure test is conducted. If there is a failure during the pressure test, the operator must test any removed pipe from the pressure test failure in accordance with §2707. [49 CFR 192.624(c)(1)(iii)]

2. Method 2: Pressure Reduction. Reduce pressure, as necessary, and limit MAOP to no greater than the highest

actual operating pressure sustained by the pipeline during the five years preceding October 1, 2019, divided by the greater of 1.25 or the applicable class location factor in §2719.A.2.b. The highest actual sustained pressure must have been reached for a minimum cumulative duration of 8 hours during a continuous 30-day period. The value used as the highest actual sustained operating pressure must account for differences between upstream and downstream pressure on the pipeline by use of either the lowest maximum pressure value for the entire pipeline segment or using the operating pressure gradient along the entire pipeline segment (i.e., the location-specific operating pressure at each location). [49 CFR 192.624(c)(2)]

a. Where the pipeline segment has had a class location change in accordance with §2711, and records documenting diameter, wall thickness, seam type, grade (minimum yield strength and ultimate tensile strength), and pressure tests are not documented in traceable, verifiable, and complete records, the operator must reduce the pipeline segment MAOP as follows. [49 CFR 192.624(c)(2)(i)]

i. For pipeline segments where a class location changed from Class 1 to Class 2, from Class 2 to Class 3, or from Class 3 to Class 4, reduce the pipeline MAOP to no greater than the highest actual operating pressure sustained by the pipeline during the five years preceding October 1, 2019, divided by 1.39 for Class 1 to Class 2, 1.67 for Class 2 to Class 3, and 2.00 for Class 3 to Class 4. [49 CFR 192.624(c)(2)(i)(A)]

ii. For pipeline segments where a class location changed from Class 1 to Class 3, reduce the pipeline MAOP to no greater than the highest actual operating pressure sustained by the pipeline during the five years preceding October 1, 2019, divided by 2.00. [49 CFR 192.624(c)(2)(i)(B)]

b. Future uprating of the pipeline segment in accordance with Chapter 25 is allowed if the MAOP is established using Method 2. [49 CFR 192.624(c)(2)(ii)]

c. If an operator elects to use Method 2, but desires to use a less conservative pressure reduction factor or longer look-back period, the operator must notify PHMSA in accordance with §518 no later than seven calendar days after establishing the reduced MAOP. The notification must include the following details: [49 CFR 192.624(c)(2)(iii)]

i. descriptions of the operational constraints, special circumstances, or other factors that preclude, or make it impractical, to use the pressure reduction factor specified in § 2724.C.2; [49 CFR 192.624(c)(2)(iii)(A)]

ii. the fracture mechanics modeling for failure stress pressures and cyclic fatigue crack growth analysis that complies with § 2912; [49 CFR 192.624(c)(2)(iii)(B)]

iii. justification that establishing MAOP by another method allowed by this Section is impractical; [49 CFR 192.624(c)(2)(iii)(C)]

iv. justification that the reduced MAOP determined by the operator is safe based on analysis of the condition of the pipeline segment, including material properties records, material properties verified in accordance § 2707, and the history of the pipeline segment, particularly known corrosion and leakage, and the actual operating pressure, and additional compensatory preventive and mitigative measures taken or planned; and [49 CFR 192.624(c)(2)(iii)(D)]

v. planned duration for operating at the requested MAOP, long-term remediation measures and justification of this operating time interval, including fracture mechanics modeling for failure stress pressures and cyclic fatigue growth analysis and other validated forms of engineering analysis that have been reviewed and confirmed by subject matter experts. [49 CFR 192.624(c)(2)(iii)(E)]

3. Engineering Critical Assessment (ECA). Conduct an ECA in accordance with §2732. [49 CFR 192.624(c)(3)]

4. Method 4: Pipe Replacement. Replace the pipeline segment in accordance with this Part. [49 CFR 192.624(c)(4)]

5. Method 5: Pressure reduction for pipeline segments with small potential impact radius. pipelines with a potential impact radius (PIR) less than or equal to 150 feet may establish the MAOP as follows: [49 CFR 192.624(c)(5)]

a. reduce the MAOP to no greater than the highest actual operating pressure sustained by the pipeline during 5 years preceding October 1, 2019, divided by 1.1. The highest actual sustained pressure must have been reached for a minimum cumulative duration of 8 hours during one continuous 30-day period. The reduced MAOP must account for differences between discharge and upstream pressure on the pipeline by use of either the lowest value for the entire pipeline segment or the operating pressure gradient (i.e., the location specific operating pressure at each location); [49 CFR 192.624(c)(5)(i)]

b. Conduct patrols in accordance with §2905.A and C and conduct instrumented leakage surveys in accordance with §2906 at intervals not to exceed those in the following table 1 to §2724.C.5.b: [49 CFR 192.624(c)(5)(ii)]

Table 1 to § 2724.C.5.b		
Class Locations	Patrols	Leakage Surveys
Class 1 and Class 2	3 1/2 months, but at least four times each calendar year	3 1/2 months, but at least four times each calendar year.
Class 3 and Class 4	3 months, but at least six times each calendar year .	3 months, but at least six times each calendar year.

c. Under Method 5, future uprating of the pipeline segment in accordance with Chapter 25 is allowed. [49 CFR 192.624(c)(5)(iii)]

6. Method 6: Alternative Technology. Operators may use an alternative technical evaluation process that provides a documented engineering analysis for establishing MAOP. If an operator elects to use alternative technology, the operator must notify PHMSA in advance in accordance with §518. The notification must include descriptions of the following details: [49 CFR 192.624(c)(6)]

a. the technology or technologies to be used for tests, examinations, and assessments; the method for establishing material properties; and analytical techniques with similar analysis from prior tool runs done to ensure the results are consistent with the required corresponding hydrostatic test pressure for the pipeline segment being evaluated; [49 CFR 192.624(c)(6)(i)]

b. procedures and processes to conduct tests, examinations, assessments and evaluations, analyze defects

and flaws, and remediate defects discovered; [49 CFR 192.624(c)(6)(ii)]

c. pipeline segment data, including original design, maintenance and operating history, anomaly or flaw characterization; [49 CFR 192.624(c)(6)(iii)]

d. assessment techniques and acceptance criteria, including anomaly detection confidence level, probability of detection, and uncertainty of the predicted failure pressure quantified as a fraction of specified minimum yield strength; [49 CFR 192.624(c)(6)(iv)]

e. if any pipeline segment contains cracking or may be susceptible to cracking or crack-like defects found through or identified by assessments, leaks, failures, manufacturing vintage histories, or any other available information about the pipeline, the operator must estimate the remaining life of the pipeline in accordance with Section § 2912; [49 CFR 192.624(c)(6)(v)]

f. operational monitoring procedures; [49 CFR 192.624(c)(6)(vi)]

g. methodology and criteria used to justify and establish the MAOP; and [49 CFR 192.624(c)(6)(vii)]

h. documentation of the operator's process and procedures used to implement the use of the alternative technology, including any records generated through its use. [49 CFR 192.624(c)(6)(viii)]

D. Records. An operator must retain records of investigations, tests, analyses, assessments, repairs, replacements, alterations, and other actions taken in accordance with the requirements of this Section for the life of the pipeline. [49 CFR 192.624(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:1590 (November 2020).

§2725. Odorization of Gas [49 CFR 192.625]

A. - H.6. ...

I. Sampling Requirements

1. To assure the proper concentration of odorant in accordance with this Section, each operator (excluding farm taps) must conduct quarterly sampling of combustible gases using an instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable. Farm taps must be sampled twice a calendar year, at least 6 months apart not to exceed 7.5 months. Operators of master meter systems and farm taps may comply with this requirement by: [49 CFR 192.625(f)]

a. receiving written verification from their gas source that the gas has the proper concentration of odorant (excluding farm taps); and [49 CFR 192.625(f)(1)]

1.b. - 2. ...

a. the kind or kinds of malodorant agents introduced into such gas during the sampling period;

I.2.b. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:243 (April 1983), amended LR 10:535 (July 1984), LR 20:447 (April 1994), LR 21:823 (August 1995), LR 24:1312 (July 1998), LR 27:1548 (September 2001), LR 30:1265 (June 2004), LR 46:1592 (November 2020).

§2732. Engineering Critical Assessment for Maximum Allowable Operating Pressure Reconfirmation: Onshore Steel Transmission Pipelines.
[49 CFR 192.632]

A. When an operator conducts an MAOP reconfirmation in accordance with §2724.C.3 "Method 3" using an ECA to establish the material strength and MAOP of the pipeline segment, the ECA must comply with the requirements of this Section. The ECA must assess: threats; loadings and operational circumstances relevant to those threats, including along the pipeline right-of way; outcomes of the threat assessment; relevant mechanical and fracture properties; in-service degradation or failure processes; and initial and final defect size relevance. The ECA must quantify the interacting effects of threats on any defect in the pipeline. [49 CFR 192.632]

B. ECA Analysis [49 CFR 192.632(a)]

1. The material properties required to perform an ECA analysis in accordance with this Section are as follows: diameter, wall thickness, seam type, grade (minimum yield strength and ultimate tensile strength), and Charpy v-notch toughness values based upon the lowest operational temperatures, if applicable. If any material properties required to perform an ECA for any pipeline segment in accordance with this Section are not documented in traceable, verifiable and complete records, an operator must use conservative assumptions and include the pipeline segment in its program to verify the undocumented information in accordance with §2707. The ECA must integrate, analyze, and account for the material properties, the results of all tests, direct examinations, destructive tests, and assessments performed in accordance with this Section, along with other pertinent information related to pipeline integrity, including close interval surveys, coating surveys, interference surveys required by Chapter 21 of this Subpart, cause analyses of prior incidents, prior pressure test leaks and failures, other leaks, pipe inspections, and prior integrity assessments, including those required by §§2717, 2910, and Chapter 33 of this Subpart. [49 CFR 192.632(a)(1)]

2. The ECA must analyze and determine the predicted failure pressure for the defect being assessed using procedures that implement the appropriate failure criteria and justification as follows. [49 CFR 192.632(a)(2)]

a. The ECA must analyze any cracks or crack-like defects remaining in the pipe, or that could remain in the pipe, to determine the predicted failure pressure of each defect in accordance with § 2912. [49 CFR 192.632(a)(2)(i)]

b. The ECA must analyze any metal loss defects not associated with a dent, including corrosion, gouges, scrapes or other metal loss defects that could remain in the pipe, to determine the predicted failure pressure. ASME/ANSI B31G (incorporated by reference, see §507) or R-STRENG (incorporated by reference, see §507) must be used for corrosion defects. Both procedures and their analysis apply to corroded regions that do not penetrate the pipe wall over 80 percent of the wall thickness and are subject to the limitations prescribed in the equations' procedures. The ECA must use conservative assumptions for metal loss dimensions (length, width, and depth). [49 CFR 192.632(a)(2)(ii)]

c. When determining the predicted failure pressure for gouges, scrapes, selective seam weld corrosion, crack-

related defects, or any defect within a dent, appropriate failure criteria and justification of the criteria must be used and documented. [49 CFR 192.632(a)(2)(iii)]

d. If SMYS or actual material yield and ultimate tensile strength is not known or not documented by traceable, verifiable, and complete records, then the operator must assume 30,000 p.s.i. or determine the material properties using §2707. [49 CFR 192.632(a)(2)(iv)]

3. The ECA must analyze the interaction of defects to conservatively determine the most limiting predicted failure pressure. Examples include, but are not limited to, cracks in or near locations with corrosion metal loss, dents with gouges or other metal loss, or cracks in or near dents or other deformation damage. The ECA must document all evaluations and any assumptions used in the ECA process. [49 CFR 192.632(a)(3)]

4. The MAOP must be established at the lowest predicted failure pressure for any known or postulated defect, or interacting defects, remaining in the pipe divided by the greater of 1.25 or the applicable factor listed in §2719.A.2.b. [49 CFR 192.632(a)(4)]

C. Assessment to determine defects remaining in the pipe. An operator must utilize previous pressure tests or develop and implement an assessment program to determine the size of defects remaining in the pipe to be analyzed in accordance with Subsection A of this Section. [49 CFR 192.632(b)]

1. An operator may use a previous pressure test that complied with Chapter 23 to determine the defects remaining in the pipe if records for a pressure test meeting the requirements of Chapter 23 of this part exist for the pipeline segment. The operator must calculate the largest defect that could have survived the pressure test. The operator must predict how much the defects have grown since the date of the pressure test in accordance with §2912. The ECA must analyze the predicted size of the largest defect that could have survived the pressure test that could remain in the pipe at the time the ECA is performed. The operator must calculate the remaining life of the most severe defects that could have survived the pressure test and establish a re-assessment interval in accordance with the methodology in §2912. [49 CFR 192.632(b)(1)]

2. Operators may use an inline inspection program in accordance with Subsection C of this Section. [49 CFR 192.632(b)(2)]

3. Operators may use "other technology" if it is validated by a subject matter expert to produce an equivalent understanding of the condition of the pipe equal to or greater than pressure testing or an inline inspection program. If an operator elects to use "other technology" in the ECA, it must notify PHMSA in advance of using the other technology in accordance with §518. The "other technology" notification must have: [49 CFR 192.632(b)(3)]

a. descriptions of the technology or technologies to be used for all tests, examinations, and assessments, including characterization of defect size used in the crack assessments (length, depth, and volumetric); and [49 CFR 192.632(b)(3)(i)]

b. procedures and processes to conduct tests, examinations, assessments and evaluations, analyze defects, and remediate defects discovered. [49 CFR 192.632(b)(3)(ii)]

D. In-line Inspection. An inline inspection (ILI) program to determine the defects remaining the pipe for the ECA analysis must be performed using tools that can detect wall loss, deformation from dents, wrinkle bends, ovalities, expansion, seam defects, including cracking and selective seam weld corrosion, longitudinal, circumferential and girth weld cracks, hard spot cracking, and stress corrosion cracking. [49 CFR 192.632(c)]

a. If a pipeline has segments that might be susceptible to hard spots based on assessment, leak, failure, manufacturing vintage history, or other information, then the ILI program must include a tool that can detect hard spots. [49 CFR 192.632(c)(1)]

b. If the pipeline has had a reportable incident, as defined in §303, attributed to a girth weld failure since its most recent pressure test, then the ILI program must include a tool that can detect girth weld defects unless the ECA analysis performed in accordance with this Section includes an engineering evaluation program to analyze and account for the susceptibility of girth weld failure due to lateral stresses. [49 CFR 192.632(c)(2)]

c. Inline inspection must be performed in accordance with §2145. [49 CFR 192.632(c)(3)]

d. An operator must use unity plots or equivalent methodologies to validate the performance of the ILI tools in identifying and sizing actionable manufacturing and construction related anomalies. Enough data points must be used to validate tool performance at the same or better statistical confidence level provided in the tool specifications. The operator must have a process for identifying defects outside the tool performance specifications and following up with the ILI vendor to conduct additional in-field examinations, reanalyze ILI data, or both. [49 CFR 192.632(c)(4)]

e. Interpretation and evaluation of assessment results must meet the requirements of §§2910, 2913, and Chapter 33 of this Subpart, and must conservatively account for the accuracy and reliability of ILI, in-the-ditch examination methods and tools, and any other assessment and examination results used to determine the actual sizes of cracks, metal loss, deformation and other defect dimensions by applying the most conservative limit of the tool tolerance specification. ILI and in-the-ditch examination tools and procedures for crack assessments (length and depth) must have performance and evaluation standards confirmed for accuracy through confirmation tests for the defect types and pipe material vintage being evaluated. Inaccuracies must be accounted for in the procedures for evaluations and fracture mechanics models for predicted failure pressure determinations. [49 CFR 192.632(c)(5)]

f. Anomalies detected by ILI assessments must be remediated in accordance with applicable criteria in §§2913 and 3333. [49 CFR 192.632(c)(6)]

E. Defect remaining life. If any pipeline segment contains cracking or may be susceptible to cracking or crack-like defects found through or identified by assessments, leaks, failures, manufacturing vintage histories, or any other available information about the pipeline, the operator must estimate the remaining life of the pipeline in accordance with §2912. [49 CFR 192.632(d)]

F. Records. An operator must retain records of investigations, tests, analyses, assessments, repairs,

replacements, alterations, and other actions taken in accordance with the requirements of this Section for the life of the pipeline. [49 CFR 192.632(e)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:1593 (November 2020).

Chapter 29. Maintenance **[49 CFR Part 192 Subpart M]**

§2910. Transmission Lines: Assessments Outside of High Consequence Areas **[49 CFR 192.710]**

A. Applicability

1. This Section applies to onshore steel transmission pipeline segments with a maximum allowable operating pressure of greater than or equal to 30 percent of the specified minimum yield strength and are located in: [49 CFR 192.710(a)]

a. a Class 3 or Class 4 location; or [49 CFR 192.710(a)(1)]

b. a moderate consequence area as defined in §503, if the pipeline segment can accommodate inspection by means of an instrumented inline inspection tool (i.e., "smart pig"). [49 CFR 192.710(a)(2)]

2. This Section does not apply to a pipeline segment located in a high consequence area as defined in §3303. [49 CFR 192.710(a)(3)]

B. General [49 CFR 192.710(b)]

1. Initial Assessment. An operator must perform initial assessments in accordance with this Section based on a risk-based prioritization schedule and complete initial assessment for all applicable pipeline segments no later than July 3, 2034, or as soon as practicable but not to exceed 10 years after the pipeline segment first meets the conditions of §2910.A (e.g., due to a change in class location or the area becomes a moderate consequence area), whichever is later. [49 CFR 192.710(b)(1)]

2. Periodic Reassessment. An operator must perform periodic reassessments at least once every 10 years, with intervals not to exceed 126 months, or a shorter reassessment interval based upon the type of anomaly, operational, material, and environmental conditions found on the pipeline segment, or as necessary to ensure public safety. [49 CFR 192.710(b)(2)]

3. Prior Assessment. An operator may use a prior assessment conducted before July 1, 2020 as an initial assessment for the pipeline segment, if the assessment met the Chapter 33 requirements of Part VIII for in-line inspection at the time of the assessment. If an operator uses this prior assessment as its initial assessment, the operator must reassess the pipeline segment according to the reassessment interval specified in Paragraph B.2 of this Section calculated from the date of the prior assessment. [49 CFR 192.710(b)(3)]

4. MAOP Verification. An integrity assessment conducted in accordance with the requirements of §2724.C for establishing MAOP may be used as an initial assessment or reassessment under this Section. [49 CFR 192.710(b)(4)]

C. Assessment Method. The initial assessments and the reassessments required by Subsection B of this Section must be capable of identifying anomalies and defects associated

with each of the threats to which the pipeline segment is susceptible and must be performed using one or more of the following methods. [49 CFR 192.710(c)]

1. internal inspection. Internal inspection tool or tools capable of detecting those threats to which the pipeline is susceptible, such as corrosion, deformation and mechanical damage (e.g., dents, gouges and grooves), material cracking and crack-like defects (e.g., stress corrosion cracking, selective seam weld corrosion, environmentally assisted cracking, and girth weld cracks), hard spots with cracking, and any other threats to which the covered segment is susceptible. When performing an assessment using an in-line inspection tool, an operator must comply with §2145; [49 CFR 192.710(c)(1)]

2. pressure test. Pressure test conducted in accordance with Chapter 23 of this Subpart. The use of Chapter 23 pressure testing is appropriate for threats such as internal corrosion, external corrosion, and other environmentally assisted corrosion mechanisms; manufacturing and related defect threats, including defective pipe and pipe seams; and stress corrosion cracking, selective seam weld corrosion, dents and other forms of mechanical damage; [49 CFR 192.710(c)(2)]

3. spike hydrostatic pressure test. A spike hydrostatic pressure test conducted in accordance with §2306. A spike hydrostatic pressure test is appropriate for time-dependent threats such as stress corrosion cracking; selective seam weld corrosion; manufacturing and related defects, including defective pipe and pipe seams; and other forms of defect or damage involving cracks or crack-like defects; [49 CFR 192.710(c)(3)]

4. direct examination. Excavation and in situ direct examination by means of visual examination, direct measurement, and recorded non-destructive examination results and data needed to assess all applicable threats. Based upon the threat assessed, examples of appropriate non-destructive examination methods include ultrasonic testing (UT), phased array ultrasonic testing (PAUT), Inverse Wave Field Extrapolation (IWEX), radiography, and magnetic particle inspection (MPI); [49 CFR 192.710(c)(4)]

5. guided wave ultrasonic testing. guided wave ultrasonic testing (GWUT) as described in Appendix F; [49 CFR 192.710(c)(5)]

6. direct assessment. Direct assessment to address threats of external corrosion, internal corrosion, and stress corrosion cracking. The use of use of direct assessment to address threats of external corrosion, internal corrosion, and stress corrosion cracking is allowed only if appropriate for the threat and pipeline segment being assessed. Use of direct assessment for threats other than the threat for which the direct assessment method is suitable is not allowed. An operator must conduct the direct assessment in accordance with the requirements listed in § 3323 and with the applicable requirements specified in §§ 3325, 3327 and 3329; or [49 CFR 192.710(c)(6)]

7. other technology. Other technology that an operator demonstrates can provide an equivalent understanding of the condition of the line pipe for each of the threats to which the pipeline is susceptible. An operator must notify PHMSA in advance of using the other technology in accordance with §518. [49 CFR 192.710(c)(7)]

D. Data Analysis. An operator must analyze and account for the data obtained from an assessment performed under Subsection C of this Section to determine if a condition could adversely affect the safe operation of the pipeline using personnel qualified by knowledge, training, and experience. In addition, when analyzing inline inspection data, an operator must account for uncertainties in reported results (e.g., tool tolerance, detection threshold, probability of detection, probability of identification, sizing accuracy, conservative anomaly interaction criteria, location accuracy, anomaly findings, and unity chart plots or equivalent for determining uncertainties and verifying actual tool performance) in identifying and characterizing anomalies. [49 CFR 192.710(d)]

E. Discovery of Condition. Discovery of a condition occurs when an operator has adequate information about a condition to determine that the condition presents a potential threat to the integrity of the pipeline. An operator must promptly, but no later than 180 days after conducting an integrity assessment, obtain sufficient information about a condition to make that determination, unless the operator demonstrates that 180 days is impracticable. [49 CFR 192.710(e)]

F. Remediation. An operator must comply with the requirements in §§2137, 2911, and 2913, where applicable, if a condition that could adversely affect the safe operation of a pipeline is discovered. [49 CFR 192.710(f)]

G. Analysis of Information. An operator must analyze and account for all available relevant information about a pipeline in complying with the requirements in Subsections A through F of this Section. [49 CFR 192.710(g)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:1594 (November 2020).

§2912. Analysis of Predicted Failure Pressure [49 CFR 192.712]

A. Applicability. Whenever required by this part, operators of onshore steel transmission pipelines must analyze anomalies or defects to determine the predicted failure pressure at the location of the anomaly or defect, and the remaining life of the pipeline segment at the location of the anomaly or defect, in accordance with this Section. [49 CFR 192.712(a)]

B. Corrosion Metal Loss. When analyzing corrosion metal loss under this Section, an operator must use a suitable remaining strength calculation method including, ASME/ANSI B31G (incorporated by reference, see §507); R-STRENG (incorporated by reference, see §507); or an alternative equivalent method of remaining strength calculation that will provide an equally conservative result. [49 CFR 192.712(b)]

C. Reserved [49 CFR 192.712(c)]

D. Cracks and Crack-Like Defects [49 CFR 192.712(d)]

1. Crack Analysis Models. When analyzing cracks and crack-like defects under this Section, an operator must determine predicted failure pressure, failure stress pressure, and crack growth using a technically proven fracture mechanics model appropriate to the failure mode (ductile, brittle or both), material properties (pipe and weld

properties), and boundary condition used (pressure test, ILI, or other). [49 CFR 192.712(d)(1)]

2. Analysis for Crack Growth and Remaining Life. If the pipeline segment is susceptible to cyclic fatigue or other loading conditions that could lead to fatigue crack growth, fatigue analysis must be performed using an applicable fatigue crack growth law (for example, Paris Law) or other technically appropriate engineering methodology. For other degradation processes that can cause crack growth, appropriate engineering analysis must be used. The above methodologies must be validated by a subject matter expert to determine conservative predictions of flaw growth and remaining life at the maximum allowable operating pressure. The operator must calculate the remaining life of the pipeline by determining the amount of time required for the crack to grow to a size that would fail at maximum allowable operating pressure. [49 CFR 192.712(d)(2)]

a. When calculating crack size that would fail at MAOP, and the material toughness is not documented in traceable, verifiable, and complete records, the same Charpy v-notch toughness value established in Paragraph E.2 of this Section must be used. [49 CFR 192.712(d)(2)(i)]

b. Initial and final flaw size must be determined using a fracture mechanics model appropriate to the failure mode (ductile, brittle or both) and boundary condition used (pressure test, ILI, or other). [49 CFR 192.712(d)(2)(ii)]

c. An operator must re-evaluate the remaining life of the pipeline before 50 percent of the remaining life calculated by this analysis has expired. The operator must determine and document if further pressure tests or use of other assessment methods are required at that time. The operator must continue to re-evaluate the remaining life of the pipeline before 50 percent of the remaining life calculated in the most recent evaluation has expired. [49 CFR 192.712(d)(2)(iii)]

3. Cracks that Survive Pressure Testing. For cases in which the operator does not have in-line inspection crack anomaly data and is analyzing potential crack defects that could have survived a pressure test, the operator must calculate the largest potential crack defect sizes using the methods in Paragraph D.1 of this Section. If pipe material toughness is not documented in traceable, verifiable, and complete records, the operator must use one of the following for Charpy v-notch toughness values based upon minimum operational temperature and equivalent to a full-size specimen value: [49 CFR 192.712(d)(3)]

a. Charpy v-notch toughness values from comparable pipe with known properties of the same vintage and from the same steel and pipe manufacturer; [49 CFR 192.712(d)(3)(i)]

b. a conservative Charpy v-notch toughness value to determine the toughness based upon the material properties verification process specified in §2707; [49 CFR 192.712(d)(3)(ii)]

c. a full size equivalent Charpy v-notch upper-shelf toughness level of 120 ft.-lbs.; or [49 CFR 192.712(d)(3)(iii)]

d. other appropriate values that an operator demonstrates can provide conservative Charpy v-notch toughness values of the crack-related conditions of the pipeline segment. Operators using an assumed Charpy v-

notch toughness value must notify PHMSA in accordance with §518. [49 CFR 192.712(d)(3)(iv)]

E. Data. In performing the analyses of predicted or assumed anomalies or defects in accordance with this Section, an operator must use data as follows. [49 CFR 192.712(e)]

1. An operator must explicitly analyze and account for uncertainties in reported assessment results (including tool tolerance, detection threshold, probability of detection, probability of identification, sizing accuracy, conservative anomaly interaction criteria, location accuracy, anomaly findings, and unity chart plots or equivalent for determining uncertainties and verifying tool performance) in identifying and characterizing the type and dimensions of anomalies or defects used in the analyses, unless the defect dimensions have been verified using in situ direct measurements. [49 CFR 192.712(e)(1)]

2. The analyses performed in accordance with this Section must utilize pipe and material properties that are documented in traceable, verifiable, and complete records. If documented data required for any analysis is not available, an operator must obtain the undocumented data through §2707. Until documented material properties are available, the operator shall use conservative assumptions as follows. [49 CFR 192.712(e)(2)]

i. Material Toughness. An operator must use one of the following for material toughness: [49 CFR 192.712(e)(2)(i)]

(a). Charpy v-notch toughness values from comparable pipe with known properties of the same vintage and from the same steel and pipe manufacturer; [49 CFR 192.712(e)(2)(i)(A)]

(b). a conservative Charpy v-notch toughness value to determine the toughness based upon the ongoing material properties verification process specified in §2707; [49 CFR 192.712(e)(2)(i)(B)]

(c). if the pipeline segment does not have a history of reportable incidents caused by cracking or crack-like defects, maximum Charpy v-notch toughness values of 13.0 ft.-lbs. for body cracks and 4.0 ft.-lbs. for cold weld, lack of fusion, and selective seam weld corrosion defects; [49 CFR 192.712(e)(2)(i)(C)]

(d). if the pipeline segment has a history of reportable incidents caused by cracking or crack-like defects, maximum Charpy v-notch toughness values of 5.0 ft.-lbs. for body cracks and 1.0 ft.-lbs. for cold weld, lack of fusion, and selective seam weld corrosion; or [49 CFR 192.712(d)(2)(i)(D)]

(e). other appropriate values that an operator demonstrates can provide conservative Charpy v-notch toughness values of crack-related conditions of the pipeline segment. Operators using an assumed Charpy v-notch toughness value must notify PHMSA in advance in accordance with § 518 and include in the notification the bases for demonstrating that the Charpy v-notch toughness values proposed are appropriate and conservative for use in analysis of crack-related conditions. [49 CFR 192.712(d)(2)(i)(E)]

ii. Material Strength. An operator must assume one of the following for material strength: [49 CFR 192.712(e)(2)(ii)]

(a). Grade A pipe (30,000 psi), or [49 CFR 192.712(e)(2)(ii)(A)]

(b). The specified minimum yield strength that is the basis for the current maximum allowable operating pressure. [49 CFR 192.712(e)(2)(ii)(B)]

iii. Pipe Dimensions and Other Data. Until pipe wall thickness, diameter, or other data are determined and documented in accordance with § 2707, the operator must use values upon which the current MAOP is based. [49 CFR 192.712(e)(2)(iii)]

F. Review. Analyses conducted in accordance with this Section must be reviewed and confirmed by a subject matter expert. [49 CFR 192.712(f)]

G. Records. An operator must keep for the life of the pipeline records of the investigations, analyses, and other actions taken in accordance with the requirements of this Section. Records must document justifications, deviations, and determinations made for the following, as applicable: [49 CFR 192.712(g)]

1. the technical approach used for the analysis; [49 CFR 192.712(g)(1)]

2. all data used and analyzed; [49 CFR 192.712(g)(2)]

3. pipe and weld properties; [49 CFR 192.712(g)(3)]

4. procedures used; [49 CFR 192.712(g)(4)]

5. evaluation methodology used; [49 CFR 192.712(g)(5)]

6. models used; [49 CFR 192.712(g)(6)]

7. direct in situ examination data; [49 CFR 192.712(g)(7)]

8. in-line inspection tool run information evaluated, including any multiple in-line inspection tool runs; [49 CFR 192.712(g)(8)]

9. pressure test data and results; [49 CFR 192.712(g)(9)]

10. in-the-ditch assessments; [49 CFR 192.712(g)(10)]

11. all measurement tool, assessment, and evaluation accuracy specifications and tolerances used in technical and operational results; [49 CFR 192.712(g)(11)]

12. all finite element analysis results; [49 CFR 192.712(g)(12)]

13. the number of pressure cycles to failure, the equivalent number of annual pressure cycles, and the pressure cycle counting method; [49 CFR 192.712(g)(13)]

14. the predicted fatigue life and predicted failure pressure from the required fatigue life models and fracture mechanics evaluation methods; [49 CFR 192.712(g)(14)]

15. safety factors used for fatigue life and/or predicted failure pressure calculations; [49 CFR 192.712(g)(15)]

16. reassessment time interval and safety factors; [49 CFR 192.712(g)(16)]

17. the date of the review; [49 CFR 192.712(g)(17)]

18. confirmation of the results by qualified technical subject matter experts; and [49 CFR 192.712(g)(18)]

19. approval by responsible operator management personnel. [49 CFR 192.712(g)(19)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:1595 (November 2020).

