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Executive Orders

EXECUTIVE ORDER JBE 21-12

Bond Allocation 2021 Ceiling

WHEREAS, Section 146 of the Internal Revenue Code of 1986 (hereafter the "Act"), as amended (hereafter the "Code"), restricts the total principal amount of certain private activity bonds (hereafter the "Bonds") that exclude interest from gross income for federal income tax purposes under Section 103 of the Code;

WHEREAS, Act No. 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter "Act No. 51 of 1986") authorizes the Governor to allocate the volume limit applicable to the Bonds (hereafter the "ceiling") among the State and its political subdivisions in such a manner as the Governor deems to be in the best interest of the State of Louisiana;

WHEREAS, pursuant to the Act and Act No. 51 of 1986, Executive Order Number JBE 2016-35 was issued to establish:

(a) the manner in which the ceiling shall be determined,

(b) the method to be used in allocating the ceiling,

(c) the application procedure for obtaining an allocation of Bonds subject to such ceiling, and

(d) a system of record keeping for such allocations; and

WHEREAS, the Louisiana Housing Corporation (hereafter the "Corporation") has applied for an allocation of the 2021 ceiling to be used in connection with providing funds to:

(i) pay the cost for the acquisition, rehabilitation, and/or equipping of multifamily housing facilities serving low and moderate income rehabilitation households in Shreveport, Caddo Parish (the "Project"),

(ii) fund such reserve accounts as may be required and

(iii) pay the costs of issuance;

WHEREAS, the Louisiana Housing Corporation (hereafter the "Corporation") has applied for an allocation of the 2021 ceiling to be used in connection with its Single Family Mortgage Revenue Bonds (Home Ownership Program) Series 2021D (Non-AMT) in the principal amount of \$60,000,000 (the "Series 2021D Bonds") and paying the costs of issuance; and

WHEREAS, the Louisiana Housing Corporation (hereafter the "Corporation") has applied for an allocation of the 2021 ceiling to be used in connection with providing funds for the acquisition, rehabilitation, and/or equipping of

approximately 118 units of residential rental housing for individuals and families of low and moderate income.

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: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2021 ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$14,000,000	Louisiana Housing Corporation	Millennium Studios III Series 2021
\$60,000,000	Louisiana Housing Corporation	Single Family Mortgage Revenue Bonds (Home Ownership Program) Series 2021D (Non-AMT)
\$7,500,000	Louisiana Housing Corporation	Neil Wagoner & Henderson Project, Series 2021

SECTION 2: The allocation granted herein shall be used only for the bond issues described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana's Private Activity Volume Cap" submitted in connection with the bond issues described in Section 1.

SECTION 3: The allocations granted herein shall be valid and in full force and effect through October 30, 2021.

SECTION 4: This Order is effective upon signature and shall remain 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 Louisiana on this 22nd day of July, 2021.

John Bell Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Aroin
Secretary of State
2108#020

Emergency Rules

DECLARATION OF EMERGENCY

Department of Children and Family Services Economic Stability Section

TANF NRST Benefits and Post-FITAP Transitional Assistance (LAC 67:III.1229, 5329, 5551, and 5729)

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 2, Section 1229 Income; Subpart 13, Section 5329 Income; Subpart 15, Section 5551 Community Response Initiative; and Subpart 16, Section 5729 Support Services. This Emergency Rule shall be effective August 1, 2021 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 Sections 1229 and 5329 is required to allow TANF nonrecurrent, short-term (NRST) benefit payments to FITAP and KCSP recipients to mitigate the impact of a specific crisis situation or episode of need such as an economic crisis, disaster, pandemic, etc. Under the American Rescue Plan Act of 2021, \$7,905,732 has been allotted to Louisiana in Pandemic Emergency Assistance Funds (PEAF), which are a supplemental appropriation to the basic TANF block grant, to assist needy families impacted by the COVID-19 pandemic. The proposed change would allow the department to issue PEAF-funded NRST benefits directly to TANF-eligible recipients of FITAP and KCSP.

Section 5551 is being amended to change earned income eligibility for those services meeting TANF goals 1 and 2 from 200 to 250 percent of the federal poverty level.

Section 5729 is being amended to provide time-limited Post-FITAP transitional assistance to families who are leaving cash assistance when their FITAP case closes due to earned income. Families that leave TANF for work continue to face hardships in making ends meet once cash assistance ends and may be unable to maintain employment. Transitional benefits provided to working families can reduce poverty by providing transitional assistance on top of the earnings families receive when they go to work and improve their ability to maintain employment.

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 119 of the 2021 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Economic Stability

Subpart 2. Family Independence Temporary Assistance Program

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1229. Income

A. - D. ...

* * *

E. Payment Amount

1. For FITAP basic assistance, the budgetary deficit is the amount remaining after subtracting applicable income from the total assistance needs (flat grant amount). Round down to the next lower dollar of the budgetary deficit to determine the payment amount. Prorate the initial assistance payment from the date of application if otherwise eligible.

2. Within the limits of appropriations, a FITAP household may also receive a nonrecurrent, short-term (NRST) benefit that meets the regulatory definition [45 CFR 260.31(b)(1)] to mitigate the impact of a specific crisis situation broadly affecting needy families or a specific episode of need affecting a specific family, such as an economic crisis, disaster, pandemic, etc. The department has flexibility to respond with a sufficient and appropriate response regarding the duration of payments up to four months, type of payment (lump-sum or monthly installments), number of NRST benefits provided for different episodes of crisis or need, payment amount for each NRST benefit, and any lifetime limits imposed for eligible families.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq., and 10602(c), R.S. 36:474, R.S. 46:231.1(B), R.S. 46:231.2, P.L. 108-447, Act 16, 2005 Reg. Session, and 7 CFR 273.2(j).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 26:1342 (June 2000), LR 26:2831 (December 2000), LR 31:2956 (November 2005), LR 32:1616 (September 2006), LR 32:1912 (October 2006), LR 34:2678 (December 2008), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2524 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1675 (September 2014), LR 42:1651 (October 2016), LR 44:444 (March 2018), LR 47:

**Subpart 13. Kinship Care Subsidy Program (KCSP)
Chapter 53. Application, Eligibility, and Furnishing Assistance**

Subchapter B. Conditions of Eligibility

§5329. Income

A. - C. ...

D. Payment Amount

1. ...

2. Within the limits of appropriations, a KCSP household may also receive a nonrecurrent, short-term (NRST) benefit that meets the regulatory definition (45 CFR 260.31(b)(1)) to mitigate the impact of a specific crisis situation broadly affecting needy families or a specific episode of need affecting a specific family, such as an economic crisis, disaster, pandemic, etc. The department has flexibility to respond with a sufficient and appropriate response regarding the duration of payments up to four months, type of payment (lump-sum or monthly installments), number of NRST benefits provided for different episodes of crisis or need, payment amount for each NRST benefit, and any lifetime limits imposed for eligible families.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237, and P.L. 108-447, Act 16, 2005 Reg. Session, 7 CFR 273.2(j).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000), amended LR 26:2832 (December 2000), LR 31:2958 (November 2005), LR 32:1617 (September 2006), LR 32:1913 (October 2006), repromulgated LR 32:2098 (November 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2537 (November 2010), LR 38:1390 (June 2012), amended by the Department of Children and Family Services, Economic Stability Section, LR 45:1443 (October 2019), LR 47:

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

Chapter 55 TANF Initiatives

§5551. Community Response Initiative

A. The department may enter into Memoranda of Understanding or contracts to develop innovative and strategic programming solutions suited to the unique needs of Louisiana's communities.

B. The services provided by the various partners must meet one, or a combination of, the four TANF goals:

1. Goal 1—to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

2. Goal 2—to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

3. Goal 3—to prevent and reduce the incidence of out-of-wedlock pregnancies; and

4. Goal 4—to encourage the formation and maintenance of two-parent families.

C. Eligibility for those services meeting TANF goals 1 and 2 is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Supplemental Nutrition Assistance Program (SNAP) benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental

Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 250 percent of the federal poverty level. For TANF goals 1 and 2 a family consists of minor children residing with custodial parents, or caretaker relatives of minor children.

D. Eligibility for those services meeting TANF goals 3 and 4 may include any family in need of the provided services regardless of income. For TANF goals 3 and 4 a family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents, and legal guardians.

E. 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; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2374 (November 2002), amended LR 34:695 (April 2008), amended by the Department of Children and Family Services, Economic Stability Section, LR 47:

Subpart 16. Strategies to Empower People (STEP) Program

Chapter 57 Strategies to Empower People (STEP) Program

Subchapter C. STEP Program Process

§5729. Support Services

A. Clients may be provided support services that include but are not limited to:

1. a full range of case maintenance and case management services designed to lead to self-sufficiency;

2. transportation assistance;

3. Supplemental Nutrition Assistance Program (SNAP) benefits;

4. Medicaid benefits;

5. child care;

6. TANF-funded services;

7. other services necessary to accept or maintain employment; and

8. Post-FITAP transitional assistance benefits.

a. Effective September 1, 2021, these services may be provided to participants who are or become ineligible for cash assistance due to earned income within the limits of appropriations. They include a monthly transportation payment, other supportive service payments used to cover certain costs deemed necessary for employment, housing assistance used to address a specific episode of need deemed necessary to maintain employment, educational assistance, and a work retention incentive. The payments may begin with the first month of FITAP ineligibility and continue through the twelfth month of ineligibility or through the last month of employment, whichever comes first. The twelve months need not be consecutive.

B. Support services may be provided to:

1. persons participating in the family assessment;

2. persons referred by the department to other activities, such as drug counseling, prior to their participation in a work activity;

3. FITAP recipients participating in approved activities necessary to meet exemptions to the FITAP time limits;

4. FITAP recipients to facilitate their attendance in the FITAP Drug Testing Program or Parenting Skills Program;

5. allow participation in educational activities for FITAP recipients who are exempt from STEP.

C. Electronic disbursement of support services payments shall be mandatory for all payment types.

1. Electronic disbursement of support services payments includes direct deposit to the STEP participant's bank account (checking or savings) or payments to a stored value card account for the STEP participant.

D. The department shall inform participants of available supportive services as part of the initial family assessment and shall integrate the provision of any necessary supportive services to the family success agreement developed and signed by the department and the participant.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session, ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:500 (March 2004), amended LR 32:2098 (November 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 38:1391 (June 2012), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1678 (September 2014), LR 47:

Marketa Garner Walters
Secretary

2108#007

DECLARATION OF EMERGENCY

Department of Children and Family Services Licensing Section

Sanctions and Child Placing Supervisory Visits
Residential Homes (Type IV), and Child Placing Agencies
(LAC 67:V.7109, 7111, 7311, 7313, and 7321)

The Department of Children and Family Services (DCFS), Licensing Section, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:V, Subpart 8, Sections 7109, 7111, 7311, 7313, and 7321. This Emergency Rule shall be effective August 1, 2021 and shall remain in effect for a period of 120 days.

The implementation of this Rule to §§7109, 7111, and 7311 grants the department the authority to institute intermediate sanctions and levy fines to licensed providers that fail to comply with the requirement of a state central registry clearance for individuals owning, working in, and having access to children/youth in DCFS licensed facilities and agencies. In accordance with Act 31 of the 2021 Regular Legislative Session, it is necessary to promulgate an Emergency Rule to implement R.S. 46:1430 effective August 1, 2021.

Pursuant to Children's Code Article 1213, as amended by Act 6 of the 2021 Regular Legislative Session, the department is adopting rules to §§7313 and 7321 in accordance with the amended law effective August 1, 2021. The department considers emergency action necessary to meet the requirements of Children's Code Article 1213, as amended by Act 6 of the 2021 Regular Legislative Session.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 8. Residential Licensing

Chapter 71. Residential Homes - Type IV

Subchapter B. Conditions of Eligibility

§7109. Critical Violations/Fines

A. - A.5. ...

6. §7107.A.8, §7107.A.9, §7107.D.4.f.iv, §7107.E.2.g, §7111.A.2.c.iii, §7111.A.5.c, §7111.B.2.a.x, §7112.A-D, and/or §7117.A.14.k state central registry clearance effective August 1, 2021.

B. - E.1.k. ...

1. When the cited critical violation was for a state central registry clearance not being completed prior to hire as required, but obtained before the individual was on the premises and/or had access to a resident or child of a resident, the fine shall be decreased by \$25.

m. When the cited critical violation was for state central registry clearance not being completed prior to the individual being on the premises and/or having access to a resident or child of a resident, the fine shall be increased by \$25.

F. - H.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 43:258 (February 2017), amended LR 43:1725 (September 2017), LR 44:1991 (November 2018), effective December 1, 2018, amended by the Department of Children and Family Services, Licensing Section, LR 45:521 (April 2019), effective May 1, 2019, LR 46:674 (May 2020), effective June 1, 2020, LR 47:

§7111. Provider Requirements

A. - A.2.c.ii. ...

iii. have a state central registry clearance form from Child Welfare as required in §7112;

A.2.c.iv. - J.1. ...

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 36:811 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:979, 984 (April 2012), LR 42:221 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 43:261 (February 2017), LR 43:1725 (September 2017), LR 44:1992 (November 2018), effective December 1, 2018, amended by the Department of Children and Family Services, Licensing Section, LR 45:521 (April 2019), effective May 1, 2019, LR 46:674 (May 2020), effective June 1, 2020, LR 47:

Chapter 73. Child Placing Agencies—General Provisions

§7311. Licensing Requirements—Foster Care, Adoption, Transitional Placing

A. - M.1.c. ...

d. §7309.B., §7311.B.5.d.viii., §7311.B.5.g.v. – vi., §7311.B.5.h.iv., §7311.C.2.h., §7313.I.10., §7313.L.6., §7313.M.2., §7315.C., and/or §7321.J. 1-2. – state central registry clearance effective August 1, 2021.

M.2. - M.7.i. ...

j. When the cited critical violation was for a state central registry clearance not being completed prior to hire as required, but obtained before the individual was on the premises and/or had access to a child/youth, the fine shall be decreased by \$25.

k. When the cited critical violation was for state central registry clearance not being completed prior to the individual being on the premises and/or having access to a child/youth, the fine shall be increased by \$25.

M.8. - N.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:359 (March 2019), effective April 1, 2019, LR 46:681 (May 2020), effective June 1, 2020, amended LR 47:350 (March 2021), effective April 1, 2021, repromulgated LR 47:441 (April 2021), LR 47:

§7313. Administration and Operation

A. - H.6.d. ...

7. Effective April 1, 2019, staff conducting supervisory visits with foster parents, children/youth in certified foster home placements, and/or youth in transitional placing placements shall possess, at a minimum, a bachelor's degree in social work or a human service related bachelor's degree.

8. Effective August 1, 2021, in accordance with ACT 6 of the 2021 regular legislative session, all supervisory visits noted in Section 7321.H. shall be conducted by a social worker in the employ of the licensed adoption agency, licensed social worker, licensed professional counselor, licensed psychologist, medical psychologist, licensed psychiatrist, or licensed marriage and family therapist.

I. - U.5. ...

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 45:368 (March 2019), effective April 1, 2019, LR 46:683 (May 2020), effective June 1, 2020, LR 47:351 (March 2021), effective April 1, 2021, repromulgated LR 47:441 (April 2021), LR 47:

§7321. Adoption Services

A. - H.1. ...

2. Provider shall conduct an initial in home in-person supervisory visit with the child and one adoptive parent within 7 calendar days of the child's placement. Effective August 1, 2021 in accordance with Act 6 of the 2021 Regular Legislative Session, the next in home in-person supervisory visit shall occur within 30 calendar days of the initial in home in-person supervisory visit.

3. ...

4. Provider shall conduct a private supervisory visit without the presence of the adoptive parents with each child age one year and above every other month with at least a segment of the visit occurring in the adoptive home.

5. - 10. ...

11. Effective August 1, 2021 and in accordance with Act 6 of the 2021 legislative session, provider shall submit a confidential report to DCFS, Child Welfare concerning requirements noted in §7321.H.2-10 upon completion and to the court prior to the hearing on the final decree of the adoption. If DCFS requests additional information, the provider shall submit the requested information to the department by the date specified in the notification correspondence.

I. - L. ...

1. In domestic adoptions, DCFS may request information or documents from the provider required to be submitted to the court. The provider shall submit the requested information and documents to the department by the date specified in the notification correspondence.

2. - M.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 45:388 (March 2019), effective April 1, 2019, LR 47:353 (March 2021), effective April 1, 2021, repromulgated LR 47:443 (April 2021), LR 47:

Marketa Garner Walters
Secretary

2108#009

DECLARATION OF EMERGENCY

Office of the Governor Division of Administration Office of Broadband Development and Connectivity

Granting Unserved Municipalities Broadband Opportunities (GUMBO) (LAC 4:XXI.Chapters 1-7)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) et seq., and pursuant to the authority set forth in R.S. 51:2370-2370.16, the commissioner of administration declares an emergency to exist and adopts by emergency process the attached Rule relative to the administration of the Granting Unserved Municipalities Broadband Opportunities (GUMBO) grant program by the Office of Broadband Development and Connectivity.

Like railways in the 19th century and electricity in the 20th century, broadband internet access has become a critical piece of infrastructure, relied upon to ignite economic growth and competitiveness, contribute to improved outcomes in healthcare, enhance agricultural output, and advance the educational experience of our children. In the 21st century, broadband internet access is a given for many Louisianans, who rely on broadband in every aspect of daily life.

The Coronavirus pandemic has forever changed the definition and location of "work." Unemployed Louisianans rely on broadband to search and apply for the next opportunity. Our state's families and children have been forced to rely upon broadband for virtual education. The older and sicker among us are increasingly reliant on broadband to schedule telehealth visits and see medical specialists. Across fields of rice in Acadia Parish, corn in Richland Parish, and sugarcane in Lafourche Parish, farmers around the state rely on broadband to take advantage of the latest innovations in agricultural technology to increase yields. Working remotely, searching for employment, attending virtual classes, scheduling a telehealth visit, and using the latest technologies in agriculture all depend, in part, on having access to broadband.