§2920. Distribution Systems: Leak Repair [49 CFR 192.720]

A. Mechanical leak repair clamps installed after January 22, 2019 may not be used as a permanent repair method for plastic pipe. [49 CFR 192.720]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:1597 (November 2020).

§2940 Pressure Regulating, Limiting, and Overpressure Protection—Individual Service Lines Directly Connected to Production, Gathering, or Transmission Pipelines [49 CFR 192.740]

A. - B.4. ...

C. This Section does not apply to equipment installed on service lines that only serve engines that power irrigation pumps. [49 CFR 192.740(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 44:1042 (June 2018), LR 46:1597 (November 2020).

§2950. Launcher and Receiver Safety [49 CFR 192.750]

A. Any launcher or receiver used after July 1, 2021, must be equipped with a device capable of safely relieving pressure in the barrel before removal or opening of the launcher or receiver barrel closure or flange and insertion or removal of in-line inspection tools, scrapers, or spheres. An operator must use a device to either: Indicate that pressure has been relieved in the barrel; or alternatively prevent opening of the barrel closure or flange when pressurized, or insertion or removal of in-line devices (e.g. inspection tools, scrapers, or spheres), if pressure has not been relieved. [49 CFR 192.750]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:1597 (November 2020).

§2956. Joining Plastic Pipe by Heat Fusion; Equipment Maintenance and Calibration. [49 CFR 192.756]

A. Each operator must maintain equipment used in joining plastic pipe in accordance with the manufacturer's recommended practices or with written procedures that have been proven by test and experience to produce acceptable joints. [49 CFR 192.756]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:1597 (November 2020).

Chapter 31. Operator Qualification [49 CFR Part 192 Subpart N]

§3105. Qualification Program [49 CFR 192.805]

A. - A.8. ...

9. After December 16, 2004, notify the Administrator or a state agency participating under 49 U.S.C. Chapter 601

if an operator significantly modifies the program after the administrator or state agency has verified that it complies with this Section. Notifications to PHMSA must be submitted in accordance with §518. [49 CFR 192.805(i)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:1550 (September 2001), amended LR 30:1272 (June 2004), LR 31:685 (March 2005), LR 33:482 (March 2007), LR 35:2811 (December 2009), LR 44:1042 (June 2018), LR 46:1597 (November 2020).

Chapter 33. Gas Transmission Pipeline Integrity Management

[49 CFR Part 192 Subpart O]

§3309. How Can an Operator Change Its Integrity Management Program? **[49 CFR 192.909]**

A. ...

B. Notification. An operator must notify OPS, in accordance with §518, of any change to the program that may substantially affect the program's implementation or may significantly modify the program or schedule for carrying out the program elements. An operator must provide notification within 30 days after adopting this type of change into its program. [49 CFR 192.909(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1274 (June 2004), amended LR 31:686 (March 2005), LR 46:1598 (November 2020).

§3311. What are the Elements of an Integrity Management Program? **[49 CFR 192.911]**

A. - A.13.b. ...

c. Office of Conservation—Pipeline Division for intrastate jurisdictional facilities.

14. - 14.b. ...

c. Office of Conservation—Pipeline Division for intrastate jurisdictional facilities.

15. - 16. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1275 (June 2004), amended LR 31:686 (March 2005), LR 46:1598 (November 2020).

§3317. How Does an Operator Identify Potential Threats to Pipeline Integrity and Use the Threat Identification in Its Integrity Program? **[49 CFR 192.917]**

A. - A.2. ...

3. time independent threats such as third party damage, mechanical damage, incorrect operational procedure, weather related and outside force damage to include consideration of seismicity, geology, and soil stability of the area; and [49 CFR 192.917(a)(3)]

A.4. - E.1. ...

2. Cyclic Fatigue. An operator must analyze and account for whether cyclic fatigue or other loading conditions (including ground movement, and suspension bridge condition) could lead to a failure of a deformation, including a dent or gouge, crack, or other defect in the

covered segment. The analysis must assume the presence of threats in the covered segment that could be exacerbated by cyclic fatigue. An operator must use the results from the analysis together with the criteria used to determine the significance of the threat(s) to the covered segment to prioritize the integrity baseline assessment or reassessment. Failure stress pressure and crack growth analysis of cracks and crack-like defects must be conducted in accordance with §2912. An operator must monitor operating pressure cycles and periodically, but at least every seven calendar years, with intervals not to exceed 90 months, determine if the cyclic fatigue analysis remains valid or if the cyclic fatigue analysis must be revised based on changes to operating pressure cycles or other loading conditions. [49 CFR 192.917(e)(2)]

3. Manufacturing and construction defects. An operator must analyze the covered segment to determine and account for the risk of failure from manufacturing and construction defects (including seam defects) in the covered segment. The analysis must account for the results of prior assessments on the covered segment. An operator may consider manufacturing and construction related defects to be stable defects only if the covered segment has been subjected to hydrostatic pressure testing satisfying the criteria of Chapter 23 of at least 1.25 times MAOP, and the covered segment has not experienced a reportable incident attributed to a manufacturing or construction defect since the date of the most recent Chapter 23 pressure test. If any of the following changes occur in the covered segment, an operator must prioritize the covered segment as a high-risk segment for the baseline assessment or a subsequent reassessment: [49 CFR 192.917(e)(3)]

a. the pipeline segment has experienced a reportable incident, as defined in §303, since its most recent successful Chapter 23 pressure test, due to an original manufacturing-related defect, or a construction-, installation-, or fabrication-related defect; [49 CFR 192.917(e)(3)(i)]

b. MAOP increases; or [49 CFR 192.917(e)(3)(ii)]

c. the stresses leading to cyclic fatigue increase. [49 CFR 192.917(e)(3)(iii)]

4. Electric Resistance Welded (ERW) Pipe. If a covered pipeline segment contains low frequency ERW pipe, lap welded pipe, pipe with longitudinal joint factor less than 1.0 as defined in §913, or other pipe that satisfies the conditions specified in ASME/ANSI B31.8S, Appendices A4.3 and A4.4, and any covered or non-covered segment in the pipeline system with such pipe has experienced seam failure (including seam cracking and selective seam weld corrosion), or operating pressure on the covered segment has increased over the maximum operating pressure experienced during the preceding five years (including abnormal operation as defined in §2705.C, or MAOP has been increased, an operator must select an assessment technology or technologies with a proven application capable of assessing seam integrity and seam corrosion anomalies. The operator must prioritize the covered segment as a high-risk segment for the baseline assessment or a subsequent reassessment. Pipe with seam cracks must be evaluated using fracture mechanics modeling for failure stress pressures and cyclic fatigue crack growth analysis to estimate the remaining life of the pipe in accordance with § 2912. [49 CFR 192.917(e)(4)]

5. ...

6. Cracks. If an operator identifies any crack or crack-like defect (e.g., stress corrosion cracking or other environmentally assisted cracking, seam defects, selective seam weld corrosion, girth weld cracks, hook cracks, and fatigue cracks) on a covered pipeline segment that could adversely affect the integrity of the pipeline, the operator must evaluate, and remediate, as necessary, all pipeline segments (both covered and non-covered) with similar characteristics associated with the crack or crack-like defect. Similar characteristics may include operating and maintenance histories, material properties, and environmental characteristics. An operator must establish a schedule for evaluating, and remediating, as necessary, the similar pipeline segments that is consistent with the operator's established operating and maintenance procedures under this part for testing and repair. [49 CFR 192.917(e)(6)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1276 (June 2004), amended LR 31:686 (March 2005), LR 33:483 (March 2007), LR 46:1598 (November 2020).

§3321. How Is the Baseline Assessment to be Conducted [49 CFR 192.921]

A. Assessment Methods. An operator must assess the integrity of the line pipe in each covered segment by applying one or more of the following methods for each threat to which the covered segment is susceptible. An operator must select the method or methods best suited to address the threats identified to the covered segment (See § 3317): [49 CFR 192.921(a)]

1. internal inspection tool or tools capable of detecting those threats to which the pipeline is susceptible. The use of internal inspection tools is appropriate for threats such as corrosion, deformation and mechanical damage (including dents, gouges and grooves), material cracking and crack-like defects (e.g., stress corrosion cracking, selective seam weld corrosion, environmentally assisted cracking, and girth weld cracks), hard spots with cracking, and any other threats to which the covered segment is susceptible. When performing an assessment using an in-line inspection tool, an operator must comply with §2145. In addition, an operator must analyze and account for uncertainties in reported results (e.g., tool tolerance, detection threshold, probability of detection, probability of identification, sizing accuracy, conservative anomaly interaction criteria, location accuracy, anomaly findings, and unity chart plots or equivalent for determining uncertainties and verifying actual tool performance) in identifying and characterizing anomalies; [49 CFR 192.921(a)(1)];

2. pressure test conducted in accordance with Chapter 23 of this Subpart. The use of Chapter 23 pressure testing is appropriate for threats such as internal corrosion; external corrosion and other environmentally assisted corrosion mechanisms; manufacturing and related defects threats, including defective pipe and pipe seams; stress corrosion cracking; selective seam weld corrosion; dents; and other forms of mechanical damage. An operator must use the test pressures specified in Table 3 of section 5 of ASME/ANSI B31.8S (incorporated by reference, see §507) to justify an extended reassessment interval in accordance with § 3339. [49 CFR 192.921(a)(2)].

3. spike hydrostatic pressure test conducted in accordance with §2306. The use of spike hydrostatic pressure testing is appropriate for time-dependent threats such as stress corrosion cracking; selective seam weld corrosion; manufacturing and related defects, including defective pipe and pipe seams; and other forms of defect or damage involving cracks or crack-like defects; [49 CFR 192.921(a)(3)]

4. excavation and in situ direct examination by means of visual examination, direct measurement, and recorded non-destructive examination results and data needed to assess all threats. Based upon the threat assessed, examples of appropriate non-destructive examination methods include ultrasonic testing (UT), phased array ultrasonic testing (PAUT), inverse wave field extrapolation (IWEX), radiography, and magnetic particle inspection (MPI); [49 CFR 192.921(a)(4)]

5. guided wave ultrasonic testing (GWUT) as described in Appendix F. The use of GWUT is appropriate for internal and external pipe wall loss; [49 CFR 192.921(a)(5)]

6. direct assessment to address threats of external corrosion, internal corrosion, and stress corrosion cracking. The use of direct assessment to address threats of external corrosion, internal corrosion, and stress corrosion cracking is allowed only if appropriate for the threat and the pipeline segment being assessed. Use of direct assessment for threats other than the threat for which the direct assessment method is suitable is not allowed. An operator must conduct the direct assessment in accordance with the requirements listed in § 3323 and with the applicable requirements specified in §§ 3325, 3327 and 3329; or [49 CFR 192.921(a)(6)]

7. other technology that an operator demonstrates can provide an equivalent understanding of the condition of the line pipe for each of the threats to which the pipeline is susceptible. An operator must notify PHMSA in advance of using the other technology in accordance with §518. [49 CFR 192.921(a)(7)]

B. - H. ...

I. Baseline assessments for pipeline segments with a reconfirmed MAOP. An integrity assessment conducted in accordance with the requirements of § 2724.C may be used as a baseline assessment under this Section. [49 CFR 192.921(i)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1277 (June 2004), amended LR 31:686 (March 2005), LR 33:484 (March 2007), LR 46:1599 (November 2020).

§3323. How Is Direct Assessment Used and for What Threats? [49 CFR 192.923]

A. - B.3. ...

C. Supplemental Method. An operator using direct assessment as a supplemental assessment method for any applicable threat must have a plan that follows the requirements for confirmatory direct assessment in §3331. [49 CFR 192.923(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR

30:1278 (June 2004), amended LR 38:121 (January 2012), LR 44:1043 (June 2018), LR 46:1599 (November 2020).

§3333. What Actions Must Be Taken to Address Integrity Issues?
[49 CFR 192.933]

A. ...

1. Temporary Pressure Reduction. If an operator is unable to respond within the time limits for certain conditions specified in this Section, the operator must temporarily reduce the operating pressure of the pipeline or take other action that ensures the safety of the covered segment. An operator must determine any temporary reduction in operating pressure required by this Section using ASME/ANSI B31G (incorporated by reference, see §507); R - STRENG (incorporated by reference, see §507); or by reducing the operating pressure to a level not exceeding 80 percent of the level at the time the condition was discovered. An operator must notify PHMSA in accordance with §518 if it cannot meet the schedule for evaluation and remediation required under Subsection C of this Section and cannot provide safety through a temporary reduction in operating pressure or through another action. [49 CFR 192.933(a)(1)]

2. Long-term pressure reduction. When a pressure reduction exceeds 365 days, an operator must notify PHMSA under §518 and explain the reasons for the remediation delay. This notice must include a technical justification that the continued pressure reduction will not jeopardize the integrity of the pipeline. [49 CFR 192.933(a)(2)]

B. - D.3.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1281 (June 2004), amended LR 31:688 (March 2005), LR 33:485 (March 2007), LR 35:2812 (December 2009), LR 44:1044 (June 2018), LR 46:1600 (November 2020).

§3335. What Additional Preventive and Mitigative Measures Must an Operator Take?
[49 CFR 192.935]

A. - B.1.d. ...

2. Outside Force Damage. If an operator determines that outside force (e.g., earth movement, loading, longitudinal, or lateral forces, seismicity of the area, floods, unstable suspension bridge) is a threat to the integrity of a covered segment, the operator must take measures to minimize the consequences to the covered segment from outside force damage. These measures include increasing the frequency of aerial, foot or other methods of patrols; adding external protection; reducing external stress; relocating the line; or inline inspections with geospatial and deformation tools. [49 CFR 192.935(b)(2)]

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1282 (June 2004), amended LR 31:688 (March 2005), LR 33:485 (March 2007), amended by the Department of Natural Resources, Office of Conservation, LR 38:122 (January 2012), LR 44:1044 (June 2018), LR 46:1600 (November 2020).

§3337. What Is a Continual Process of Evaluation and Assessment to Maintain a Pipeline's Integrity?
[49 CFR 192.937]

A. - B. ...

C. Assessment Methods. In conducting the integrity reassessment, an operator must assess the integrity of the line pipe in each covered segment by applying one or more of the following methods for each threat to which the covered segment is susceptible. An operator must select the method or methods best suited to address the threats identified on the covered segment (see § 3317). [49 CFR 192.937(c)]:

1. internal inspection tools. When performing an assessment using an in-line inspection tool, an operator must comply with the following requirements: [49 CFR 192.937(c)(1)]

a. perform the in-line inspection in accordance with §2145; [49 CFR 192.937(c)(1)(i)]

b. select a tool or combination of tools capable of detecting the threats to which the pipeline segment is susceptible such as corrosion, deformation and mechanical damage (e.g. dents, gouges and grooves), material cracking and crack-like defects (e.g. stress corrosion cracking, selective seam weld corrosion, environmentally assisted cracking, and girth weld cracks), hard spots with cracking, and any other threats to which the covered segment is susceptible; and [49 CFR 192.937(c)(1)(ii)]

c. analyze and account for uncertainties in reported results (e.g., tool tolerance, detection threshold, probability of detection, probability of identification, sizing accuracy, conservative anomaly interaction criteria, location accuracy, anomaly findings, and unity chart plots or equivalent for determining uncertainties and verifying actual tool performance) in identifying and characterizing anomalies; [49 CFR 192.937(c)(1)(iii)]

2. pressure test conducted in accordance with Chapter 23 of this Subpart. The use of pressure testing is appropriate for threats such as: Internal corrosion; external corrosion and other environmentally assisted corrosion mechanisms; manufacturing and related defects threats, including defective pipe and pipe seams; stress corrosion cracking; selective seam weld corrosion; dents; and other forms of mechanical damage. An operator must use the test pressures specified in table 3 of section 5 of ASME/ANSI B31.8S (incorporated by reference, see §507) to justify an extended reassessment interval in accordance with § 3339; [49 CFR 192.937(c)(2)]

3. spike hydrostatic pressure test in accordance with §2306. The use of spike hydrostatic pressure testing is appropriate for time-dependent threats such as: Stress corrosion cracking; selective seam weld corrosion; manufacturing and related defects, including defective pipe and pipe seams; and other forms of defect or damage involving cracks or crack-like defects; [49 CFR 192.937(c)(3)]

4. excavation and in situ direct examination by means of visual examination, direct measurement, and recorded non-destructive examination results and data needed to assess all threats. Based upon the threat assessed, examples of appropriate non-destructive examination methods include ultrasonic testing (UT), phased array ultrasonic testing

(PAUT), inverse wave field extrapolation (IWEX), radiography, or magnetic particle inspection (MPI); [49 CFR 192.937(c)(4)]

5. guided wave ultrasonic testing (GWUT) as described in Appendix F. The use of GWUT is appropriate for internal and external pipe wall loss; [49 CFR 192.937(c)(5)].

6. direct assessment to address threats of external corrosion, internal corrosion, and stress corrosion cracking. The use of direct assessment to address threats of external corrosion, internal corrosion, and stress corrosion cracking is allowed only if appropriate for the threat and pipeline segment being assessed. Use of direct assessment for threats other than the threat for which the direct assessment method is suitable is not allowed. An operator must conduct the direct assessment in accordance with the requirements listed in §3323 and with the applicable requirements specified in §§3325, 3327, and 3329; [49 CFR 192.937(c)(6)].

7. other technology that an operator demonstrates can provide an equivalent understanding of the condition of the line pipe for each of the threats to which the pipeline is susceptible. An operator must notify PHMSA in advance of using the other technology in accordance with §518; or [49 CFR 192.937(c)(7)]

8. confirmatory direct assessment when used on a covered segment that is scheduled for reassessment at a period longer than 7 calendar years. An operator using this reassessment method must comply with §3331. [49 CFR 192.937(c)(8)].

D. MAOP reconfirmation assessments. An integrity assessment conducted in accordance with the requirements of §2724.C may be used as a reassessment under this Section (see §3317). [49 CFR 192.937(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1283 (June 2004), amended LR 31:688 (March 2005), LR 33:486 (March 2007), LR 47:1600 (November 2020).

§3339. What Are the Required Reassessment Intervals? **[49 CFR 192.939]**

A. ...

1. Pipelines operating at or above 30 percent SMYS. An operator must establish a reassessment interval for each covered segment operating at or above 30 percent SMYS in accordance with the requirements of this Section. The maximum reassessment interval by an allowable reassessment method is 7 calendar years. Operators may request a 6-month extension of the seven-calendar-year reassessment interval if the operator submits written notice to OPS, in accordance with §518, with sufficient justification of the need for the extension. If an operator establishes a reassessment interval that is greater than seven calendar years, the operator must, within the seven-calendar-year period, conduct a confirmatory direct assessment on the covered segment, and then conduct the follow-up reassessment at the interval the operator has established. A reassessment carried out using confirmatory direct assessment must be done in accordance with §3331. The table that follows this Section sets forth the maximum allowed reassessment intervals. [49 CFR 192.939(a)]

a. - c.iii. ...

2. Pipelines operating below 30 percent SMYS. An operator must establish a reassessment interval for each covered segment operating below 30 percent SMYS in accordance with the requirements of this Section. The maximum reassessment interval by an allowable reassessment method is seven calendar years. Operators may request a 6-month extension of the 7-calendar-year reassessment interval if the operator submits written notice to OPS in accordance with §518. The notice must include sufficient justification of the need for the extension. An operator must establish reassessment by at least one of the following: [49 CFR 192.939(b)]

a. reassessment by pressure test, internal inspection or other equivalent technology following the requirements in Paragraph A.1 of this Section except that the stress level referenced in Subparagraph A.1.b of this Section would be adjusted to reflect the lower operating stress level. If an established interval is more than seven calendar years, an operator must conduct by the seventh calendar year of the interval either a confirmatory direct assessment in accordance with §3331, or a low stress reassessment in accordance with §3341; [49 CFR 192.939(b)(1)]

b. - f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1283 (June 2004), amended LR 31:688 (March 2005), LR 33:486 (March 2007), LR 38:122 (January 2012), LR 44:1044 (June 2018), LR 46:1601 (November 2020).

§3349. How Does an Operator Notify PHMSA and the Louisiana Commissioner of Conservation?

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1286 (June 2004), amended LR 33:487 (March 2007), LR 35:2812 (December 2009), LR 44:1044 (June 2018), LR 46:1601 (November 2020).

Chapter 51. Appendices

§5103. Appendix B—Qualification of Pipe

I. List of Specifications

A. Listed Pipe Specifications

API Spec 5L—Steel pipe, “API Specification for Line Pipe” (incorporated by reference, see § 507).

ASTM A53/A53M—Steel pipe, “Standard Specification for Pipe, Steel Black and Hot-Dipped, Zinc-Coated, Welded and Seamless” (incorporated by reference, see § 507).

ASTM A106/A-106M—Steel pipe, “Standard Specification for Seamless Carbon Steel Pipe for High Temperature Service” (incorporated by reference, see § 507).

ASTM A333/A333M—Steel pipe, “Standard Specification for Seamless and Welded Steel Pipe for Low Temperature Service” (incorporated by reference, see § 507).

ASTM A381—Steel pipe, “Standard Specification for Metal-Arc-Welded Steel Pipe for Use with High-Pressure Transmission Systems” (incorporated by reference, see § 507).

ASTM A671/A671M—Steel pipe, “Standard Specification for Electric-Fusion-Welded Pipe for Atmospheric and Lower Temperatures” (incorporated by reference, see § 507).

ASTM A672/A672M-09—Steel pipe, “Standard Specification for Electric-Fusion- Welded Steel Pipe for High-Pressure Service at Moderate Temperatures” (incorporated by reference, see § 507).

ASTM A691/A691M-09—Steel pipe, “Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High Pressure Service at High Temperatures” (incorporated by reference, see § 507).

ASTM D2513-12ae1 “Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fittings” (incorporated by reference, see § 507).

ASTM D 2517-00—Thermosetting plastic pipe and tubing, “Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings” (incorporated by reference, see § 507).

ASTM F2785-12 “Standard Specification for Polyamide 12 Gas Pressure Pipe, Tubing, and Fittings” (PA-12) (incorporated by reference, see § 507).

ASTM F2817-10 “Standard Specification for Poly (Vinyl Chloride) (PVC) Gas Pressure Pipe and Fittings for Maintenance or Repair” (incorporated by reference, see § 507).

ASTM F2945-12a “Standard Specification for Polyamide 11 Gas Pressure Pipe, Tubing, and Fittings” (PA-11) (incorporated by reference, see § 507).

B. Other Listed Specifications for Components

ASME B16.40-2008 “Manually Operated Thermoplastic Gas Shutoffs and Valves in Gas Distribution Systems” (incorporated by reference, see § 507).

ASTM D2513-12ae1 “Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fittings” (incorporated by reference, see § 507).

ASTM D 2517-00—Thermosetting plastic pipe and tubing, “Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings” (incorporated by reference, see § 507).

ASTM F2785-12 “Standard Specification for Polyamide 12 Gas Pressure Pipe, Tubing, and Fittings” (PA-12) (incorporated by reference, see § 507).

ASTM F2945-12a “Standard Specification for Polyamide 11 Gas Pressure Pipe, Tubing, and Fittings” (PA-11) (incorporated by reference, see § 507).

ASTM F1055-98 (2006) “Standard Specification for Electrofusion Type Polyethylene Fittings for Outside Diameter Controlled Polyethylene Pipe and Tubing” (incorporated by reference, see § 507).

ASTM F1924-12 “Standard Specification for Plastic Mechanical Fittings for Use on Outside Diameter Controlled Polyethylene Gas Distribution Pipe and Tubing” (incorporated by reference, see § 507).

ASTM F1948-12 “Standard Specification for Metallic Mechanical Fittings for Use on Outside Diameter Controlled Thermoplastic Gas Distribution Pipe and Tubing” (incorporated by reference, see § 507).