However, according to the Federal Communications Commission, over 10 percent of Louisianans do not have access to broadband through ADSL, cable, fiber, or fixed

wireless. In our rural communities, the number of these unserved residents rises to nearly 33 percent. Tragically, a third of rural Louisianans are without access to high-speed broadband, threatening their health, limiting their educational opportunities, and constraining their economic competitiveness in the digital world.

Failure to connect the unconnected, and any further delay in constructing broadband infrastructure to serve those residents without it, would continue the substantial risk of hardship currently faced by hundreds of thousands of residents throughout the state. As demonstrated, this situation constitutes and creates an imminent peril to the public health, safety, and welfare of the residents of Louisiana, thereby making this Emergency Rule necessary.

Therefore, the Louisiana Office of Broadband Development and Connectivity is providing grants to private providers of broadband services to facilitate the deployment of broadband service to unserved areas of the state, defined as areas without deployed internet access service providing transmission speeds of at least 25 Mbps download and 3 Mbps upload (25:3 Mbps) through wireline or fixed wireless. The GUMBO grant program funds eligible projects through a competitive grant application process.

This Rule shall have the force and effect of law on August 12, 2021, and will remain in effect for the maximum period allowed by the Administrative Procedure Act, unless renewed by the commissioner of administration, or until permanent rules are promulgated in accordance with law.

Title 4

ADMINISTRATION

Part XXI. Granting Unserved Municipalities Broadband Opportunities (GUMBO)

Chapter 1. Program Summary

§101. Background and Authorization

A. This Part may be cited as the Louisiana GUMBO Broadband Grant Program Guide.

B. The Louisiana Office of Broadband Development and Connectivity, as authorized by R.S. 51:2370.1-2370.16, provides grants to private providers of broadband services to facilitate the deployment of broadband service to unserved areas of the state. The Granting Unserved Municipalities Broadband Opportunities (GUMBO) grant program funds eligible projects, through a competitive grant application process, in economically distressed parishes throughout the state.

C. The application materials, program guidelines, and criteria set forth in this Part govern the GUMBO grant program and have been developed based on the enacting legislation for the program, Act 477 of the 2021 Regular Legislative Session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§103. Definitions

Broadband Service—deployed internet access service with a minimum of 25 Mbps download and 3 Mbps upload transmission speeds (25:3 Mbps).

Cooperative—a corporation organized under Part I of Chapter 2 of Title 12 of the Louisiana Revised Statutes of 1950 or a corporation who becomes subject to those provisions pursuant to R.S. 12:401 et seq.

Director—the Executive Director of the Office of Broadband Development and Connectivity within the Division of Administration.

Economically Distressed Parish—an unserved area that is in need of expansion of business and industry and the creation of jobs, giving consideration to unemployment, per capita income, and the number of residents receiving public assistance within that unserved area.

Eligible Grant Recipient—a provider of broadband service, including a provider operated by a local government if the local government is compliant with the Local Government Fair Competition Act prior to July 1, 2021, with respect to providing such services, a cooperative, or any partnership thereof.

Eligible Parishes—any parish with unserved structures.

Eligible Project—a discrete and specific project located in an unserved area of an eligible parish seeking to provide broadband service to homes, households, businesses, educational facilities, healthcare facilities, and community anchor points not currently served. A project that is primarily engaged in middle-mile, backhaul, or similar work is not an eligible project. The inclusion of middle-mile, backhaul, or similar capacity is permissible in an eligible project, if the capacity does not otherwise exist and is necessary for the project's last-mile broadband connectivity to end-users. If a contiguous project area crosses from one eligible parish into one or more eligible adjacent parishes, the project shall be deemed to be located in the parish where the greatest number of unserved households are proposed to be served.

Household—any individual or group of individuals who are living together at the same address as one economic unit. A household may include related and unrelated persons. An "economic unit" consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person eighteen years or older. If an adult has no or minimal income, and lives with someone who provides financial support to him, both people shall be considered part of the same household. Children under the age of 18 living with their parents or guardians are considered to be part of the same household as their parents or guardians.

In-kind—existing facilities, equipment, materials, and structures that a local government makes available in partnership with an internet service provider as a contribution to the proposed project, consistent with market rates. Examples include but are not limited to copper wire, coaxial cable, optical cable, loose tube cable, communication huts, conduits, vaults, patch panels, mounting hardware, poles, generators, batteries and cabinets, network nodes, network routers, network switches, microwave relays, microwave receivers, site routers, outdoor cabinets, towers, easements, rights-of-way, and buildings or structures owned by the local government that are made available for location or collocation purposes. This term may also include fees.

Infrastructure—existing facilities, equipment, materials, and structures that an internet service provider has installed either for its core business or public enterprise purposes. Examples include but are not limited to copper wire, coaxial cable, optical cable, loose tube cable, communication huts, conduits, vaults, patch panels, mounting hardware, poles, generators, batteries and cabinets, network nodes, network

routers, network switches, microwave relays, microwave receivers, site routers, outdoor cabinets, towers, easements, rights-of-way, and buildings or structures owned by the entity that are made available for location or collocation purposes.

Infrastructure Costs—costs directly related to the construction of broadband infrastructure for the extension of broadband service for an eligible project, including installation, acquiring or updating easements, backhaul infrastructure, and testing costs. The term does not include overhead or administrative costs.

Local Government—a parish, municipality, or school board, or any instrumentality thereof.

Office—the Office of Broadband Development and Connectivity within the Division of Administration.

Prospective Broadband Recipient—a household, home, business, educational facility, healthcare facility, community anchor point, agricultural operation, or agricultural processing facility that is currently unserved and is identified in an application submitted.

Shapefile—a file format for storing, depicting, and analyzing geospatial data depicting broadband coverage, comprised of several component files, such as a Main file (.shp), an Index file (.sbx), and a dBASE table (.dbf).

Unserved—notwithstanding any other provision of law, any federal funding awarded to or allocated by the state for broadband deployment shall not be used, directly or indirectly, to deploy broadband infrastructure to provide broadband internet service in any area of the state where broadband internet service of at least 25:3 Mbps is available from at least one internet service provider.

Unserved Area—a designated geographic area that is presently without access to broadband service offered by a wireline or fixed wireless provider. Areas included in an application where a provider has been designated to receive funds through other state or federally funded programs designated specifically for broadband deployment shall be considered served if such funding is intended to result in the initiation of activity related to the construction of broadband infrastructure in such area within 24 months of the expiration of the 60-day period related to such application established pursuant to R.S. 51:2370.4(C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§105. Non-Applicability of other Procurement Law

A. In accordance with R.S. 51:2370.14(C), grants solicited and awarded pursuant to the GUMBO program shall not be subject to the provisions of the Louisiana Procurement Code, R.S. 39:1551 et seq., or the Public Bid Law, R.S. 38:2181 et seq.

B. The procurement method used by the office to solicit applications, identify and score product features, cost, and technical factors, and award on the basis of best values shall be as set forth in Chapters 3 and 4 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 2. Project Area Eligibility Requirements

§201. Eligible and Ineligible Project Areas

A. Eligible areas for the GUMBO grant program are areas without deployed internet access service providing transmission speeds of at least 25:3 Mbps with wireline or fixed wireless, and which qualify as an unserved area as defined in this Part. These areas are the focus of broadband expansion under this grant program.

B.1. Ineligible areas for the program are areas that already have internet access service available to them at transmission speeds of at least 25:3 Mbps with wireline or fixed wireless. In addition, areas (census blocks) where a private provider has been designated to receive funding through Universal Service, Connect America Phase II, Rural Digital Opportunity Fund, or other federal or non-federal funds shall be considered served and therefore ineligible for the GUMBO grant program if such funding is intended to result in the initiation of activity related to construction of broadband infrastructure in the area within 24 months from the expiration of 60 days following the closure of the grant application period.

2. In the initial grant application period, providers receiving Universal Service, Connect America Phase II, Rural Digital Opportunity Fund, or other federal or non-federal funds to deploy service, within the established timeline of within 24 months from the expiration of 60 days following the closure of the grant application period, may designate such areas as ineligible and subject to exclusion and reservation from the GUMBO grant program, for a period of 24 months, by submitting to the office, within 60 days of the closure of the application period, a listing of the census blocks, shapefile areas, individual addresses, or portions thereof, comprising the provider's future project areas.

3. In subsequent grant application periods, in order to designate areas as ineligible and subject to exclusion, providers shall submit to the office census blocks, shapefile areas, individual addresses, or portions thereof, not less than 60 days prior to the beginning date of the application period.

4. Failure on the part of a provider to submit a relevant project area for ineligibility and exclusion shall result in those areas being eligible for GUMBO grant funding for the applicable grant application period. However, in such circumstance, providers shall be able to utilize the protest process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§203. Resources for Identification of Project Areas

A. Applicants can apply for funding to serve census blocks, shapefile areas, individual addresses, or portions thereof, as set forth in Chapter 3: Applications of this Part.

B. Although the Office of Broadband Development and Connectivity cannot provide a listing of all prospective broadband recipients within the state that have broadband service of less than 25:3 Mbps available, the office advises applicants to consider mapping tools and other resources located within the office's website as a starting point for identifying project areas.

NOTE: Mapping tools and other resources can be found on the website of the office, at connect.la.gov.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 3. Applications

§301. Process Overview

A. No funding shall be disbursed by the GUMBO grant program except pursuant to an application submitted in accordance with this Chapter.

B. Applications for the GUMBO grant program shall be submitted via the website of the office.

C. The online application process may provide for mandatory and optional materials to be submitted with each proposal.

D. Prior to the publication of an application by the Office pursuant to R.S. 51:2370.4(C), the Office shall undertake a preliminary evaluation of the application with due diligence to examine whether the application appears on its face to comply with applicable program requirements. Until such time as this preliminary evaluation is complete, the provisions of R.S. 51:2370.16(3), relative to public records, shall apply. Following the preliminary evaluation, applicant financials and proprietary or trade secret information, when designated as such by the applicant and approved by the office, at its sole discretion, shall be exempt from public disclosure.

E. Through the evaluation and scoring process, if an applicant or application or any associated project are deemed to be technically unviable for any reason, including, but not limited to, applicant ability, proposed technology solution, financial stability, or any combination thereof, the office shall, at its sole discretion, remove the application or project area from consideration for the grant program. Any applicant or application or any associated project deemed technically unviable in any GUMBO grant application period is eligible to reapply in any succeeding GUMBO grant application period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§303. Applications with Multiple Providers or Project Areas

A. An applicant may submit one application with multiple service providers if the applicant can demonstrate how the providers are collaborating to achieve universal coverage for the unserved locality or region.

B. An applicant may submit an application with support from more than one unit of local government.

C. Units of local government may endorse multiple applications with different service providers and may include project areas that cross jurisdictional boundaries.

1. Units of local government that provide letters of support, matching funds, or in-kind contributions to any application should provide the same, on a percentage basis

relative to matching funds and in-kind contributions, to all applications proposing the use of like technologies in identical unserved areas with access provided to the exact number of prospective broadband recipients within its jurisdiction. Should multiple applications propose to serve unserved areas within its jurisdiction and include the use of unlike technologies, differing unserved areas, or a non-analogous number of prospective broadband recipients to be served, as compared against other applications, a local government may use reasonable judgement and reserve the right to determine its level of support, to include letters of support, matching funds, or in-kind contributions, on an application by application basis. A unit of local government that provides differing levels of support, to include letters of support, matching funds, or in-kind contributions, to differing applicants proposing one or more projects within its jurisdiction shall provide an explanation to the office as to why the local government's differing levels of support do not present an unreasonable or undue preference or advantage to itself or to any provider of broadband service. If, in the opinion of the office, differing levels of support by a unit of local government for differing applications presents an undue or unreasonable preference or advantage to itself or to any provider of broadband service, the office may disqualify from grant funding consideration any application or project area within the jurisdiction of the unit of local government.

D. An applicant may include one contiguous project area or multiple non-contiguous project areas in a single application. If designating more than one project area in a single application, each project area must be clearly noted and delineated, and the required technical data and budgetary information must be provided for each project area to allow for independent scoring of each project area. Any application that contains more than one project area and does not provide technical data and budgetary information specific to each project area, to allow for independent scoring of each project area subject to the scoring criteria listed in §405 of this Part, may be removed from grant funding consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§305. Application Requirements

A. As set forth in greater detail in §§307-315 of this Chapter, each application shall include these components:

1. applicant information, statement of qualifications, and partnerships;
2. project area(s) and locations to be served;
3. technical report;
4. project budget(s), matching funds, costs, and proof of funding availability;
5. proposed services, marketing, adoption, and community support.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§307. Application Information, Statement of Qualifications, and Partnerships

A. Every application shall include:

1. the identity of the applicant and its qualifications and experience with the deployment of broadband; in addition, the applicant shall include the following:

a. the number of years the applicant has provided internet services;

b. a history of the number of households and consumers, by year of service, to which the applicant has provided broadband internet access, as well as the current number of households to which broadband internet access (at least 25:3 Mbps) is offered;

c. the number of completed internet service infrastructure projects funded, in part, through federal or state grant programs, prior to the date of application submittal;

d. whether the applicant has ever participated in an internet service infrastructure project funded, in part, through federal or state grant programs, and if so, for each project, the nature and impact of the project, the role of the applicant, the total cost of the project, and the dollar amount of federal or state grant funding;

e. the number of penalties paid by the applicant, a subsidiary or affiliate of the applicant, or the holding company of the applicant, relative to internet service infrastructure projects funded, in part, through federal or state grant programs, prior to the date of application submittal; and

f. the number of times the applicant, a subsidiary or affiliate of the applicant, or the holding company of the applicant has ever been a defendant in any federal or state criminal proceeding or civil litigation as a result of its participation in an internet service infrastructure project funded, in part, through federal or state grant programs, prior to the date of application submittal.

2. Five years of financial statements, pro forma statements, or financial audits of the applicant to ensure financial and organizational strength regarding the ability of the applicant to successfully meet the terms of the grant requirements and the ability to meet the potential repayment of grant funds. If an applicant has been in business for less than five years, the applicant shall provide financial statements, pro forma statements, or financial audits for the number of years the applicant has been in business. Should an applicant declare that it does not have financial statements, pro forma statements, or financial audits, the office, at its sole discretion, shall decide what documents are necessary to fulfill the requirements of this section.

3. the identity of any partners or affiliates if the applicant is proposing a project for which the applicant affirms that a formalized agreement or letter of support exists between the provider and one or more unaffiliated partners where the partner is one of the following:

a. a separate private provider of broadband service, requiring a formalized agreement; or

b. a nonprofit or not-for-profit, or a for-profit subsidiary of either, and the applicant is:

i. being allowed access and use of the partner's infrastructure, on special terms and conditions designed to

facilitate the provision of broadband services in unserved areas, requiring a formalized agreement;

ii. utilizing a matching financial and/or in-kind contribution provided by one or more partners, requiring a formalized agreement; or

iii. a parish, municipality, or school board, or any instrumentality thereof, may qualify as a nonprofit for the purposes of the GUMBO grant program. Letters of support by a parish, municipality, or school board, or any instrumentality thereof, supporting an application may be submitted as part of an application. A letter of support does not require a formalized agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§309. Project Area(s) and Locations to be Served

A. Every application shall include the following.

1. Mapping and Descriptions

a. Data relating to areas to be served is required in order to confirm that the project is serving eligible areas, to accurately score the application or project area, and track progress and completion of the project if awarded. Applicants shall submit data in any of the following ways, or in combination. If documentation is deemed insufficient, the office reserves the right to request additional supporting documentation. If the proposed project would result in the provision of broadband service to areas that are not eligible for funding, those ineligible areas shall be identified in the application along with the eligible areas.

b. Data included shall be relevant to the proposed project area and include the number of prospective broadband recipients that will be served and have access to broadband as a result of the project. For the proposed area to be served, the infrastructure cost per prospective broadband recipient must be provided, as well as the GUMBO cost per prospective broadband recipient. Data points should be tied to specific locations and be geo-coded for consideration as part of the application.

c. Areas projected to be served must be digitally submitted in a GIS shapefile, kml, CAD (.dwg), or MicroStation (.dgn) file format, and should be georeferenced to either the Louisiana North State Plane NAD83 (US Feet) coordinate system or the Louisiana South State Plane NAD83 (US Feet) coordinate system. The files can contain points representing locations or polygons outlining the specific areas to be served. CAD drawings must not contain external references. Service to any prospective broadband recipient should be referenced. The office reserves the right to request data and technical information in any format the office deems necessary.

d. Additionally, applicants may also submit applications for areas where transmission speeds are less than 25:3 Mbps, if data is available to support differences between advertised and transmission speeds.

e. Data Submission Requirements

i. Census Blocks—data shall be submitted as corresponding census block numbers encompassing the area(s) to be served through the proposed project.

ii. Shapefiles—data shall be submitted analyzing geospatial data depicting broadband coverage of the proposed project area.

iii. Address-Level Data—data shall be submitted as individual address points of locations where service will be made available through the grant build. All addresses must be geocoded to include latitudinal and longitudinal coordinates.

iv. Polygons—data shall be submitted as polygon geometry which contain the areas to be served, or with the expectation that the polygon submitted corresponds to service being available to all locations within the polygon. The applicant must use the most recent data available from the state, parish, or local government to identify all locations within the project area.

f. Additional Data Sets

i. To assist in clarifying or providing for a greater level of detail regarding the areas and locations to be served by a proposed project, additional data sets may be provided within the application. These data sets should serve as supporting information and material to the required data listed above and should not be submitted as an alternative.

Examples of additional data include, but are not limited to:

- Scrubbed data (no raw data) from citizen survey results or demand aggregation results with speed tests, if applicable. This data must identify the areas that have less than 25:3 service.

- Affidavits from citizens or other individuals certifying one or more of the following:

- o they are not able to receive broadband service; or
- o the only available service is cellular or satellite; or
- o the only broadband service available by the existing providers is less than 25:3 service.

2. Assessment of the Current Level of Broadband Access in the Proposed Deployment Area

a. The application requires an assessment of the current level of broadband access in the proposed deployment area. Within this section of the application, the applicant should describe what they believe to be the current level of service within the area and provide the data source or methodology used to capture this information. Raw data may be submitted as part of the assessment.