ASTM F1973-13 “Standard Specification for Factory Assembled Anodeless Risers and Transition Fittings in Polyethylene (PE) and Polyamide 11 (PA 11) and Polyamide 12 (PA 12) Fuel Gas Distribution Systems” (incorporated by reference, see § 507).

ASTM F 2600-09 “Standard Specification for Electrofusion Type Polyamide-11 Fittings for Outside Diameter Controlled Polyamide-11 Pipe and Tubing” (incorporated by reference, see § 507).

ASTM F2145-13 “Standard Specification for Polyamide 11 (PA 11)

and Polyamide 12 (PA12) Mechanical Fittings for Use on Outside Diameter Controlled Polyamide 11 and Polyamide 12 Pipe and Tubing” (incorporated by reference, see § 507).

ASTM F2767-12 “Specification for Electrofusion Type Polyamide-12 Fittings for Outside Diameter Controlled Polyamide-12 Pipe and Tubing for Gas Distribution” (incorporated by reference, see §507).

ASTM F2817-10 “Standard Specification for Poly (Vinyl Chloride) (PVC) Gas Pressure Pipe and Fittings for Maintenance or Repair” (incorporated by reference, see §507).

II. - III.C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 10:541 (July 1984), amended LR 18:859 (August 1992), LR 27:1551, 1552 (September 2001), LR 30:1287 (June 2004), LR 31:689 (March 2005), LR 33:487 (March 2007), LR 35:2813 (December 2009), amended by the Department of Natural Resources, Office of Conservation, LR 38:125 (January 2012), LR 44:1045 (June 2018), LR 46:1601 (November 2020).

§5111. Appendix F—Criteria for Conducting Integrity Assessments Using Guided Wave Ultrasonic Testing (GWUT)

This appendix defines criteria which must be properly implemented for use of guided wave ultrasonic testing (GWUT) as an integrity assessment method. Any application of GWUT that does not conform to these criteria is considered "other technology" as described by §§ 2910 .C.7, 3321.A.7, and 3337.C.7, for which OPS must be notified 90 days prior to use in accordance with §§ 3321.A.7 or 3337.C.7. GWUT in the "Go-No Go" mode means that all indications (wall loss anomalies) above the testing threshold (a maximum of 5% of cross sectional area (CSA) sensitivity) be directly examined, in-line tool inspected, pressure tested, or replaced prior to completing the integrity assessment on the carrier pipe.

I. Equipment and Software: Generation. The equipment and the computer software used are critical to the success of the inspection. Computer software for the inspection equipment must be reviewed and updated, as required, on an annual basis, with intervals not to exceed 15 months, to support sensors, enhance functionality, and resolve any technical or operational issues identified.

II. Inspection Range. The inspection range and sensitivity are set by the signal to noise (S/N) ratio but must still keep the maximum threshold sensitivity at 5% cross sectional area (CSA). A signal that has an amplitude that is at least twice the noise level can be reliably interpreted. The greater the S/ N ratio the easier it is to identify and interpret signals from small changes. The signal to noise ratio is dependent on several variables such as surface roughness, coating, coating condition, associated pipe fittings (T's, elbows, flanges), soil compaction, and environment. Each of these affects the propagation of sound waves and influences the range of the test. It may be necessary to inspect from both ends of the pipeline segment to achieve a full inspection. In general, the inspection range can approach 60 to 100 feet for a 5% CSA, depending on field conditions.

III. Complete Pipe Inspection. To ensure that the entire pipeline segment is assessed there should be at least a 2 to 1 signal to noise ratio across the entire pipeline segment that is inspected. This may require multiple GWUT shots. Double-ended inspections are expected. These two inspections are to be overlaid to show the minimum 2 to 1 S/N ratio is met in the middle. If possible, show the same near or midpoint feature from both sides and show an approximate 5% distance overlap.

IV. Sensitivity. The detection sensitivity threshold determines the ability to identify a cross sectional change. The maximum threshold sensitivity cannot be greater than 5% of the cross sectional area (CSA).

The locations and estimated CSA of all metal loss features in excess of the detection threshold must be determined and documented.

All defect indications in the "Go-No Go" mode above the 5% testing threshold must be directly examined, in-line inspected, pressure tested, or replaced prior to completing the integrity assessment.

V. Wave Frequency. Because a single wave frequency may not detect certain defects, a minimum of three frequencies must be run for each inspection to determine the best frequency for characterizing indications. The frequencies used for the inspections must be documented and must be in the range specified by the manufacturer of the equipment.

VI. Signal or Wave Type: Torsional and Longitudinal. Both torsional and longitudinal waves must be used and use must be documented.

VII. Distance Amplitude Correction (DAC) Curve and Weld Calibration. The distance amplitude correction curve accounts for coating, pipe diameter, pipe wall and environmental conditions at the assessment location. The DAC curve must be set for each inspection as part of establishing the effective range of a GWUT inspection. DAC curves provide a means for evaluating the cross-sectional area change of reflections at various distances in the test range by assessing signal to noise ratio. A DAC curve is a means of taking apparent attenuation into account along the time base of a test signal. It is a line of equal sensitivity along the trace which allows the amplitudes of signals at different axial distances from the collar to be compared.

VIII. Dead Zone. The dead zone is the area adjacent to the collar in which the transmitted signal blinds the received signal, making it impossible to obtain reliable results. Because the entire line must be inspected, inspection procedures must account for the dead zone by requiring the movement of the collar for additional inspections. An alternate method of obtaining valid readings in the dead zone is to use B-scan ultrasonic equipment and visual examination of the external surface. The length of the dead zone and the near field for each inspection must be documented.

IX. Near Field Effects. The near field is the region beyond the dead zone where the receiving amplifiers are increasing in power, before the wave is properly established. Because the entire line must be inspected, inspection procedures must account for the near field by requiring the movement of the collar for additional inspections. An alternate method of obtaining valid readings in the near field is to use B-scan ultrasonic equipment and visual examination of the external surface. The length of the dead zone and the near field for each inspection must be documented.

X. Coating Type. Coatings can have the effect of attenuating the signal. Their thickness and condition are the primary factors that affect the rate of signal attenuation. Due to their variability, coatings make it difficult to predict the effective inspection distance. Several coating types may affect the GWUT results to the point that they may reduce the expected inspection distance. For example, concrete coated pipe may be problematic when well bonded due to the attenuation effects. If an inspection is done and the required sensitivity is not achieved for the entire length of the pipe, then another type of assessment method must be utilized.

XI. End Seal. When assessing cased carrier pipe with GWUT, operators must remove the end seal from the casing at each GWUT test location to facilitate visual inspection. Operators must remove debris and water from the casing at the end seals. Any corrosion material observed must be removed, collected and reviewed by the operator's corrosion technician. The end seal does not interfere with the accuracy of the GWUT inspection but may have a dampening effect on the range.

XII. Weld Calibration to set DAC Curve. Accessible welds, along or outside the pipeline segment to be inspected, must be used to set the DAC curve. A weld or welds in the access hole (secondary area) may be used if welds along the pipeline segment are not accessible. In order to use these welds in the secondary area, sufficient distance must be allowed to account for the dead zone and near field. There must not be a weld between the transducer collar and the calibration weld. A conservative estimate of the predicted amplitude for the weld is 25% CSA (cross sectional area) and can be used if welds are not accessible.

Calibrations (setting of the DAC curve) should be on pipe with similar properties such as wall thickness and coating. If the actual weld cap height is different from the assumed weld cap height, the

estimated CSA may be inaccurate and adjustments to the DAC curve may be required. Alternative means of calibration can be used if justified by a documented engineering analysis and evaluation.

XIII. Validation of Operator Training. Pipeline operators must require all guided wave service providers to have equipment-specific training and experience for all GWUT Equipment Operators which includes training for:

- A. Equipment operation,
- B. field data collection, and
- C. data interpretation on cased and buried pipe.

Only individuals who have been qualified by the manufacturer or an independently assessed evaluation procedure similar to ISO 9712 (Sections: 5 Responsibilities; 6 Levels of Qualification; 7 Eligibility; and 10 Certification), as specified above, may operate the equipment. A senior-level GWUT equipment operator with pipeline specific experience must provide onsite oversight of the inspection and approve the final reports. A senior-level GWUT equipment operator must have additional training and experience, including training specific to cased and buried pipe, with a quality control program which that conforms to Section 12 of ASME B31.8S (for availability, see § 507).

XIV. Training and Experience Minimums for Senior Level GWUT Equipment Operators:

Equipment Manufacturer's minimum qualification for equipment operation and data collection with specific endorsements for casings and buried pipe

Training, qualification and experience in testing procedures and frequency determination

Training, qualification and experience in conversion of guided wave data into pipe features and estimated metal loss (estimated cross-sectional area loss and circumferential extent)

Equipment Manufacturer's minimum qualification with specific endorsements for data interpretation of anomaly features for pipe within casings and buried pipe.

XV. Equipment: Traceable from vendor to inspection company. An operator must maintain documentation of the version of the GWUT software used and the serial number of the other equipment such as collars, cables, etc., in the report.

XVI. Calibration Onsite. The GWUT equipment must be calibrated for performance in accordance with the manufacturer's requirements and specifications, including the frequency of calibrations. A diagnostic check and system check must be performed on-site each time the equipment is relocated to a different casing or pipeline segment. If on-site diagnostics show a discrepancy with the manufacturer's requirements and specifications, testing must cease until the equipment can be restored to manufacturer's specifications.

XVII. Use on Shorted Casings (direct or electrolytic). GWUT may not be used to assess shorted casings. GWUT operators must have operations and maintenance procedures (see § 192.605) to address the effect of shorted casings on the GWUT signal. The equipment operator must clear any evidence of interference, other than some slight dampening of the GWUT signal from the shorted casing, according to their operating and maintenance procedures. All shorted casings found while conducting GWUT inspections must be addressed by the operator's standard operating procedures.

XVIII. Direct examination of all indications above the detection sensitivity threshold. The use of GWUT in the "Go-No Go" mode requires that all indications (wall loss anomalies) above the testing threshold (5 percent of CSA sensitivity) be directly examined (or replaced) prior to completing the integrity assessment on the cased carrier pipe or other GWUT application. If this cannot be accomplished, then alternative methods of assessment (such as hydrostatic pressure tests or ILI) must be utilized.

XIX. Timing of direct examination of all indications above the detection sensitivity threshold. Operators must either replace or conduct direct examinations of all indications identified above the detection sensitivity threshold according to the table below. Operators must conduct leak surveys and reduce operating pressure as specified until the pipe is replaced or direct examinations are completed.

Required Response to GWUT Indications			
GWUT criterion	Operating pressure less than or equal to 30% SMYS	Operating pressure over 30 and less than or equal to 50% SMYS	Operating pressure over 50% SMYS
Over the detection sensitivity threshold (maximum of 5% CSA).	Replace or direct examination within 12 months, and instrumented leak survey once every 30 calendar days.	Replace or direct examination within 6 months, instrumented leak survey once every 30 calendar days, and maintain MAOP below the operating pressure at time of discovery.	Replace or direct examination within 6 months, instrumented leak survey once every 30 calendar days, and reduce MAOP to 80% of operating pressure at time of discovery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:1602 (November 2020).

Subpart 4. Drug and Alcohol Testing

Chapter 63. Drug Testing

[49 CFR Part 192 Subpart B]

§6300. Purpose

[49 CFR 199.100]

A. The purpose of this Chapter is to establish programs designed to help prevent accidents and injuries resulting from the use of prohibited drugs by employees who perform covered functions for operators of certain pipeline facilities subject to LAC 43:XIII, and LAC 33:V Subpart 3 [49 CFR Part 192, 193, or 195]. [49 CFR 199.100]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 18:852 (August 1992), amended LR 21:828 (August 1995), LR 30:1293 (June 2004), LR 44:1045 (June 2018), LR 46:1604 (November 2020).

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Wastes and Hazardous Materials

Subpart 3. Natural Resources

Chapter 301. Transportation of Hazardous Liquids by Pipeline

[49 CFR Part 195]

Subchapter A. General [49 CFR Part 195 Subpart A]

§30103. Which Pipelines are Covered by this Subpart?

[49 CFR 195.1]

A. - A.4.c. ...

5. for purposes of the reporting requirements in Subchapter B of this Subpart, any gathering line not already covered under Paragraphs A.1, 2, 3 or 4 of this Section. [49 CFR 195.1(a)(5)]

B. Excepted. This Subpart does not apply to any of the following: [49 CFR 195.1(b)]

1. transportation of a hazardous liquid transported in a gaseous state; [49 CFR 195.1(b)(1)]

2. except for the reporting requirements of Subchapter B of this Subpart see §30199, transportation of a hazardous liquid through a pipeline by gravity; [49 CFR 195.1(b)(2)]

3. - 3.b....

4. except for the reporting requirements of Subchapter B of this Subpart, see §30121, transportation of petroleum through an onshore rural gathering line that does not meet the definition of a *regulated rural gathering line* as provided in §30117. This exception does not apply to gathering lines in the inlets of the Gulf of Mexico subject to §30413. [49 CFR 195.1(b)(4)]

B.5. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 20:439 (1994), LR 21:814 (August 1995), LR 27:1523 (September 2001), LR 29:2804 (December 2003), LR 33:466 (March 2007), LR 35:2791 (December 2009), LR 38:99 (January 2012), LR 46:1604 (November 2020).

§30105. Definitions

[49 CFR 195.2]

A. As used in this Subpart:

Hazardous Liquid—petroleum, petroleum products, anhydrous ammonia, and ethanol or other non-petroleum fuel, including biofuel, which is flammable, toxic, or would be harmful to the environment if released in significant quantities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 21:815 (August 1995), LR 27:1523 (September 2001), LR 28:83 (January 2002), LR 29:2805 (December 2003), LR 31:675 (March 2005), LR 33:467 (March 2007), LR 38:99 (January 2012), LR 44:1021 (June 2018), LR 46:1604 (November 2020).

§30107. Matter Incorporated by Reference in Whole or in Part [49 CFR 195.3]

A. - G.2. ...

Source and Name of Referenced Material	Approved for Title 33 Reference
3. ACE SP0102-2010, "Standard Practice, Inline Inspection of Pipelines" revised March 13, 2010, (NACE SP0102).	§§30177; 30591

G.4. - I.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20:439 (1994), LR 21:815 (August 1995), LR 24:1313 (1998), LR 27:1523 (September 2001), LR 29:2806 (December 2003), LR 31:676 (March 2005), LR 33:467 (March 2007), LR 35:2792 (December 2009), LR 38:100 (January 2012), LR 44:1021 (June 2018), LR 46:1604 (November 2020).

§30119. What requirements apply to pipelines transporting hazardous liquids by gravity?
[49 CFR 195.13]

A. Scope. Pipelines transporting hazardous liquids by gravity must comply with the reporting requirements of Subchapter B of this Subpart. [49 CFR 195.13(a)]

B. Implementation Period [49 CFR 195.13(b)]

1. Annual Reporting. Comply with the annual reporting requirements in Subchapter B of this Subpart by March 31, 2021. [49 CFR 195.13(b)(1)]

2. Accident and Safety-Related Reporting. Comply with the accident and safety-related condition reporting requirements in Subchapter B of this Subpart by January 1, 2021. [49 CFR 195.13(b)(2)]

C. Exceptions [49 CFR 195.13(c)]

1. This Section does not apply to the transportation of a hazardous liquid in a gravity line that meets the definition of a low-stress pipeline, travels no farther than one mile from a facility boundary, and does not cross any waterways used for commercial navigation. [49 CFR 195.13(c)(1)]

2. The reporting requirements in §§30127, 30143, and 30147 do not apply to the transportation of a hazardous liquid in a gravity line. [49 CFR 195.13(c)(2)]

3. The drug and alcohol testing requirements in Title 43:XIII.6101-6545 do not apply to the transportation of a hazardous liquid in a gravity line. [49 CFR 195.13(c)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 46:1605 (November 2020).

§30121. What requirements apply to reporting-regulated-only gathering lines?
[49 CFR 195.15]

A. Scope. Gathering lines that do not otherwise meet the definition of a regulated rural gathering line in §30117 and any gathering line not already covered under §30103.A.1, 2, 3 or 4 must comply with the reporting requirements of Subchapter B of this Chapter. [49 CFR 195.15(a)]

B. Implementation Period [49 CFR 195.15(b)].

1. Annual Reporting. Operators must comply with the annual reporting requirements in subpart B of this part by March 31, 2021. [49 CFR 195.15(b)(1)]

2. Accident and Safety-Related Reporting. Operators must comply with the accident and safety-related condition reporting requirements in Subchapter B of this Subpart by January 1, 2021. [49 CFR 195.15(b)(2)]

C. Exceptions [49 CFR 195.15(c)]

1. This Section does not apply to those gathering lines that are otherwise excepted under §30103.B.3, 7, 8, 9, or 10. [49 CFR 195.15(c)(1)]

2. The reporting requirements in §§30127, 30143, and 30147 do not apply to the transportation of a hazardous liquid in a gathering line that is specified in Subsection A of this Section. [49 CFR 195.15(c)(2)]

3. The drug and alcohol testing requirements in Title 43:XIII.6101-6545 do not apply to the transportation of a hazardous liquid in a gathering line that is specified in Subsection A of this Section. [49 CFR 195.15(c)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 46:1605 (November 2020).

§30146. National Registry of Operators
[49 CFR 195.64]

A. OPID Request. Effective January 1, 2012, each operator of a hazardous liquid pipeline or pipeline facility must obtain from PHMSA an operator identification number (OPID). An OPID is assigned to an operator for the pipeline or pipeline system for which the operator has primary responsibility. To obtain an OPID or a change to an OPID, an operator must complete an OPID Assignment Request DOT Form PHMSA F 1000.1 through the National Registry of Pipeline and LNG Operators in accordance with §30140. For intrastate facilities subject to the jurisdiction of the Office of Conservation, the operator must concurrently file an online OR-1 Submission (Operator Registration) for Pipeline Safety with the same name as the OPID request at <http://www.sonris.com>. Each operator must validate the OR-1 annually by January 1 each year. [49 CFR 195.64(a)]

B. ...

C. Changes. Each operator must notify PHMSA electronically through the National Registry of Pipeline and LNG Operators at <http://opsweb.phmsa.dot.gov>, of certain events. For intrastate facilities subject to the jurisdiction of the Office of Conservation, a copy must also be submitted to Office of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275 or by electronic mail to PipelineInspectors@la.gov. Any change in an operator name, the operator must concurrently file an online OR-1 Submission for Pipeline Safety with the same name as the OPID operator name at <http://www.sonris.com> [49 CFR 195.64(c)]

C.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 38:104 (January 2012), amended LR 44:1024 (June 2018), LR 46:1605 (November 2020).

§30147. Safety Data Sheets [49 CFR 195.65]

A. Each owner or operator of a hazardous liquid pipeline facility, following an accident involving a pipeline facility that results in a hazardous liquid spill, must provide safety data sheets on any spilled hazardous liquid to the designated Federal On-Scene Coordinator and appropriate State and local emergency responders within 6 hours of a telephonic or electronic notice of the accident to the National Response Center. [49 CFR 195.65(a)].

B. Definitions. In this section: [49 CFR 195.65(b)].

1. Federal On-Scene Coordinator. The term *federal on-scene coordinator* has the meaning given such term in section 311(a) of the Federal Water Pollution Control Act (33 U.S.C. 1321(a)). [49 CFR 195.65(b)(1)]

2. National Response Center. The term *national response center* means the center described under 40 CFR 300.125(a). [49 CFR 195.65(b)(2)]

3. Safety Data Sheet. The term *safety data sheet* means a safety data sheet required under 29 CFR 1910.1200. [49 CFR 195.65(b)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 46:1605 (November 2020).

Subchapter C. Design Requirements

[49 CFR Part 195 Subpart C]

§30177. Passage of Internal Inspection Devices

[49 CFR 195.120]

A. General. Except as provided in Subsection B and C of this Section, each new pipeline and each main line section of a pipeline where the line pipe, valve, fitting or other line component is replaced must be designed and constructed to accommodate the passage of instrumented internal inspection devices in accordance with NACE SP0102 (incorporated by reference, see §30107. [49 CFR 195.120(a)]

B. Exceptions. This Section does not apply to: [49 CFR 195.120(b)]

1. - 4. ...

5. pipe for which an instrumented internal inspection device is not commercially available; and [49 CFR 195.120(b)(5)]

6. offshore pipelines, other than main lines 10 inches (254 mm) or greater in nominal diameter, that transport liquids to onshore facilities. [49 CFR 195.120(b)(6)]

C. Impracticability. An operator may file a petition under §190.9 of 49 CFR and Chapter 313 of this Subpart for a finding that the requirements in Subsection A of this Section should not be applied to a pipeline for reasons of impracticability. [49 CFR 195.120(c)]

D. Emergencies. An operator need not comply with Subsection A of this Section in constructing a new or replacement segment of a pipeline in an emergency. Within 30 days after discovering the emergency, the operator must file a petition under §190.9 of 49 CFR and Chapter 313 of this Subpart for a finding that requiring the design and construction of the new or replacement pipeline segment to accommodate passage of instrumented internal inspection devices would be impracticable as a result of the emergency. If PHMSA denies the petition, within 1 year after the date of the notice of the denial, the operator must modify the new or replacement pipeline segment to allow passage of instrumented internal inspection devices. [49 CFR 195.120(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21:817 (August 1995), LR 27:1526 (September 2001), LR 29:2816 (December 2003), LR 44:1025 (June 2018), LR 46:1606 (November 2020).

§30191. Leak Detection

[49 CFR 195.134]

A. Scope. This section applies to each hazardous liquid pipeline transporting liquid in single phase (without gas in the liquid). [49 CFR 195.134(a)]

B. General [49 CFR 195.134(b)]

1. For each pipeline constructed prior to October 1, 2019. Each pipeline must have a system for detecting leaks

that complies with the requirements in §30444 by October 1, 2024. [49 CFR 195.134(b)(1)]

2. For each pipeline constructed on or after October 1, 2019. Each pipeline must have a system for detecting leaks that complies with the requirements in §30444 by October 1, 2020. [49 CFR 195.134(b)(2)]

C. CPM Leak Detection Systems. A new computational pipeline monitoring (CPM) leak detection system or replaced component of an existing CPM system must be designed in accordance with the requirements in section 4.2 of API RP 1130 (incorporated by reference, see §30107) and any other applicable design criteria in that standard. [49 CFR 195.134(c)]

D. Exception. The requirements of Subsection B of this Section do not apply to offshore gathering or regulated rural gathering lines. [49 CFR 195.134(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:1526 (September 2001), amended LR 29:2817 (December 2003), LR 44:1025 (June 2018), LR 46:1606 (November 2020).

Chapter 302. Transportation of Hazardous Liquids by Pipeline—Construction

[49 CFR Part 195 Subpart D]

§30214. Welding Procedures [49 CFR 195.214]

A. Welding must be performed by a qualified welder or welding operator in accordance with welding procedures qualified under section 5, section 12, Appendix A or Appendix B of API Std 1104 (incorporated by reference, see §30107), or Section IX of the ASME Boiler and Pressure Vessel Code (ASME BPVC) (incorporated by reference, see §30107). The quality of the test welds used to qualify the welding procedures must be determined by destructive testing. [49 CFR 195.214(a)].

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2818 (December 2003), amended LR 31:677 (March 2005), LR 33:469 (March 2007), LR 44:1026 (June 2018), LR 46:1606 (November 2020).

§30222. Welders—Qualification of Welders

[49 CFR 195.222]

A. Each welder or welding operator must be qualified in accordance with section 6, section 12, Appendix A or Appendix B of API Std 1104 (incorporated by reference, see §30107), or section IX of the ASME Boiler and Pressure Vessel Code (ASME BPVC), (incorporated by reference, see §30107) except that a welder or welding operator qualified under an earlier edition than listed in §30107, may weld but may not requalify under that earlier edition. [49 CFR 195.222(a)].

B. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2818 (December 2003), amended LR 31:677 (March 2005), LR 33:469 (March 2007), LR 44:1026 (June 2018), LR 46:1606 (November 2020).

Chapter 304. Transportation of Hazardous Liquids by Pipeline—Operation and Maintenance [49 CFR Part 195 Subpart F]

§30401. General Requirements [49 CFR 195.401]

A. - B.2. ...

3. Prioritizing Repairs. An operator must consider the risk to people, property, and the environment in prioritizing the correction of any conditions referenced in Paragraphs B.1 and 2 of this Section. [49 CFR 195.401(b)(3)]

C. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2824 (December 2003), amended LR 38:105 (January 2012), LR 46:1607 (November 2020).

§30414. Inspections of Pipelines in Areas Affected by Extreme Weather and Natural Disasters [49 CFR 195.414]

A. General. Following an extreme weather event or natural disaster that has the likelihood of damage to infrastructure by the scouring or movement of the soil surrounding the pipeline, such as a named tropical storm or hurricane; a flood that exceeds the river, shoreline, or creek high-water banks in the area of the pipeline; a landslide in the area of the pipeline; or an earthquake in the area of the pipeline, an operator must inspect all potentially affected pipeline facilities to detect conditions that could adversely affect the safe operation of that pipeline.. [49 CFR 195.414(a)]

B. Inspection Method. An operator must consider the nature of the event and the physical characteristics, operating conditions, location, and prior history of the affected pipeline in determining the appropriate method for performing the initial inspection to determine the extent of any damage and the need for the additional assessments required under Subsection A of this Section. [49 CFR 195.414(b)]

C. Time Period. The inspection required under Subsection A of this Section must commence within 72 hours after the cessation of the event, defined as the point in time when the affected area can be safely accessed by the personnel and equipment required to perform the inspection as determined under Subsection B of this Section. In the event that the operator is unable to commence the inspection due to the unavailability of personnel or equipment, the operator must notify the appropriate PHMSA Region Director and Office of Conservation Pipeline Division for intrastate facilities as soon as practicable. [49 CFR 195.414(c)]

D. Remedial Action. An operator must take prompt and appropriate remedial action to ensure the safe operation of a pipeline based on the information obtained as a result of performing the inspection required under Subsection A of this Section. Such actions might include, but are not limited to: [49 CFR 195.414(d)]

1. reducing the operating pressure or shutting down the pipeline; [49 CFR 195.414(d)(1)]

2. for each pipeline constructed on Modifying, repairing, or replacing any damaged pipeline facilities; [49 CFR 195.414(d)(2)]

3. preventing, mitigating, or eliminating any unsafe conditions in the pipeline right-of-way; [49 CFR 195.414(d)(3)]

4. performing additional patrols, surveys, tests, or inspections; [49 CFR 195.414(d)(4)]

5. implementing emergency response activities with federal, state, or local personnel; and [49 CFR 195.414(d)(5)]

6. notifying affected communities of the steps that can be taken to ensure public safety. [49 CFR 195.414(d)(6)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 46:1607 (November 2020).