3. Attestation of Project Area Eligibility

a. Applicants are required to sign the statement of attestation to attest to the office that the project area(s) identified within the application are eligible, as defined by Louisiana Revised Statutes 51:2370.1 through 2370.16 and this Part, to the best of their knowledge. The attestation statement and signature shall be included as part of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§311. Technical Report

A. Applicants must provide a narrative, technical report detailing the technology/technologies to be used in the proposed project to serve prospective broadband recipients at their premises. Applicants must indicate the technology that will serve a prospective broadband recipient as wired infrastructure or fixed wireless and provide aggregated totals for each solution for each project.

B. Reporting requirements for all deployments:

1. an explanation of the scalability of the broadband infrastructure to be deployed to meet future bandwidth needs;

2. if the applicant is claiming points for partnerships, the applicant must provide a brief narrative explaining how the partnership or affiliation will facilitate deployment and reduce cost per prospective broadband recipient. For applications or project areas where the nonprofit or not-for-profit partner provides only matching financial support, that information can be documented in the budget section within the relevant application or project area. The applicant must also provide evidence of a formalized agreement, when applicable, as required in §307 of this Part;

3. a general explanation of whether work will be performed in-house or through contractors, and whether the applicant or any subcontractors are certified by either the Hudson Initiative or Veterans Initiative (if any subcontractors are certified through the Hudson Initiative or the Veterans Initiative, a formalized agreement shall be provided);

4. a proposed construction timeline and duration of the deployment project period. The deployment project period is the time from award of the grant agreement to the time that service is available to the targeted prospective broadband recipients under the grant. The applicant shall describe deployment roll-out and include the number of end-users to be served in each phase, as well as an estimated timeline for each phase (10 percent, 35 percent, 60 percent, 85 percent, 100 percent). As it relates to the disbursement of grant funding, project completion shall be defined as a percentage of the total number of prospective broadband recipients proposed to be served by the project;

5. the average distance, in miles, between prospective broadband recipients to be served by the project; and

6. a business continuity and disaster recovery plan.

C. Reporting requirements for wired infrastructure deployment:

1. description of the general design of the project and deployment plan;

2. explanation of the existing networks and equipment to be used for the project;

a. if the applicant requires assets owned by another entity, the applicant should explain how the assets will be used for this project and, if applicable, provide a copy of the agreement between the applicant and the owner;

b. the total number of miles of project infrastructure deployment, and the number of miles of project infrastructure deployment accounted for by preexisting infrastructure;

3. detailed explanation of how the new or upgraded infrastructure will serve the prospective broadband recipients. In the case of the installation or upgrade of a specific site infrastructure, such as a point of presence or fiber hut (fiber), pedestal (cable), or a remote exchange/DSLAM (DSL), the applicant must include:

a. number of prospective broadband recipients that will be served by that site infrastructure, including businesses; and

b. the distance from the specific site infrastructure such as a POP, pedestal, or DSLAM to the end user(s) and the expected broadband speed that will be effectively delivered;

4. detailed description of the design work needed for deployment, such as, but not limited to, pole work, acquiring or updating easements, and/or property acquisition.

D. Reporting requirements for fixed wireless deployment:

1. description of the general design of this project and deployment plan;

2. explanation of the existing networks and equipment to be used for this project;

a. If the applicant requires assets owned by another entity, the applicant should explain how the assets will be used for this project and, if applicable, provide a copy of the agreement between the applicant and the owner; and

b. the total number of miles of project infrastructure deployment, and the number of miles of project infrastructure deployment accounted for by preexisting infrastructure;

3. detailed explanation of how the new or upgraded infrastructure will serve the prospective broadband recipients. In the case of the installation or upgrade of a specific site infrastructure, such as a vertical asset, the applicant must include:

a. description and specific location of the vertical asset;

b. owner of the vertical asset;

c. number of prospective broadband recipients that will be served by that site infrastructure, including businesses;

d. the distance from the vertical asset to the end user(s) and the expected broadband speed that will be effectively delivered;

4. detailed description of the design work needed for deployment, such as, but not limited to, acquiring access to existing vertical assets, acquiring or updating easements, and/or property acquisition;

5. description and specific type of the equipment used for deployment and the capable speed of the equipment;

6. explanation of the frequency/frequencies to be utilized for the deployment, whether the deployment will use licensed or unlicensed technologies, as well as mitigation of line-of-sight challenges (which should correspond to the number of recipients to be served).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§313. Project Budget, Matching Funds, Costs, and Proof of Funding Availability

A. Budget and Narrative

1. The project budget should reflect all eligible project costs. The project budget should include the minimum provider funding match of at least 20 percent, any local government funding match from a parish, municipality, and/or school board, or any instrumentality thereof, as well as in-kind contributions, and the requested GUMBO grant program funding.

2. Matching funds, and their associated sources, shall be detailed within the project budget and budget narrative. Eligible grant recipients are required to provide at least 20 percent matching funds of the total proposed project cost to participate in the GUMBO grant program. A local government, including a parish, municipality, or school board, or any instrumentality thereof, may provide matching funds for a project, in addition to the applicant. Local government matching funds are optional and not required.

There is no limitation on the minimum or maximum percentage of a project's total cost that a local government may provide through a funding match. In-kind contributions to the project by a local government should also be listed in the project budget and budget narrative, if applicable.

3. Project funds (GUMBO grant funds and matching funds) shall be utilized for the deployment phase of the project, not the subsequent years of service. In addition, eligible project costs do not include recurring operating or maintenance costs, or sales and marketing of services.

B. Total Project Cost

1. Costs directly related to the construction of broadband infrastructure for the extension of broadband service, including installation, acquiring or updating easements, backhaul infrastructure, and testing costs are infrastructure costs and therefore considered eligible project costs. The term does not include overhead or administrative costs.

NOTES:

A project that is primarily engaged in middle-mile, backhaul infrastructure, or similar work is not an eligible project. The inclusion of middle-mile, backhaul, or similar capacity is permissible in an eligible project, if the capacity does not otherwise exist and is necessary for the project's last-mile broadband connectivity to end-users.

Applicants are encouraged to utilize vertical assets already in place or easily installed (poles, small monopoles, repeaters, etc.) as much as possible. Including new macro towers in a project may create lengthy construction timelines, especially around land purchase and environmental regulations.

C. Total Project Cost—per prospective broadband recipient

D. Infrastructure Cost—per prospective broadband recipient

E. GUMBO Cost—per prospective broadband recipient

F. Proof of Funding Availability

1. Applicants must submit a signed letter of funding availability from each source of funds committed for the project. If loan or other grant funds are pledged, a loan/grant commitment letter from each source of funds must be included.

2. Should an applicant be an awardee of Universal Service, Connect American Phase II, Rural Digital Opportunity Fund, or other federal or non-federal funds for the deployment of broadband service, the applicant shall attest as to whether or not the applicant's GUMBO application and associated project's buildout is dependent upon such awarded funds.

3. The applicant shall indicate whether the applicant, a subsidiary or affiliate of the applicant, or the holding company of the applicant has ever filed for bankruptcy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§315. Proposed Services, Marketing, Adoption, and Community Support

A. Every application shall include:

1. a description of services to be provided, including the proposed upstream and downstream broadband speeds to be delivered and any applicable data caps. Any applicant proposing a data cap shall provide justification to the satisfaction of the office that the proposed cap is in the public interest and consistent with industry standards;

2. the proposed advertised speed to be marketed to end-users (broken out by prospective broadband recipient);

3. the prices of all broadband service packages and the associated broadband transmission speeds that will be offered to consumers as a result of the project;

4. a plan to encourage users to connect that incorporates, at a minimum, community education forums, multimedia advertising, and marketing programs;

5. evidence of support for the project from citizens, local government, businesses, and institutions in the community. The applicant may provide letters or other correspondence from citizens, local government, businesses, and institutions in the community that supports the project. Letters of support from a parish, municipality, or school board, or any instrumentality thereof, will be deemed material for scoring purposes;

6. any low-income household service offerings, digital equity or literacy support, or programs or partnerships to provide these services. The applicant should also indicate current participation in, or plans to, accept the federal Lifeline subsidy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 4. Scoring

§401. Overview

A. The GUMBO grant program is a competitive grant program. Applications, or project areas within applications, if applicable, shall be scored independently as provided in this Chapter, based upon a system that awards a single point for criteria considered to be the minimum level for the provision of broadband service, with additional points awarded to criteria that exceed minimum levels.

B. Applications, or project areas within applications, if applicable, shall be scored independently, and applications or project areas receiving the highest score shall receive priority status for the awarding of grants. Should the final application or project area with priority status for the awarding of a grant have a request for GUMBO funding that exceeds the remaining GUMBO funds available, the final applicant with priority status shall have the option to agree to complete its proposed project in full with the remaining GUMBO funds available in that round. Should the final priority applicant decline, the office shall propose the same to the next highest scored application or project area. This process shall continue until such time as an applicant has agreed, or all remaining applications or project areas within the current grant round have declined. Should all applicants decline the office's offer, the remaining balance of GUMBO funding shall be added to the next succeeding round of GUMBO.

C. As a means of breaking a tie for applications or project areas receiving the same score, the office shall give priority to the application or project area proposing the lowest GUMBO cost per prospective broadband recipient.

D. Upon the close of the application period, and throughout the evaluation and scoring phase of the program process, a blackout period shall be instituted. This blackout period shall remain in effect until the announcement of awards. During this blackout period, applicants shall not initiate contact with the office, except as otherwise provided

within this part. The office reserves the right to initiate contact with an applicant to seek clarification of an application or the data contained therein, request additional information, or as necessary in response to an overlapping project area or protest. An applicant may initiate contact with the office for the purposes of amending an application or project area due to overlapping or a protest, or to withdraw an application or project area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§403. Overlapping Applications or Project Areas

A. At the close of the application period, should one or more applications or project areas overlap one or more other applications or project areas, relative to one or more unserved census blocks, shapefile areas, individual addresses, or portions thereof, the impacted applicants, relative to overlapping applications or project areas, shall have the option and ability to resolve the overlapping unserved census blocks, shapfile areas, individual addresses, or portions thereof, through the applicants' own volition, discussion, and efforts. Applicants working to resolve an instance of overlapping applications or project areas, following the close of the application period, shall jointly notify the office of such efforts. An acceptable resolution and amended applications or project areas will be accepted by the office until 5 PM on the 30th day of the 60-day evaluation and protest period. Such an acceptable resolution between impacted applicants shall not result in the addition of partners to a previously submitted application or project area nor the expansion of an application's project area.

B. Following 5 PM on the 30th day of the 60-day evaluation and protest period, should one or more applications or project areas overlap one or more other applications or project areas, relative to one or more unserved census blocks, shapefile areas, individual addresses, or portions thereof, each application or project area shall be scored independently. The application or project area receiving the highest score shall proceed to grant funding consideration with its project area boundary intact. Any application or project area, regardless of the geographical size of the application or project area, overlapping a higher scored application or project area, shall be removed from grant funding consideration. A project area being removed from grant funding consideration shall not impact scoring of other project areas within the same application, if applicable. All project areas shall be scored independently.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§405. Factors Subject to Scoring

A. Applicant Experience. The office shall award points based upon the applicant's experience, technical ability, financial wherewithal in successfully deploying and providing broadband service, and the matching funds percentage of the total cost of the project. For experience, the office shall reference, by date of application submittal and without regard to the potential project, the number of

years the applicant has provided internet services; the number of households to which the applicant currently provides broadband internet service access (at least 25:3 Mbps); the number of internet service infrastructure projects completed by the applicant, funded in part through federal or state grant programs, prior to the date of application submittal; penalties paid by the applicant, relative to internet service infrastructure projects funded in part through federal or state grant programs, prior to the date of application submittal; and whether the applicant, a subsidiary or affiliate of the applicant, or the holding company of the applicant has ever been a defendant in any federal or state criminal proceeding or civil litigation as a result of its participation in an internet service infrastructure project funded in part through federal or state grant programs, prior to the date of application submittal. Points shall be awarded as follows.

Years Providing Internet Service	Points
No prior service.	0
4 years or less	1
5 years to 9 years	2
10 years to 14 years	3
15 years to 19 years	4
20 years or longer	5

Households Provided Access	Points
None	0
4,999 or less	1
5,000 to 14,999	2
15,000 to 24,999	3
25,000 to 49,999	4
50,000 or more	5

Completed Internet Projects	Points
None	0
1 to 3 projects	1
4 to 6 projects	2
7 to 9 projects	3
10 to 14 projects	4
15 or more projects	5

Penalties Paid	Points
One or more	0
None	5

Defendant in Criminal or Civil Proceeding	Points
One or more	0
None	5

NOTE: If an applicant has not participated in an internet service infrastructure project funded, in part, through federal or state grant programs, the applicant shall not receive points in the "penalties paid" or "defendant in criminal or civil proceeding" scoring criteria.

B. Technical Ability. The office shall award points based upon the broadband transmission speeds (Mbps download and upload) that will be deployed as a result of the project. If more than one set of transmission speeds are offered to consumers, scoring shall be based on the slowest transmission speeds offered. The office shall award points based upon the scalability of the project's technology and infrastructure beyond the project's current maximum speed offering for future increases in bandwidth. Should a project include a mix of wireline and fixed wireless technology

solutions, broadband speed and scalability criteria shall be scored based upon the technology that serves a majority of a project's prospective broadband recipients. The office shall reference the average distance, in miles, between prospective broadband recipients to be served by the project and shall award points to the five applications or project areas with the longest average distance between prospective broadband recipients. Points shall be awarded as follows.

Broadband Speeds (Mbps Down: Mbps Up)	Points
At least 25:3	1
At least 50:5	4
At least 100:10	6
At least 100:20	8
At least 100:100	10

Scalability (Mbps Down: Mbps Up)	Points
None	0
Up to 50:5	1
Up to 100:10	4
Up to 100:20	6
Up to 100:100	8
Beyond 100:100	10

Average Distance (in miles) Between Prospective Broadband Recipients	Points
Longest average distance	5
2 nd longest average distance	4
3 rd longest average distance	3
4 th longest average distance	2
5 th longest average distance	1
6 th longest average distance or shorter	0

C. Financial Wherewithal. The office shall reference both a project's total cost per prospective broadband recipient and GUMBO cost per prospective broadband recipient. A project's total cost per prospective broadband recipient shall be calculated by dividing a project's total cost by the total number of prospective broadband recipients to be served by the project. A project's GUMBO cost per prospective broadband recipient shall be calculated by dividing a project's total GUMBO requested funding by the total number of prospective broadband recipients to be served by the project. In each criterion, the office shall award points to the 10 applications or project areas with the lowest costs per prospective broadband recipient. The office shall also reference the number of bankruptcies filed (prior to the date of application submission). Points shall be awarded as follows.

Cost Per Prospective Broadband Recipient	Points
Lowest cost	10
2 nd lowest cost	9
3 rd lowest cost	8
4 th lowest cost	7
5 th lowest cost	6
6 th lowest cost	5
7 th lowest cost	4
8 th lowest cost	3
9 th lowest cost	2
10 th lowest cost	1
11 th lowest cost or higher	0

GUMBO Cost Per Prospective Broadband Recipient	Points
Lowest cost	20
2 nd lowest cost	18
3 rd lowest cost	16
4 th lowest cost	14
5 th lowest cost	12
6 th lowest cost	10
7 th lowest cost	8
8 th lowest cost	6
9 th lowest cost	4
10 th lowest cost	2
11 th lowest cost or higher	0

Bankruptcies	Points
1 or more.	0
No prior bankruptcies.	2

D. Matching Funds. The office shall calculate the provider's matching funds percentage of the total cost of the project and award points based on matching funds. Points shall be awarded as follows.

Provider Matching Funds (Percentage of Total Cost)	Points
20 percent	0
Each additional percentage point – beyond required 20 percent.	1
Each increment of 5 percentage points – beyond required 20 percent.	5 Bonus Points

NOTE: An applicant will receive 1 point for each percentage point of matching funds provided, beyond the required 20 percent. Additionally, an applicant will receive 5 bonus points for each increment of 5 percentage points of matching funds provided, beyond the required 20 percent. Points are awarded based upon the total percentage of matching funds provided, beyond the required 20 percent, irrespective of the number of providers contributing to a single project.

E. Local Government Support. The office shall award points based upon letters of support from local governments. The office shall reference letters submitted by a parish, municipality, or school board, or any instrumentality thereof. Points shall be awarded as follows.

Local Government Letters of Support, Numbers	Points (max. 3 points)
1 local government	1
2 local government	2
3+ local governments	3

F. Estimated Number of Unserved Households. The office shall award points to projects based upon the estimated number of unserved households within the eligible economically distressed parish, as determined by the most recent data published by the Federal Communications Commission or the most reliable source of information available as of the close of the application period, as determined by the office. Points shall be awarded as follows.

Number of Unserved Households	Points
499 or fewer	1
500 to 1,999	2

Number of Unserved Households	Points
2,000 to 4,999	3
5,000 to 9,999	4
10,000 or more	5

NOTE: If a contiguous project area crosses from an eligible parish into one or more eligible adjacent parishes, the project shall be deemed to be located in the parish where the greatest number of unserved households are proposed to be served.

G. Percentage of Total Unserved Households Served. The office shall award points to projects that will provide broadband service based upon the percentage of the total unserved households within the eligible economically distressed parish that the project will newly and directly serve. Unserved households served as a result of other, non-GUMBO federal or state grant programs shall not be used in the calculation of this criterion. The number of unserved households shall be determined using the most recent data published by the Federal Communications Commission or the most reliable source of information available as of the close of the application period, as determined by the office. Points shall be awarded as follows.

Percent of Unserved Households Newly & Directly Served	Points
5 percent or less	1
6 percent to 10 percent	2
11 percent to 24 percent	3
25 percent to 49 percent	4
50 percent or more	5

NOTE: If a contiguous project area crosses from an eligible parish into one or more eligible adjacent parishes, the project shall be deemed to be located in the parish where the greatest number of unserved households are proposed to be served.