§30416. Inspections of Pipelines in Areas Affected by Extreme Weather and Natural Disasters [49 CFR 195.416]

A. Scope. This section applies to onshore line pipe that can accommodate inspection by means of in-line inspection tools and is not subject to the integrity management requirements in § 30452. [49 CFR 195.416(a)]

B. General. An operator must perform an initial assessment of each of its pipeline segments by October 1, 2029, and perform periodic assessments of its pipeline segments at least once every 10 calendar years from the year of the prior assessment or as otherwise necessary to ensure public safety or the protection of the environment. [49 CFR 195.416(b)]

C. Method. Except as specified in Subsection D of this Section, an operator must perform the integrity assessment for the range of relevant threats to the pipeline segment by the use of an appropriate in-line inspection tool(s). When performing an assessment using an in-line inspection tool, an operator must comply with §30591. An operator must explicitly consider uncertainties in reported results (including tool tolerance, anomaly findings, and unity chart plots or other equivalent methods for determining uncertainties) in identifying anomalies. If this is impracticable based on operational limits, including operating pressure, low flow, and pipeline length or availability of in-line inspection tool technology for the pipe diameter, then the operator must perform the assessment using the appropriate method(s) in Paragraphs C.1, C.2, or C.3 of this Section for the range of relevant threats being assessed. The methods an operator selects to assess low-frequency electric resistance welded pipe, pipe with a seam factor less than 1.0 as defined in § 30161.E or lap-welded pipe susceptible to longitudinal seam failure must be capable of assessing seam integrity, cracking, and of detecting corrosion and deformation anomalies. The following alternative assessment methods may be used as specified in this Subsection: [49 CFR 195.416(c)]

1. a pressure test conducted in accordance with Chapter 303 of this Part; [49 CFR 195.416(c)(1)]

2. external corrosion direct assessment in accordance with §30588; or [49 CFR 195.416(c)(2)]

3. other technology in accordance with Subsection D. [49 CFR 195.416(c)(3)]

D. Other Technology

1. Operators may elect to use other technologies if the operator can demonstrate the technology can provide an

equivalent understanding of the condition of the line pipe for threat being assessed. An operator choosing this option must notify the Office of Pipeline Safety (OPS) and the Office of Conservation for intrastate jurisdictional facilities 90 days before conducting the assessment by: [49 CFR 195.416(d)]

a. sending the notification, along with the information required to demonstrate compliance with this Paragraph, to the Information Resources Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590 and Office of Conservation – Pipeline Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; or [49 CFR 195.416(d)(1)]

b. sending the notification, along with the information required to demonstrate compliance with this Paragraph, to the Information Resources Manager by facsimile to (202) 366-7128 and pipelineinspectors@la.gov. [49 CFR 195.416(d)(2)]

2. Prior to conducting the "other technology" assessments, the operator must receive a notice of "no objection" from the PHMSA Information Services Manager or Designee and the Office of Conservation. [49 CFR 195.416(d)(3)]

E. Data Analysis. A person qualified by knowledge, training, and experience must analyze the data obtained from an assessment performed under Subsection B of this Section to determine if a condition could adversely affect the safe operation of the pipeline. Operators must consider uncertainties in any reported results (including tool tolerance) as part of that analysis. [49 CFR 195.416(e)]

F. Discovery of Condition. For purposes of §30401.B.1, discovery of a condition occurs when an operator has adequate information to determine that a condition presenting a potential threat to the integrity of the pipeline exists. An operator must promptly, but no later than 180 days after an assessment, obtain sufficient information about a condition to make that determination required under Subsection E of this Section, unless the operator can demonstrate the 180-day interval is impracticable. If the operator believes that 180 days are impracticable to make a determination about a condition found during an assessment, the pipeline operator must notify PHMSA and provide an expected date when adequate information will become available. This notification must be made in accordance with §30452.M. [49 CFR 195.416(f)]

G. Remediation. An operator must comply with the requirements in §30401 if a condition that could adversely affect the safe operation of a pipeline is discovered in complying with Subsection E and F of this Section. [49 CFR 195.416(g)]

H. Consideration of Information. An operator must consider all relevant information about a pipeline in complying with the requirements in Subsection A through G of this Section. [49 CFR 195.416(h)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 46:1607 (November 2020).

§30444. Leak Detection

[49 CFR 195.444]

A. Scope. Except for offshore gathering and regulated rural gathering pipelines, this section applies to all hazardous liquid pipelines transporting liquid in single phase (without gas in the liquid). [49 CFR 195.444(a)]

B. General. A pipeline must have an effective system for detecting leaks in accordance with §§30134 or 30452, as appropriate. An operator must evaluate the capability of its leak detection system to protect the public, property, and the environment and modify it as necessary to do so. At a minimum, an operator's evaluation must consider the following factors - length and size of the pipeline, type of product carried, the swiftness of leak detection, location of nearest response personnel, and leak history. [49 CFR 195.444(b)]

C. CPM Leak Detection Systems. Each computational pipeline monitoring (CPM) leak detection system installed on a hazardous liquid pipeline must comply with API RP 1130 (incorporated by reference, see §30107) in operating, maintaining, testing, record keeping, and dispatcher training of the system. [49 CFR 195.444(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2830 (December 2003), amended LR 44:1028 (June 2018), LR 46:1608 (November 2020).

§30452. Pipeline Integrity Management in High Consequence Areas

[49 CFR 195.452]

A. - A.2. ...

3. Category 3 includes pipelines constructed or converted after May 29, 2001, and low-stress pipelines in rural areas under §30118. [49 CFR 195.452(a)(3)]

A.4. - B. ...

1. Develop a written integrity management program that addresses the risks on each segment of pipeline in the first column of the following table no later than the date in the second column: [49 CFR 195.452(b)(1)]

Pipeline	Date
Category 1	March 31, 2002
Category 2	February 18, 2003
Category 3	. Date the pipeline begins operation or as provided in § 30118 for low stress pipelines in rural areas.

B.2. - C.1. ...

a. The methods selected to assess the integrity of the line pipe. An operator must assess the integrity of the line pipe by in-line inspection tool(s) described in Subclause C.1.a.i this Section for the range of relevant threats to the pipeline segment. If it is impracticable based upon the construction of the pipeline (e.g., diameter changes, sharp bends, and elbows) or operational limits including operating pressure, low flow, pipeline length, or availability of in-line inspection tool technology for the pipe diameter, then the operator must use the appropriate method(s) in Subclause C.1.a.ii, iii, or iv of this Section for the range of relevant threats to the pipeline segment. The methods an operator

selects to assess low-frequency electric resistance welded pipe, pipe with a seam factor less than 1.0 as defined in §30161.E or lap-welded pipe susceptible to longitudinal seam failure, must be capable of assessing seam integrity, cracking, and of detecting corrosion and deformation anomalies. [49 CFR 195.452(c)(1)(i)]

i. In-line inspection tool or tools capable of detecting corrosion and deformation anomalies including dents, gouges, and grooves. For pipeline segments with an identified or probable risk or threat related to cracks (such as at pipe body or weld seams) based on the risk factors specified in Subsection E, an operator must use an in-line inspection tool or tools capable of detecting crack anomalies. When performing an assessment using an in-line inspection tool, an operator must comply with §30591. An operator using this method must explicitly consider uncertainties in reported results (including tool tolerance, anomaly findings, and unity chart plots or equivalent for determining uncertainties) in identifying anomalies; [49 CFR 195.452(c)(1)(i)(A)]

1.a.ii. - 2. ...

D. When must operators complete baseline assessments? [49 CFR 195.452(d)]

1. All Pipelines. An operator must complete the baseline assessment before a new or conversion-to-service pipeline begins operation through the development of procedures, identification of high consequence areas, and pressure testing of could- affect high consequence areas in accordance with §30304. [49 CFR 195.452(d)(1)]

2. Newly Identified Areas. If an operator obtains information (whether from the information analysis required under Subsection G of this section, Census Bureau maps, or any other source) demonstrating that the area around a pipeline segment has changed to meet the definition of a high consequence area (see §30450), that area must be incorporated into the operator's baseline assessment plan within one year from the date that the information is obtained. An operator must complete the baseline assessment of any pipeline segment that could affect a newly identified high consequence area within 5 years from the date an operator identifies the area. [49 CFR 195.452(d)(2)]

Pipeline	Date
Category 1	January 1, 1996
Category 2	February 15, 1997

E. - E.1.f. ...

g. local environmental factors that could affect the pipeline (e.g., seismicity, corrosivity of soil, subsidence, climatic); [49 CFR 195.452(e)(1)(vii)]

E.1.h. - F.8. ...

9. procedures for providing (when requested), by electronic or other means, a copy of the operator's risk analysis or integrity management program to Office of Conservation, Pipeline Division for intrastate jurisdictional facilities.

G. What is an information analysis? In periodically evaluating the integrity of each pipeline segment (see Subsection J of this Section), an operator must analyze all available information about the integrity of its entire pipeline and the consequences of a possible failure along the pipeline. Operators must continue to comply with the data

integration elements specified in §30452.G that were in effect on October 1, 2018, until October 1, 2022. Operators must begin to integrate all the data elements specified in this section starting October 1, 2020, with all attributes integrated by October 1, 2022. This analysis must: [49 CFR 195.452(g)]

1. integrate information and attributes about the pipeline that include, but are not limited to: [49 CFR 195.452(g)(1)]

a. pipe diameter, wall thickness, grade, and seam type; [49 CFR 195.452(g)(1)(i)]

b. pipe coating, including girth weld coating; [49 CFR 195.452(g)(1)(ii)]

c. maximum operating pressure (MOP) and temperature; [49 CFR 195.452(g)(1)(iii)]

d. endpoints of segments that could affect high consequence areas (HCAs); [49 CFR 195.452(g)(1)(iv)]

e. hydrostatic test pressure including any test failures or leaks, if known; [49 CFR 195.452(g)(1)(v)]

f. location of casings and if shorted; [49 CFR 195.452(g)(1)(vi)]

g. any in-service ruptures or leaks, including identified causes; [49 CFR 195.452(g)(1)(vii)]

h. data gathered through integrity assessments required under this Section; [49 CFR 195.452(g)(1)(viii)]

i. close interval survey (CIS) survey results; [49 CFR 195.452(g)(1)(ix)]

j. depth of cover surveys; [49 CFR 195.452(g)(1)(x)]

k. corrosion protection (CP) rectifier readings; [49 CFR 195.452(g)(1)(xi)]

l. CP test point survey readings and locations; [49 CFR 195.452(g)(1)(xii)]

m. AC/DC and foreign structure interference surveys; [49 CFR 195.452(g)(1)(xiii)]

n. pipe coating surveys and cathodic protection surveys. [49 CFR 195.452(g)(1)(xiv)]

o. results of examinations of exposed portions of buried pipelines (i.e., pipe and pipe coating condition, see §30569; [49 CFR 195.452(g)(1)(xv)]

p. stress corrosion cracking (SCC) and other cracking (pipe body or weld) excavations and findings, including in-situ non-destructive examinations and analysis results for failure stress pressures and cyclic fatigue crack growth analysis to estimate the remaining life of the pipeline; [49 CFR 195.452(g)(1)(xvi)]

q. aerial photography; [49 CFR 195.452(g)(1)(xvii)]

r. location of foreign line crossings; [49 CFR 195.452(g)(1)(xviii)]

s. pipe exposures resulting from repairs and encroachments; [49 CFR 195.452(g)(1)(xix)]

t. seismicity of the area; and [49 CFR 195.452(g)(1)(xx)]

u. other pertinent information derived from operations and maintenance activities and any additional tests, inspections, surveys, patrols, or monitoring required under this Part; [49 CFR 195.452(g)(1)(xxi)]

2. consider information critical to determining the potential for, and preventing, damage due to excavation, including current and planned damage prevention activities, and development or planned development along the pipeline; [49 CFR 195.452(g)(2)]

3. consider how a potential failure would affect high consequence areas, such as location of a water intake; [49 CFR 195.452(g)(3)]

4. identify spatial relationships among anomalous information (e.g., corrosion coincident with foreign line crossings; evidence of pipeline damage where aerial photography shows evidence of encroachment). Storing the information in a geographic information system (GIS), alone, is not sufficient. An operator must analyze for interrelationships among the data. [49 CFR 195.452(g)(4)]

H. ...

1. General Requirements. An operator must take prompt action to address all anomalous conditions in the pipeline that the operator discovers through the integrity assessment or information analysis. In addressing all conditions, an operator must evaluate all anomalous conditions and remediate those that could reduce a pipeline's integrity, as required by this part. An operator must be able to demonstrate that the remediation of the condition will ensure that the condition is unlikely to pose a threat to the long-term integrity of the pipeline. An operator must comply with all other applicable requirements in this part in remediating a condition. Each operator must, in repairing its pipeline systems, ensure that the repairs are made in a safe and timely manner and are made so as to prevent damage to persons, property, or the environment. The calculation method(s) used for anomaly evaluation must be applicable for the range of relevant threats. [49 CFR 195.452(h)(1)]

a. - b. ...

2. Discovery of Condition. Discovery of a condition occurs when an operator has adequate information to determine that a condition presenting a potential threat to the integrity of the pipeline exists. An operator must promptly, but no later than 180 days after an assessment, obtain sufficient information about a condition to make that determination, unless the operator can demonstrate the 180-day interval is impracticable. If the operator believes that 180 days are impracticable to make a determination about a condition found during an assessment, the pipeline operator must notify PHMSA in accordance with Subsection M of this Section and provide an expected date when adequate information will become available. [49 CFR 195.452(h)(2)]

H.3. - I.2.h. ...

i. seismicity of the area. [49 CFR 195.452(i)(2)(ix)]

I.3. - J.1. ...

2. Verifying Covered Segments. An operator must verify the risk factors used in identifying pipeline segments that could affect a high consequence area on at least an annual basis not to exceed 15 months (Appendix C of this part provides additional guidance on factors that can influence whether a pipeline segment could affect a high consequence area). If a change in circumstance indicates that the prior consideration of a risk factor is no longer valid or that an operator should consider new risk factors, an operator must perform a new integrity analysis and evaluation to establish the endpoints of any previously identified covered segments. The integrity analysis and evaluation must include consideration of the results of any baseline and periodic integrity assessments (see Subsections B, C, D, and E of this Section), information analyses (see Subsection G of this Section), and decisions about remediation and preventive and mitigative actions (see

Subsection H and I of this Section). An operator must complete the first annual verification under this Subsection no later than July 1, 2021. [49 CFR 195.452(j)(2)]

J.3. - M.2. ...

N. Accommodation of Instrumented Internal Inspection Devices [49 CFR 195.452(n)]

1. Scope. This Subsection does not apply to any pipeline facilities listed in §30177.B. [49 CFR 195.452(n)(1)]

2. General. An operator must ensure that each pipeline is modified to accommodate the passage of an instrumented internal inspection device by July 2, 2040. [49 CFR 195.452(n)(2)]

3. Newly Identified Areas. If a pipeline could affect a newly identified high consequence area (see Paragraph D.2 of this Section) after July 2, 2035, an operator must modify the pipeline to accommodate the passage of an instrumented internal inspection device within five years of the date of identification or before performing the baseline assessment, whichever is sooner. [49 CFR 195.452(n)(3)]

4. Lack of Accommodation. An operator may file a petition under §190.9 of 49 CFR and Chapter 313 of this Subpart for a finding that the basic construction (i.e., length, diameter, operating pressure, or location) of a pipeline cannot be modified to accommodate the passage of an instrumented internal inspection device or that the operator determines it would abandon or shut-down a pipeline as a result of the cost to comply with the requirement of this section. [49 CFR 195.452(n)(4)]

5. Emergencies. An operator may file a petition under §190.9 of 49 CFR and Chapter 313 of this Subpart for a finding that a pipeline cannot be modified to accommodate the passage of an instrumented internal inspection device as a result of an emergency. An operator must file such a petition within 30 days after discovering the emergency. If the petition is denied, the operator must modify the pipeline to allow the passage of an instrumented internal inspection device within 1 year after the date of the notice of the denial. [49 CFR 195.452(n)(5)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2830 (December 2003), amended LR 30:1216 (June 2004), LR 33:471 (March 2007), LR 35:2797 (December 2009), LR 38:108 (January 2012), LR 44:1029 (June 2018), LR 46:1608 (November 2020).

§30454. Integrity assessments for certain underwater hazardous liquid pipeline facilities located in high consequence areas. [49 CFR 195.454]

A. Notwithstanding any pipeline integrity management program or integrity assessment schedule otherwise required under § 30452, each operator of any underwater hazardous liquid pipeline facility located in a high consequence area that is not an offshore pipeline facility and any portion of which is located at depths greater than 150 feet under the surface of the water must ensure that: [49 CFR 195.454]

1. Pipeline integrity assessments using internal inspection technology appropriate for the integrity threats to the pipeline are completed not less often than once every 12 months, and; [49 CFR 195.454(a)]

2. Pipeline integrity assessments using pipeline route surveys, depth of cover surveys, pressure tests, external

corrosion direct assessment, or other technology that the operator demonstrates can further the understanding of the condition of the pipeline facility, are completed on a schedule based on the risk that the pipeline facility poses to the high consequence area in which the pipeline facility is located. [49 CFR 195.454 (b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 46:1610 (November 2020).

Richard P. Ieyoub
Commissioner

2011#016

RULE

**Department of Public Safety and Corrections
Office of the State Fire Marshal
Uniform Construction Code Council**

State Uniform Construction Code
(LAC 17:I.111)

In accordance with R.S. 49:953(B) of the Administrative Procedure Act, the Department of Public Safety and Corrections, Office of State Fire Marshal, Louisiana State Uniform Construction Code Council, hereafter referred to as the “LSUCCC” or the “Council”, has amended LAC 17:I.Chapter 1 of the State Uniform Construction Code as authorized by R.S.40:1730.28. The LSUCCC adopts amendments to the current State Uniform Construction Code, 2015 *International Plumbing Code*, Section 422.11, Handwashing Facilities, to provide greater health and safety for the public and for those providing medical care to patients. A letter from Dr. Jimmy Guidry, State Health

Officer, Department of Health, was received by the LSUCCC requesting an amendment be adopted by the Council. This amendment serves to better protect the public and to follow national guidelines from the Center for Disease Control (CDC), in addition to promoting greater access to safer hygiene practices and to insure safety to existing facilities undergoing renovations and for new proposed facilities.

In Dr. Guidry’s letter, he states the following: “In the absence of nationally mandated requirements or guidelines regarding handwashing facilities in medical office exam rooms, I’ve considered the minimum indications for handwashing and antisepsis, as accepted by the Center for Disease Control (CDC). The CDC recognizes hand hygiene in health-care settings, based on the recommendations of the Healthcare Infection Control Practices Advisory Council. It is my recommendation that the following language be added as an exception to the referred to section above as an Emergency Rule Amendment. This should only be acceptable in lieu of handwashing facilities alone, in a healthcare setting such as doctor's offices and clinics where there is no reasonably anticipated exposure to blood or other potentially infectious materials (OPIM).” This Rule is hereby adopted on the day of promulgation.

Title 17

CONSTRUCTION

Part I. Uniform Construction Code

Chapter 1. Adoption of the Louisiana State Uniform Construction Code

**§111. *The International Plumbing Code*
(Formerly LAC 55:VI.301.A.5)**

A. The *International Plumbing Code*, 2015 Edition. The appendices of that code may be adopted as needed, but the specific appendix or appendices shall be referenced by name or letter designation at the time of adoption (per R.S. 40:1730.28, eff. 1/1/16).

* * *		
Amend	Chapter 4	
* * *		
Adopt	Section 422.11, Handwashing Facilities.	Medical facilities, including doctor’s office and clinics, shall be provided with hand washing facilities within each patient examination and treatment room. The hand wash facility shall be provided with hot and cold water delivered via a mixing faucet.
Amend	Exception	1. In healthcare setting such as doctor's offices and clinics where there is no reasonably anticipated exposure to blood or other potentially infectious materials (OPIM), where hands are not expected to be visibly soiled and clinical situations described in items 1C-J (IA) (74,93,166,169,283,294,312,398) are followed, use of an alcohol-based hand rub for routinely decontaminating hands shall be allowed in lieu of handwashing facilities. The design professional shall provide documentation to the building official specifying the anticipated exposure.
* * *		

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1) and Act836 of the 2014 of the Regular Louisiana Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform

Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2386 (November 2015), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, Uniform Construction Code Council, LR 42:1672 (October 2016), LR 44:81 (January 2018), repromulgated LR 45:919 (July 2019), amended LR 46:1611 (November 2020).

Chief H. “Butch” Browning, Jr.
State Fire Marshal

2011#027

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Hunter Education Program Certification Policy (LAC 76:I.311 and 312)

The Wildlife and Fisheries Commission has amended the Hunter Education Program Certification Policy (LAC 76:I.311 and 76:I.312). Amendments include removal of previous non-binding resolution language, provide minimum customer personal information requirements, condense and clarify hunter education certification policy, and provide an online only certification option to students taking the Louisiana hunter education course. This Rule is hereby adopted on the day of promulgation.

Title 76

WILDLIFE AND FISHERIES

Part I. Wildlife and Fisheries Commission and Agencies Thereunder

Chapter 3. Special Powers and Duties

Subchapter C. Hunter Safety Program

§311. Hunter Safety Education Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:109.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 8:102 (February 1982), repealed LR 46:1612 (November 2020).

§312. Hunter Education Program Certification Policy

A. The Wildlife and Fisheries Commission shall be the sole authority for establishing minimum requirements for certification of student and volunteer instructors and for the overall administration of the Louisiana Hunter Education Program. The Louisiana Hunter Education Program shall meet the minimum performance guidelines for the basic hunter education course as set forth by the International Hunter Education Association-USA Hunter Education Standards.

B. The Department of Wildlife and Fisheries shall maintain an electronic database of all students and active instructors who have successfully met the requirements for certification.

C. Requirements for hunter education student certification shall be as follows:

1. Provide at least the following information:
 - a. legal name;
 - b. date of birth;
 - c. state of residency;
 - d. State-issued driver's license or identification number or last four digits of social security number;
 - e. physical and mailing address;
 - f. a valid email address for purposes of electronic document delivery.

2. Demonstrate sufficient knowledge and understanding of safe hunting practices, firearm safety, and conservation principles by successfully completing one of the following courses:

- a. For classroom based hunter education course:
 - i. attend the required classroom instruction as approved by the Louisiana Hunter Education Program;

- ii. successfully complete a written exam prepared by the Louisiana Hunter Education Program;

- iii. demonstrate the ability to safely handle hunting firearms

- b. For computer based hunter education course:

- i. complete the required computer based hunter education instruction as approved by the Louisiana Hunter Education Program;

- ii. successfully complete a computer based exam prepared by the Louisiana Hunter Education Program.

- c. For blended computer based and field day combination course:

- i. complete the required computer based hunter education instruction as approved by the Louisiana Hunter Education Program;

- ii. successfully complete a computer based exam prepared by the Louisiana Hunter Education Program;

- iii. successfully complete the required field day instruction as approved by the Louisiana Hunter Education Program.

D. Requirements for bowhunter education certification shall be as follows:

1. successfully complete the required bowhunter education course as approved by the Louisiana Hunter Education Program in accordance with the National Bowhunter Education Foundation standards;

E. Upon successful completion of any of the approved courses, LDWF shall provide credentials documenting course completion.

F. Minimum age for certification in all courses within the Louisiana Hunter Education Program shall be as follows:

1. classroom based hunter education course—age 10;
2. computer based hunter education course—the minimum age requiring a basic hunting license.
3. blended computer based and field day combination course—age 10.

G. All persons' ages 10 and 11 who are hunter education certified, while hunting in the state of Louisiana, are to be accompanied by and under the direct supervision of a person who is 18 years of age or older and has a valid hunting license or proof of successful completion of a hunter education course approved by the department in order for that certification to be valid. Direct supervision means that the person being supervised shall be within normal audible voice proximity and in direct line of sight of the supervising adult at all times.

H. Requirements for volunteer instructor certification shall be as follows:

1. complete a minimum of 12 hours of classroom, field, and/or computer based instruction as approved by the Louisiana Hunter Education Program;
2. pass a written exam prepared by the Louisiana Hunter Education Program;
3. demonstrate the ability to lead students through exercises that exhibit the safe handling of hunting firearms; and

4. upon successful completion of instructor training, candidates shall be certified for an initial two-year period. Recertification shall be contingent on continued participation in the Louisiana Hunter Education Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:699.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 33:1396 (July 2007), amended LR 46:1613 (November 2020).

Jack Montoucet
Secretary

2011#022

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Removal of Abandoned Crab Traps (LAC 76:VII.367)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:332(N), that the Wildlife and Fisheries Commission amends LAC 76:VII.367 to temporarily close a portion of state inside waters to the use of crab traps in order to facilitate the removal of abandoned crab traps in these waters.

The Wildlife and Fisheries Commission has amended the provisions in LAC 76:VII.367 governing the locations of temporary crab trap closures to address problems in portions of state waters resulting from large numbers of abandoned and derelict crab traps (*Louisiana Register, Volume 30, Number 1; Volume 31, Number 1; Volume 32, Number 2; Volume 33, Number 1; Volume 34, Number 1; Volume 36; Number 1; Volume 38, Number 1; Volume 38, Number 12; Volume 40, Number 1; Volume 41, Number 1; Volume 42, Number 1; Volume 42, Number 12; Volume 44, Number 1; Volume 45, Number 2; Volume 45, Number 12*). The Wildlife and Fisheries Commission took action on August 6, 2020 to describe a new portion of state waters to be temporarily closed to the use of crab traps for the purpose of conducting a crab trap cleanup. This Rule is hereby adopted on the day of promulgation.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery §367. Removal of Abandoned Crab Traps

A. The use of crab traps shall be prohibited for a 14-day period from 12:00 a.m. February 1, 2021 through 11:59 p.m. February 14, 2021 within portions of Plaquemines and St. Bernard Parishes as described below:

1. from a point originating along the eastern shoreline of the Mississippi River at 29 degrees 46 minutes 30.00 seconds north latitude, 90 degrees 01 minutes 03.51 seconds west longitude; thence easterly along 29 degrees 46 minutes 30.00 seconds north latitude to its intersection with the eastern bank of Bayou Terre Aux Boeufs at 29 degrees 46 minutes 30.00 seconds north latitude, 89 degrees 46 minutes 58.76 seconds west longitude; thence southerly along the eastern bank of Bayou Terre Aux Boeufs to 29 degrees 41 minutes 15.19 seconds north latitude, 89 degrees 38 minutes 00.00 seconds west longitude; thence southerly along 89 degrees 38 minutes 00.00 seconds west longitude to 29 degrees 34 minutes 12.00 seconds north latitude, 89 degrees 38 minutes 00.00 seconds west longitude; thence westerly along 29 degrees 34 minutes 12.00 seconds north latitude to

29 degrees 34 minutes 12.00 seconds north latitude, 89 degrees 42 minutes 36.00 seconds west longitude; thence southerly along 89 degrees 42 minutes 36.00 seconds west longitude to its intersection with the eastern bank of the Mississippi River at 29 degrees 30 minutes 51.57 seconds north latitude, 89 degrees 42 minutes 36.24 seconds west longitude; thence northerly along the eastern bank of the Mississippi River to its point of origin.

B. The use of crab traps shall be prohibited for a 14-day period from 12:00 a.m. February 1, 2021 through 11:59 p.m. February 14, 2021 within portions of Lafourche and Terrebonne Parishes as described below:

1. from a point originating on the eastern shore of Bayou Lafourche at 29 degrees 26 minutes 09.67 seconds north latitude, 90 degrees 17 minutes 52.32 seconds west longitude, thence due west to the southwestern most point of the Pointe Aux Chenes Wildlife Management Area at 29 degrees 26 minutes 09.67 seconds north latitude, 90 degrees 19 minutes 32.14 seconds west longitude, thence westerly following the southern boundary of the Pointe Aux Chenes Wildlife Management Area to its intersection with the western shore of Bayou Pointe Aux Chenes (29 degrees 26 minutes 49.37 seconds north latitude, 90 degrees 27 minutes 53.44 seconds west longitude), thence southerly along the western shore of Bayou Pointe Aux Chenes to the point where Bayou Pointe Aux Chenes exits between Lake Raccourci and Lake Felicity (29 degrees 15 minutes 55.48 seconds north latitude, 90 degrees 23 minutes 47.39 seconds west longitude), thence easterly to a point on the eastern shoreline of Bayou Pointe Aux Chenes (29 degrees 15 minutes 55.66 seconds north latitude, 90 degrees 23 minutes 46.76 seconds west longitude), thence easterly along the shoreline to a point at 29 degrees 15 minutes 52.74 seconds north latitude, 90 degrees 23 minutes 01.97 seconds west longitude, thence due south to Timbalier-Terrebonne Bay Light #23 (29 degrees 09 minutes 37.26 seconds north latitude, 90 degrees 22 minutes 58.17 seconds west longitude), thence southeasterly following the buoy line through Favoline Canal to a point on the eastern shore of Bayou Lafourche (29 degrees 09 minutes 40.54 seconds north latitude, 90 degrees 13 minutes 57.34 seconds west longitude), thence northerly following Bayou Lafourche to its point of origin.

C. The use of crab traps shall be prohibited for a 14-day period from 12:00 a.m. February 1, 2021 through 11:59 p.m. February 14, 2021 within portions of Iberia and St. Mary Parishes as described below:

1. from a point originating at Point Marone (29 degrees 38 minutes 03.42 seconds north latitude, 91 degrees 38 minutes 44.07 seconds west longitude), thence southwesterly to East Point on Marsh Island (29 degrees 34 minutes 06.06 seconds north latitude, 91 degrees 42 minutes 31.15 seconds west longitude), southerly along the eastern shore of Marsh Island to South Point (29 degrees 29 minutes 25.55 seconds north latitude, 91 degrees 46 minutes 07.56 seconds west longitude), thence northeasterly to Point Chevreuil (29 degrees 31 minutes 37.85 seconds north latitude, 91 degrees 32 minutes 21.91 seconds west longitude), thence northerly and westerly along the north shore of East Cote Blanche Bay to its point of origin.

D. The use of crab traps shall be prohibited for a 14-day period from 12:00 a.m. February 22, 2021 through 11:59

p.m. March 7, 2021 within portions of Plaquemines and St. Bernard Parishes as described below:

1. from a point located where Bayou La Loutre and Bayou Terre Aux Boeufs intersect at 29 degrees 50 minutes 31.70 seconds north latitude, 89 degrees 45 minutes 47.19 seconds west longitude, thence westerly to the western shore of Bayou Terre Aux Boeufs (29 degrees 50 minutes 31.57 seconds north latitude, 89 degrees 45 minutes 47.65 seconds west longitude), thence southerly following the western bank of Bayou Terre Aux Boeufs to 29 degrees 40 minutes 28.34 seconds north latitude, 89 degrees 36 minutes 18.00 seconds west longitude, thence north along 89 degrees 36 minutes 18.00 seconds west longitude to a point located in Grand Pass, between Lake Jean Louis Robin and Lake Coquille (29 degrees 43 minutes 48.00 seconds north latitude, 89 degrees 36 minutes 18.00 seconds west longitude), thence east along 29 degrees 43 minutes 48.00 seconds north latitude to its intersection with the western shore of the MRGO (29 degrees 43 minutes 48.06 seconds north latitude, 89 degrees 28 minutes 05.96 seconds west longitude), thence northwesterly along the western shore of the MRGO to its intersection with the northern shore of Bayou La Loutre, thence westerly following the northern shore of Bayou La Loutre to its point of origin.

E. All crab traps remaining in the closed area during the specified period shall be considered abandoned. Crab trap removal regulations do not provide authorization for access to private property; authorization to access private property can only be provided by individual landowners. Crab traps may be removed only between one-half hour before sunrise

to one-half hour after sunset. Department of Wildlife and Fisheries personnel or its designees are authorized to remove these abandoned crab traps within the closed area. All traps removed during a closed area are to be brought to the designated disposal area. The Wildlife and Fisheries Commission authorizes the secretary of the Department of Wildlife and Fisheries to designate disposal sites and determine the final disposition of crab traps removed from the closure areas, including but not limited to disposal, buy-back, recycling, or distributed to industry members participating in the retrieval of crab traps from within a closure area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:332(N).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 30:101 (January 2004), amended LR 31:108 (January 2005), LR 32:266 (February 2006), LR 33:113 (January 2007), LR 34:97 (January 2008), LR 36:77 (January, 2010), LR 38:146 (January 2012), LR 38:3250 (December 2012), LR 40:96 (January 2014), LR 41:155 (January 2015), LR 42:70 (January 2016), amended by the Department of Wildlife and Fisheries, Office of Fisheries and the Wildlife and Fisheries Commission LR 42:2196 (December 2016), LR 44:100 (January 2018), LR 45:78 (January 2019), repromulgated LR 45:282 (February 2019), LR 46:1815 (December 2019), amended LR 46:1613 (November 2020).

Jack Montoucet
Secretary

2011#023

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agro-Consumer Services

Indian Creek Campsite Fees (LAC 7:XXXIX.539)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in Act 591 of 1970, R.S. 36:802, and R.S. 3:4402., notice is hereby given that the Department of Agriculture and Forestry (Department) intends to adopt the rules set forth below by amending LAC 7:XXXIX.539. This amendment will allow for a change in established fees for campsite fees at the Indian Creek Recreation Area. The amendment will change all existing fees from a specific amount to a range which may or may not result in a nominal increase. The amendment will also include fees for newly-added full-hook-up campsites, which will also be in the form of a range rather than a specific amount.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 5. Indian Creek Recreation Area

§539. Fees and Exemptions; Overnight Use

A. Camping

1. Standard Campsite. A standard campsite rents for up to \$20 per night during the winter season (November 1-February 28) and up to \$24 per night during the summer season (March 1-October 31). A premium waterfront campsite rents for up to \$24 per night during the winter season (November 1-February 28) and up to \$30 per night during the summer season (March 1-October 31).

2. Pull-Thru Campsite. A pull-thru campsite consists of two sites.

a. Pull-Thru Non-Water Front Single Campsite (Standard Single Pull-Thru). A pull-thru single non-water front campsite rents for up to \$20 per night during the winter season (November 1-February 28) and up to \$24 per night during the summer season (March 1-October 31).

b. Pull-Thru Water-Front Single Campsite (Premium Single Pull-Thru). A pull-thru waterfront single campsite rented for use by a single tenant camper rents for up to \$24 per night during the winter season (November 1-February 28) and up to \$30 per night during the summer season (March 1-October 31).

c. Pull-Thru Water-Front Double Campsite (Ultra Pull-Thru). A pull-thru waterfront double campsite rented for use by a single tenant camper rents for up to \$44 per night during the winter season (November 1-February 28) and up to \$56 per night during the summer season (March 1-October 31).

3. Primitive Area. A primitive area campsite rents for up to \$12 per night during the winter season (November 1-February 28) and up to \$16 per night during the summer season (March 1-October 31).

4. Full Hook-Up Sites. A full hook-up site rents for up to \$30 per night during the winter season (November 1-February 28) and up to \$35 per night during the summer season (March 1-October 31).

B. ...

C. Thirty-Day Off-Season Rates (available November 1-February 28 only)

1. A fee of up to \$330 is assessed for use of a non-waterfront single campsite for 30 days.

2. A fee of up to \$435 is assessed for use of a single waterfront campsite for 30 days.

D. The fees set forth in this Section shall become effective October 1, 2016.

E. Online or telephone payments of the fees set forth in this Chapter may be subject to a credit card transaction fee.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970, R.S. 36:802.10, and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1507 (September 2016), amended LR 43:1518 (August 2017), LR 47:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule. This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Melissa Hidalgo, Director of Human Resources, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806 and must be received no later than 4 p.m. on the 10th day of December, 2020.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Suspension of License Renewal Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will have no costs or savings to the Department of Agriculture and Forestry (“Department”) other than the cost of rule promulgation in FY 21, which is normally included in the department’s annual operating budget. The proposed rule will have no costs or savings to local governmental units.

The proposed rule amends the amount of campsite fees at the Indian Creek Recreation Area. The proposed rule will change all existing fees from a specific amount to a range which may or may not result in a nominal increase. Also, the proposed rule amends fees for newly-added full-hook-up campsites, which will also be in the form of a range rather than a specific amount. The proposed rule further deletes obsolete campsite fees, including rental rates for pull-thru, non-waterfront double campsites and a nightly rate for sewerage connection hook-ups.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will result in an indeterminable revenue increase for the Department. Campsite rental rates may or may not increase under the proposed new rental fee schedule, as the proposed rule would no longer set a specific amount for campsite rental rates but rather sets a range, the maximum of which would be fixed at a level of two dollars (\$2) per night higher than the current amounts. Additionally, the proposed rule would include rental rates for the newly-added full hook-up campsites, consisting of a nightly rental rate of up to \$30 per night during the winter season (November 1 through February 28) and up to \$35 per night during the summer season (March 1-October 31). The amendment further deletes obsolete campsite fees, including rental rates for pull-thru, non-waterfront double campsites and nightly rates for sewerage connection hook-ups.

The annual revenue increase is indeterminable because it is not known where within the proposed range the rental rates will be set. However, at a minimum, the rental rates for the affected

existing campsites may remain the same with no increase in the existing rates. The maximum increase in annual revenue as a result of the proposed rule is approximately \$289,697. This estimate is derived from the maximum of the proposed increase of two dollars (\$2) per night. The increased revenue from existing campsites may equal up to \$48,302, which includes the maximum increase in rental rates existing campsites (\$44,252) and for existing primitive campsites (\$4,050). For newly-added full hook-up sites, the increase in revenue realized could equal up to \$241,395, which represents the maximum rental rates for those sites. The above calculations were based on approximately 60% occupancy rate of the campsites, which has been the historical average occupancy rate.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule is anticipated to result in nominal costs to individuals who rent campsites at the Indian Creek Recreation Area as the proposed rule changes various campsite rental rates from a specific fee to a range that could result in a nominal increase. The maximum increase for each of the affected fees could be an additional increment of up to two dollars (\$2) per night above the current rental rates.

The proposed rule is not anticipated to have any costs or benefits to small businesses or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will not have a direct effect on competition and employment.

Dane Morgan
Assistant Commissioner
2011#036

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Children and Family Services Licensing Section

Suspension of License Renewal Fees
(LAC 67:V.6953, 7103, 7303, and 7503)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A) and R.S. 46:1407(D), the Department of Children and Family Services (DCFS) proposes amend LAC 67, Part V, Subpart 8, Chapter 69, Child Residential Care, Class B, Section 6953; Chapter 71, Residential Homes-Type IV, Section 7103; Chapter 73, Child Placing Agencies, Section 7303; and Chapter 75, Juvenile Detention Facilities, Section 7503.

In accordance with HCR 71 of the 2020 Legislative Session, it is necessary to promulgate a rule to implement a temporary suspension of license renewal fees for a limited period of time. During their 2020 Regular Session, the Louisiana Legislature adopted House Concurrent Resolution 71 which directs state agencies to adopt a rule to suspend the collection of license renewal fees for existing businesses based in Louisiana for renewals due from July 1, 2020 through June 30, 2021 as part of Louisiana’s response to and as a way to help businesses reopen and recover from COVID-19. This Rule is necessary to comply with the legislative mandate in House Concurrent Resolution 71 of the 2020 Regular Session of the Louisiana Legislature.

Title 67
SOCIAL SERVICES
Part V. Child Welfare

Subpart 8. Residential Licensing

Chapter 69. Child Residential Care, Class B

§6953. Authority

A. ...

1. In accordance with HCR 71 of the 2020 Legislative Session, license renewal fees due from July 1, 2020 through June 30, 2021 are hereby suspended for existing residential homes located in Louisiana as part of Louisiana's response to and as a way to help businesses reopen and recover from COVID-19.

B. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended LR 36:331 (February 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:66 (January 2013), amended by the Department of Children and Family Services, Licensing Section, LR 47:

Chapter 71. Residential Homes—Type IV

§7103. Authority

A. Legislative Provisions

1. - 1.a. ...

2. In accordance with HCR 71 of the 2020 Legislative Session, license renewal fees due from July 1, 2020 through June 30, 2021 are hereby suspended for existing residential homes located in Louisiana as part of Louisiana's response to and as a way to help businesses reopen and recover from COVID-19.

B. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:805 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:67 (January 2013), amended by the Department of Children and Family Services, Licensing Section, LR 43:246 (February 2017), LR 47:

Chapter 73. Child Placing Agencies—General Provisions

§7303. Authority—Foster Care, Adoption, Transitional Placing

A. - A.6. ...

7. In accordance with HCR 71 of the 2020 Legislative Session, license renewal fees due from July 1, 2020 through June 30, 2021 are hereby suspended for existing child placing agencies located in Louisiana as part of Louisiana's response to and as a way to help businesses reopen and recover from COVID-19.

B. - E.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:352 (March 2019), effective April 1, 2019, amended LR 47:

Chapter 75. Juvenile Detention Facilities

§7503. Authority

A. Legislative Provisions

1. ...

2. In accordance with HCR 71 of the 2020 Legislative Session, license renewal fees due from July 1, 2020 through June 30, 2021 are hereby suspended for existing juvenile detention facilities located in Louisiana as part of Louisiana's response to and as a way to help businesses reopen and recover from COVID-19.

B. - C.1.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1559 (July 2012), amended LR 39:1006 (April 2013), effective July 1, 2013, repromulgated LR 39:1264 (May 2013), amended by the Department of Children and Family Services, Licensing Section, LR 47:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through December 29, 2020, to Angie Badeaux, Licensing Program Director, Department of Children and Family Services, P. O. Box 3078, Baton Rouge, LA, 70821.

Public Hearing

A virtual public hearing on the proposed Rule will be held at 9 a.m. on December 29, 2020, by the Department of Children and Family Services. All interested persons will be afforded an opportunity to submit data, views, or arguments via PC, Mac, Linux, iOS or Android at <https://stateofladcfs.zoom.us/j/91858170481>; or via telephone by dialing 713-353-0212 and entering conference code 430033. To find local AT&T numbers visit <https://www.teleconference.att.com/servlet/glbAccess?process=1&accessNumber=7133530212&accessCode=848054>. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call 225-342-4120 (Voice and TDD).

Marketa Garner Walters
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Suspension of License Renewal Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

In FY 21, this rule change is anticipated to increase the expenses of the Department of Children and Family Services (DCFS) by \$2,130 (\$980 State General Funds and \$1150 Federal Funds) for publication costs.

This rule amends LAC 67, Part V, Subpart 8, Chapter 69, Child Residential Care, Class B, Section 6953; Chapter 71, Residential Homes-Type IV, Section 7103; Chapter 73, Child Placing Agencies, Section 7303; and Chapter 75, Juvenile Detention Facilities, Section 7503. In accordance with HCR 71 of the 2020 Legislative Session, the proposed rule suspends license renewals for the period July 1, 2020 through June 31, 2021 that are imposed on existing businesses located in Louisiana as a part of a response to and way to help businesses reopen and recover from COVID-19.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will reduce the revenue collections of DCFS by approximately \$27,650 in licensing fees for FY21. This estimate was calculated as follows:

- 37 child placing agencies x \$50 licensing fee = \$1,850
 - 12 juvenile detention facilities x \$600 licensing fee = \$7,200
 - 1 juvenile detention facility x \$500 licensing fee = \$500
 - 10 residential homes x \$400 licensing fee = \$4,000
 - 9 residential homes x \$500 licensing fee = \$4,500
 - 16 residential home x \$600 licensing fee = \$9,600
- This totals \$27,650.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule will have an impact on businesses that pay licensing fees to DCFS. These businesses will not have to pay licensing fees in FY21 in an effort to help them recover from COVID-19.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Terri Porche Ricks
Deputy Secretary
2011#039

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Dentistry**

Teledentistry; Authorized Duties
(LAC 46:XXXIII.203 and 701)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760 (8), notice is hereby given that the Department of Health, Board of Dentistry intends to promulgate LAC 45:XXXIII.203 and amend LAC 46:XXXIII.701.

The Board of Dentistry is promulgating LAC 46:XXXIII.203 to allow access for care to be more readily available to the citizens of the state of Louisiana. This Rule

is being promulgated to allow Louisiana dentists to perform teledentistry with the standard of care remaining the same.

The Board of Dentistry is amending LAC 46:XXXIII.701 to address access to care issues. This Rule is being amended to allow hygienists, in very restricted circumstances, to perform radiographs, oral prophylaxis, sealants and/or fluoride varnish only under the supervision of a dentist via teledentistry.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

Chapter 2. Teledentistry

§203. Teledentistry

1. Teledentistry is defined as the use of medical or dental information exchanged from one site to another via electronic communications to provide dental treatment or diagnosis, but does not include email or telephone exchanges between a provider and a patient with whom an in-person provider-patient relationship has been established.

2. Treatment or diagnosis of a patient via teledentistry is considered to occur at the location of the patient at the time of the treatment or diagnosis.

3. Treatment or diagnosis via teledentistry may be provided to patients in Louisiana only by a dentist who holds a license issued by the Board of Dentistry. The Louisiana licensed dentist need not be in Louisiana while providing the teledentistry services.

4. An exception to the requirement that the provider of teledentistry services to a patient in Louisiana hold a Louisiana license is when a Louisiana licensed dentist with an in-person relationship with a patient consults an expert with a valid dental license in another United States jurisdiction for advice regarding the patient's treatment or diagnosis; in this case the expert consulted need not have a Louisiana license.

5. The standard of care applicable to a provider of teledentistry services, including obtaining informed consent and record documentation, is no different from the standard of care required in traditional dentistry.

6. Direct supervision by a dentist of staff performing dental related tasks may not be done via teledentistry except as otherwise provided by §701 of these rules.

7. Controlled substances may not be prescribed via teledentistry except in emergency situations where the dentist determines:

a. That immediate administration of the controlled substance is necessary for proper treatment of the intended ultimate user, and

b. That no appropriate alternate treatment is available, including administration of a drug that is not a controlled substance.

In an emergency situation the prescription for a controlled substance must be limited to the amount adequate to treat the patient during the emergency period.

8. The provider of teledentistry services must provide his identity to the patient, his location at the time of the service, the location of the patient records produced as a result of the treatment, and information on how the patient can obtain copies of the records produced as a result of the treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Dentistry, LR 47:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 7. Dental Hygienists

§701. Authorized Duties

A. - G.5. ...

H. Notwithstanding the above sections, a dental hygienist licensed in Louisiana may perform radiographs, oral prophylaxis, place sealants and place fluoride varnish without a Louisiana licensed dentist being physically present in the clinic if all of the following conditions are met:

1. The dental hygienist is employed by one of the following entities and is performing the radiographs, oral prophylaxis, sealants and/or the fluoride varnish as part of his employment with that entity:

a. A government agency.

b. A nonprofit entity that meets the statutory, regulatory and program requirements for grantees supported under Section 330 of the Public Health Service Act (42 U.S.C. §254b or its successor).

c. A nonprofit entity providing the radiographs, oral prophylaxis, sealants and/or the fluoride varnish which receives no compensation for the provided service.

2. The radiographs, oral prophylaxis, sealants and/or the fluoride varnish are done in one of the following settings:

a. A public elementary or middle school in which 50 percent or more of students are economically disadvantaged or meeting with Community Eligibility Provision (CEP) requirements under the Louisiana Department of Education and is in a parish with a parish-wide geographic Dental Health Professional Shortage Area (HPSA) scores above 15.

b. A fixed clinic of a nonprofit entity that meets the statutory, regulatory, and program requirements for grantees supported under Section 330 of the Public Health Service Act (42 U.S.C. §254b or its successor) that does not have a dentist employed by it and is in a parish with a parish-wide geographic Dental Health Professional Shortage Area (HPSA) scores above 15.

3. A Louisiana licensed dentist is providing direct supervision via teledentistry and reviews exams being done by the hygienist and images of the patient's oral cavity via the teledentistry connection. Unless restricted by bandwidth considerations, the teledentistry must be contemporaneous (synchronist). If bandwidth prohibits contemporaneous viewing by the dentist, non-contemporaneous (asynchronist) viewing of the patient may be employed, but the dentist must review the exam before the patient is dismissed from the clinic on the day of treatment.

4. Oral health education involving the benefits of sealants, fluoride varnish, and fluoridated water is provided to the patient or patient's representative.

5. All patients who are deemed to need additional treatment are referred to a dentist and follow up is done to

confirm that the patient has obtained treatment and, if treatment has not been obtained, to re-urge the patient or his representatives to obtain treatment.

6. The patient or his representatives must give informed consent to the use of teledentistry in the supervision of the dental hygienist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 15:965 (November 1989), LR 19:206 (February 1993), LR 22:22 (January 1996), LR 22:1217 (December 1996), LR 24:1116 (June 1998), LR 27:1892 (November 2001), LR 32:2056 (November 2006), LR 37:590 (February 2011), LR 37:1406 (May 2011), amended by the Department of Health, Board of Dentistry, LR 43:48 (January 2017), LR 44:2007 (November 2018), LR 47:

Family Impact Statement

There will be no family impact in regard to issues set forth in R.S. 49:972.

Poverty Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

The proposed rulemaking will not have any foreseeable impact on small businesses.

Provider Impact Statement

The proposed rulemaking should not have any know or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect of the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on these proposed rule changes to Arthur Hickham, Jr., Executive Director, Louisiana State Board of Dentistry, P.O. Box 5256, Baton Rouge, Louisiana, 70821. Written comments must be submitted to and received by the board within 20 days of the date of the publication of this Notice. A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of the publication of this notice.

Public Hearing

A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be in writing

and received by the board within 20 days of the date of the publication of this Notice.

Arthur Hickham, Jr.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Teledentistry; Authorized Duties**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will result in a one-time SGR expenditure of \$500 in FY 21 for the LA State Board of Dentistry (LSBD) to publish the notice of intent and proposed rule change in the Louisiana Register. The proposed rule change will not affect expenditures of local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

The proposed promulgated rule for §203 will directly affect Louisiana dentists because this rule would allow Louisiana dentists to perform dentistry via teledentistry. This promulgated rule will also make it clear that the standard of care remains the same. However, one exception is that a Louisiana licensed dentist, who is treating a patient in person can consult with a non-Louisiana licensed expert via teledentistry, if the consultant has a U.S. dental license.

The proposed rule change to §701 will directly affect hygienists, in very restricted circumstances, to perform radiographs, prophys, sealants and/or fluoride varnish under the supervision of a dentist via teledentistry. However, in order for a hygienist to be able to do these things under teledentistry supervision, the hygienist would have to be employed by an FQHC, a governmental agency, or a non-profit which is not receiving compensation for the work performed. If the hygienist is employed by one of these entities, then he or she would be able to perform the four listed procedures under teledentistry supervision, but only in very limited places:

1. A public elementary or middle school in which 50% or more of the students are economically disadvantaged and is in a parish with a Health Professional Shortage Area (HPSA) score above 15 (this would exclude all urban parishes in this state; thus, no schools in any urban area would qualify to allow hygienists to work under teledentistry supervision).

2. A fixed clinic of an FQHC that does not have a dentist and is in a parish with a HPSA score above 15. Again, this would exclude any FQHCs in urban areas. The dentist supervising via teledentistry would be required to view images of the oral cavity before the patient is discharged.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition or employment.

Arthur Hickman, Jr.
Executive Director
2011#038

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Optometry Examiners**

License to Practice Optometry;
Licensure by Endorsement; Fees
(LAC 46:LI.503, 507, and 801)

Notice is hereby given, in accordance with the Administrative Procedures Act, R.S. 49:950, et seq., that the Board of Optometry Examiners, pursuant to authority vested in the Board of Optometry Examiners by the Optometry Practice Act, R.S. 37:1041-1068, intends to amend Title 46, Part LI by adopting the following proposed amendments to the Sections set forth below.

A description of the subjects and issues involved is as follows. Subsection C of §503 is repealed, but the content and substance are included within the provisions of new §507. The remaining sections of §503 are renumbered. Section 507 adopts provisions for licensure by endorsement, including provisions of current §503.C and R.S. 37:1054.

This Rule establishes specific criteria to be generally applicable to all licensees. Section 801 amends some of the required fees, as follows:

1. annual license renewal fee changed from \$200 to \$300;
2. license delinquency fee changed from \$300 to \$500.

The proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LI. Optometrists

Chapter 5. Practicing Optometry

§503. License to Practice Optometry

A. - B. ...

C. Duplicate License. The secretary of the board, subject to prior board approval, may issue a duplicate certificate upon application of a licensed optometrist in good standing if all provisions of the Act applicable to the licensed optometrist have been satisfied and the applicant has paid the fee prescribed in §801.

D. Beginning Practice. Upon beginning practice, a licensee shall notify the secretary of the board as to the address of his office and the telephone number. If any time any office has relocated, the licensee involved shall notify the secretary of his new office address and telephone number. If, for any reason, he ceases to practice, he shall so notify the secretary.

E. Continuing Education. In order to qualify for the annual license renewal required by R.S. 37:1057, the following information shall be presented to the secretary of the board:

1. Written certification that the doctor requesting license renewal has completed 12 hours of continuing education, or 16 hours of continuing education if the doctor

maintains a current certificate to treat ocular pathology, between January 1 and December 31 of each year immediately preceding the March 1 renewal date set forth in R.S. 37:1057 by attendance and completion of courses approved by the Louisiana State Board of Optometry Examiners.

2. Education hours will not qualify unless they are completed within the above stated calendar period.

3. While the education hours shall be accomplished within the calendar dates set forth in Paragraph 1 hereof, the written evidence of attendance shall be submitted on or before the first day of March of each calendar year provided that same is in the office of the secretary of the board on or before the first day of March of each calendar year in which license renewal is sought.

4. The requirement shall only be waived in cases of certified illness, certification by the commanding officer of those in the military that due to his military assignment it was impossible for him to comply or upon evidence satisfactory to the board that the applicant for renewal was unable to meet the requirement because of undue hardship.

5. Pay to the board the annual renewal fee provided in R.S. 37:1058 and §801 herein on or before the first day of March of each year.

F. Qualifications for a Louisiana Licensed Optometrist to be Credentialed to Utilize and Perform Authorized Ophthalmic Surgery Procedures

1. Louisiana licensed optometrists shall be credentialed to perform authorized ophthalmic surgery procedures if:

a. the applicant provides proof of holding a Louisiana license to practice therapeutic optometry and is in good standing, or in the case of a new applicant for licensure, has satisfied the requirements of R.S. 37:1049(1)-(8); and

b. the applicant provides proof of satisfactory completion of a course of instruction approved by the board that may include:

i. the following didactic classroom instructions:

- (a). laser physics, hazards, and safety;
- (b). biophysics of lasers;
- (c). laser application;
- (d). laser tissue interactions;
- (e). laser indications, contraindications, and potential complications;
- (f). gonioscopy;
- (g). laser therapy for open angle glaucoma;
- (h). laser therapy for angle closure glaucoma;
- (i). posterior capsulotomy;
- (j). common complications, lids, lashes, lacrimal

system;

- (k). medicolegal aspects of procedures;
- (l). peripheral iridotomy;
- (m). laser trabeculoplasty;
- (n). minor surgical procedures;
- (o). overview of surgical instruments, asepsis, and

O.S.H.A.;

- (p). relevant surgical anatomy;
- (q). emergency surgical procedures;
- (r). chalazion management;
- (s). local anesthesia: techniques and complications;
- (t). anaphalaxis and other office emergencies;

(u). radiofrequency surgery;

(v). post-operative wound care; and

c. the applicant satisfactorily completes a written test approved by the board on aspects of the Louisiana Optometry Practice Act pertaining to authorized ophthalmic surgery procedures.

2. A board-approved course of instruction shall be:

a. provided by an accredited optometry, osteopathy or medical school;

b. a minimum of 32 clock hours in length; and

c. sponsored by an organization approved by the board.

3. Prohibitions and Referrals

a. Performing authorized ophthalmic surgery procedures without credentialing based upon the education requirements outlined in this administrative regulation shall be grounds for suspension or revocation of an optometry license and/or credentialing to perform authorized ophthalmic surgery procedures as per section 1061 of the Optometry Practice Act.