H. Unserved Businesses Served. The office shall award points to projects that will provide broadband service to unserved businesses newly and directly served by the project located within the eligible economically distressed parish, as determined by the most recent data published by the Federal Communications Commission or the most reliable source of information available as of the close of the application period, as determined by the office. Unserved businesses served as a result of other, non-GUMBO federal or state grant programs shall not be used in the calculation of this criterion. A residential-based business shall be classified by the applicant as either a residence or a business and shall not be counted as both. Points shall be awarded as follows.

Number of Unserved Businesses	Points
5 or fewer	1
6 to 10	2
11 to 15	3
15 to 19	4
20 or more	5

I. Leverage of Existing Infrastructure. The office shall award points based upon the applicant's ability to leverage its own or nearby or adjacent broadband service infrastructure in the proposed project area. For reference, the office will refer to the percentage of total mileage of project infrastructure composed of preexisting infrastructure. The office will also refer to the project's proposed estimated construction timeline, as measured from the award of the grant agreement, and award points in the following

categories: construction start date and construction completion date. Construction completion date scoring will utilize two separate scoring criteria, one for wireline and one for fixed wireless. Should a project include a mix of wireline and fixed wireless technology solutions, the project completion date criterion shall be scored based upon the technology that serves a majority of a project's prospective broadband recipients. Points shall be awarded as follows.

Percentage of Mileage of Preexisting Infrastructure	Points
None	0
9 percent or less	1
10 percent to 19 percent	2
20 percent to 29 percent	3
30 percent to 39 percent	4
40 percent or more	5

Construction Start Date	Points
12 months or longer	1
Within 8 to 11 months	2
Within 5 to 7 months	3
Within 2 to 4 months	4
Within 1 month	5

Wireline Construction Completion Date	Points
24 months or longer	1
Within 18 to 23 months	4
Within 13 to 17 months	6
Within 7 to 12 months	8
Within 6 months or less	10

Fixed Wireless Construction Completion Date	Points
24 months or longer	1
Within 18 to 23 months	2
Within 13 to 17 months	3
Within 7 to 12 months	4
Within 6 months or less	5

J. Consumer Price. The office shall award points based upon the ultimate price of broadband service to the consumer as a result of the proposed project and shall reference the average price of all broadband service packages offered to consumers by an applicant as the result of the proposed project. The office shall award points to the 10 applications or project areas with the lowest average price of all broadband service packages offered to consumers by an applicant as a result of the proposed project. Points shall be awarded as follows.

Consumer Price (Lowest Average Package Price)	Points
Lowest average price	10
2 nd lowest average price	9
3 rd lowest average price	8
4 th lowest average price	7
5 th lowest average price	6
6 th lowest average price	5
7 th lowest average price	4
8 th lowest average price	3
9 th lowest average price	2
10 th lowest average price	1
11 th lowest average price or higher	0

NOTE: An applicant that has offered broadband service to at least 1,000 consumers for a period of at least 5 consecutive years is required to offer broadband service at prices that are, at least, consistent with offers to consumers in other areas of the state.

K. Local Government In-Kind Contributions and Matching Funds. The office shall award points to projects receiving in-kind contributions or matching funds from a local government for eligible projects within the jurisdictional area of the local government. A local government is defined as a parish, municipality, or school board, or any instrumentality thereof. Each local government has the option to provide in-kind contributions or matching funds to a project, and more than one local government can provide in-kind contributions or matching funds to any one project. Points shall be awarded as follows.

Local Gov't In-kind & Matching	Points
No in-kind contribution or funding match	0
Each percentage point of total project cost provided by in-kind contributions or funding matches.	1
Each increment of 5 percentage points of total project cost provided by in-kind contributions or funding matches	5 Bonus Points

NOTE: An applicant will receive 1 point for each percentage point of the total cost of a project provided by local government through in-kind contributions or matching funds. Additionally, an applicant will receive 5 bonus points for each increment of 5 percentage points of the total cost of a project provided by local government through in-kind contributions or matching funds. Points are awarded based upon the total percentage of in-kind contributions and matching funds provided by local governments, irrespective of the number of local governments contributing to the project.

L. Small Business Entrepreneurship. The office shall award points to projects in which the eligible grant recipient is a small business entrepreneurship certified by the Hudson Initiative (R.S. 39:2001 et seq.) or the Veteran Initiative (R.S. 39:2171 et seq.). Points shall be awarded as follows.

Certified Hudson / Vet Initiative Grant Recipient	Points
Grant recipient certified by the Hudson and/or the Veterans Initiative	5

M. Small Business Entrepreneurship Subcontracting. The office shall award points to projects in which the eligible grant recipient commits to a good faith subcontracting plan to contract with or employ a small business entrepreneurship certified by the Hudson Initiative (R.S. 39:2001 et seq.) or the Veteran Initiative (R.S. 39:2171 et seq.) to substantially participate in the performance of the project. Points shall be awarded as follows.

Certified Hudson / Vet Initiative Subcontractor(s)	Points (max. 10 points)
Each subcontractor certified by the Hudson and/or the Veterans Initiative	2

N. Summary of Scored Sections. As set forth in this Section, the scored categories of GUMBO program applications or project areas shall be as follows, repeated for comprehensive clarity.

Summary	
Scored Section	Points
A-1. Experience (Years Providing Internet Service)	0 – 5
A-2. Experience (Households Provided Access)	0 – 5
A-3. Experience (Completed Internet Projects)	0 – 5
A-4. Experience (Penalties Paid)	0 – 5
A-5. Experience (Defendant in Criminal or Civil)	0 – 5
B-1. Technical Ability (Broadband Speeds)	1 – 10
B-2. Technical Ability (Scalability)	0 – 10
B-3. Technical Ability (Distance Between Broadband Recipients)	0 – 5
C-1. Financial Wherewithal (Cost Per Prospective Broadband Recipient)	0 – 10
C-2. Financial Wherewithal (GUMBO Cost Per Prospective Broadband Recipient)	0 – 20
C-3. Financial Wherewithal (Bankruptcy)	0 – 2
D. Provider Matching Funds	0 – 1 – 5+
E. Local Government Letters of Support	1 – 3
F. Number of Unserved Households in Parish	1 – 5
G. Percent of Total Unserved Households Now Served	1 – 5
H. Unserved Businesses Now Served	1 – 5
I-1. Leverage of Existing Infrastructure (Percentage of Mileage of Preexisting Infrastructure)	0 – 5
I-2. Leverage of Existing Infrastructure (Timing of Construction Start Date)	1 – 5
I-3. Leverage of Existing Infrastructure (Timing of Wireline Construction Completion)	1 – 10
Or	
I-4. Leverage of Existing Infrastructure (Timing of Wireless Construction Completion)	1 – 5
J. Consumer Price	0 – 10
K. Local Government Matching	0 – 1 – 5+
L. Certified Hudson/Vet Initiative Grant Recipient	0 – 5
M. Certified Hudson/Vet Initiative Subcontractor	0 – 10
Total Possible Points:	8 – 150+

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 5. Protests

§501. Protests

A. All GUMBO applications shall be publicly available on the office’s website for a period of at least 60 days prior to award. During the 60-day period, any interested party may submit comments to the director concerning any pending application.

B. The protest process, official decisions, and provider appeals shall be conducted in accordance with R.S. 51:2370.4(C) and 2370.5, as well as this Chapter.

C. A provider of broadband service may submit a protest of any application or project area on the grounds the proposed project covers an area where either broadband service exists, or construction of broadband infrastructure will begin within 24 months as described in §201 of this part and defined within the GUMBO grant program. Comments and protests shall be submitted in writing through the office’s website, and all protests shall be accompanied by all relevant supporting documentation and shall be considered

by the office in connection with the review of the application or project area. The protesting party bears the burden of proof.

D. Protests shall contain all relevant supporting documentation, including, but not limited to, the following:

1. a signed and notarized affidavit affirming the protest and attached information are true;
2. current Federal Communications Commission (FCC) Form 477 or equivalent;
3. minimum/maximum speeds available in the proposed project area;
4. number of serviceable locations within the proposed project area, including the speeds those serviceable locations are able to receive;
5. street level data of customers receiving service within the proposed project area;
6. point shapefiles that show each proposed passing in the challenged area, designated by a singular mapped point, in the protested area containing attribute data showing the addresses of each point;
7. polygon shapefiles delineating the general challenged area(s);
8. through the use of the project area map submitted by the applicant, a map indicating where the protested serviceable locations are within the proposed project area;
9. heat maps indicating received signal strength indicator (RSSI) in the challenged area.

E. Upon the close of the application period, and throughout the succeeding 60-day protesting period, a blackout period shall be instituted. This blackout period shall remain in effect until the announcement of awards. During this blackout period, protesting parties shall not initiate contact with the office, except as provided by this section. The office reserves the right to initiate contact with a protesting party to seek clarification of a protest, the data contained therein, or to request additional information.

F. Should a protest be validated, the office shall work with an applicant to amend an application or project area to reduce the number of unserved prospective broadband recipients and re-scope the application or project area. The office shall revise application or project area scores in accordance with amended applications. As a result of a validated protest and a reduction in the number of unserved prospective broadband recipients, an applicant shall also have the option to withdraw its application or project area.

G. The protest period for protesting an award shall not exceed 7 days from the announcement of awards.

H. Protest and appeal decisions provided by the director and the Commissioner of Administration shall be provided in writing to the protesting party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 6. Awards

§601. Protests

A. The protest period for protesting an award shall not exceed 7 days from the announcement of awards.

B. The protest procedure for protesting an award shall follow the rules presented in Chapter 5 of this part.

§603. Grant Agreement

A. A grant recipient shall have 30 days, from award of the grant agreement, to negotiate and sign the agreement. If the grant agreement is not signed by the grant recipient within 30 days from award of the agreement, the office shall reserve the right to rescind the award and proceed to award a grant agreement to the next highest scored applicant with priority status for the awarding of a grant.

B. Construction start and completion dates shall be calculated for scoring, compliance, and failure to perform purposes and evaluations, beginning with the date of the award of the grant agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 7. Compliance

§701. Speed and Cost Compliance

A. The office shall require that grant recipients offer the proposed advertised minimum download and minimum upload speeds of at least 25:3 Mbps.

B. Grant recipients that have offered broadband service to at least one thousand consumers for a period of at least five consecutive years shall offer broadband service at prices consistent with offers to consumers in other areas of the state. Any other broadband provider shall ensure that the broadband service is priced to consumers at no more than the cost rate identified in the project application, for the duration of the five-year service agreement.

C. In calculating cost, the recipient may adjust annually, consistent with the annual percentage increase in the Consumer Price Index in the preceding year.

D. At least annually, a grant recipient shall provide to the office evidence consistent with Federal Communications Commission attestation that the grant recipient is making available the proposed advertised speed, or a faster speed, as contained in the grant agreement.

E. For the duration of the agreement, grant recipients shall disclose any changes to data caps.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§703. Reporting

A. Grant recipients shall submit to the office a monthly report for each funded project for the duration of the agreement. The report shall include reporting requirements selected at the discretion of the office. Such reporting requirements, once selected, shall be consistently applied to all grant recipients of any grant program round and be effective for at least one program year. Monthly reporting may be revised from program year to program year, at the discretion of the office.

B. Grant recipients shall submit to the office an annual report for each funded project for the duration of the agreement. The report shall include, but not be limited to, the following summary of the items contained in the grant agreement and the following details:

1. the number of residential and commercial locations that have broadband access as a result of the project;

2. percentage of households in the project area who have access to broadband service;

3. percentage of subscribers in the project area to the broadband service;

4. average monthly subscription rate for residential and commercial broadband service in the project area;

5. any right-of-way fees or permit fees paid to local government, state government, railroad, private entity or person during the fulfillment of the grant awarded;

6. any delays encountered when obtaining a right-of-way permission.

C. The office, at its sole discretion and at any time, shall reserve the right to request any additional data and reporting information that the office deems necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§705. Disbursement and Reimbursement

A. The Division of Administration shall be the designated agency for receipt and disbursement of state and federal funds intended for the state for broadband expansion or allocated by the state for broadband expansion.

B. All federal grant funds received by the state through the American Rescue Plan Act for the purpose of broadband expansion shall be disbursed in accordance with the GUMBO program.

C. Funding in accordance with completion shall be distributed to a grantee once the grantee has demonstrated that a project has reached the following percentile completion thresholds, which shall be defined as a percentage of the total number of prospective broadband recipients proposed to be served by the project:

1. 10 percent;
2. 35 percent;
3. 60 percent;
4. 85 percent;
5. 100 percent.

D. The final 15 percent payment shall not be paid without an approved completion report. Invoice for final payment shall be submitted within 90 days of completion date. All invoices are subject to audit for three years from the completion date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§707. Failure to Perform

A. A grant recipient shall forfeit the amount of the grant received if it fails to perform, in material respect, the obligations established in the agreement.

B. Grant recipients that fail to provide the minimum advertised connection speed and cost at the advertised rate shall forfeit any matching funds, up to the entire amount received through the GUMBO program.

C. The office shall use its discretion to determine the amount forfeited.

D. A grant recipient that forfeits amounts disbursed under this part is liable for up to the amount disbursed plus interest.

E. The number of subscribers that subscribe to broadband services offered by the provider in the project area shall not be a measure of performance under the agreement for the purposes of this Section.

F. A grant recipient shall not be required to forfeit the amount of the grant received if it fails to perform due to a natural disaster, an act of God, force majeure, a catastrophe, pandemic, or such other occurrence over which the grant recipient has no control.

G. If a grant recipient fails to perform and fails to return the full forfeited amount required, the ownership and use of the broadband infrastructure funded by the GUMBO program shall revert to the Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Jay Dardenne
Commissioner

2108#045

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 Home and Community-Based Services Waivers and Long-Term Personal Care Services

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), the Office of Behavioral Health (OBH), and the Office for Citizens with Developmental Disabilities (OCDD) promulgated Emergency Rules which 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 and *Louisiana Register*, Volume 46, Number 7).

The department promulgated an Emergency Rule, adopted on August 25, 2020, to further amend the Adult Day Health Care (ADHC) Waiver and the Community Choices Waiver (CCW), and to amend the provisions governing long term-personal care services (LT-PCS) in order to ensure that these services continue uninterrupted throughout the COVID-19 public health emergency declaration. This Emergency Rule also clarified that the home and community-based services (HCBS) waiver provisions of the Emergency Rules published in the April 20, 2020 edition of the *Louisiana Register* which correspond to Louisiana's section 1915(c) Appendix K waiver will remain in effect for the duration of the Emergency Rules published in April 2020 or until the Appendix K waiver termination date of January 26, 2021, whichever is later (*Louisiana Register*, Volume 46, Number 9). This Emergency Rule is being promulgated in order to continue the provisions of the Emergency Rule adopted on August 25, 2020.

This Emergency Rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or the duration of the COVID-19 public health emergency declaration, whichever is shorter.

Effective August 23, 2021, the Department of Health, Bureau of Health Services Financing, OAAS and OCDD hereby amend the provisions governing the ADHC Waiver, the CCW, and LT-PCS throughout the COVID-19 public health emergency declaration, and clarify that the HCBS waiver provisions which correspond to Louisiana's section 1915(c) Appendix K waiver will remain in effect for the duration of the Emergency Rules published in the April 20, 2020 *Louisiana Register* or until the Appendix K waiver termination date of January 26, 2021, whichever is later, in order to continue the provisions of the Emergency Rule adopted on August 25, 2020.

Services for Special Populations—Personal Care Services (LAC 50:XV.Subpart 9)

Due to the COVID-19 public health emergency declaration, the Office of Aging and Adult Services (OAAS) may also utilize the level of care eligibility tool (LOCET) to determine if an individual meets eligibility qualifications for long term-personal care services (LT-PCS) and to determine resource allocation while identifying his/her need for support in performance of activities of daily living (ADLs) and instrumental activities of daily living (IADLs).

The LOCET may also be used to generate a score that measures the recipient's degree of self-performance of late-loss activities of daily living during the period just before the assessment. Criteria used to generate the score will be consistent with criteria on the interRAI home care assessment tool currently used. This score will correspond with the same level of support category and allocation of weekly service hours associated with that level.

OAAS may use the LOCET until such time as the applicant/recipient is able to be assessed using the uniform interRAI home care assessment tool.

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

During the COVID-19 public health emergency declaration, and with approval from the Centers for

Medicare and Medicaid Services (CMS), the following options may be available through the Adult Day Health Care (ADHC) Waiver:

The State may allow ADHC providers to provide services telephonically to waiver participants that cannot attend the ADHC center to ensure continuity of services.

The State is adding the following services in the ADHC Waiver:

Home Delivered Meals. The purpose of home delivered meals is to assist in meeting the nutritional needs of an individual in support of the maintenance of self-sufficiency and enhancing the quality of life. Up to two nutritionally balanced meals per day may be delivered to the home of the participant. This service may be provided by the ADHC provider.

Assistive Devices and Medical Supplies. Assistive devices and medical supplies are specialized medical equipment and supplies that include:

Devices, controls, appliances or nutritional supplements specified in the Plan of Care that enable participants to increase their ability to perform activities of daily living (ADLs);

Devices, controls, appliances or nutritional supplements that enable participants to perceive, control or communicate with the environment in which they live or provide emergency response;

Items, supplies and services necessary for life support, ancillary supplies, and equipment necessary to the proper functioning of such items;

Supplies and services to assure participants' health and welfare;

Other durable and non-durable medical equipment and necessary medical supplies that are necessary but not available under the Medicaid State Plan;

Personal Emergency Response Systems (PERS);

Other in-home monitoring and medication management devices and technology;

Routine maintenance or repair of specialized equipment; and

Batteries, extended warranties and service contracts that are cost effective and assure health and welfare.

This includes medical equipment not available under the Medicaid State Plan that is necessary to address participant functional limitations and necessary medical supplies not available under the Medicaid State Plan.

Home and Community-Based Services Waiver –

Community Choices Waiver (LAC 50:XXI.Subpart 7)

During the COVID-19 public health emergency declaration, and with approval from the Centers for Medicare and Medicaid Services (CMS), the state may allow ADHC providers to provide services telephonically to waiver participants that cannot attend the ADHC center to ensure continuity of services.