4. Outcomes Reporting

a. Every optometrist who has met the requirements for certification to perform authorized ophthalmic surgery procedures shall report to the board the outcome of authorized ophthalmic surgery procedures performed in such form as required or directed by the board.

5. Beginning with the graduating class of 2015 any optometrist who provides proof that he/she graduated from an optometry school whose program includes all of the training and testing requirements established by the board may be deemed to have met the requirements for certification to perform authorized ophthalmic surgery procedures.

6. Performance of authorized ophthalmic surgery procedures by any person without a valid and current certificate issued by the board to perform such procedures shall be considered a violation of section 1061(A)(1) of the Optometry Practice Act.

G. Participation in Student Extern Program. An optometrist may participate in student extern programs in accordance with rules and regulations promulgated from time to time by the board.

1. The level of responsibility assigned to a student extern shall be at the discretion of the supervising optometrist who shall be ultimately responsible for the duties, actions or work performed by such student extern.

2. The duties, actions and work performed by a student extern in accordance with the provisions of this §603 and §603 shall not be considered the practice of optometry without a license as set forth in R.S. 37:1061(14).

H. Retirement of License

1. Upon request by a duly licensed Optometrist whose license is in good standing, the board by rule may provide for a license holder's license to be retired. The request to have a license retired must be in writing and delivered to the board. The request for a retired license will be placed on the board agenda for consideration at the next scheduled board meeting and the effective date of retirement determined by the board will be set and may be retroactive. A person who holds a retired license may not practice optometry in any manner in Louisiana until such time the license is reactivated and current. A person holding a retired license is exempt

from the continuing education requirements of §301. A violation of this section has the same effect as, and is subject to the penalties for, practicing optometry without holding a license. The holder of a retired license need not renew the retired license annually nor pay any renewal fees.

2. **Re-Activation of Retired License.** For an retired license to be re-activated, the license holder must pay the reinstatement fee set forth in §801.A.6 plus any and all license renewal fee(s) and comply with all continuing education requirements. To re-activate a retired license the license holder must show 16 hours of board approved continuing education for each year of retired license status. The required continuing education may be obtained at any time during the retired status period. If the inactive license holder fails to practice optometry in any state for greater than five consecutive years from the date the license was granted retired status, an examination acceptable to the board may be required to re-activate the original license. For holders of a retired license with authorized ophthalmic surgery procedures, if the retired license holder fails to practice authorized ophthalmic surgery procedures in any state for greater than five consecutive years from the date the license was granted retired status, a recertification of advanced procedure proficiency and examination acceptable to the board may be required to re-activate the original license.

I. Inactive Status

1. Upon request by a duly licensed Optometrist whose license is in good standing, the board by rule may provide for a license holder's license to be placed on inactive status. The request to have a license be considered inactive must be in writing and delivered to the board. The request for inactive status will be placed on the board agenda for consideration at the next scheduled board meeting and the effective date of inactive status determined by the board will be set and may be retroactive. A person who holds an inactive license may not practice optometry in any manner in Louisiana until such time the license is reactivated and current. A person holding an inactive license is exempt from the continuing education requirements of Section 301. A violation of this section has the same effect as, and is subject to the penalties for, practicing optometry without holding a license. The holder of an inactive license must renew the inactive license annually and pay appropriate renewals fees to avoid revocation.

2. **Re-Activation of Inactive License.** For an inactive license to be re-activated, the license holder must pay the reinstatement fee set forth in §801.A.6 plus any and all license renewal fee(s) and comply with all continuing education requirements. To re-activate an inactive license the license holder must show 16 hours of board approved continuing education for each year of inactive license status. The required continuing education may be obtained at any time during the inactive status period. If the inactive license holder fails to practice optometry in any state for greater than five consecutive years from the date the license was granted inactive status, an examination acceptable to the board may be required to re-activate the original license. For holders of an inactive license with authorized ophthalmic surgery procedures, if the inactive license holder fails to practice authorized ophthalmic surgery procedures in any state for greater than five consecutive years from the date the

license was granted inactive status, a recertification of advanced procedure proficiency and examination acceptable to the board may be required to re-activate the original license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:632 (April 2006), amended LR 34:873 (May 2008), LR 38:1590 (July 2012), LR 40:2250 (November 2014), repromulgated LR 40:2580 (December 2014), amended by the Department of Health, Board of Optometry Examiners, LR 44:1248 (July 2018), LR 46:25 (January 2020), LR 47:

§507. Licensure by Endorsement

A. The board may license by endorsement, an optometrist who holds a license that was obtained by examination from another state or territory of the United States subject to the following conditions.

1. An applicant for licensure by endorsement must have been engaged in the active practice of optometry within 12 months immediately preceding his or her application, except as otherwise provided in R.S. 37:3651 with respect to individuals with military training and/or military spouses. For purposes of this Section, active practice means directly involved with patient care on day to day basis.

2. An applicant will not be considered for licensure by endorsement in the state of Louisiana if he or she has failed the Louisiana practical examination within two years preceding the date on which the application for endorsement is filed.

3. The applicant must not have committed any act that would constitute a material violation of the Louisiana laws and/or LSBOE rules and regulations as determined in the discretion of the board. Furthermore, he or she must not be the subject of any pending or unresolved board action or malpractice in this or any other state or territory;

4. An applicant for licensure by endorsement must meet all of the qualifications for regular state licensure as set forth in R.S. 37:1049 and LAC 46:LI.503, except as otherwise provided by applicable law or regulations of the Board, and except that the applicant shall not be required to sit for any portion of the examination required by R.S. 37:1051 other than the laws portion as required by Paragraph E.4 of this Section; provided, however, the waiver provided for by R.S. 37:1054 (endorsement) is within the discretion of the board and the board shall refer to the laws provided for the regulation of the practice of optometry, the public interest, the interest of licensed optometrists and the interest of the applicant in the exercise of this discretion.

a. The board may require satisfactory performance on the clinical/practical examination given by the board for licensure by endorsement pursuant to R.S. 37:1054.

B. As part of the licensure process, the applicant shall complete an application for licensure by endorsement and shall:

1. submit the endorsement license fee (\$1,500);

2. cause to be submitted directly from the boards of all states in which the applicant holds a license to practice optometry certification demonstrating his or her good standing. To be considered for licensure by endorsement, an applicant's license(s) must be in good standing in all states and territories of the United States in which a license to practice optometry is held;

3. submit official proof documenting his or her compliance with all continuing education requirements imposed by any states or territories in which a license to practice optometry is held; and

4. submit proof that he or she has taken and passed the law portion of the licensing examination required by R.S. 37:1051.

C. In the case of an application for licensure by endorsement by any military personnel applicant, or his or her spouse, pursuant to R.S. 37:3651, said applicant shall:

1. provide the board with official documentation of the applicant's credentialing and quality assurance review to satisfy the requirements of Subsection A and Paragraphs E.2, and E.4 of this Section;

2. cause the boards of any state in which he or she is or has been licensed to practice optometry to provide the board with all of the remaining information required by this Section;

3. submit a temporary practice permit fee (\$750), which fee shall be credited toward the endorsement license fee (\$1,500) upon licensure; and

4. pay all applicable licensing fees.

D. Notwithstanding any provision to the contrary, a temporary practice permit issued pursuant to R.S. 37:3651(D) shall expire on July 31 following the date of issuance of such temporary practice permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Optometry Examiners, LR 47:

Chapter 8. Fees and Expenses

§801. Fees

A. The board shall charge and collect the following fees, consistent with R.S. 37:1058:

1. - 3. ...

4. annual license renewal fee—\$300;

5. license delinquency fee—\$500;

A.6. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:636 (April 2006), amended LR 40:2252 (November 2014), repromulgated LR 40:2580 (December 2014), amended by the Department of Health, Board of Optometry Examiners, LR 44:1250 (July 2018), LR 47:

Family Impact Statement

It is anticipated that the proposed Rule amendments will have no significant effect on the: stability of the family, authority and rights of parents regarding the education and supervision of their children, functioning of the family, family earnings and family budget, behavior and personal responsibility of children, ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

It is anticipated that the proposed Rule amendments will have no significant impact on poverty as described in R.S. 49:973.

Small Business Analysis

It is anticipated that the proposed Rule amendments have no significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent

with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed Rule until 5 p.m., December 20, 2020, to Dr. James D. Sandefur, O.D., Louisiana State Board of Optometry Examiners, P.O. Box 555, 419 Hwy. 165 N., Oakdale, LA 71463. He is responsible for responding to inquiries regarding the proposed Rule.

Dr. James D. Sandefur, O.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: License to Practice Optometry; Licensure by Endorsement; Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in any material costs or savings for state or local governments other than a marginal, one-time publication expense \$600 for the LA State Board of Optometry Examiners. The proposed rule changes increase fees in the aggregate for optometry examiners due to certain required continuing education courses.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will increase the annual revenue of the LA State Board of Optometry Examiners by an estimated \$64,400 per year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

Increased licensing fees will result in an increased cost for licensed optometrists by \$100 per year. For optometrists who fail to timely renew their optometry license, the delinquency will increase costs for licensed optometrists by an additional \$200 per year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

J. Graves Theus, Jr.
Attorney
2011#003

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Laboratory and Radiology Services
(LAC 50:XIX.Chapters 39, 41, and 43)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:XIX.Chapter 39 and amend Chapters 41 and 43 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing laboratory and radiology services in order to ensure that the existing language reflects current practices, remove coding and billing instructions and other extraneous information from the administrative Rule, and promulgate these provisions clearly and accurately in the *Louisiana Administrative Code*.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIX. Other Healthcare Services

Subpart 3. Laboratory and Radiology Services

Chapter 39. General Provisions

§3901. Introduction

A. The Medicaid Program covers medically necessary laboratory and radiology services that are ordered by a physician or other licensed practitioner acting within their scope of practice and:

1. provided by or under the direction of, a physician or other licensed practitioner acting within their scope or practice; or

2. provided by an independent laboratory.

B. This Subpart only applies to laboratory and radiology services provided:

1. in an office or similar facility other than a hospital outpatient department or clinic; or

2. in an independent laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:

§3903. Service Limitations

A. Providers may only furnish laboratory services for which they are certified under the clinical laboratory improvement amendments.

B. Providers may only receive reimbursements for services that they personally perform or supervise.

C. Effective for dates of service on or after February 20, 2018, the Medicaid Program terminates coverage of proton beam radiation therapy for beneficiaries 21 years of age and older.

1. For beneficiaries under the age of 21, coverage shall be provided when proton beam radiation therapy services are deemed medically necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:

Chapter 41. Provider Participation

§4101. Physicians and Other Licensed Practitioners Office Services

A. Physicians and other licensed practitioners must comply with all applicable state and federal laws and regulations.

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:75 (February 1982), repromulgated LR 28:1023 (May 2002), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§4103. Independent Laboratories

A. Independent laboratories are freestanding laboratory facilities that are independent of the ordering provider, hospital, or both.

B. Independent laboratories must be licensed in accordance with state laws and regulations.

C. Independent laboratories must comply with all applicable state and federal laws and regulations.

D. Independent laboratories must maintain copies of all laboratory orders and laboratory results for a period of at least five years. Records shall be retained in the laboratory in such a manner that permits ready identification and accessibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:

Chapter 43. Reimbursement

§4301. Laboratory Services Reimbursement

Methodology

A. Providers shall be reimbursed according to the established fee schedule or billed charges, whichever is the lesser.

B. Reimbursement for laboratory services shall not exceed 100 percent of the current year's Region 99 Medicare fee.

C. For newly added laboratory services, the Medicare fee shall be set at 75 percent of the current year's Region 99 Medicare allowable fee.

1. If there is no corresponding Medicare fee, the Medicaid fee shall be set based on a review of Medicaid Program fees in other states, other health insurer fees in Louisiana, or as determined by either the Louisiana Medicaid Medical Director or the contracted physician consultant of the Department of Health's fiscal intermediary.

2. Laboratory services related to a declared public health emergency may be reimbursed at up to 100 percent of the Region 99 Medicare allowable fee if deemed necessary by the Medicaid Program to ensure access.

D. Effective for dates of service on or after February 26, 2009, the reimbursement rates for laboratory services shall be reduced by 3.5 percent of the fee amounts on file as of February 25, 2009.

E. Effective for dates of service on or after August 4, 2009, the reimbursement rates for laboratory services shall be reduced by 4.7 percent of the fee amounts on file as of August 3, 2009.

F. Effective for dates of services on or after January 22, 2010, the reimbursement rates for laboratory services shall

be reduced by 4.42 percent of the fee amounts on files as of January 21, 2010.

G. Effective for dates of service on or after August 1, 2010, the reimbursement rates for laboratory services shall be reduced by 4.6 percent of the fee amounts on file as of July 31, 2010.

H. Effective for dates of service on or after January 1, 2011, the reimbursement rates for laboratory services shall be reduced by 2 percent of the fee amount on file as of December 31, 2010.

I. Effective for dates of service on or after July 1, 2012, the reimbursement rates for laboratory services shall be reduced by 3.7 percent of the fee amounts on file as of June 30, 2012.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), P.L. 98-369, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 5:388 (December 1979), amended LR 8:75 (February 1982), LR 8:144 (March 1982), LR 10:1034 (December 1984), LR 12:679 (October 1986), LR 22:107 (February 1996), repromulgated (for LAC) LR 28:1024 (May 2002), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§4303. Provider Claim Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 5:388 (December 1979), amended LR 10:599 (August 1984), LR 13:578 (October 1987), repromulgated (for LAC) LR 28:1024 (May 2002), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:

§4305. Automated, Multichannel Test and Panel Billing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:75 (February 1982), amended LR 10:1034 (December 1984), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:219 (March 1996), repromulgated (for LAC) LR 28:1024 (May 2002), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:

§4307. Hepatic Function Panel and General Health Panel

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:219 (March 1996), repromulgated (for LAC) LR 28:1024 (May 2002), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:

§4309. Hematology

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:219 (March 1996), repromulgated (for LAC) LR 28:1024 (May 2002), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:

§4311. Panel Codes

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:219 (March 1996), repromulgated (for LAC) LR 28:1025 (May 2002), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:

§4313. Prenatal Lab Panel Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:219 (March 1996), repromulgated (for LAC) LR 28:1025 (May 2002), amended LR 29:1485 (August 2003), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:

§4315. Urinalysis

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:219 (March 1996), repromulgated (for LAC) LR 28:1025 (May 2002), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:

§4317. Panels and Component Codes within Panels

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 49:1008(A), and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:219 (March 1996), repromulgated (for LAC) LR 28:1024 (May 2002), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:

§4319. X-Ray Equipment Portage Billing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1026 (May 2004), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:

Subchapter B. Reimbursement

§4329. Laboratory Services (Physicians and Independent Laboratories)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), P.L. 98-369, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1025 (May 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009), LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3028 (October 2011), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:95 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:1284 (May 2013), LR 41:539 (March 2015), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:

§4331. Medicare Part B

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), P.L. 98-369, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:2622 (November 2000), repromulgated (for LAC) LR 28:1025 (May 2002), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:

§4333. Outpatient Hospital Laboratory Services Reimbursement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing, LR 23:414 (April 1997), promulgated (for inclusion in the LAC) LR 28:1026 (May 2002), amended LR 29:1096 (July 2003), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:

§4334. Radiology Services Reimbursement Methodology

A. This reimbursement methodology applies to radiology services including portable x-ray and radiation therapy center services.

B. Providers shall be reimbursed according to the established fee schedule or billed charges, whichever is the lesser amount.

C. For newly added radiology services, the Medicaid fee shall be set at 75 percent of the current year's Region 99 Medicare allowable fee.

1. If there is no corresponding Medicare fee, the Medicare fee shall be set based on a review of Medicaid Program fees in other states, other health insurer fees in Louisiana, or as determined by either the Louisiana Medicaid Medical Director or the contracted physician consultant of the Department of Health's fiscal intermediary.

D. Repealed.

E. - J. ...

K. - L.1. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3029 (October 2011), LR 39:1284 (May 2013), LR 41:539 (March 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:283 (February 2018), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§4335. Portable Radiology Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 30:1026 (May 2004), amended LR 35:1898 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3029 (October 2011), LR 39:1284 (May 2013), LR 41:540 (March 2015), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:

§4337. Radiation Therapy Centers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1898 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3029 (October 2011), LR 39:1284 (May 2013), LR 41:540 (March 2015), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on December 30, 2020.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on December 10, 2020. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 29, 2020 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after December 10, 2020. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments,

orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Laboratory and Radiology Services**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 20-21. It is anticipated that \$1,944 (\$972 SGF and \$972 FED) will be expended in FY 20-21 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 20-21. It is anticipated that \$972 will be collected in FY 20-21 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing laboratory and radiology services in order to ensure that the existing language reflects current practices, remove coding and billing instructions and other extraneous information from the administrative Rule, and promulgate these provisions clearly and accurately in the Louisiana Administrative Code. It is anticipated that implementation of this proposed rule will not result in an increase or decrease in payments for laboratory and radiology services in FY 20-21, FY 21-22 and FY 22-23, but will be beneficial by providing accurate and clearly identified program requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Ruth Johnson
Medicaid Executive Director
2011#045

Christopher A. Keaton
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Board of Pardons**

General Provisions
(LAC 22:V.Chapters 2 and XI.Chapters 1, 5 , and 7)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons hereby gives notice of its intent to amend its rules of LAC 22: XI:

102, 103, 121, 501, 504, 513, 514 and 705. These proposed rule changes provide technical adjustment for regular parole and revise procedures. Section 102 provides clarification for notifying victims and their next of kin. Section 103 the structure of the Board of Pardons, Committee on Parole and the participation of the ex-officio member. Section 121 allows the Executive Director to speak on behalf of the Chairman in their absence. Section 501 adds the five-member panel as an option for hearings. Section 504 and 513 outline additional procedures for screening, removing or rescinding offenders who have disciplinary issues prior to a hearing or after a decision to grant parole but prior to release. Section 514 provides additional guidance for votes required in various situations. Section 705 streamlines the Rehearing Application Process and strengthens the Committee's abilities to remove offenders with poor disciplinary conduct who are not good candidates for early release.

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons hereby gives notice of its intent to amend its rules of LAC 22: V: 203, 205 and 211. Section 203 removes the condition of employment from pardon eligibility in the event the offender is unable to work due to medical and or mental health issues. Section 205 provides instruction on accepting clemency applications online. Section 211 clarifies the vote need related to a clemency recommendation.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part V. Board of Pardons

Chapter 2. Clemency

§203. Eligibility for Clemency Consideration

A. - C.2. ...

3. An incarcerated offender who is not serving a life sentence, but who is serving a sentence for a violent offense as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, may request a commutation of sentence:

a. after having served a minimum of 10 years;

b. must have been disciplinary report free for a period of at least 24 months prior to the date of the application or at the time of the hearing (if a hearing is granted); and

c. must not be classified to a maximum custody status at the time of the application or at the time of the hearing (if a hearing is granted); and

d. must possess a marketable job skill, either through previous employment history or through successful completion of vocational training while incarcerated, unless deemed unable to work due to medical or mental health condition.

D. Life Sentences. An offender sentenced to life may not apply until he has served 15 years from the date of sentence, unless he has sufficient evidence which would have caused him to have been found not guilty. The 15 years shall include periods of time prior to the imposition of the sentence in which the defendant was in actual custody for the offense for which he was sentenced to life imprisonment. The offender must also meet the criteria stated in Subparagraphs C.3.a-d of this Section.

E. Capital Cases. Any offender sentenced to death may submit an application within one year from the date of the direct appeal denial. See also §213, Capital Cases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12, and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2255 (August 2013), amended LR 42:1087 (July 2016), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 44:574 (March 2018), amended by the Office of the Governor, Board of Pardons, LR 44:1006 (June 2018), LR 47:

§205. Application Filing Procedures

A. - A.4. ...

5. The mailed application must be filled out completely, signed, dated, and notarized where required.

6. The online application must be digitally signed and submitted through the website.

B. In addition to the information submitted by application, the following required documents must be attached as they apply to each applicant.

1. Incarcerated Applicants. Any applicant presently confined in any institution must attach a current master prison record and have the signature of a classification officer verifying the conduct of the applicant and a copy of conduct report. Applicants sentenced to death must attach proof of direct appeal denial.

2. Parolees. Applicants who have completed parole supervision must attach a copy of their parole certificate, a certified judgment and sentence on each conviction for which they are applying for a pardon; a certified statement from the clerk of court that all fines, fees, and court costs (including restitution and probation fees) have been paid in full; a current credit report (current within 90 days of date of application), and proof of residence.

3. Probationers. Applicants who have completed the probationary period must attach a certified copy of sentencing minutes or copy of automatic first offender pardon, a certified judgment and sentence on each conviction for which they are applying for a pardon; a certified statement from the clerk of court that all fines, fees, and court costs (including restitution and probation fees) have been paid in full; a current credit report (current within 90 days of date of application), and proof of residence.

4. First Offender Pardons [R.S. 15:572(B)]. Applicants who have received an automatic first offender pardon must attach a copy of the automatic first offender pardon.

C. No additional information or documents may be submitted until applicant has been notified that he/she will be given a hearing. The Board of Pardons will not be responsible for items submitted prior to notification that a hearing will be granted.

D. Reapplication upon Denial. Any applicant denied by the board shall be notified, in writing, of the reason(s) for the denial and thereafter may file a new application as indicated below.

1. Applicants Sentenced to Life Imprisonment. Any applicant with a life sentence may reapply five years after the initial denial and every five years thereafter. Applicant must also meet the criteria stated in §203.C.2.a-d.

2. Other. Applicants without a life sentence may file a new application two years from date of the letter of denial.

3. Fraudulent Documents or Information. Any fraudulent documents or information submitted by an applicant will result in an automatic denial by the board and no new application will be accepted until four years have elapsed from the date of letter of denial.

4. Governor Granted Clemency. The Office of the Governor will notify an applicant if any clemency is granted. Any otherwise eligible person who has been granted any form of executive clemency by the governor may not reapply for further executive clemency for at least four years from the date that such action became final.

5. Denial/No Action Taken by Governor after Favorable Recommendation. The board shall notify an applicant after its receipt of notification from the governor that the board's favorable recommendation was denied or no action was taken.

a. If the applicant is notified of denial by the governor, the applicant may not reapply for clemency for at least four years from the date of the denial. The application filing procedures in Subsections A-D.3 of this Section shall apply.

b. When no action is taken by the governor on a recommendation for clemency issued by the board, the person seeking clemency shall not be required to reapply to the board and the recommendation shall not expire upon the expiration of the governor's term in office and may be reviewed by the next governor to take office.

i. Upon receipt of the no action files from the governor's office, the parole board staff shall review the following:

(a). offender's disciplinary record; and;

(b). State Police rap sheet;

ii. Staff will use the updated information to determine if the applicant is still eligible to apply for clemency.

iii. Once approved, the file will be sent back to the governor's office within six months of being received, with a recommendation to the governor from the pardon board, signed by the board chair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2255 (August 2013), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:42 (January 2015), amended by the Office of the Governor, Board of Pardons, LR 42:1087 (July 2016), LR 43:1161 (June 2017), LR 45:1063 (August 2019), LR 47:

§211. Hearings before the Pardon Board

A. - H. ...

I. Applicant's failure to attend and/or notify the board of pardons office of his/her inability to attend the hearing will result in an automatic denial. The applicant may reapply two years from the date of scheduled hearing. Lifers who fail to attend and/or advise the board of their inability to attend may reapply in five years if it is his/her initial hearing, and every five years thereafter.

J. Four members of the board shall constitute a quorum for the transaction of business, and all actions of the board shall require the favorable vote of at least four members of the board.

1. If a favorable clemency recommendation is reached during a pardon hearing, any other specific recommendation

regarding clemency (i.e., restoration of firearms privileges, commutation of sentence to a specified number of years, commutation of sentence with or without parole eligibility) shall be based on a majority vote of those members who voted to recommend clemency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12, and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2256 (August 2013), amended LR 42:1088 (July 2016), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 43:46 (January 2017), LR 44:574 (March 2018), LR 44:2140 (December 2018), LR 47:

Part XI. Committee on Parole

Chapter 1. Administration

§102. Powers and Duties of the Committee

A. -A.5. ...

6. notify the district attorney of the parish where the conviction occurred:

a. the district attorney of the parish where the conviction occurred shall be allowed to review the record of the offender since incarceration, including but not limited to any educational or vocational training, rehabilitative program participation, disciplinary conduct and risk assessment score. The district attorney shall be allowed to present testimony to the committee and submit information relevant to the proceedings.;

7. notify the victim, or the spouse, or next of kin of a deceased victim, when the offender is scheduled for a parole hearing;

8. when requested to do so, notify, in writing at least seven days prior to the offender's release on parole, the chief of police, sheriff, or district attorney of the parish where the offender will reside and where the conviction(s) occurred;

9. submit an annual report on its performance to the secretary of the Department of Public Safety and Corrections on or before February 1 each year for the previous calendar year. This report shall include statistical and other data with respect to the work committee may make of sentencing, parole, or related functions, and may include recommendations for changes considered necessary to improve its effectiveness.

B. The Louisiana Committee on Parole may:

1. apply to a district court to issue subpoenas, compel the attendance of witnesses, and the production of books, papers, and other documents pertinent to the subject of its inquiry;

2. take testimony under oath, either at a hearing or by deposition;

3. sanction an offender's disorderly, threatening, or insolent behavior, or use of insulting, abusive, or obscene language at a hearing or in written communications with the offender's parole application, notice for which shall be provided to the offender at, or prior to, the commencement of proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2258 (August 2013), amended LR 41:42 (January 2015), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 44:575 (March 2018), LR 47:

§103. Composition of the Committee

A. The Louisiana Committee on Parole (Committee) shall consist of seven members:

1. the five members of the Board of Pardons appointed by the governor;

2. two-at-large appointees to the Committee on Parole appointed by the governor, who shall serve only as members of the committee and shall not serve as members of the Board of Pardons; and

3. one ex-officio member.

a. The warden, or in their absence, the deputy warden of the correctional facility in which the offender is incarcerated shall be an ex-officio member of the committee. When the offender is housed in a local correctional facility and the warden or deputy warden of that facility is not able to attend the offender's parole hearing, the warden, or in his absence, the deputy warden, of the facility where the offender's parole hearing is held, may serve as an ex-officio member of the committee.

b. The facility Warden or his/her designee, of the local level facility in which the offender is housed, shall be present to provide information to members of the Parole Board regarding the offender's progress and disciplinary infractions during incarceration.

4. Each member shall, except the ex officio member, devote full time to the duties of the office.

B. The chairman of the board shall be the chief administrative officer for the committee and shall be responsible for assuring that all meetings, hearings and administrative matters for the committee are properly conducted in accordance with law and with these rules or executive order.

C. The vice-chairman of the Board of Pardons shall act in place of the chairman in his or her absence and shall be responsible for any other administrative duties as directed by the chairman or as provided by law or executive order. In the event that the vice-chairman is incapacitated or otherwise unable to perform his or her duties for any reason, the chairman shall perform such duties until the vice-chairman is able to resume performance of his or her duties.

D. All members, except the ex-officio member, appointed after August 1, 2014 shall possess not less than a bachelor's degree from an accredited college or university, and shall possess not less than five years' actual experience in the field of corrections, law enforcement, sociology, law, education, social work, medicine, psychology, psychiatry, or a combination thereof. If a member does not have a bachelor's degree from an accredited college or university, he shall have no less than seven years, experience in a field listed in this Subsection. The provisions of this Subsection shall not apply to any person serving as a member of the board on August 1, 2012.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:113 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2292 (December 1998), amended by Department of Public Safety and Corrections, Corrections Services, LR 36:2872 (December 2010), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2259 (August 2013), LR 41:43 (January 2015), LR 47:

§121. Committee Spokesperson

A. The chairman is the official spokesperson for the board. In the absence of the chairman, the executive director is authorized to speak on behalf of the board. When acting as the official spokesperson, views expressed at all times shall be consistent with approved board policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:116 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2295 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2261 (August 2013), LR 47:

Chapter 5. Meetings and Hearings of the Committee on Parole

§501. Types of Meetings

A. All meetings and hearings of the committee shall be open to the public, in accordance with the provisions of R.S. 42:1 et seq., (public policy for open meetings) and *Robert's Rules of Order*. For the purpose of convenience and in order to differentiate between the different types of forums for conducting business, the following designation or title has been given, depending upon the nature of the matters or actions to be considered.

1. A *business meeting* is a meeting of the full committee to discuss all general business matters as set forth in §507.

2. A *public hearing* is a meeting of randomly selected, three or five-member panels, as set forth in §511.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2298 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2262 (August 2013), LR 41:44 (January 2015), LR 47:

§504. General Procedures

A. Minutes. The committee's minutes of public hearings shall include the following information as applicable:

1. name and Department of Corrections (DOC) number of the offender;
2. name of counsel representing the offender (an offender docketed for a public hearing may be represented by counsel);
3. the vote of each member; and
4. the decision of the committee.

B. Votes

1. The vote of each panel member shall be recorded by name and date on the vote sheet.

2. Only those members present shall vote; voting by proxy is prohibited.

3. No vote shall be taken while the panel is in executive session.

4. The panel shall not rescind the original vote without conducting a new hearing, except as provided in §505.M, §513.A.1-3, and §711.

5. The original vote sheet shall remain in the inmate's DOC file and a copy shall be attached to the minutes and maintained in a separate locked file in the committee office.

C. Accuracy of Vote. The chairperson of the panel shall ensure that support staff reviews case records subsequent to voting to assure the accuracy of all documents.

D. Continuance/Recess. A majority vote is required to continue or recess a meeting or hearing. Generally, the matter will be rescheduled for the next month, but may be rescheduled for an earlier date if deemed appropriate by the panel (see §514, Voting/Votes Required).

E. Executive Session. A panel may go into executive session to discuss each offender's case prior to a decision pursuant to the provisions of R.S. 42:6, 42:6.1 and 15:574.12. No vote shall be taken while the panel is in executive session.

F. Observance of Proceedings. The committee may extend invitations to individuals to observe committee proceedings.

G. Testimony. The committee may direct questions to and/or request statements from anyone appearing before the committee.

H. Children Under 12. It is generally inappropriate for children under the age of 12 years, except when the child is a victim and chooses to appear, to be present during any public meeting or hearing of the committee.

I. Space and Security. The number of people supporting or opposing the granting of parole, including victims and/or family members of victims will be limited only by space and security considerations.

J. Meeting/Hearing Schedule. The chairman shall be responsible for schedules of business meetings and public hearings.

1. Such schedules may be changed, only upon prior notice, provided that such changes are made in a timely manner in order to notify all concerned.

2. Such meetings may be rescheduled without notice due to inclement weather, or any other emergency or unforeseen situation.

K. Upon notification by the secretary of the Department of Public Safety and Corrections that an offender has violated the terms of the decision granted by the committee or has engaged in misconduct prior to the inmate's release, the committee may rescind its decision to grant parole. In such cases, the inmate shall promptly receive another parole hearing.

1. The board may choose to automatically rescind and change the decision for granting of parole under the below conditions:

a. offender has received a disciplinary report prior or subsequent to the hearing, but prior to parole release;

b. time calculation adjustments by the Department of Corrections that changes the parole eligibility date, causing the offender to become ineligible for parole or pushing his parole eligibility dates beyond the allowed time frame for parole release or rescheduling;

c. refusing to comply with post and/or prior to release conditions set forth by the panel.

2. If it is determined prior to an offender's parole release that proper notification requirements were not met, the board may rescind its decision to grant parole.

a. If the board rescinds its decision to grant parole, the offender shall promptly receive another parole hearing.

b. In the event that the offender has been granted parole, the board may rescind its decision and promptly schedule a hearing in accordance with §510.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:44 (January 2015), amended LR 45:1063 (August 2019), amended LR 46:42 (January 2020), LR 47:

§511. Panel Action

A. The chairman shall schedule public hearings. A copy of the schedule shall be available for public inspection at the committee office.

B.1. The panel may consider the following actions with the offender present:

- a. parole;
- b. revocation; and
- c. recommendations for transitional work program.

2. The panel may consider the following actions without the offender present:

- a. to consider rehearing requests;
- b. cases where the offender is housed in a medical treatment facility or facility in other jurisdiction (such hearings conducted in absentia shall observe the same safeguards as hearings where the offender is present); and
- c. to consider those matters referred by a member from single-member action (see §513, Single Member Action); the member who makes such a referral may not serve on the panel;
- d. to evaluate and consider any application filed pursuant to R.S. 15:308 in accordance with rules promulgated by the Department of Public Safety and Corrections and Chapter 8, Ameliorative Penalty Consideration.

C. Offenders incarcerated in a parish jail or parish correctional center may be interviewed by a single member of the Committee on Parole prior to a public parole hearing. The interviewing member will then present the case to the full parole panel for parole release consideration during the public parole hearing. Due to transport considerations, the offender will not be present during the public hearing. However, the public hearing will be conducted in a manner which allows for observation and input by members of the public.

D. Generally, public hearings shall be conducted via videoconferencing, with the committee members participating from the committee's headquarters in Baton Rouge, and offenders appearing before the committee via videoconferencing at the designated prison facility.

1. In the event the offender is unable to appear before the board due to a medical condition, a medical professional shall be made available to the parole panel to provide information about the offender's medical condition. The hearing will occur in absentia. (§511.B.2.a. if offender being considered for medical parole is housed in a medical treatment facility).

2. In the case of videoconferencing, the family, friends, and attorney of the offender shall be at the location of the offender.

3. In the case of videoconferencing, the victim(s) may be at the location of the committee or at the office of the district attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2299 (December 1998), amended LR 28:1597 (July 2002), amended by

the Department of Public Safety and Corrections, Corrections Services, LR 36:2872 (December 2010), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2263 (August 2013), amended by the Office of the Governor, Board of Pardons, LR 40:57 (January 2014), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:45 (January 2015), LR 47:

§513. Single-Member Action

A.1. A single committee member may act upon the following matters which have been reviewed and recommended by the Division of Probation and Parole:

- a. activity reports (see §1103); and
- b. activity reports from other states via the interstate compact agreement;

c. consideration to delay an offender's revocation hearing beyond 60 calendar days of the offender's return to prison (arrest or detainment), but such a delay may only be authorized by a committee member for good cause.

2. A single committee member may rescind parole as under the conditions provided in §504, General Procedures.

3. The duty officer may add or remove conditions relative to parolees, as recommended by the Division of Probation and Parole and/or committee counsel on matters in litigation.

a. In the event the committee member fails to follow the recommendation of the Division of Probation and Parole, the matter shall be automatically scheduled for consideration by a three-member panel at the next available public hearing date.

B. Written documentation must be placed in the offender's file which clearly documents the reason for the decision by the single member panel.

C. Under no circumstances should a committee member sign a blank form concerning single-member action matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2300 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2264 (August 2013), LR 40:1528 (August 2014), re-promulgated LR 40:1695 (September 2014), LR 47:

§514. Voting/Votes Required

A. - A.3.b. ...

4. A unanimous vote is required to consider any action when the offender is not present as described in §511.B.2.b or §513.A.4.a., except when the criteria set forth in §511 is met, voting requirements shall remain in effect as outlined in this policy.

5. All special conditions of release, including special conditions of diminution of sentence/parole supervision release, shall be approved by a unanimous vote of the panel.

B. Majority Vote

1. The committee may grant parole with two votes of a three-member panel, or, if the number exceeds a three-member panel, a majority vote of those present if all of the following conditions are met.

a. The offender has not been convicted of a crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, or convicted of an offense which would constitute a crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, regardless of the date of conviction.

b. The offender has not committed any major disciplinary (schedule B) offenses in the 12 consecutive months prior to the parole hearing date. If the offender's period of incarceration is less than 12 months, the offender must not have committed any disciplinary offenses during his/her entire period of incarceration.

c. The offender has completed the mandatory minimum of 100 hours of pre-release programming in accordance with R.S. 15:827.1, if such programming is available at the facility where the offender is incarcerated.

d. The offender has completed substance abuse treatment as applicable, if such programming is available at the facility where the offender is incarcerated.

e. The offender has obtained a HSE credential, unless the offender has previously obtained a high school diploma or is deemed by a certified educator as being incapable of obtaining a HSE credential due to a learning disability. If the offender is deemed incapable of obtaining a HSE credential, the offender must complete at least one of the following:

- i. a literacy program;
- ii. an adult basic education program; or
- iii. a job skills training program.

f. The offender has obtained a low-risk level designation determined by a validated risk assessment instrument approved by the secretary of the Department of Public Safety and Corrections.

2. A majority vote is required to revoke parole.

3. A majority vote is required to continue or recess a meeting or hearing.

4. A majority vote is required to grant an offender's request for a rehearing.

5. A majority vote is required for executive session.

6. A majority vote is required to recommend to the Board of Pardons as to whether an applicant is eligible for a reduction in sentence pursuant to R.S. 15:308 and Chapter 8, Ameliorative Penalty Consideration.

C. Once the panel votes to grant or deny parole at a particular hearing, the vote may not be rescinded at that hearing.

D. If a member of a panel moves that a particular condition of parole be considered and determined prior to the vote to grant or deny parole, that issue shall be determined prior to the vote on parole. Otherwise, following a vote granting parole, the panel shall consider whether to impose special conditions of release.

E. The ex officio member of the committee is a non-voting member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2264 (August 2013), amended LR 41:45 (January 2015), LR 44:2142 (December 2018), LR 47:

Chapter 7. Parole Decisions

§705. Application for Parole Rehearing or Request for Reconsideration of Decision

A. If denied at the initial parole hearing, an offender must apply in writing for a subsequent parole hearing, referred to as a "parole rehearing". The written request must be submitted by the offender or his attorney.

B. Application for a parole rehearing will be allowed only under the following conditions.

1. The offender must not have had a major (schedule B) disciplinary misconduct report in the six months prior to the reapplication request;

2. The offender must not have been in disciplinary lockdown status for a period of six months prior to the reapplication request.

3. If both criteria in §705.C.1 and 2 are met, an offender may apply to the committee for a rehearing at the following intervals.

Type of Crime	Initial Request for Rehearing	Subsequent request for Rehearing ¹
Nonviolent, except as otherwise restricted	6 mos after original date of denial	6 mos after date of initial reapplication
Crime of Violence enumerated in R.S. 14:2(B)	1 yr after original date of denial	Every 2 yrs after date of initial reapplication
Crime Against Person enumerated in R.S. 14:29-47	1 yr after original date of denial	Every 2 yrs after date of initial reapplication
Sex Offense as defined in §903	2 yrs after original date of denial	Every 2 yrs after date of initial reapplication
Murder, 1st or 2nd degree	2 yrs after original date of denial	Every 2 yrs after date of initial reapplication
Manslaughter	2 yrs after original date of denial	Every 2 yrs after date of initial reapplication

¹ Subsequent request for rehearing may be submitted if initial request for rehearing was denied.

D. Reconsideration. An offender may request that the committee reconsider its decision to deny parole as outlined herein. However, this process does not establish a formal appeal process as parole is an administrative discretionary decision that is not subject to appeal.

1. A parole panel may reconsider a decision of any parole panel at the request of the board chairman.

2. An offender whose parole is denied or rescinded, or whose parole supervision is revoked may request reconsideration by the committee.

a. The request for reconsideration shall be made in writing by the offender (or the offender's authorized legal representative) and shall be postmarked no later than twenty-one calendar days from the date of the hearing during which the parole panel action was taken.

b. If the request for reconsideration is not postmarked within 21 calendar days, it shall be denied.

c. Reconsideration review shall be at the discretion of the committee and shall not be available except for the following reasons:

i. if there is an allegation of misconduct by a committee member that is substantiated by the record;

ii. if there is a significant procedural error by a committee member; or

iii. if there is significant new evidence that was not available when the hearing was conducted. A request based on the availability of new evidence or information shall be accompanied by adequate documentation.

d. A request based on an allegation of misconduct or significant procedural error shall clearly indicate the specific misconduct or procedural error being alleged.

e. A written request for reconsideration postmarked within the time period set forth in §705.D.2.a. shall be screened by the chairman or designee to determine whether the request for reconsideration raises substantial grounds to believe that one or more of the reasons for reconsideration

set forth in §705.D.2.c. may be present. The request for reconsideration shall be denied by the chairman or designee, if in his or her discretion, it is determined that the request does not raise adequate grounds to believe that one or more of the reasons for reconsideration set forth in §705.D.2.c. are present.

3. If the chairman or designee determines upon screening that a request for reconsideration raises adequate grounds to believe that one or more of the reasons for reconsideration set forth in §705.D.2.c are present.

a. The case shall be set for administrative review at the next available parole panel hearing date. The review shall be conducted from the record of the first hearing. The appearance of the offender shall not be necessary.

b. The reviewing panel may vote to:

i. grant a new parole hearing and staff will make every attempt to schedule the hearing with a different parole panel than that which rendered the original decision; or

ii. affirm the original decision.

c. The applicant shall be advised, in writing, of the results of the review.

4. If the chairman or designee determine there is no basis to grant the request for reconsideration, the applicant will be advised in writing.

E. Disciplinary Removals

1. If the Offender has one or more major (Schedule B) Disciplinary Report(s) in the 12 months prior to their parole eligibility date, they will generally not be considered a good risk for early release and will, therefore, not be given parole consideration until such time as the offender has been disciplinary report free for twelve consecutive months. Offenders may be removed from a parole docket if they receive a Schedule B Disciplinary Report during the investigation period. The offender will be notified if they are not considered for placement on or removed from a docket.

a. The offender may request reconsideration of this decision in writing in accordance with the process outlined in this policy. Such request must include any mitigating factors that the offender wishes be considered during the review process.

b. The offender is responsible for notifying the board in writing when they are disciplinary report free for 12 consecutive months to be reconsidered for scheduling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2301 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2266 (August 2013), amended by the Office of the Governor, Board of Pardons, LR 40:58 (January 2014), LR 45:1065 (August 2019), LR 47:

Family Impact Statement

Amendment to the rules has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or

family poverty in relations to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Written comments may be addressed to Elizabeth Traylor, Executive Management Officer, Board of Pardons and Parole, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on December 10, 2020.

Sheryl M. Ranatza
Board Chair

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **General Provisions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not have a fiscal impact on state or local governmental unit expenditures.

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons hereby gives notice of its intent to amend its rules of LAC 22: XI: 102, 103, 121, 501, 504, 513, 514 and 705. These proposed rule changes provide technical adjustment for regular parole and revise procedures. Section 102 provides clarification for notifying victims and their next of kin. Section 103 updates the structure of the Board of Pardons, Committee on Parole and the participation of the ex-officio member. Section 121 allows the Executive Director to speak on behalf of the Chairman in their absence. Section 501 adds the five-member panel as an option for hearings. Section 504 and 513 outline additional procedures for screening, removing or rescinding offenders who have disciplinary issues prior to a hearing or after a decision to grant parole but prior to release. Section 514 provides additional guidance for votes required in various situations. Section 705 streamlines the Rehearing Application Process and strengthens the Committee's abilities to remove offenders with poor disciplinary conduct who are not good candidates for early release.

Additionally, in accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons hereby gives notice of its intent to amend its rules of LAC 22: V: 203, 205 and 211. Section 203 removes the condition of employment from pardon eligibility in the event the offender is unable to work due to medical and or mental health issues. Section 205 provides instruction on accepting clemency applications online. Section 211 clarifies the vote need related to a clemency recommendation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of the proposed rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost and/or economic benefit to directly affected persons, small businesses, or non-governmental groups as a result of the proposed rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There is no estimated effect on competition and employment as a result of the proposed rule changes.

Thomas C. Bickham, III
Undersecretary
2011#032

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Fire Marshal**

Fire-Resistant Material Applicators (LAC 55:V.Chapter 34)

Under the authority of R.S. 40:1563 and R.S. 40:1603 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Office of State Fire Marshal, hereby gives notice of its intent to promulgate and enact rules regarding Fire-resistant material applicators for the enforcement and penalties associated with Fire-resistant material applicators for the protection and safety of the public and to establish accuracy concerning heat and flame protection. These rules also explain the training and certification process for a person seeking a certificate of registration as a fire-resistant material applicator as required in R.S. 40:1603. These rules are all new and ensure that those people conducting Fire-resistant material application activities are properly trained, certified and registered which assures that the work was properly performed.

Title 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 34. Fire-resistant Material Applicators

§3401. Purpose

A. The provisions of this Chapter are to establish the training, registration and certification requirements for fire-resistant material applicators. The requirements for the enforcement of these provisions are established by this chapter in the interest of protecting and preserving lives pursuant to authority of R.S. 40:1603.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 46:

§3403. Administration

A. The Office of State Fire Marshal, which administers the provisions of R.S. 40:1603, relating to fire-resistant material applicators, is located at 8181 Independence Blvd., Baton Rouge, LA 70806.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 46:

§3405. Applicability of Rules

A. These rules shall apply to all persons engaged in the activity of fire-resistant material application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 46:

§3407. Exceptions

A. These rules shall not apply to firms that employ persons engaging in the activity of fire-resistant material application. The requirements only apply to the individual fire-resistant material applicators.

B. These rules do not apply to any persons or firms engaged in the application of fire-stopping material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 46:

§3409. Notices by the State Fire Marshal

A. Any notice required to be given by the Office of State Fire Marshal by any provision of law or these rules shall be provided as follows:

1. personal or domiciliary service or mailed, postage prepaid, to the person's residence and/or firm address as it appears on the records in the Office of State Fire Marshal. It is the responsibility of the person involved to ensure that the Office of State Fire Marshal has a correct address for the person and firm; or

2. electronic transmission or electronic mail (email) if the electronic transmission or email is retrievable in a perceivable form and the office and recipient have consented in writing to the use of such form of electronic transmission or email for purposes of notice or communication between the parties. It is the responsibility of the applicant or registered individual to ensure that the Office of State Fire Marshal has a correct email address for the person and firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 46:

§3411. Definitions

A. The following words and terms, when used in these rules, shall have the following meanings, unless the context clearly indicates otherwise.

Certificate of Registration—that document issued by the Office of State Fire Marshal to a person authorizing him or her to engage in fire-resistant material activity, certifying that he or she has obtained the appropriate training as required in R.S. 40:1603 and these rules.

Digital Registration Identification—that electronic document provided by the Office of State Fire Marshal to a person registered to engage in fire-resistant material activity, with the ability to be displayed on a phone or other electronic device bearing a photographic image of the person and his or her name, evidencing the Office of State Fire Marshal's authorization of the person to engage in the activities as defined by these rules.

Fireproofing—the act of rendering an object, such as a structure or material, resistant to fire or incombustible via the application of a listed and approved fire-resistant material.

Fire-Resistant Material—includes cementitious, fibrous and intumescent materials that are sprayed or applied onto a surface to provide fire-resistant protection of the substrate.

Fire-Resistant Material Activity—the application or the act of applying fire-resistant material onto a surface to provide fire-resistant protection of the substrate.

Fire-Resistant Material Applicator—an individual who applies fire-resistant material.

Firestops or Fire-stopping Material—a listed and approved material used as a form of passive fire protection that is utilized for sealing around openings and penetrations in fire-rated walls or flooring. The purpose of the utilization of firestops and/or fire-stopping material is to impede the spread of fire and smoke from one room or area to an adjacent room or area. Fire-resistant material is not included in this definition.

Firm—a sole proprietorship, partnership, corporation, limited liability company, or any other entity that employs the individual fire-resistant material applicators.

Office—the Office of State Fire Marshal.

Person—a natural individual.

Pocket Registration Card—that document issued by the Office to a person registered to engage in fire-resistant material activity, in pocket size and bearing a photographic image of the person and his or her name, evidencing the Office of State Fire Marshal's authorization of the person to engage in the activities as defined by these rules.

Substrate—an underlying material or layer of materials upon which other materials are applied, such as a fire-resistant coating.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 46:

§3413. Registration Required

A. Any person engaged in fire-resistant material activity shall be registered in accordance with these rules prior to conducting any such activity in this state. Each person who is registered with the office shall receive a certificate of registration and a pocket registration card or a digital registration identification.

B. Any person described in Subsection A of this Section who has not registered with the office shall immediately cease such fire-resistant material activities. The office may take any steps necessary to enforce an order to cease and desist such activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 46:

§3415. Required Training and Certification

A. Required Certification

1. Applicants for fire-resistant material applicator registration are required to meet the certification requirements pursuant to R.S. 40:1603 and these rules.

B. Training and certification(s) acceptable to the Office shall include:

1. training provided by the manufacturer(s) of the fire-resistant spray materials specific to those that the applicator(s) will be utilizing. The applicant shall submit a copy of all relevant documentation, including training completion and certifications, to the office for verification of training provided by the manufacturer(s). If an individual applies fire-resistant spray material from multiple and/or

varying manufacturers, the individual must have training and certification from each manufacturer. If an individual applies fire-resistant material of a manufacturer for which he or she has not received training and certification, that individual is considered unregistered and/or operating outside his certificate of registration and in violation of R.S. 40:1603 and these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 46:

§3417. Initial Registration; Annual Renewals

A. Applicants for individual initial registration are required to meet the initial registration requirements. As such, applications shall provide the following information:

1. name;
2. address;
3. phone number;
4. email address;
5. firm name (if any);
6. firm address;
7. firm phone number; and
8. copies of manufacturers' training and/or certifications.

B. Annual registration renewals required. On or before the expiration date, which is displayed on the certificate of registration, each person shall submit an application for the renewal of their certificate.

C. Initial and renewal applications for certificates of registration shall be submitted on forms provided the Office of State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 46:

§3419. Certificate of Registration

A. Every person must obtain from the Office a certificate of registration as provided for by R.S. 40:1603, before engaging in fire-resistant material activity.

B. The following shall apply to certificates of registration.

1. Duplicates. A duplicate certificate or pocket registration card must be obtained from the Office to replace a lost or destroyed certificate or card. The certificate holder must submit written or electronic notification of the loss or destruction of the certificate within 10 days from the date of loss.

2. Revisions/Changes. The change of a person's name, mailing address, firm, firm address, phone number or email address requires a revision of the certificate of registration. Certificates requiring changes must be surrendered to the Office within ten calendar days after the change requiring the revision. The person must submit written notification of the change with the surrendered certificate.

3. Non-Transferability. A certificate of registration is not transferable from one person to another.

4. Validity. A certificate of registration is valid for one year and shall be renewed annually. For a certificate of registration to remain valid, the person must provide current documentation of required information and training, as established by the Office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 46:

§3421. Alteration of Certificates of Registration.

A. Any alteration of a certificate of registration or pocket registration card renders both invalid and such alteration shall be the basis for administrative action in accordance with penalties set forth in R.S. 40:1603 and these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 46:

§3423. Enforcement; Investigations

A. The state fire marshal or his/her designated representative shall investigate all complaints of alleged violations of R.S. 40:1603 and these rules. Complaints of alleged violations shall be made in writing to the Office of State Fire Marshal. The Office shall make available a complaint form to be used as needed. Penalties shall be administered to those persons found to have violated these laws and/or rules. Proposed administrative penalty letters provided to violators in accordance with these rules shall act as official notification of alleged violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 46:

§3425. Administrative Actions

A. The State Fire Marshal may refuse the issuance or renewal of, suspend, or revoke a certificate of registration and impose administrative penalties, if, after notice and hearing, as provided for by the Administrative Procedures Act, R.S. 49:950 et seq., it is found that a person failed to comply with the provisions of R.S. 40:1603 or these rules. Any person who is denied a certificate of registration, whose certificate of registration is suspended or revoked, or who receives an administrative penalty may appeal by requesting an administrative hearing. Requests for hearings shall be made in writing and mailed or hand delivered to the Office of State Fire Marshal, 8181 Independence Blvd., Baton Rouge, LA 70806 to be received by the Office of State Fire Marshal within 30 days from the date of the denial, suspension, revocation or administrative penalty.

1. Offenses

a. Any person applying fire-resistant material who is not registered with the office shall be fined up to \$250 per violation.

b. Any person who does not receive the required training and/or does not obtain a certificate of registration in accordance with R.S. 40:1603 and these rules shall be fined up to \$250 per violation.

c. Any person who continues to engage in fire resistant material activity and fails to annually register, herein referred to as renewing, shall be fined up to \$250 per violation.

d. Any person subject to R.S. 40:1603 who fails to maintain his or her registration in accordance with R.S. 40:1603 and these rules shall be fined up to \$250 per violation.

B. Fines shall be made payable to the Office of State Fire Marshal.

C. The Office of State Fire Marshal is empowered to notify any person or firm engaged in any activity, conduct, or practice constituting a violation of any provision of R.S. 40:1603, directing such person or firm to cease such activity, conduct, or practice without obtaining a certificate of registration. Such notification shall be in writing issued in the name of the Office of State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 46:

§3427. Severability

A. If any provision of these rules or the application thereof to a person is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these rules which can be given effect without the invalid provisions or application. To this end, all provisions of these rules are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 46:

§3429. Miscellaneous Provisions

A. Nothing in these rules shall prevent an appropriately-registered person from conducting the activity of fire-resistant material application.

B. Service Invoices. All service invoices shall reflect all fire-resistant material application activity, date the work was performed, the name of the employing firm and the name of the certified person(s) who performed the work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1603.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 46:

Family Impact Statement

1. The effect of this Rule on the stability of the family. This Rule should not have any effect on the stability of the family.

2. The effect of this Rule on the authority and rights of parents regarding the education and supervision of their children. This Rule should not have any effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of this Rule on the functioning of the family. This Rule should not have any effect on the functioning of the family.

4. The effect of this Rule on family earnings and family budget. This Rule should not have any effect on family earnings and family budget.

5. The effect of this Rule on the behavior and personal responsibility of children. This Rule should not have any effect on the behavior and personal responsibility of children.

6. The effect of this Rule on the ability of the family or local government to perform the function as contained in the proposed rules. This Rule should not have any effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Small Business Analysis

1. The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

2. The agency, consistent with health, safety, environmental and economic welfare factors considered and, where possible, has utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Poverty Statement

1. The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in R.S. 49:973.

2. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on these proposed rules via U.S. Mail or hand delivery to Paeton L. Burkett, Attorney, Office of State Fire Marshal, 7979 Independence Blvd., Suite 307, Baton Rouge, Louisiana 70806. She is responsible for responding to inquiries regarding this proposed Rule. All written comments must be signed and dated.

Public Hearing

Requests for a public hearing must be submitted in writing either via email or written correspondence. Requests for a public hearing shall be sent to Paeton.Burkett@la.gov or to Paeton L. Burkett, Attorney, Office of State Fire Marshal, 7979 Independence Blvd., Suite 307, Baton Rouge, LA 70806. The deadline for submitting a request for public hearing is December 10, 2020. All requests for a public hearing sent via written correspondence must be received on or before December 10, 2020.