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 Michael Boutte, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Mr. Boutte 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

2107#030

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Emergency Rule 46—Medical Surge-Related Patient Transfers in Louisiana during the Outbreak of Coronavirus Disease (COVID-19)

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex M. Azar II (“Secretary Azar”) declared a public health emergency for the United States to aid the nation’s healthcare community in responding to the coronavirus disease (COVID-19), with such declaration being renewed by Secretary Azar on April 21, 2020, July 23, 2020, October 2, 2020, and January 7, 2021, and renewed by United States Department of Health and Human Services Xavier Becerra on April 15, 2021 and July 19, 2021. The United States Centers for Disease Control and Prevention has declared COVID-19 a worldwide pandemic due to its global effect.

COVID-19 has increased exponentially in Louisiana. Currently, Louisiana remains No. 1 nationwide for the numbers of new COVID-19 cases per capita. Over the past month, the Louisiana Department of Health’s (“LDH”) 7-day average daily count of COVID-19 cases has climbed from approximately 300 cases per day to over 6,000 cases per day. The number of individuals hospitalized with COVID-19 has climbed from 319 to 2,350 over the same span. Six out of nine LDH regions have over 85% of their ICU beds full, and the Greater New Orleans Area region is only five beds away from becoming the seventh. This surge in cases and hospitalizations has occurred much more rapidly than and has exceeded the hospitalization rate of any previous surge in Louisiana. The result has been a dangerous inundation of acute care hospitals throughout the state, with several hospitals reporting that their staffed bed capacity has been or will soon be reached. The Delta variant of COVID-19 has created an imminent peril to the well-being and health of many citizens of Louisiana and threatens the healthcare capability of hospitals and medical facilities to deliver care to these citizens. This imminent peril prompts the promulgation of Emergency Rule 46 pursuant to the specific authority found in R.S.22:1019.2 to ensure that health insurance issuers have adequate networks in place to deliver the necessary care to the citizens of Louisiana.

Emergency Rule 46 is issued to address the statewide acute care hospital capacity crisis caused by the surge in COVID-19 cases. As such, Emergency Rule 46 is issued under the authority of the Commissioner of Insurance for the State of Louisiana, pursuant to R.S.22:11(A), R.S.22:1019.2, and R.S.49:950 et seq.

Accordingly, Emergency Rule 46 shall apply to all health maintenance organizations (HMOs), managed care organizations (MCOs), preferred provider organizations (PPOs), pharmacy benefit managers (PBM), 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.

The COVID-19 surge has created a dangerous shortage of facility and provider capacity that presents an immediate threat to the public health, safety, and welfare of Louisiana citizens. Moreover, the unique nature of the COVID-19 pandemic is such that acute care hospitals in heavily affected areas are increasingly being tasked with transferring patients to other area facilities to maximize beds and supplies available to treat COVID-19 patients. The State of Louisiana, through the Louisiana Department of Health, has adopted a public policy supporting the use of health care facilities not traditionally used in the delivery of general acute care to augment the inpatient capacity of acute care hospitals through the acceptance of inpatient transfers that may not otherwise be permissible. In order for this public policy to be implemented safely and effectively and to promote continued network adequacy, it is necessary for health insurance issuers to appropriately cover such post-transfer care. In order to respond to the 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 46. Emergency Rule 46 is being issued pursuant to the specific authority found in R.S.22:1019.2.

Title 37

INSURANCE

Part XI. Rules

Chapter 55. Emergency Rule 46—Medical Surge-Related Patient Transfers in Louisiana during the Outbreak of Coronavirus Disease (COVID-19)

§5501. Benefits, Entitlements, and Protections

A. The benefits, entitlements and protections of Emergency Rule 46 shall be applicable to insureds, policyholders, members, subscribers, enrollees and certificate holders who, as of 12:01 a.m. on August 9, 2021 have a policy, insurance contract or certificate of coverage issued by a health maintenance organization or for any of the types of insurance enumerated in La. R. S. 22:47(2)(a) and reside in the state of Louisiana. Insureds shall include, but not be limited to, any and all policyholders, members, subscribers, enrollees and certificate holders.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11(A), R.S.22:1019.2, and R.S.49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§5503. Applicability

A. Emergency Rule 46 shall apply to every 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 R.S.22:11(A), R.S.22:1019.2, and R.S.49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§5505. Definitions

A. For purposes of Emergency Rule 46, the following definitions shall apply:

Acute Care Hospital—any facility licensed by the Louisiana Department of Health as a hospital and that provides inpatient medical care and other related services for surgery, acute medical conditions and injury.

Step-Down facility—any health care facility serving as the recipient of inpatient transfers for the purpose of reducing occupancy of or providing overflow capacity for an acute care hospital during the State of Emergency.

Government-Sponsored Step-Down Facility—any facility serving as the recipient of inpatient transfers for the purpose of reducing occupancy of or providing overflow capacity for an acute care hospital during the State of Emergency, where such services are funded through federal or state appropriation or a combination of both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11(A), R.S. 22:1019.2, and R.S.49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§5507. Limited Waiver

A. In any parish or municipality in which daily inpatient bed occupancy at any acute care hospital exceeds 85 percent, the provisions of R.S. 22:1019.2 requiring the maintenance of specialist and primary care provider-to-insured ratios and timely nonemergent access are hereby waived for any health insurance issuer complying with Emergency Rule 46.

B. Any health insurance issuer not complying with all provisions of this Rule in providing a health benefit plan shall not be subject to this waiver of R.S.22:1019.2, shall be required to comply with the provider-to-insured ratios and timely nonemergent access requirements of R.S.22:1019.2, and shall be subject to the commissioner’s reservation of right to invoke any appropriate authority to address any resulting endangerment of Louisiana residents.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11(A), R.S.22:1019.2, and R.S.49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§5509. Restriction on Authorization of Transfers

A. Health insurance issuers shall not impose prior authorization, utilization, medical necessity, or any related review on the transfer of patients from an acute care hospital to a step-down facility.

B. Health insurance issuers shall not engage in post-service reviews of transfers of patients from acute care hospitals to a step-down facility.

C. Nothing in this Section shall be interpreted to prevent a health insurance issuer from applying its existing utilization review policies to the underlying provision of care when otherwise permissible.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11(A), R.S.22:1019.2, and R.S.49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§5511. Coverage of Post-Transfer Inpatient Stay and Services

A. Health insurance issuers shall cover the remainder of the inpatient stay needed after the transfer from an acute care hospital to a step-down facility under terms and at a cost

sharing rate no less favorable to the insured than those that would have applied had the insured remained at the acute care hospital.

B. Nothing in this section shall be interpreted to require payment of a particular reimbursement rate to the step-down facility for the remainder of the inpatient stay. The health insurance issuer shall reimburse the step-down facility as provided for by any existing agreement between the health insurance issuer and that step-down facility or through a negotiated rate.

C. Nothing in this Section shall be interpreted to require reimbursement by a health insurance issuer to a government-sponsored step-down facility where such facility has been fully publicly funded to provide otherwise covered services.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11(A), R.S.22:1019.2, and R.S.49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§5513. Intent and Purpose

A. The provisions of Emergency Rule 46 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum consumer protection for the insureds of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11(A), R.S.22:1019.2, and R.S.49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§5515. Sanctions for Violations

A. The commissioner retains the authority to enforce violations of Emergency Rule 46. Accordingly, any health insurance issuer enumerated in Emergency Rule 46 or other entity doing business in Louisiana and/or regulated by the commissioner who violates any provision of Emergency Rule 46 shall be subject to regulatory action by the commissioner under any applicable provisions of the Louisiana Insurance Code.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11(A), R.S.22:1019.2, and R.S.49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§5517. Authority

A. The commissioner reserves the right to amend, modify, alter or rescind all or any portions of Emergency Rule 46. Additionally, the commissioner reserves the right to extend Emergency Rule 46.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11(A), R.S.22:1019.2, and R.S.49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§5519. Severability Clause

A. If any section or provision of Emergency Rule 46 is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of Emergency Rule 46, to any persons or circumstances that can be given effect without the invalid sections or provisions and the application to any person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11(A), R.S.22:1019.2, and R.S.49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§5521. Effective Date

A. Emergency Rule 46 shall become effective on August 9, 2021.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11(A), R.S.22:1019.2, and R.S.49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

James J. Donelon
Commissioner

2108#028

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Fall Inshore Shrimp Season Opening Dates

The Wildlife and Fisheries Commission received information regarding biological sampling for white shrimp in state inshore waters. The Department of Wildlife and Fisheries (LDWF) provided the commission with data that projected the date when white shrimp will reach marketable size. After considering biological information and public input, the commission took action to set the fall shrimp season within state inshore waters. Notice of any opening, delaying or closing of a season by the Wildlife and Fisheries Commission will be made by public notice at least 72 hours prior to such action.

In accordance with the emergency provisions of R.S. 49:953.1 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters and to increase the minimum mesh size provided in R.S. 56:499 for any trawl, skimmer net, or butterfly net for the duration of any special shrimp season or regular shrimp season extension, the Wildlife and Fisheries Commission does hereby set the 2021 Fall Shrimp Season in Louisiana state waters to open as follows:

That portion of state inside waters from the Mississippi/Louisiana state line westward to the eastern shore of South Pass of the Mississippi River to open at 6:00 a.m. August 9, 2021 except for the area as described below which will open at 6:00 a.m. August 27, 2021:

From a point at the intersection of the eastern shore of the MRGO and the Shell Beach Cut at 29 degrees 51 minutes 29.40 seconds north latitude, 89 degrees 40 minutes 37.99 seconds west longitude; thence northerly to a point where Shell Beach Cut and the south shore of Lake Borgne intersect (29 degrees 52 minutes 00.35 seconds north latitude, 89 degrees 40 minutes 25.33 seconds west longitude); thence easterly and northerly following the southern shore of Lake Borgne and the western shore of the Biloxi Marsh to Pointe Aux Marchettes (29 degrees 59 minutes 26.87 seconds north latitude, 89 degrees 34 minutes 44.91 seconds west longitude); thence northeasterly to Malheureux Point (30 degrees 04 minutes 40.57 seconds north latitude, 89 degrees 28 minutes 46.59 seconds west longitude); thence southeasterly to a point on the western shore of Three-Mile Pass (30 degrees 03 minutes 00.00 seconds north latitude, 89 degrees 22 minutes 23.00 seconds

west longitude); thence northeasterly to a point on Isle Au Pitre (30 degrees 09 minutes 20.50 seconds north latitude, 89 degrees 11 minutes 15.50 seconds west longitude), which is a point on the double-rig line as described in R.S. 56:495.1(A)2; thence southerly following the double rig line to where it intersects with the MRGO (29 degrees 40 minutes 40.11 seconds north latitude, 89 degrees 23 minutes 07.71 seconds west longitude); thence northwesterly along the eastern shore of the MRGO to the point of origin.

That portion of state inside waters from the eastern shore of South Pass of the Mississippi River westward to the Atchafalaya River Ship Channel at Eugene Island as delineated by the red Channel Buoy Line to open at 6:00 p.m. August 9, 2021; and,

That portion of state inside waters from the Atchafalaya River Ship Channel at Eugene Island as delineated by the red Channel Buoy Line westward to the Louisiana/Texas state line to open at 6:00 a.m. August 9, 2021.

The commission also hereby grants authority to the secretary of LDWF to delay or advance these opening dates if biological and/or technical data indicate the need to do so, and, to close any portion of Louisiana's inside or outside waters to protect small juvenile white shrimp if biological and technical data indicate the need to do so, or enforcement problems develop.

The secretary is further granted the authority to open any area, or re-open any previously closed area, to open and close special shrimp seasons, and to increase the minimum mesh size provided in R.S. 56:499 for any trawl, skimmer net, or butterfly net for the duration of that special shrimp season in any portion of state waters.

Notice of any opening, delaying or closing of a season by the secretary will be made by public notice at least 72 hours prior to such action.

Jerri G. Smitko
Chair

2108#011

Rules

RULE

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences Structural Pest Control Commission

Structural Pest Control
(LAC 7:XXV.101, 141, and 145)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority set forth in R.S. 3:3362 and R.S. 3:3366., the Department of Agriculture and Forestry (“Department”) and the Structural Pest Control Commission (“Commission”) have adopted the rules set forth below by amending LAC 7:XXV.101 and 141 and repealing LAC 7:XXV.145. These amendments add the definition for ‘inspection diagram’, which was previously not defined, and changes the term “graph” to “inspection diagram,” in order to provide more consistency in the records that are maintained by pest control companies. The amendments further remove the term ‘Borates’ and replaces it with ‘wood treatment’, a more appropriate terminology for the kind of treatment described in the existing rules. The amendments also set minimum specification requirements associated with Exterior Perimeter/Localized Interior (EP/LI) treatments, which were recently approved by the structural pest control commission. And finally, the repeal of LAC 7:XXV.145 will remove requirements for treatments of Wood-Destroying Beetles. This will allow pest control companies to perform preventative treatments not previously permitted. 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. ...

Inspection Diagram—a diagram that provides an accurate representation of the structure, including measurements, treatment types (trench and treat, rodding, bath trap, etc.), construction types, and specific treatment locations.

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 Agriculture 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), LR 47:1100 (August 2021).

§141. Minimum Specifications for Termite Control Work

A. - G.1. ...

H. Waiver of Requirements of Minimum Specifications for Termite Control Work

1. ...

a. inspection diagram identifying the structure and the specific area(s) where treatment is waived;

1.b. - 2....

I. Requirements for Baits and Baiting Systems

1. - 7. ...

8. Records of contracts, inspection diagrams, monitoring, and bait applications shall be kept according to LAC 7:XXV.117.I.

9. - 10. ...

J. Requirements for Combination Liquid Spot and Baits and Baiting Systems Treatments

1. - 3. ...

4. Records of contracts, inspection diagrams, monitoring (if required), and applications shall be kept according to LAC 7:XXV.117.I. At termination of the contract, the pest control operator shall remove all components of bait and baiting systems.

J.5. - K.3. ...

L. Requirements for Wood Pre-Construction Treatments

1. Treat according to the wood treatment label approved by the commission.

2. - 9. ...

M. Requirements for Exterior Perimeter / Localized Interior (EP/LI) Treatments

1. Treat according to the EP/LI section of the product label that has been approved by the Commission for EP/LI use.

2. EP/LI treatments may only be used for Post Construction treatments.

3. EP/LI treatment must be specified on the termite contract, inspection diagram and subsequent annual renewal documentation.

4. The pest control operator shall provide written information to the homeowner, detailing the EP/LI treatment, at the time of issuance of the contract and treatment.

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), LR 47:1100 (August 2021).

§145. Wood-Destroying Beetles

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:332 (April 1985), amended LR 35:1470 (August 2009), LR 37:292 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:302 (February 2013), repealed LR 47:1101 (August 2021).

Mike Strain, DVM
Commissioner

2108#037

RULE

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) has adopted 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. This Rule is hereby adopted on the day of promulgation.

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. Rally camping areas are those designated and reserved for use by organized groups of overnight campers in the primitive area of the campsite.

1. Fees—Rally Camping

a. A fee of \$50 per night is assessed to the group for the exclusive use of an area. Rally camping is available for tent camping in the primitive area of the campsite only.

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 47:229 (February 2021), repromulgated LR 47:1101 (August 2021).

Mike Strain, DVM
Commissioner

2108#043

RULE

Department of Children and Family Services Division of Child Welfare Child Protective Services

Maintenance and Disclosure of Information on Reports and Investigations on the State Repository (LAC 67:V.1105)

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:V.1105

Maintenance and Disclosure of Information on Reports and Investigations on the State Repository.

This Rule is necessary to clarify to the public that information of individuals is maintained on the State Repository within cases of child abuse/neglect and includes all individuals involved in the case when there is a justified/valid finding for at least one individual. This Rule is hereby adopted on the day of promulgation, and it is effective September 1, 2021.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 3. Child Protective Services

Chapter 11. Administration and Authority

§1105. Maintenance and Disclosure of Information on Reports and Investigations on the State Repository

A. - I. ...

J. Case information and findings from investigations that include individuals with justified/valid findings for their involvement as a perpetrator of child abuse or neglect in a case that includes a tier 1 justified/valid finding will be maintained on the state repository indefinitely. Case information and findings from investigations that involve individuals with justified/valid findings for their involvement as a perpetrator of child abuse or neglect in a case that does not include a tier 1 justified/valid finding will be maintained on the state repository for 18 years from the date of the finding.

K. - O. ...

AUTHORITY NOTE: Promulgated in accordance with Louisiana Children's Code Article 616.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 26:96 (January 2000), amended LR 31:1608 (July 2005), LR 36:840 (April 2010), amended by the Department of Children and Family Services, Division of Child Welfare, LR 44:1000 (June 2018), effective July 1, 2018, amended LR 45:218 (February 2019), amended LR 47:1102 (August 2021).

Marketa Garner Walters
Secretary

2108#026

RULE

**Department of Children and Family Services
Economic Stability Section**

Expungement of Unused Benefits (LAC 67:III.403)

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:III.403 Cash Benefits.

Pursuant to the authority granted to the department by the Food and Nutrition Act of 2008 in accordance with federal regulations for the Supplemental Nutrition Assistance Program (SNAP) in 7 CFR and Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant, the

department considers this amendment necessary to update rules that govern Economic Stability programs.

Section 403 has been amended to update Electronic Benefits Transfer (EBT) expungement timeframes of unused benefits from 12 months to nine months for Family Independence Temporary Assistance Program (FITAP), Kinship Care Subsidy Program (KCSP), and Supplemental Nutrition Assistance Program (SNAP).

These changes are mandated in accordance with the Agriculture Improvement Act of 2018 (2018 Farm Bill), which made additional mandatory changes to the provisions of the Food, Conservation and Energy Act of 2008, PL 110-234 (2008 Farm Bill) governing the expungement of unused benefits. State agencies must expunge unused benefits after nine months (rather than 12 months). This Rule is hereby adopted on the day of promulgation.

Title 67

SOCIAL SERVICES

Part III. Economic Stability

Subpart 1. General Administrative Procedures

Chapter 4. Electronic Benefits Issuance System

§403. Cash Benefits [Formerly §402]

A. Cash benefits and Supplemental Nutrition Assistance Program (SNAP) benefits shall be available through EBT in staggered cycles to on-going households beginning on the first day of each month. The last digit of the Social Security number determines the date that benefits are issued. Cash benefits will be available within the first five days of each month. SNAP benefits will be available within the first 23 days of each month. SNAP cases that contain elderly or disabled persons will have benefits available during the first four days of each month. Other issuance authorizations will be posted to the EBT account the day after they are authorized except in emergency circumstances in which case benefits will be available on the same day.

B. Benefits are delivered in this manner for households certified on an on-going basis. Benefits can accumulate but are accounted for according to the month of availability and will be withdrawn on a first-in-first-out basis. Each month's benefits with no activity by the client for a period of 274 days from the date of availability will be expunged and will not be available to the household after expungement. FITAP benefits which have been expunged may be reauthorized for availability if the recipient has good cause for not having accessed them during the original availability period.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 272.3(c)(1)(ii) and P.L. 104-193, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1322 (July 1998) amended LR 33:1878 (September 2007), repromulgated LR 33:2203 (October 2007), LR 35:689 (April 2009), amended by the Department of Children and Family Services, Division of Family Support, LR 44:23 (January 2018), amended by the Department of Children and Family Services, Economic Stability Section, LR 46:1669 (December 2020), effective January 1, 2021, LR 47:1102 (August 2021).

Marketa Garner Walters
Secretary

2108#027

RULE

**Department of Culture, Recreation and Tourism
Office of Cultural Development**

**State Commercial Tax Credit Program Credit
Reservation Process (LAC 25:I.1301 and 1305)**

The Department of Culture, Recreation and Tourism (DCRT), Office of Cultural Development, Division of Historic Preservation, in accordance with RS. 47:6019 and with the Administrative Procedure Act, R.S. 49:950 et seq., has amended LAC 25:I.1301 and adopted LAC 25:I.1305.

There are two purposes of these regulations. The first purpose is to amend §1301 by replacing the definition of Qualified Rehabilitation Expenses with the definition of Eligible costs and expenses, and to add definitions pertaining to the credit cap reservation system. The second purpose is to add §1305, thereby creating a process for DCRT to administer a credit cap reservation system, as required by Act 25 of the First Extraordinary Legislative Session of 2020. This system includes general provisions, the reservation process, the process whereby reservations may be forfeited or rescinded, application amendments, and an appeals process. This Rule is hereby adopted on the day of promulgation.

Title 25

CULTURAL RESOURCES

Part 1. Office of Cultural Development

Chapter 13. State Commercial Tax Credit for Historic Buildings

§1301. Definitions

A. ...

Amendment—any modification to the project, as described in an approved application including, but not limited to, changes in applicant, scope of the project, timeline for completion, changes in financing, the rehabilitation activities or end use.

Annual Credit Reservation Cap—the maximum aggregate total of tax credits that may be reserved in any one calendar year is \$125 million. The reservation cap shall apply to projects with Part 2 applications received by the Department of Culture, Recreation and Tourism on or after January 1, 2021.

Applicant—the owner or qualified lessee of a historic building.

Eligible Costs and Expenses—the qualified rehabilitation expenditures (QREs) as defined in Section 47c(2)(A) of the *Internal Revenue Code* of 1986, as amended.

Project—the activities to be undertaken and costs identified as part of an application submitted for a historic preservation tax credit. A project may include more than one building, such as an industrial or agricultural complex, provided there is historical evidence that the buildings functioned together to serve an overall purpose, and all are at least 50 years old unless also listed individually in the National Register of Historic Places.

Qualified Rehabilitation Expenditures (QREs)—repealed.

SHPO—State Historic Preservation Office, comprised of the Divisions of Archaeology and Historic Preservation, within the Department of Culture, Recreation and Tourism.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6019.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of Cultural Development, Division of Historic Preservation, LR 40:1679 (September 2014), amended LR 47:1103 (August 2021).

§1305. Tax Credit Reservations

A. General Provisions

1. For all projects with Part 2 applications received by the SHPO on or after January 1, 2021, the maximum amount of credits available to be reserved shall not exceed one hundred twenty-five million dollars per calendar year. If the amount of tax credit reservations issued in a calendar year is less than one hundred twenty-five million dollars, the excess reservation amount shall be available for issuance in any subsequent calendar year. If a tax credit reservation is forfeited or rescinded, the forfeited or rescinded reservation amount shall be available for issuance.

2. Reservations of credits shall be first-come first-served based upon the date of approval of a completed reservation application.

3. If the total amount of credit reservations applied for in any calendar year exceeds the amount of tax credits available for reservation that year, the excess shall be treated as having been applied for on the first day of the subsequent calendar year.

4. All reservation applications received on the same business day shall be treated as received at the same time, and if the aggregate amount of the requests received on a single business day exceeds the total amount of available tax credit reservations, tax credits shall be reserved on a pro rata basis.

5. Any rescinded tax credit reservation shall be reallocated and made available to other applicants.

6. The SHPO shall track the cumulative amount of approved tax credit reservations. Applicants may review the amount of tax credit reservations available per any given calendar year on the SHPO's website.

7. Applicants must comply with all other program requirements set forth by the Division. Claims for the credit must also comply with any rules and regulations set forth by the Louisiana Department of Revenue within Title 61 of the Louisiana Administrative Code.

B. Reservation Process

1. Tax credit reservation requests will be accepted beginning July 1, 2021 for the 2021 calendar year, and on the second Monday in January each subsequent year for that year's reservations.

2. Tax credit reservation requests will not be approved prior to the state Part 2 application approval.

a. Projects that are going to be completed in phases may file a tax credit reservation application for the entire project in conjunction with a Part 2 application or may file

separate tax credit reservation applications, one for each phase, prior to the project or a particular separate phase being placed in service.

3. A tax credit reservation form required by the SHPO shall contain, at minimum the following:

- a. state issued project number;
- b. project address;
- c. part 2 application approval date;
- d. estimated eligible costs and expenses
- e. amount of tax credit reservation requested
- f. affirmation that project will demonstrate

reviewable progress within 24 months of the reservation approval

- g. project owner information
- h. project owner's signature and the date the form was signed
- i. project contact information (if different than the owner)

4. Applications for all projects shall include a reasonably substantiated estimate of the amount of eligible costs and expenses the project expects to incur.

a. For projects which expect to incur at least \$500,000 of eligible costs and expenses, such estimate shall be prepared by a Certified Public Accountant.

5.a. The SHPO shall issue reservations of tax credits generally no later than 30 days from the later of:

- i. the date properly completed reservation applications were received, or
- ii. the date the state Part 2 application is approved.

b. The reservation shall include the amount of credits reserved and the applicable deadlines.

6. Tax credit reservation requests that have been approved by the SHPO will be transmitted to the Louisiana Department of Revenue in a manner that is agreed upon by both agencies.

C. Forfeiture or Rescission of Tax Credit Reservation

1. Tax credit reservations issued pursuant to this Subsection shall be rescinded if the applicant fails to provide to the SHPO sufficient evidence that the project is progressing within 24 months of the date the credit reservation is issued. This evidence may include, but is not limited, an executed tax credit investor letter of intent, final construction drawings, approved building permits, or other evidence that construction has commenced; such examples of evidence are illustrative but are not exclusive. Failure to submit evidence that a project is progressing may result in the rescission of the credit reservation.

2. If, at any time, the SHPO has reason to believe that a project has become inactive or that it is not likely to be able to meet the requirements of the program, SHPO shall contact the applicant by registered or certified mail to request a status report that includes evidence showing the project is progressing. Status reports shall not be requested more than twice during a calendar year and SHPO may waive such status reports at its discretion for extenuating circumstance including, but not limited to, force majeure events.

3. Projects that are denied during the application process by the SHPO shall have the credit reservation rescinded after all appeals have been exhausted.

4. Applicants may forfeit a tax credit reservation by submitting to the SHPO a statement that includes the information contained within the reservation form with a request to rescind the tax credit reservation.

5. The SHPO shall notify the applicant in writing that the tax credit reservation has been forfeited or rescinded.

6. Tax credit reservation requests that have been forfeited or rescinded by the SHPO will be transmitted to the Louisiana Department of Revenue in a manner that is agreed upon by both agencies.

7. Nothing in this section prohibits an applicant whose tax credit reservation has been forfeited or rescinded from submitting a new tax credit reservation.

D. Amendments

1. An applicant may amend an existing application, and amendments will be submitted in accordance with the provisions of this Subsection. Any amendment that does not request an increased or decreased reservation amount shall not modify a previous reservation. Any amendment that decreases a reservation amount shall cause the decreased amount of tax credits to be available for issuance to other applicants. Any amendment requesting an additional reservation amount shall be treated as a new application but shall not modify any previous reservation with respect to such historic structure.

2. Any applications filed on or after January 1, 2021, to amend a Part 2 application that was submitted prior to January 1, 2021, is exempt from credit reservation process.

E. Appeals

1. Applicants may appeal any decisions related to the tax credit reservation process contained within this section to the State Historic Preservation Officer.

2. Appeals must be received by the SHPO no later than 30 calendar days from the date of the decision being appealed. Appeals must detail specific reasons the denial should be partially or completely reconsidered or overturned.

3. The State Historic Preservation Officer shall determine if a hearing is necessary, and if so, the appeal will be scheduled within thirty days of the request.

4. The State Historic Preservation Officer, at his discretion, may hold a hearing in connection with the appeal.

5. Upon review of the appeal and consideration of the hearing, if applicable, the State Historic Preservation Officer shall take one of the following actions:

- a. sustain, in full or in part, the denial;
- b. overturn, in full or in part, the denial.

6. The State Historic Preservation Officer's final written decision to any appeal must be issued no later than 90 days after receiving the full appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6019.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of Cultural Development, Division of Historic Preservation, LR 40:1679 (September 2014), amended LR 47:1103 (August 2021).

Kristin P. Sanders
Assistant Secretary

RULE

Department of Economic Development Office of the Secretary

Angel Investor Tax Credit Program (LAC 13:I.Chapter 33)

Under the authority of R.S.47:6020 through 6020.4 and R.S. 36:104, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development has amended the rules of the Angel Investor Tax Credit Program, to better align the rules with current administrative practices and to clarify eligibility for convertible and other types of subordinate debt. This Rule is hereby adopted on the day of promulgation.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 33. Angel Investor Tax Credit Program

§3301. General

A - B. ...

C. Effective date of the 2021 Angel Investor Tax Credit Program rule changes.

1. The provisions of the 2021 rule changes shall apply to applications filed after the date of promulgation, detailed in the Louisiana Register published on (Month) 20, 2021, except for the provisions of Section 3303 codifying current administrative practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:228 (February 2006), amended LR 32:1594 (September 2006), amended by Department of Economic Development, Office of the Secretary, LR 37:3495 (December 2011), amended by Department of Economic Development, Office of the Secretary, LR 47:1105 (August 2021).

§3302. Definitions

A. Terms not otherwise defined in this Chapter shall have the same meaning given to them in R.S. 47:6020 unless the context clearly requires otherwise.

B. In this Chapter, the following terms shall have the meaning provided in this Section, unless the context clearly requires otherwise.

Angel Pool—a group of persons including corporations, partnerships, limited liability partnerships and limited liability corporations composed of persons meeting the qualifications of an accredited investor.

Certification—certification by the department recognizing the company as an eligible Louisiana Entrepreneurial Business.

Department—the Department of Economic Development

LEB—Louisiana Entrepreneurial Business

NAICS—North American Industrial Classification System.

Opportunity Zone—a community development program established by Congress in the Tax Cuts and Jobs Act of 2017 defined as a population census tract that is a low-income community that is designated as a qualified opportunity zone.

Professional Services—occupations requiring specialized education, knowledge, labor, judgment or are predominantly mental or intellectual in nature; and which may require the holding of a professional license. Professional services firms may engage in activities which include, but are not limited to, architecture, engineering, legal services and accounting.

Qualified Investment—a cash investment into a Louisiana Entrepreneurial Business by an Accredited Investor which may be in the form of equity, convertible debt, or other types of subordinate debt as approved by the department. Only the initial principal amount of any debt investment is eligible for the credit.

Reservation Letter—letter issued by the department provisionally indicating the dollar amount of credits which their investors may be eligible to receive if proof of qualified investment can be shown.

Subordinate Debt—

a. by its terms requires no repayment of principal for the first three years after issuance;

b. is not guaranteed by any other person or secured by any assets of the LEB or any other person; and

c. is subordinated to all indebtedness and obligations of the LEB to its general creditors.

Tax Credit Certification Letter—letter issued by the department certifying the dollar amount of Angel Investor Tax Credits earned by an investor for a particular tax year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 47:1105 (August 2021).

§3303. Accredited Investor

A. An *accredited investor* shall meet the definition established by Rule 501 in Regulation D of the General Rules and Regulations promulgated under the Securities Act of 1933, which may include but not be limited to the following:

1 - 3 ...

4. the qualified investment in the Louisiana Entrepreneurial Business must be maintained for three years unless otherwise approved by the Department of Economic Development;

A.5. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:228 (February 2006), amended LR 32:1594 (September 2006), amended by Department of Economic Development, Office of the Secretary, LR 37:3495 (December 2011), amended by Department of Economic Development, Office of the Secretary, LR 47:37 (January 2021), LR 47:1105 (August 2021).

§3307. The Amount, Allocation and Limitations of the Angel Investor Tax Credits

A. The following rules shall be applicable to qualified investments by accredited investors in Louisiana entrepreneurial businesses.

1. For calendar year 2011, the department will begin accepting applications on September 1, and for all other calendar years, the department will begin accepting applications on January 1. The allocation of credits for all years will be administered on a first come, first serve basis

until the annual \$3,600,000 cap has been reached. However, on the day that the cap is reached, all applications received that day will be treated as received at the same time and the credits remaining for allocation that day will be prorated.

a. Upon receipt of an application for the reservation of credits, the department will send the business a reservation letter indicating the dollar amount of credits which their investors are entitled to receive if proof of qualified investment can be shown.

b. Each business applicant will have to decide on their application if they are willing to accept a prorated credit amount should their application be received on the day the cap is reached. The business will also have to determine what percentage of proration they will accept. If the business does not indicate in their application a willingness to accept a prorated credit amount at the percentage of proration available on the day the cap is reached, their application will be deemed to have been received the day following the day in which the cap was reached.

c. Proof of a qualified investment must be provided to the department within 120 days from the date of the reservation letter. The department will accept the subscription agreement as required by the Securities and Exchange Commission as proof of investment.

d. If proof of a qualified investment is made within the requisite 120-day period, the department will issue a tax credit certification letter to the investor.

i. The tax credit certification letter will include the investor's name, address, Louisiana taxpayer identification number and the amount of the credit. The tax credit certification letter will include a breakdown of which years and in what amounts per year the credit will be claimed.

ii. The Louisiana Department of Revenue will receive a copy of the tax credit certification letter for purposes of verification of the credits.

e. If proof of qualified investment is not provided to the Department within the requisite 120-day period, the angel investor tax credits which had been reserved for that company's investors will be added to the remaining available annual credit cap.

f. Any returned reservation credits whose businesses could not provide proof of qualified investment within 120 days, will be allocated when available on a first come, first serve basis until the annual cap has been reached. However, on the day that the cap is reached, all applications received that day will be treated as received at the same time and the credits remaining for allocation that day will be prorated. Returned reservation credits will be made available the sooner of:

i. the day returned reservation credits exceed the amount of credits requested in applications in line to receive credits the next day; or

ii. the day all 120-day proof of qualified investment periods have expired.

iii. the timeline for proof of qualified investment will be the same 120-day period as mentioned above.

g. A business that fails to provide proof of qualified investment on the full reservation amount within 120 days will not be allowed to apply for angel investor credits again for a three-month period. The three-month period will begin

on the day following the end of the 120-day period for proof of qualified investment.

B. All applications for the reservation of credits shall be made on a form prescribed by the department. All applications for the reservation of credits shall be submitted to the department electronically to an email address specified by the department on its website. An application fee shall be submitted with all applications for reservation of credits. The application fee shall be equal to 0.5 percent (0.005) times the total anticipated tax incentive for the investors with a minimum application fee of \$500 and a maximum application fee of \$15,000, payable to Louisiana Department of Economic Development.

C. A qualified investment earns tax credits in the calendar year in which the qualified investment is made. The request for the reservation of credits for a qualified investment must be made in the same year in which the qualified investment is made. In order to earn credits under this program, a qualified investment can be made no earlier than 30 days prior to the reservation of credits.

D. The angel investor tax credits should be claimed on the investor's income and corporation franchise tax returns in accordance with the statutory requirements of R.S. 47:6020(D)(3).

E. Transfers of the angel investor tax credits will be allowed in compliance with R.S. 47:6020(F).

F. The Angel Investor Tax Credit Program has a program cap of \$3,600,000 in tax credits granted per calendar year. If the department does not grant the entire \$3,600,000 in tax credits in any calendar year, the amount of residual unused tax credits shall carry forward to subsequent calendar years and may be granted in any year without regard to the \$3,600,000 per year limitation. No tax credit shall be granted to an investor until the qualified investment has been made in the Louisiana Entrepreneurial Business.

G. For purposes of receiving angel investor tax credits, an investor may not invest more than \$720,000 per year per business or more than \$1,440,000 total per business over the life of the program. The credit shall be allowed against the income tax for the taxable period in which the credit is earned and the franchise tax for the taxable period following the period in which the credit is earned. The credits approved by the department shall be granted at the rate of 25 percent of the amount of the qualified investment with the credit divided in equal portions for two years.

1. Except as provided in Paragraph 4 of this Subsection, applications received on or after July 1, 2020, for qualified investments that meet the requirements of Subsection C of this Section and the requirements of 26 U.S.C. 1400Z-1, 1400Z-2, and applicable federal regulations shall be entitled to an enhanced credit in accordance with the provisions of this Subsection.