Chief H. "Butch" Browning, Jr.
State Fire Marshal

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Fire-Resistant Materials Applicators

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not result in costs or savings to state or local governmental units. The proposed rule allows persons to obtain the applicable training and certifications to obtain a fire-resistant materials applicator certificate of registration from the Office of State Fire Marshal. The applicant shall undergo training to apply fire-resistant material according to manufacturer specifications. The proposed rule will allow the applicant to register with the Office of State Fire Marshal, renew annually, and provides for investigations of complaints and the enforcement of violations. The proposed rule is necessary to allow for fire-resistant material applicators to have standardized and consistent training and certification.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collection of state or local governmental units in that it will not result in an increase in the collection of state or local revenue because there is no cost associated with obtaining the fire-resistant materials applicator certificate of registration from the state other than meeting the training and certification requirements. In accordance with La. R.S. 40:1603 (Act 114 of 2019), there is a penalty of \$250 per violation for failure to comply with requirements associated with training and certification. The number of violations is unknown but anticipated to be minimal since there is no cost to the applicant associated with training and certification.

- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rules will allow an individual to acquire a fire-resistant materials applicator certificate of registration from the Office of State Fire Marshal if they meet the registration and certification requirements. There is no cost for the fire-resistant materials applicator certificate of registration. Individuals may realize economic benefits in the form of compensation for performing the services of fire-resistant materials application from customers, but this economic impact is undeterminable. Individuals wishing to work as a fire-resistant materials applicator will be required to meet all registration and certification requirements, which may create costs and/or workload impact for these individuals.

- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules will have a nominal effect on competition and employment initially, but should the popularity of applying for a certificate of registration to be a fire-resistant materials applicator increase, a correlating increase in competition and employment may occur.

Lt. Col. Jason Starnes
Chief Administrative Officer
2011#033

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT Workforce Commission Plumbing Board

Multi-Site Signage
(LAC 46:LV.101 and 301)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953, the State Plumbing Board (board), hereby determines that the implementation of an amendment to LAC 46:LV.101 to define terms utilized in the proposed amendment to §301.F and R which is necessary to provide for alternative signage regulations when working on a multi-site project. The proposed amendments do not

qualify as an occupational regulation. This adjustment will be effective upon final publication in the *Louisiana Register*.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LV. Plumbers

Chapter 1. Introductory Information

§101. Definitions

* * *

Multi-Site—any location where the employing entity is performing work as defined in §101 in or on more than one adjacent structure.

* * *

Site—any location where the employing entity is performing work as defined in §101 in or on a single structure.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1277 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the department of Labor, State Plumbing Board, 1968, amended and promulgated by Department of Employment and Training, State Plumbing Board, LR 17:57 (January 1991), repromulgated by the Department of Labor, State Plumbing Board, LR 30:2068 (September 2004), amended by the Workforce Commission, Plumbing Board, LR 47:

Chapter 3. Licenses

§301. Licenses Required

A. - E. ...

F. Every employing entity shall maintain an established place of business, with facilities for receiving complaints, calls and notices during normal business hours, from any person for whom it is performing plumbing or from the board and its representatives. It shall display a sign, plainly visible from the street at every place where it and its employees are performing plumbing work. If the employing entity is the sole-employing entity for a multi-site project, where employees are performing plumbing work, it may post one sign, plainly visible from the street, at the entrance of the project. All posted signs shall designate the employing entity's full name, address, telephone number and master plumber license number issued by the board to the designated active master plumber in its employ. The sign posted at a single site shall include legible lettering at least 2 inches high with the words "Louisiana Licensed Master Plumber" (or abbreviated "LA Lic. Master Plumber" or "LMP _____"). For multi-site projects, where only a single sign is posted, in addition to the above requirement, the lettering must be at least 4 inches high. The employing entity shall also identify itself by permanent signs or lettering affixed to its service vehicles on both sides of such vehicles indicating the same information required of job-site signs in at least 2-inch lettering." All public advertising, solicitations, customer invoices, and business correspondence issued by or on behalf of an employing entity shall set forth the information described herein.

G. - Q. ...

R. Every employing entity shall maintain an established place of business, with facilities for receiving complaints, calls and notices during normal business hours, from any person for whom it is performing gas fitting or from the board and its representatives. It shall display a sign, plainly visible from the street at every place where it and its employees are performing gas-fitting work. If the employing

entity is the sole-employing entity for a multi-site project, where employees are performing natural gas work, it may post one sign, plainly visible from the street, at the entrance of the project. All posted signs shall designate the employing entity's full name, address, telephone number and master gas fitter license number issued by the board to the designated active master gas fitter in its employ. The sign posted at a single site shall include legible lettering at least 2 inches high with the words "Louisiana Licensed Master Gas Fitter" (or abbreviated "LA Lic. Master Gas Fitter" or "LMNGF _____"). For multi-site projects, where only a single sign is posted, in addition to the above requirement, the lettering must be at least 4 inches high. The employing entity shall also identify itself by permanent signs or lettering affixed to its service vehicles on both sides of such vehicles indicating the same information required of job-site signs, in at least 2-inch lettering." All public advertising, solicitations, customer invoices, and business correspondence issued by or on behalf of an employing entity shall set forth the information described herein.

S. - Y. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, Plumbing Board, LR 17:49 (January 1991), amended by the Department of Labor, Plumbing Board LR 19:897 (July 1993), LR 19:1593 (December 1993), LR 21:1348 (December 1995), LR 25:1857 (October 1999), amended by the Workforce Commission, Plumbing Board, LR 42:576 (April 2016), LR 43:541 (March 2017), LR 43:972 (May 2017), LR 47:

Family Impact Statement

The proposed amendments to LAC 46:301 and the adoption of LAC rule should have no known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed rule has no known or foreseeable effect on:

1. the stability of the family.
2. the authority and rights of parents regarding the education and supervision of their children.
3. the functioning of the family.
4. family earnings and family budget.
5. the behavior and personal responsibility of children.
6. the ability of the family or local government to perform this function.

Poverty Impact Statement

The proposed amendments to LAC 46:101 and 301 should have no impact on poverty as described in R.S. 49:973.

Small Business Impact Statement

The proposed amended Rule should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed amended Rule is not anticipated to have any impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Any interested person may submit written comments regarding the content of this proposed Rule change to Ashley Jones Tullier, Executive Director of the Board, 11304

Cloverdale Avenue, Baton Rouge, LA, no later than 5 p.m.,
December 10, 2020.

Ashley Jones Tullier
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Multi-Site Signage**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs or savings to the Louisiana State Plumbing Board (Board), state or local governmental units as a result of the proposed rule change. The proposed rule change would allow those employers performing plumbing or gas fitting work on a multi-site project, defined as work on more than one adjacent structure, to post one sign at the entrance of the project, rather than at every location where they are performing work.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on the revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR
NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change may result in a decrease in costs to those employers who are the sole employing entity for a multi-site project by allowing them to post fewer signs at a worksite.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The proposed rule change will have no effect on competition and employment.

Louis L. Robein
Board Attorney
2011#028

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

Concurrent Resolution

HOUSE CONCURRENT RESOLUTION

House of Representatives

HCR No. 29 of the 2020 Second Extraordinary Session
Leave of Absence for Residents of Intermediate
Care Facilities for Persons with Intellectual and
Developmental Disabilities (LAC 50:VII.33103)

To amend the Louisiana Department of Health rule, LAC 50:VII.33103(A)(2), which provides for leaves of absence for residents of intermediate care facilities for persons with intellectual and developmental disabilities, to provide for retroactive and prospective application of the amendments, and to direct the office of the state register to print the amendments in the Louisiana Administrative Code.

WHEREAS, intermediate care facilities for persons with intellectual and developmental disabilities, known commonly as ICF/DD and ICF/ID, are residential facilities at which children and adults with special needs receive individualized health care and habilitation services; and

WHEREAS, these facilities are regulated under the provisions of Part VI-E of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950 (R.S. 40:2180 et seq.) and Subpart 3 of Part VII of the Louisiana Administrative Code (LAC 50:VII.30101 et seq.); and

WHEREAS, state regulations concerning Medicaid funding of ICF/ID care, which provide for a system of per diem payments to these facilities, prohibit the state Medicaid program, with limited exceptions, from covering more than forty-five leave of absence days for any ICF/ID resident in any state fiscal year (July 1 through June 30); and WHEREAS, the effect of these regulations is to make families liable for paying the per diem to the ICF/ID for their loved ones' leaves of absence for the number of days exceeding forty-five days in total in a state fiscal year; and

WHEREAS, during Louisiana's state of public health emergency that was first declared on March 11, 2020, in response to the COVID-19 pandemic, and which continues as of the date of filing of this Resolution, many families have chosen to provide care for extended periods in their own homes for their loved ones who are ICF/ID clients; and

WHEREAS, in these most challenging of times, these families have made difficult decisions and great sacrifices to protect the best interests of their most fragile family members who cannot care for themselves; and

WHEREAS, many of these families now face financial hardship because their loved ones have exceeded the number of Medicaid-covered ICF/ID leave of absence days allowed by state regulations; and

WHEREAS, the provisions of R.S. 49:969 authorize the legislature, by concurrent resolution, to suspend, amend, or repeal any rule or regulation adopted by a state department, agency, board, or commission.

THEREFORE, BE IT RESOLVED by the Legislature of Louisiana that LAC 50:VII.33103.A.2 is hereby amended to read as follows:

§33103. Payment Limitations

A. Temporary Absence of the Client. A client's temporary absence from an ICF/ID will not interrupt the monthly vendor payment to the ICF/ID, provided the following conditions are met:

* * *

2. the absence is for one of the following reasons:

a. hospitalization, which does not exceed seven days per hospitalization; or

b. leave of absence. A temporary stay outside the ICF/ID provided for in the client's written individual habilitation plan. A leave of absence will not exceed 45 days per fiscal year (July 1 through June 30) and will not exceed 30 consecutive days in any single occurrence. Certain leaves of absence will be excluded from the annual 45-day limit as long as the leave does not exceed the 30-consecutive day limit and is included in the written individual habilitation plan. These exceptions are as follows:

- i. Special Olympics;
- ii. roadrunner-sponsored events;
- iii. Louisiana planned conferences;
- iv. trial discharge leave;
- v. official state holidays; and
- vi. two days for bereavement of close family members.

(a). *close family members*—parent, step-parent, child, step-child, brother, step-brother, sister, step-sister, spouse, mother-in-law, father-in-law, grand-parent, or grandchild;

c. the following leaves of absence will be excluded from both the annual 45-day limit and the 30-consecutive day limit as long as the leave of absence is included in the written habilitation plan:

i. any leave of absence during a declared federal public emergency by the Department of Health and Human Services.

* * *

BE IT FURTHER RESOLVED that the provisions of this Resolution shall be given prospective and retroactive application and shall be applied retroactively to March 11, 2020.

BE IT FURTHER RESOLVED that the provisions of this Resolution shall not be implemented unless approved by the Centers for Medicare and Medicaid Services.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the office of the state register and the secretary of the Louisiana Department of Health.

BE IT FURTHER RESOLVED that the office of the state register is hereby directed to have the amendments to LAC 50:VII.33103.A.2 printed and incorporated into the Louisiana Administrative Code.

Clay Schexnayder
Speaker of the House of Representatives
and
Patrick Page Cortez
President of the Senate

2011#019

Potpourri

POTPOURRI

Department of Agriculture and Forestry Board of Veterinary Medicine

Board Nominations; Exam Dates; Board Meeting Dates

Board Nominations

The Louisiana Board of Veterinary Medicine announces that nominations for the position of Board Member will be taken by the Louisiana Veterinary Medical Association (LVMA) at the annual winter meeting to be held in late January 2021. Interested persons should submit the names of nominees directly to the LVMA as per R.S. 37:1515. It is not necessary to be a member of the LVMA to be nominated. The LVMA may be contacted at (225) 928-5862.

Examination Dates

The Louisiana Board of Veterinary Medicine will administer the State Board Examination (SBE) for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates can be seen online at www.lsbvm.org/news and are subject to change due to office closure (i.e. holiday, weather).

The board will accept applications to take the North American Veterinary Licensing Examination (NAVLE) which will be administered through the International Council for Veterinary Assessment (ICVA), formerly National Board of Veterinary Medical Examiners (NBVME), and the National Board Examination Committee (NBEC), as follows:

Test Window Date
April 12-April 24, 2021
November 15-December 11, 2021

The board will also accept applications to take the Veterinary Technician National Examination (VTNE) which will be administered through American Association of Veterinary State Boards (AAVSB), for state registration of veterinary technicians as follows:

Test Date
March 15-April 15, 2021
July 15-August 15, 2021

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early as possible for review and acceptance. Applications and information may be obtained from the LBVM office at Florida Blvd, Baton Rouge, LA 70806, via telephone at

(225) 925-6620, and by e-mail at admin@lsbvm.org; application forms and information are also available on the website at www.lsbvm.org.

Board Meeting Dates

The Members of the Louisiana Board of Veterinary Medicine will meet at 8:30 a.m. on the following dates in 2021:

Thursday, February 4, 2021
Thursday, April 1, 2021
Thursday, June 3, 2021 (Annual Meeting)
Thursday, August 5, 2021
Thursday, October 7, 2021
Thursday, December 2, 2021

These dates are subject to change, so please contact the board office via telephone at (225) 925-6620 or email at admin@lsbvm.org to verify actual meeting dates.

Jared B. Granier,
Executive Director

2011#004

POTPOURRI

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Supplement to Annual Quarantine Listing—2020

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., R.S. 3:1652, R.S. 3:1732 and LAC 7:XV:107, 109 the annual quarantine listing for 2020 is being supplemented to include the following quarantines and locations.

* * *

Sweetpotato Weevil (*Cylas formicarius elegantulus* Sum)

(a) ...

(b) In the state of Louisiana:

1) ...

2) The properties located at the following coordinates: -91.668642, 32.049827; -91.668617, 32.049835; -91.672375, 32.049557; -91.705445, 32.095797; -91.706077, 32.097028; -91.706617, 32.099547; -91.707747, 32.099828; -91.709042, 32.099793; and any properties within a 300-yard radius of these coordinates.

* * *

Mike Strain, DVM
Commissioner

2011#040

NOTICE OF INTENT
Department of Natural Resources
Office of Conservation
Injection and Mining Division

Public Hearing Notice

Pursuant to provisions of the laws of the State of Louisiana, particularly Title 30 of the Louisiana Revised Statutes of 1950 as amended, and provisions of Statewide Order 29-N-1 (LAC 43:XVII, Subpart 1) and Statewide Order 29-B (LAC 43:XIX, Subpart 1, Chapter 5), notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6:00 p.m., Monday, December 21, 2020, via internet video conference in accordance with the Certification Of Inability To Meet In Person Due To Covid-19 Public Health Emergency For The Office Of Conservation Public Hearings Dated August 19, 2020. The hearing will be held only via Zoom remote conferencing, and will not be held at a physical location. A link to the public hearing may be accessed on the Department of Natural Resources, Office of Conservation web page beginning at 5:45 PM on Monday, December 21, 2020. A link to the public hearing may also be requested by email to Kellie McNamara at Kellie.McNamara@la.gov.

At such hearing, the Commissioner, or his designated representative, will hear testimony relative to the applications of Waste Management of Louisiana, L.L.C., P.O. Box 99, Walker, LA 70785. The applicant requests approval from the Office of Conservation to construct and operate two commercial, Class I nonhazardous waste disposal (injection) wells for disposal of industrial, nonhazardous liquid wastes and exploration & production waste (E&P Waste) fluids at the Woodside Environmental Solutions facility, 29375 Woodside Drive, Walker, Louisiana, in Section 29, Township 06 South, Range 04 East in Livingston Parish. The facility is a landfill and recycle facility.

The proposed new injection wells are identified as WES Well No. 001 and WES Well No. 002. Waste water disposal is proposed to occur initially at a depth of 5,946 feet to 6,445 feet below ground level (bgl) within a disposal zone interval of 4,532 feet to 6,445 feet bgl. The base of the lowermost underground source of drinking water at the specific facility location occurs at an approximate depth of 3,310 feet below ground level.

A copy of the draft permit (Order), fact sheet, or information concerning the application may be obtained by writing Melissa Ashour at the address below or by calling (225) 342-5526. Written comments concerning the application must be received by the Office of Conservation, Injection and Mining Division, P.O. Box 94275, Baton Rouge, LA 70804-9275 by 4 P.M., December 28, 2020. Please reference: Waste Management Class-I Permit Application Nos. 038556 and 038557, Docket No. IMD 2020- 07.

The application is available for inspection between 8 A.M. and 4:30 P.M., Monday through Friday in the Injection and

Mining Division Office, Rm. 817, of the LaSalle Building, 617 North Third Street, Baton Rouge, LA. and on the Department of Natural Resources/Conservation website.

Richard P. Ieyoub
Commissioner

2011#037

POTPOURRI

Department of Revenue
Policy Services Division

Substantive Hearing Notice—Mandatory Electronic Filing
of Certain Excise Tax Returns and Payment of Taxes
(LAC 61.III.1539-1546)

The department published a Notice of Intent to promulgate §1539-1546, Mandatory Electronic Filing of Certain Excise Tax Returns and Payment of Taxes in the August 20, 2020 edition of the *Louisiana Register* (LR 46:1178-1181). No written comments were received and no one appeared at the public hearing held on September 28, 2020. Since publication of the Notice of Intent, various events have impacted the taxpayers of Louisiana, including Hurricanes Marco and Laura. These events have also impacted the operations of the department. Therefore, the department is amending the proposed rule to delay the effective date until April 1, 2021.

As amended, the proposed rule requires the electronic filing of all Alcoholic Beverage, Hazardous Waste Disposal, Transportation and Communication Utilities, and Inspection and Supervision Fee returns and reports and electronic payment of all Alcoholic Beverage, Hazardous Waste Disposal, Transportation and Communication Utilities, and Inspection and Supervision taxes and fees for periods beginning on or after April 1, 2021. No fiscal or economic impact will result from the amendments proposed in this notice.

Title 61

REVENUE AND TAXATION

Part III. Administrative and Miscellaneous Provisions
Chapter 15. Mandatory Electronic Filing of Tax
Returns and Payment

§1539. Alcoholic Beverage Tax Returns – Electronic
Filing Requirements

A. For taxable periods beginning on or after April 1, 2021, every manufacturer and wholesale dealer handling beverages of high and low alcoholic content and every out-of-state wine producer, manufacturer and retailer who sells and ships wine directly to a consumer in Louisiana shall be required to file all alcoholic beverage tax returns and reports electronically with the Department of Revenue using the electronic format prescribed by the department.

B. Manufacturers, wholesale dealers, and out-of-state wine producers, manufacturers, and retailers may not send paper versions of any returns or reports required to be filed.

C.1. Failure to comply with the electronic filing requirement of this section will result in the assessment of a penalty as provided for in R.S. 47:1520(B).

2. Waiver of the penalty provided for in paragraph 1 of this subsection shall only be allowed as provided for in R.S. 47:1520(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:354(F), 47:1511, and 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:

§1540. Alcoholic Beverage Taxes—Electronic Payment Required

A. R.S. 47:1519(B)(1) allows the secretary to require payment of taxes on all alcoholic beverages by electronic funds transfer.

B. Effective for all reporting periods beginning on or after April 1, 2021, all payments of the tax on alcoholic beverages shall be electronically transferred to the Department of Revenue on or before the fifteenth of the month following the close of the reporting period for beverages of high alcoholic content, and the twentieth day of the month following the close of the reporting period for beverages of low alcoholic content and wine shipped directly to a consumer in Louisiana using the electronic format provided by the department.

C. For purposes of this Rule, specific requirements relating to the procedures for making payments by electronic funds transfer are set forth in R.S. 47:1519 and LAC 61.I.4910.

D. Failure to comply with the electronic funds transfer requirements shall result in the tax payment being considered delinquent and subject to penalties and interest as provided under R.S. 47:1601 and 1602.

E. If a taxpayer has made a good faith attempt and exercises due diligence in initiating a payment under the provisions of R.S. 47:1519, this Rule, and LAC 61.I.4910, but because of unexpected problems arising at financial institutions, Federal Reserve facilities, the automated clearinghouse system, or state agencies, the payment is not timely received, the delinquent penalty may be waived as provided by R.S. 47:1603. Before a waiver will be considered, taxpayers must furnish the department with documentation proving that due diligence was exercised and that the delay was clearly beyond their control.

F. In any case where the taxpayer can prove payment by electronic funds transfer would create an undue hardship, the secretary shall exempt the taxpayer from the requirement to transmit funds electronically.

G. The tax returns must be filed electronically separately from the electronic transmission of the remittance. Specific requirements relating to the mandatory electronic filing of the return required by the Department of Revenue are set forth in LAC 61.III.1539.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:354(F), 47:1511, and 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:

§1541. Hazardous Waste Disposal Tax Return—Electronic Filing Requirements

A. For taxable periods beginning on or after April 1, 2021, every generator and disposer of hazardous waste subject to the tax levied in Chapter 7-A of Subtitle II of Title 47 of the Louisiana Revised Statutes shall be required to file all Hazardous Waste Disposal Tax Returns and Schedules electronically with the Department of Revenue using the electronic format prescribed by the department.

B. Generators and disposers of hazardous waste may not send paper versions of any returns or schedules required to be filed.

C.1. Failure to comply with the electronic filing requirement of this section will result in the assessment of a penalty as provided for in R.S. 47:1520(B).

2. Waiver of the penalty provided for in paragraph 1 of this subsection shall only be allowed as provided for in R.S. 47:1520(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:831, 47:1511, and 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:

§1542. Hazardous Waste Disposal Tax—Electronic Payment Required

A. R.S. 47:1519(B)(1) allows the secretary to require payment of the tax on disposal and storage of hazardous waste by electronic funds transfer.

B. Effective for all taxable periods beginning on or after April 1, 2021, all payments of the tax on disposal and storage of hazardous waste shall be electronically transferred to the Department of Revenue on or before the twentieth day following the close of the reporting period using the electronic format provided by the department.

C. For purposes of this Rule, specific requirements relating to the procedures for making payments by electronic funds transfer are set forth in R.S. 47:1519 and LAC 61.I.4910.

D. Failure to comply with the electronic funds transfer requirements shall result in the tax payment being considered delinquent and subject to penalties and interest as provided under R.S. 47:1601 and 1602.

E. If a taxpayer has made a good faith attempt and exercises due diligence in initiating a payment under the provisions of R.S. 47:1519, this Rule, and LAC 61.I.4910, but because of unexpected problems arising at financial institutions, Federal Reserve facilities, the automated clearinghouse system, or state agencies, the payment is not timely received, the delinquent penalty may be waived as provided by R.S. 47:1603. Before a waiver will be considered, taxpayers must furnish the department with documentation proving that due diligence was exercised and that the delay was clearly beyond their control.

F. In any case where the taxpayer can prove payment by electronic funds transfer would create an undue hardship, the secretary shall exempt the taxpayer from the requirement to transmit funds electronically.

G. The tax returns must be filed electronically separately from the electronic transmission of the remittance. Specific requirements relating to the mandatory electronic filing of the return required by the Department of Revenue are set forth in LAC 61.III.1541.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:831, 47:1511, and 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:

§1543. Transportation and Communication Utilities Tax Return—Electronic Filing Requirements

A. For taxable periods beginning on or after April 1, 2021, every public utility as defined by R.S. 47:1003 shall be required to file the Transportation and Communication Utilities Tax Return electronically with the Department of

Revenue using the electronic format prescribed by the department.

B. Public utilities may not send paper versions of any returns required to be filed.

C.1. Failure to comply with the electronic filing requirement of this section will result in the assessment of a penalty as provided for in R.S. 47:1520(B).

2. Waiver of the penalty provided for in paragraph 1 of this subsection shall only be allowed as provided for in R.S. 47:1520(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:

§1544. Transportation and Communication Utilities Tax—Electronic Payment Required

A. R.S. 47:1519(B)(1) allows the secretary to require payment of the transportation and communication utilities tax by electronic funds transfer.

B. Effective for all taxable periods beginning on or after April 1, 2021, all payments of the transportation and communication utilities tax shall be electronically transferred to the Department of Revenue on or before the twentieth day following the close of the reporting period for monthly filers and the thirtieth day following the close of the reporting period for quarterly filers using the electronic format provided by the department.

C. For purposes of this Rule, specific requirements relating to the procedures for making payments by electronic funds transfer are set forth in R.S. 47:1519 and LAC 61.I.4910.

D. Failure to comply with the electronic funds transfer requirements shall result in the tax payment being considered delinquent and subject to penalties and interest as provided under R.S. 47:1601 and 1602.

E. If a taxpayer has made a good faith attempt and exercises due diligence in initiating a payment under the provisions of R.S. 47:1519, this Rule, and LAC 61.I.4910, but because of unexpected problems arising at financial institutions, Federal Reserve facilities, the automated clearinghouse system, or state agencies, the payment is not timely received, the delinquent penalty may be waived as provided by R.S. 47:1603. Before a waiver will be considered, taxpayers must furnish the department with documentation proving that due diligence was exercised and that the delay was clearly beyond their control.

F. In any case where the taxpayer can prove payment by electronic funds transfer would create an undue hardship, the secretary shall exempt the taxpayer from the requirement to transmit funds electronically.

G. The tax returns must be filed electronically separately from the electronic transmission of the remittance. Specific requirements relating to the mandatory electronic filing of the return required by the Department of Revenue are set forth in LAC 61.III.1543.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:

§1545. Report of Inspection and Supervision Fee—Electronic Filing Requirements

A. For fee periods beginning on or after April 1, 2021, every common carrier and public utility required to file the Quarterly Report of Inspection and Supervision Fee shall file the report electronically with the Department of Revenue using the electronic format prescribed by the department.

B. Common carriers and public utilities may not send paper versions of any reports required to be filed.

C.1. Failure to comply with the electronic filing requirement of this section will result in the assessment of a penalty as provided for in R.S. 47:1520(B).

2. Waiver of the penalty provided for in Paragraph 1 of this Subsection shall only be allowed as provided for in R.S. 47:1520(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, and 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:

§1546. Inspection and Supervision Fee—Electronic Payment Required

A. R.S. 47:1519(B)(1) allows the secretary to require payment of the Inspection and Supervision Fee by electronic funds transfer.

B. Effective for all reporting periods beginning on or after April 1, 2021, all payments of the Inspection and Supervision Fee shall be electronically transferred to the Department of Revenue on or before the last day of the third month following the close of the reporting period using the electronic format provided by the department.

C. For purposes of this Rule, specific requirements relating to the procedures for making payments by electronic funds transfer are set forth in R.S. 47:1519 and LAC 61.I.4910.

D. Failure to comply with the electronic funds transfer requirements shall result in the fee payment being considered delinquent and subject to penalties and interest as provided under R.S. 47:1601 and 1602.

E. If a fee-payer has made a good faith attempt and exercises due diligence in initiating a payment under the provisions of R.S. 47:1519, this Rule, and LAC 61.I.4910, but because of unexpected problems arising at financial institutions, Federal Reserve facilities, the automated clearinghouse system, or state agencies, the payment is not timely received, the delinquent penalty may be waived as provided by R.S. 47:1603. Before a waiver will be considered, taxpayers must furnish the department with documentation proving that due diligence was exercised and that the delay was clearly beyond their control.

F. In any case where the fee-payer can prove payment by electronic funds transfer would create an undue hardship, the secretary shall exempt the fee-payer from the requirement to transmit funds electronically.

G. The reports must be filed electronically separately from the electronic transmission of the remittance. Specific requirements relating to the mandatory electronic filing of the report required by the Department of Revenue are set forth in LAC 61.III.1545.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:

Public Comments

All interested persons may submit written data, views, arguments or comments regarding this proposed rule to Brandea Averett, Attorney, Policy Services Division, Office of Legal Affairs, P.O. Box 44098, Baton Rouge, LA 70804-4098. Written comments will be accepted until 4:30 p.m., December 18, 2020.

Public Hearing

A public hearing will be held on December 21, 2020 at 9 AM in the LaBelle Room, located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA. Masks are required to enter the LaSalle Building.

Kimberly Lewis Robinson
Secretary

2011#051

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