2. The amount of the credit granted by the department shall be 35 percent of the amount of the qualified investment with the credit divided in equal portions for two years,

3. In addition to the credit cap provided for in Subsection A, the total amount of credits granted under this Subsection shall not exceed \$3,600,000 per year for a total program cap of \$7,200,000 per year. If the department does not grant the entire \$3,600,000 in tax credits in any calendar year authorized pursuant to this Subsection, the amount of unused tax credits shall carry forward to subsequent calendar

years and may be granted in any year without regard to the \$3,600,000 annual cap provided for in this Subsection.

4. To the extent that federal laws and regulations relative to opportunity zones require that business revenues be derived from within the opportunity zone, otherwise eligible business shall be exempt from the requirement that 50 percent or more of sales shall come from out of state as specified in Subsection A.

H. No credits shall be granted or reserved under this program for reservation applications received by the department on or after July 1, 2025.

I. The department has the authority to change the administration of the Angel Investor Tax Credit Program when it is deemed necessary for the effective administration of the program. Notice of any change in administration will be done with 10-day prior notice published on the department's website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:229 (February 2006), amended LR 32:1595 (September 2006), amended by Department of Economic Development, Office of the Secretary, LR 37:3196 (December 2011), amended by the Department of Economic Development, Office of Business Development, LR 42:35 (January 2016), amended by Department of Economic Development, Office of the Secretary, LR 47:37 (January 2021), amended by Department of Economic Development, Office of the Secretary, LR 47:1105 (August 2021).

Anne G. Villa
Undersecretary

2108#007

RULE

Office of the Governor Board of Pardons

Meeting and Hearing for the Board of Parole;
Inactive Parole Supervision
(LAC 22:V.211 and XI.510, 514, and 1502)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), and pursuant to R.S. 15:573.1, the Board of Pardons has amended LAC 22:V.211 and XI.510, 514 and adopted LAC 22:XI.1502. The amendments to §211 expand the ability of individuals providing testimony to the board to include via phone and teleconferencing. The amendments to §510 align the notification to timeframe for victims with revised statute and expands the ability of individuals providing testimony to the board to include via phone and teleconferencing. The amendments to §514 remove barriers that are not required by law concerning the votes required to grant individuals parole. Section 1502 adopts amendments to R.S. 15:574.7 and adds Inactive Parole Supervision. This Rule is hereby adopted on the day of promulgation.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part V. Board of Pardons

§211. Hearings before the Pardon Board

A. - D. ...

E. The direct victim, the guardian of the victim, or close relative of a deceased victim or a victim's advocacy group, and the district attorney or his representative may also appear before the panel by means of teleconference or telephone communication.

1. Only three persons in favor, to include the applicant, and three in opposition, to include the victim/victim's family member, will be allowed to speak either in person, via phone or videoconferencing during the clemency hearing.

2. Any person making an oral presentation to the board will be allowed no more than 5 minutes. All persons making oral presentations in favor of an applicant shall be allowed cumulatively no more than 10 minutes. Any person making oral presentations against an applicant, including victims, shall be allowed cumulatively no more than 10 minutes.

F. There is no limit on written correspondence in favor of and/or opposition to the applicant's request. A candidate for parole release or an applicant for clemency.

G. The board shall provide notice to the Department of Public Safety and Corrections, Crime Victims Services Bureau at least 30 days prior to pardon hearing.

H. If an applicant is requesting commutation of sentence, and is released from custody and/or supervision prior to public hearing date, the case will be closed without notice to the applicant. Applicant may reapply two years from the date of release.

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 of 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 47:359 (March 2021), LR 47:1107 (August 2021).

Part XI. Committee on Parole

Chapter 5. Meetings and Hearings of the Committee on Parole

§510. Victims

A. Before a parole panel considers parole release for an offender who is serving a sentence of an offense in which a person was a victim, the direct victim of the offense shall be allowed to present written or oral testimony of the victim's views about the offense, the offender, and the effect of the

offense on the victim. The parole panel shall allow one person to appear in person before the panel to present testimony on behalf of the victim. Nothing in this Section is intended to limit the panel's discretion to allow individual victims to make personal appearance or to make contact by phone through the local district attorney's victim advocacy representative. There is no limit on written correspondence in favor of and/or opposition to an offender's consideration for parole.

B. The direct victim, spouse, or next of kin of a deceased victim and any person who has filed a victim notice and registration form shall be advised in writing no less than 60 days prior to the scheduled hearing date.

1. *Victim*—an individual against whom a crime has been perpetrated.

C. The notice shall advise the victim, spouse, or next of kin of a deceased victim that:

1. the hearing is open to the public;
2. he or she may remain in the hearing room during the entire hearing (except during executive session); and
3. the direct victim, the guardian of the victim, or close relative of a deceased victim will be allowed to speak to the panel prior to its making a decision in the case.

D. The Committee on Parole has delegated the responsibility for advance notice of a scheduled hearing to the direct victim to the Department of Public Safety and Corrections, Division of Probation and Parole. This notification is not required when the direct victim cannot be located despite the exercise of due diligence.

E. The written notice is not required when the victim, the spouse, or next of kin of a deceased victim, advises the committee in writing that such notification is not desired.

F. If victim notification is determined to have not met the advance notice time requirements required by this section, a victim may request that a hearing be re-scheduled if the hearing has not yet been conducted. Likewise, a victim may waive the notice requirement; however, such waiver must be received in writing from the victim.

G. Should a hearing be re-scheduled by the board for any reason other than the victim's request, the board shall notify the victim as soon as possible by telephone and shall follow-up with written confirmation of the telephone notification via certified U.S. Mail (with return receipt requested).

H. The direct victim, the guardian of the victim, or close relative of a deceased victim shall have the right to make a written or oral statement as to the impact of the crime.

I. The direct victim, the guardian of the victim, or close relative of a deceased victim or a victim's advocacy group, and the district attorney or his representative may also appear before the panel by means of teleconference or telephone communication.

J. If more than one person is entitled to appear for a parole hearing, the person chosen by all persons entitled to appear may serve as a spokesperson for all those entitled to appear. Any person making an oral presentation to the parole panel will be allowed no more than five minutes. However, at the parole panel chairman's discretion more than one person may present a written or oral statement to the panel.

1. All persons making oral presentations in favor of an applicant shall be allowed cumulatively no more than 10 minutes. All persons making oral presentations against an

applicant, including victims, shall be allowed cumulatively no more than 10 minutes.

K. There is no limit on written correspondence in favor of and/or opposition to a candidate for parole release.

L. The Committee on Parole shall notify all persons who have filed a victim notice and registration form with the Department of Public Safety and Corrections of an offender's release from incarceration by parole. Such written notice shall be sent by certified mail (with return receipt requested).

M. Notice to Crime Victim Services Bureau of Parole Hearings. The committee shall provide notice to the Department of Public Safety and Corrections Crime Victims Services Bureau at least 30 days prior to parole hearings.

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 39:2263 (August 2013), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 43:47 (January 2017), LR 44:575 (March 2018), LR 44:2142 (December 2018), LR 47:1107 (August 2021).

§514. Voting/Votes Required

A. Unanimous Vote

1. A unanimous vote of those present is required to grant parole when the number of those present exceeds three.

2. Notwithstanding any other provision of law, no person convicted of a crime of violence against any peace officer as defined in R.S. 14:30(B), shall be granted parole except after a meeting, duly noticed and held on a date to be determined by the chairman, at which at least five of the seven members of the committee are present and all members present vote to grant parole.

3. Notwithstanding any other provision of law, an offender serving a life sentence for second degree murder as defined in R.S. 14:30.1 and pursuant to the subsections, shall be granted parole except after a meeting, duly noticed and held on a date to be determined by the chairman, at which at least five of the seven members of the committee are present and all members present vote to grant parole.

a. The offense was committed after July 2, 1973, and prior to June 29, 1979.

b. The offender has served forty years of the sentence imposed.

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.

B. Majority Vote

1. The committee may grant parole with two votes of a three-member panel if the following conditions are met.

a. The offender has not been convicted of a sex offense as defined in R.S. 15:541, or convicted of an offense which would constitute 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 and or anger management 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 impose all special conditions of release.

3. A majority vote is required to revoke parole.

4. A majority vote is required to continue or recess a meeting or hearing.

5. A majority vote is required to grant an offender's request for a rehearing.

6. A majority vote is required for executive session.

7. 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 47:362 (March 2021), LR 47:1108 (August 2021).

Chapter 15. Parole Suspension and Termination

§1502. Inactive Parole Supervision

A. During the onset of parole supervision and development of the Supervision Plan, an offender who is free from any conviction for a sex offense as defined in R.S. 15:541, shall be advised of the incentive to be compliant with conditions of supervision in order to be recommended for Inactive Parole Supervision.

1. As determined by the District Manager or during the Annual Review, the officer shall review the offender's case based on the following eligibility requirements:

a. Offender's instant offense is not a crime of violence as defined by R.S. 14:2(B) and the offender has served a minimum of three years without a violation of the terms and conditions of parole.

b. Offender's instant offense is a crime of violence as defined by R.S. 14:2(B) and the offender has served a minimum of seven years without a violation of the terms and conditions of parole.

c. Upon the offender becoming eligible, the officer may shall submit an Activity Report to the Parole Board recommending the offender be placed on Inactive Parole Supervision.

d. Upon the Board's approval, the offender's supervision level will be changed to Administrative-Inactive Parole Supervision. At this effective date, the offender is no longer subject to the conditions of parole as defined in R.S.15:574.4.2(A)(2). Supervision fees will be inactivated in the DOC approved offender management system.

e. Should the parolee have a new arrest, the supervising officer will notify the Parole Board and request the parolee to be returned to active parole supervision where the offender will be subject to the conditions of parole as defined in R.S.15:574.4.2(A)(2). Supervision fees will be reactivated in the DOC approved offender management system. The supervising officer will follow normal procedures for the violation process.

f. Offenders convicted of a new felony conviction while under Inactive Parole supervision are subject to revocation under La. R.S. 15:574.10.

g. If the pending charges against the offender are rejected or dismissed, an Activity Report will be submitted to return the offender to Inactive Parole Supervision.

h. If the offender completes his period of supervision with no new arrests, the case will be closed at their earned compliance date or full term date as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, and 15:574.7.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 47:1109 (August 2021).

Sheryl M. Ranatza
Board Chair

2108#003

RULE

Uniform Local Sales Tax Board

Claims for Refund or Credit (LAC 72:I.111)

Act 274 of the 2017 Regular Legislative Session enacted R.S. 47:337.102 in order to establish the Louisiana Uniform Local Sales Tax Board and define its powers and authority. Under R.S. 47:337.102(C)(2), the board is authorized to promulgate rules and regulations in accordance with Part H of Chapter 2-D of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

Under the authority of the Uniform Local Sales Tax Code, R.S. 47:337.1 et seq., and in accordance with the Uniform Local Sales Tax Administrative Procedure Act, R.S. 47:337.91 et seq., the Louisiana Uniform Local Sales Tax Board has adopted LAC 72:I.111 regarding the filing of claims for refund or credit of local sales and use taxes. R.S.

47:337.77(B) provides that a collector shall make a refund of each overpayment of tax under specific conditions. Proper notification by taxpayers to collectors in the submission of claims is a requirement for issuance of the refund or credit. The purpose of this regulation is to clarify how taxpayers shall provide proper notification. This Rule is hereby adopted on the day of promulgation.

Title 72

UNIFORM LOCAL SALES TAX

Part I. General Provisions

Chapter 1. Administrative Procedures

§111. Requirements for the Filing of Claims for Refund or Credit of Local Sales and Use Taxes

A. Definitions. For purposes of this Section, the following terms have the meanings ascribed to them.

Board—the Louisiana Uniform Local Sales Tax Board and its duly authorized representatives.

Claim for Refund or Credit—an application form and all supporting documents required to confirm the validity of a refund or credit that has been submitted by a Taxpayer to the Board or a Collector.

Collector—the single collector for a parish as defined in Article VII, Section 3 of the Constitution of Louisiana and the Collector's duly authorized representatives.

Local Sales Tax—a tax imposed by a Local Taxing Authority under the provisions of Article VI, Section 29 of the Constitution of Louisiana.

Local Taxing Authority—a political subdivision of the state authorized to impose sales tax under the provisions of Article VI, Section 29 of the Constitution of Louisiana.

Taxpayer—any person defined in R.S. 47:301(8) who qualifies as a dealer under R.S. 47:301(4).

B. Taxpayers who file claims for refund or credit of overpayments of tax, penalty or interest as authorized by R.S. 47:337.77 or R.S. 47:337.102(G) shall comply with the following requirements:

1. Claims for refund or credit shall be written in the English language and be:

a. submitted electronically to the board through a website portal established for multi-parish claims as authorized by R.S. 47:337.102(G);

b. submitted to the collector for the parish where the tax was paid in the manner and form established by the collector; or

c. submitted by timely filing an amended return.

2. Claims for refund or credit shall:

a. be signed and dated by the taxpayer or his authorized representative;

b. contain a clear statement detailing the reason for the claim; and

c. include a complete application and supporting schedules itemizing the overpayment of tax amounts by filing period.

C. Claims must be submitted to an official or entity authorized to receive the claim on behalf of the collector.

1. Taxpayers may submit claims for refund or credit that involve two or more Louisiana parishes having transactions similar in fact to either the board or the individual collectors for each parish. Claims for refund or credit submitted to the board must be filed electronically through the board's multi-parish refund system.

2. Taxpayers shall submit claims for refund or credit that involve a single parish or have dissimilar transactions directly to the individual collectors for each parish.

D. Filing Date of Claims

1. Claims for refund or credit in properly addressed envelopes with sufficient postage delivered by the United States Postal Service are deemed filed on the date postmarked by the United States Postal Service. If a postmark is illegible, the taxpayer has the burden of proving the date of postmark. The date of registration is treated as the date of postmark for claims for refund or credit sent by United States registered or certified mail. Postage meter dates are valid postmark dates provided they do not conflict with a legible United States Postal Service postmark date. If the dates conflict, the United States Postal Service date shall override the meter date.

2. Claims for refund or credit delivered by courier are deemed filed on the date delivered to the collector's office. The courier's records shall serve as prima facie evidence of the delivery.

3. Claims for refund or credit delivered by the taxpayer or a representative of the taxpayer are deemed filed on the date received by the collector's office. Upon request of the taxpayer, the collector shall provide a receipt acknowledging the date of receipt.

4. Claims for refund or credit submitted electronically are deemed filed when both the application and supporting schedules are received by the board, collector or the collector's agent and available for review by the collector.

5. Supplemental information requested by a collector and timely provided by the applicant shall not alter the filing date of the claim. This paragraph shall not apply to schedules or documents required to be submitted with claims for refund or credit under an ordinance or a collector's written public policy.

E. Approval of Claims

1. Claims for refund or credit shall be approved or denied by the appropriate collector or his designee in accordance with the collector's written policies and procedures and applicable provisions of the Uniform Local Sales Tax Code.

2. Claims for refund or credit that have not been approved within one year of the date received or that have been denied may be appealed by the taxpayer to the Louisiana Board of Tax Appeals in accordance with R.S. 47:337.81.

F. This Section shall apply only to claims for refund or credit for overpayments of local sales tax imposed by a local taxing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:337.102(C)(2).

HISTORICAL NOTE: Promulgated by the Louisiana Uniform Local Sales Tax Board, LR 47:1110 (August 2021).

Roger Bergeron
Executive Director

2108#001

RULE

**Department of Health
Board of Examiners of Psychologists**

Fees (LAC46:LXIII.601)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists has amended §601 related to licensing fees for psychologists in accordance with the Louisiana Licensing Law for Psychologist 37:2353.C(1), 37:2354B(1), C(1) and E(2), 37:2356A(6), 37:2357A(2), 37:2365.C and D; the Administrative Procedure Act §§968 and 971; and current requirements promulgated under the LAC 46:LXIII.305, 701.B, and 1101. This Rule is hereby adopted on the day of promulgation.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIII. Psychologists

Subpart 1. General Provisions

Chapter 6. Fees

§601. Licensing Fees

Licensing Fees	Amount
Application for Licensure	\$200
Application for Provisional Licensure	200
Application for Temporary Registration	200
Application for Authorization to Provide Telesupervision (Valid 1 year, per supervisor, per application)	\$25 for first supervisee, \$10 for each thereafter
Jurisprudence Examination Fee	75
Oral Examination (Licensure, specialty change or additional specialty)	250
License Renewal	400
License Renewal Fee for Psychologists Qualifying under R.S. 37:2354.E for a reduced rate	200
Provisional License Renewal	100
Reinstatement of Lapsed License (Application plus renewal fee)	600
Processing Fees for Paper Renewals	50
License Renewal Extension Request	25

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:648 (April 2007), amended LR 39:311 (February 2013), amended LR 41:2618 (December 2015), amended LR 47:1111 (August 2021).

Jaime T. Monic
Executive Director

2108#002

RULE

**Department of Health
Board of Pharmacy**

**Transfer of Marijuana Recommendations
(LAC 46:LIII.2457)**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended §2457 of its rules relative to marijuana pharmacies. The change in Subsection E will require a marijuana pharmacy to transfer an unexpired recommendation for marijuana products to another marijuana pharmacy when requested by a patient or caregiver. This Rule is hereby adopted on the day of promulgation.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 24. Limited Service Providers

Subchapter E. Marijuana Pharmacy

§2457. Standards of Practice

A. - D.5. ...

E. Professional Practice Standards

1. Recommendation/opinion/referral (hereinafter, "request") for Therapeutic Marijuana

a. - c. ...

d. A marijuana pharmacy shall transfer an unexpired request for marijuana product to another marijuana pharmacy when requested by the patient or his caregiver.

2. - 6.e.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1550 (August 2017), amended LR 45:1473 (October 2019), LR 47:1111 (August 2021).

Malcolm J Broussard
Executive Director

2108#008

RULE

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

Home and Community-Based Services Waivers
Cost Reporting Requirements
(LAC 50:XXI.Chapters 7 and Chapter 29)

The Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services have amended LAC 50:XXI.Chapter 7 and repealed LAC 50:XXI.Chapter 29 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 XXI. Home and Community-Based Services
Waivers**

Subpart 1. General Provisions

**Chapter 7. Reimbursement Methodology
Subchapter A. Personal Care Services Providers**

§701. General Provisions

A. The Department of Health (LDH) establishes reimbursement methodologies and cost reporting requirements for providers of home and community-based services waiver programs who provide personal care services (including personal care services, personal care attendant services, community living supports services, attendant care services, personal assistance services, in-home respite, and individual and family support services).

B. - C. 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 and the Office of Aging and Adult Services, LR 39:509 (March 2013), amended LR 42:898 (June 2016), amended by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:1112 (August 2021).

§703. Cost Reporting Requirements

A. Effective July 1, 2012, the department implemented mandatory cost reporting requirements for providers of home and community-based waiver services listed above in §701.A. The cost reports will be used to verify expenditures and to support rate setting for the services rendered to waiver participants.

1. - 7. Repealed.

B. Providers of services in the following waiver programs shall be required to submit cost reports:

1. Adult Day Health Care Waiver;
2. Children's Choice Waiver;

3. Community Choices Waiver;
4. New Opportunities Waiver;
5. Residential Options Waiver; and
6. Supports Waiver.

C. Each provider shall complete the LDH approved cost report and submit the cost report(s) to the department no later than five months after the state's fiscal year ends (June 30).

1. - 5. Repealed.

D. When a provider fails to submit a cost report by the last day of November, which is five months after the state fiscal year ends (June 30), a penalty of 5 percent of the total monthly payment for the first month and a progressive penalty of 5 percent of the total monthly payment for each succeeding month may be levied and withheld from the provider's payment for each month that the cost report is due, not extended and not received. The penalty is non-refundable and not subject to an administrative appeal.

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 and the Office of Aging and Adult Services, LR 39:509 (March 2013), amended LR 42:898 (June 2016), amended by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:1112 (August 2021).

§705. Rate Methodology

EDITOR'S NOTE: This Section was previously numbered LAC 50:XXI.703 and complies with Act 299 of the 2011 Regular Session of the Louisiana Legislature.

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service that is provided to the participant:

1. personal care services;
2. personal care attendant services;
3. community living supports services;
4. attendant care services;
5. personal assistance services;
6. in-home respite; and
7. individual and family support services, collectively referred to as reimbursable assistance services.

B. One quarter hour (15 minutes) shall be the standard unit of service. Reimbursement shall not be paid for the provision of less than one quarter hour (15 minutes) of service.

C. Effective July 1, 2016, a rate validation process occurred to determine the sufficiency of reimbursement rates. This process will be repeated at a minimum of every two years thereafter. The rate validation process will involve the comparison of current provider reimbursement rates to reimbursement rates established using the department's reimbursement methodology.

1. The department's reimbursement methodology will establish an estimated reimbursement rate through the summation of the following two rate component totals:

- a. adjusted staff cost rate component; and
- b. other operational cost rate component.

2. The adjusted staff cost rate component will be determined in the following manner.

a. Direct service worker wage expense, contract labor expense, and hours worked for reimbursable assistance services will be collected from provider cost reports.

i. Collected wage and contract labor expense will be divided by collected hours worked, on an individual cost report basis, to determine a per hour labor rate for direct service workers.

ii. The individual cost report hourly labor rates will be aggregated for all applicable filed cost reports, outliers will be removed, and a simple average statewide labor rate will be determined.

b. A blended direct service worker labor rate will be calculated by comparing the simple average statewide labor rate to the most recently available, as of the calculation of the department's rate validation process, average personal care aide wage rate from the *Louisiana Occupational Employment and Wages* report for all Louisiana parishes published by the Louisiana Workforce Commission (or its successor).

i. If the simple average statewide labor rate is less than the wage rate from the *Louisiana Occupational Employment and Wages* report, a blended wage rate will be calculated using 50 percent of both wage rates.

ii. If the simple average statewide labor rate is equal to or greater than the wage rate from the *Louisiana Occupational Employment and Wages* report, the simple average statewide labor rate will be utilized.

c. An employee benefit factor will be added to the blended direct service worker wage rate to determine the unadjusted hourly staff cost.

i. Employee benefit expense allocated to reimbursable assistance services will be collected from provider cost reports.

ii. Employee benefit expense, on an individual cost report basis, will be divided by the cost report direct service wage and contract labor expense for reimbursable assistance services to calculate employee benefits as a percentage of labor costs.

iii. The individual cost report employee benefit percentages will be aggregated for all applicable filed cost reports, outliers will be removed, and a simple average statewide employee benefit percentage will be determined.

iv. The simple average statewide employee benefit percentage will be multiplied by the blended direct service worker labor rate to calculate the employee benefit factor.

d. The department will be solely responsible for determining if adjustments to the unadjusted hourly staff cost for items that are underrepresented or not represented in provider cost reports is considered appropriate.

e. The unadjusted hourly staff cost will be multiplied by a productive hours' adjustment to calculate the hourly adjusted staff cost rate component total. The productive hours' adjustment allows the reimbursement rate to reflect the cost associated with direct service worker time spent performing required non-billable activities. The productive hours' adjustment will be calculated as follows.

i. The department will determine estimates for the amount of time a direct service worker spends performing required non-billable activities during an eight-

hour period. Examples of non-billable time include, but are not limited to: meetings, substitute staff, training, wait-time, supervising, etc.

ii. The total time associated with direct service worker non-billable activities will be subtracted from eight hours to determine direct service worker total billable time.

iii. Eight hours will be divided by the direct service worker total billable time to calculate the productive hours' adjustment.

3. The other operational cost rate component will be calculated in the following manner.

a. Capital expense, transportation expense, other direct non-labor expense, and other overhead expense allocated to reimbursable assistance services will be collected from provider cost reports.

b. Capital expense, transportation expense, supplies, and other direct non-labor expense, and other overhead expense, on an individual cost report basis, will be divided by the cost report direct service wage and contract labor expense for reimbursable assistance services to calculate other operational costs as a percentage of labor costs.

c. The individual cost report other operational cost percentages will be aggregated for all applicable filed cost reports, outliers will be removed, and a simple average statewide other operational cost percentage will be determined.

d. The simple average other operational cost percentage will be multiplied by the blended direct service worker labor rate to calculate the other operational cost rate component.

4. The calculated department reimbursement rates will be adjusted to a one quarter hour unit of service by dividing the hourly adjusted staff cost rate component and the hourly other operational cost rate component totals by four.

5. The department will be solely responsible for determining the sufficiency of the current reimbursement rates during the rate validation process. Any reimbursement rate change deemed necessary due to rate validation process will be subject to legislative budgetary appropriation restrictions prior to implementation.

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, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:1112 (August 2021).

Subchapter B. Adult Day Health Care Providers

§707. General Provisions

A. The Department of Health (LDH) establishes reimbursement methodologies and cost reporting requirements for Adult Day Health Care (ADHC) providers of home and community-based waiver programs.

B. ADHC providers in the following waiver programs shall be required to submit cost reports:

1. Adult Day Health Care (ADHC) Waiver;
2. Community Choices Waiver; and
3. Residential Options Waiver (ROW).

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, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:1113 (August 2021).

§709. Rate Methodology

A. Adult day health care providers shall be reimbursed a per quarter hour rate for services provided under a prospective payment system (PPS). The system shall be designed in a manner that recognizes and reflects the cost of direct care services provided. The reimbursement methodology is designed to improve the quality of care for all waiver participants by ensuring that direct care services are provided at an acceptable level while fairly reimbursing the providers.

B. Reimbursement shall not be made for ADHC waiver services provided under the waivers prior to the department's approval of the POC.

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, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:1114 (August 2021).

§711. Cost Reporting

A. Cost Centers Components

1. Direct Care Costs. This component reimburses for in-house and contractual direct care staffing, social services, and activities (excluding the activities director) and fringe benefits and direct care supplies.

2. Care Related Costs. This component reimburses for in-house and contractual salaries and fringe benefits for supervisory and dietary staff, raw food costs, and care related supplies.

3. Administrative and Operating Costs. This component reimburses for in-house or contractual salaries and related benefits for administrative, housekeeping, laundry, and maintenance staff. Also included are:

- a. utilities;
- b. accounting;
- c. dietary supplies;
- d. housekeeping and maintenance supplies; and
- e. all other administrative and operating type expenditures.

4. Property. This component reimburses for depreciation, interest on capital assets, lease expenses, property taxes, and other expenses related to capital assets, excluding property costs related to participant transportation.

5. Transportation. This component reimburses for in-house and contractual driver salaries and related benefits, non-emergency medical transportation, vehicle maintenance, and supply expense, motor vehicle depreciation, interest expense related to vehicles, vehicle insurance, and auto leases.

B. Providers of ADHC services are required to file acceptable annual cost reports of all reasonable and allowable costs. An acceptable cost report is one that is prepared in accordance with the requirements of this Section and for which the provider has supporting documentation necessary for completion of a desk review or audit. The annual cost reports are the basis for determining

reimbursement rates. A copy of all reports and statistical data must be retained by the center for no less than five years following the date cost reports are submitted to the bureau. A chart of accounts and an accounting system on the accrual basis or converted to the accrual basis at year end are required in the cost report preparation process. The bureau or its designee will perform desk reviews of the cost reports. In addition to the desk review, a representative number of the centers shall be subject to a full-scope, annual on-site audit. All ADHC cost reports shall be filed with a fiscal year from July 1 through June 30.

1. When a provider ceases to participate as an ADHC provider the provider must file a cost report covering a period under this program up to the effective date of cessation of participation in the program. Depending on the circumstances involved in the preparation of the provider's final cost report, the provider may file the cost report for a period of not less than one month or not more than 13 months.

C. The cost reporting forms and instructions developed by the Bureau must be used by all ADHC centers participating in the Louisiana Medicaid Program. Hospital based and other provider based ADHC which use Medicare forms for step down in completing their ADHC Medicaid cost reports must submit copies of the applicable Medicare cost report forms also. All amounts must be rounded to the nearest dollar and must foot and cross foot. Only per diem cost amounts will not be rounded. Cost reports submitted that have not been rounded in accordance with this policy will be returned and will not be considered as received until they are resubmitted.

D. Annual Reporting. Cost reports are to be filed on or before the last day of September following the close of the cost reporting period. Should the due date fall on a Saturday, Sunday, or an official state or federal holiday, the due date shall be the following business day. The cost report forms and schedules must be filed with one copy of the following documents:

1. a cost report grouping schedule. This schedule should include all trial balance accounts grouped by cost report line item. All subtotals should agree to a specific line item on the cost report. This grouping schedule should be done for the balance sheet, income statement, and expenses;

2. a depreciation schedule. The depreciation schedule which reconciles to the depreciation expense reported on the cost report must be submitted. If the center files a home office cost report, copies of the home office depreciation schedules must also be submitted with the home office cost report. All hospital based centers must submit a copy of a depreciation schedule that clearly shows and totals assets that are hospital only, ADHC only and shared assets;

3. an amortization schedule(s), if applicable;

4. a schedule of adjustment and reclassification entries;

5. a narrative description of purchased management services and a copy of contracts for managed services, if applicable;

6. for management services provided by a related party or home office, a description of the basis used to

allocate the costs to providers in the group and to non-provider activities and copies of the cost allocation worksheet, if applicable. Costs of related management/home offices must be reported on a separate cost report that includes an allocation schedule; and

7. all allocation worksheets must be submitted by hospital-based centers. The Medicare worksheets that must be attached by centers using the Medicare forms for allocation are:

- a. A;
- b. A-6;
- c. A-7 parts I, II and III;
- d. A-8;
- e. A-8-1;
- f. B part 1; and
- g. B-1.

E. Each copy of the cost report must have the original signatures of an officer or center administrator on the certification. The cost report and related documents must be submitted to the address indicated on the cost report instruction form. In order to avoid a penalty for delinquency, cost reports must be postmarked on or before the due date.

F. When it is determined, upon initial review for completeness, that an incomplete or improperly completed cost report has been submitted, the provider will be notified. The provider will be allowed a specified amount of time to submit the requested information without incurring the penalty for a delinquent cost report. For cost reports that are submitted by the due date, 10 working days from the date of the provider's receipt of the request for additional information will be allowed for the submission of the additional information. For cost reports that are submitted after the due date, five working days from the date of the provider's receipt of the request for additional information will be allowed for the submission of the additional information. An exception exists in the event that the due date comes after the specified number of days for submission of the requested information. In these cases, the provider will be allowed to submit the additional requested information on or before the due date of the cost report. If requested additional information has not been submitted by the specified date, a second request for the information will be made. Requested information not received after the second request may not be subsequently submitted and shall not be considered for reimbursement purposes. An appeal of the disallowance of the costs associated with the requested information may not be made. Allowable costs will be adjusted to disallow any expenses for which requested information is not submitted.

G. Accounting Basis. The cost report must be prepared on the accrual basis of accounting. If a center is on a cash basis, it will be necessary to convert from a cash basis to an accrual basis for cost reporting purposes. Particular attention must be given to an accurate accrual of all costs at the year-end for appropriate recordation of costs in the applicable cost reporting period. Care must be given to the proper allocation of costs for contracts to the period covered by such contracts. Amounts earned although not actually received and amounts owed to creditors but not paid must be included in the appropriate cost reporting period.

H. Supporting Information. Providers are required to maintain adequate financial records and statistical data for

proper determination of reimbursable costs. Financial and statistical records must be maintained by the center for five years from the date the cost report is submitted to the Bureau. Cost information must be current, accurate and in sufficient detail to support amounts reported in the cost report. This includes all ledgers, journals, records, and original evidences of cost (canceled checks, purchase orders, invoices, vouchers, inventories, time cards, payrolls, bases for apportioning costs, etc.) that pertain to the reported costs. Census data reported on the cost report must be supportable by daily census records. Such information must be adequate and available for auditing.

I. Attendance Records

1. Attendance data reported on the cost report must be supportable by daily attendance records. Such information must be adequate and available for auditing.

2. Daily attendance records should include the time of each participant's arrival and departure from the center. The attendance records should document the presence or absence of each participant on each day the center is open. The center's attendance records should document all admissions and discharges on the attendance records. Attendance records should be kept for all participants that attend the adult day center. This includes Medicaid, Veteran's Administration, insurance, private, waiver, and other participants. The attendance of all participants should be documented regardless of whether a payment is received on behalf of the participant. Supporting documentation such as admission documents, discharge summaries, nurse's progress notes, sign-in/out logs, etc. should be maintained to support services provided to each participant.

J. Employee Record

1. the provider shall retain written verification of hours worked by individual employees:

a. records may be sign-in sheets or time cards, but shall indicate the date and hours worked;

b. records shall include all employees even on a contractual or consultant basis;

2. verification of employee orientation and in-service training; and

3. verification of the employee's communicable disease screening.

K. Billing Records

1. The provider shall maintain billing records in accordance with recognized fiscal and accounting procedures. Individual records shall be maintained for each participant. These records shall meet the following criteria.

a. Records shall clearly detail each charge and each payment made on behalf of the participant.

b. Records shall be current and shall clearly reveal to whom charges were made and for whom payments were received.

c. Records shall itemize each billing entry.

d. Records shall show the amount of each payment received and the date received.

2. The provider shall maintain supporting fiscal documents and other records necessary to ensure that claims are made in accordance with federal and state requirements.

L. Non-Acceptable Descriptions. Miscellaneous, other, and various, without further detailed explanation, are not acceptable descriptions for cost reporting purposes. If any of these are used as descriptions in the cost report, a request for

information will not be made and the related line item expense will be automatically disallowed. The provider will not be allowed to submit the proper detail of the expense at a later date, and an appeal of the disallowance of the costs may not be made.

M. Exceptions. Limited exceptions to the cost report filing requirements will be considered on an individual provider basis upon written request from the provider to the Bureau of Health Services Financing, Rate and Audit Review Section. If an exception is allowed, the provider must attach a statement describing fully the nature of the exception for which prior written permission was requested and granted. Exceptions which may be allowed with written approval are as follows.

1. If the center has been purchased or established during the reporting period, a partial year cost report may be filed in lieu of the required 12-month report.

2. If the center experiences unavoidable difficulties in preparing the cost report by the prescribed due date, an extension may be requested prior to the due date. Requests for exception must contain a full statement of the cause of the difficulties that rendered timely preparation of the cost report impossible.

N. Delinquent Cost Report. When an ADHC provider fails to submit a cost report by the last day of September following the close of the cost reporting period, a penalty of 5 percent of the monthly payment for the first month and a progressive penalty of 5 percent of the monthly payment for each succeeding month may be levied and withheld from the ADHC provider's payment for each month that the cost report is due, not extended and not received. The penalty is non-refundable and not subject to an administrative appeal.

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, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:1114 (August 2021).

§713. Cost Categories Included in the Cost Report

A. Direct Care (DC) Costs

1. Salaries, Aides-gross salaries of certified nurse aides and nurse aides in training.

2. Salaries, LPNs-gross salaries of nonsupervisory licensed practical nurses and graduate practical nurses.

3. Salaries, RNs-gross salaries of nonsupervisory registered nurses and graduate nurses (excluding director of nursing and participant assessment instrument coordinator).

4. Salaries, Social Services-gross salaries of nonsupervisory licensed social services personnel providing medically needed social services to attain or maintain the highest practicable physical, mental, or psychosocial well-being of the participants.

5. Salaries, Activities—gross salaries of nonsupervisory activities/recreational personnel providing an ongoing program of activities designed to meet, in accordance with the comprehensive assessment, the interest and the physical, mental, and psychosocial well-being of the participants.

6. Payroll Taxes—cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for direct care employees.

7. Group Insurance, DC—cost of employer's contribution to employee health, life, accident and disability insurance for direct care employees.

8. Pensions, DC—cost of employer's contribution to employee pensions for direct care employees.

9. Uniform Allowance, DC—employer's cost of uniform allowance and/or uniforms for direct care employees.

10. Worker's Comp, DC—cost of worker's compensation insurance for direct care employees.

11. Contract, Aides—cost of aides through contract that are not center employees.

12. Contract, LPNs—cost of LPNs and graduate practical nurses hired through contract that are not center employees.

13. Contract, RNs—cost of RNs and graduate nurses hired through contract that are not center employees.

14. Drugs, Over-the-Counter and Non-Legend—cost of over-the-counter and non-legend drugs provided by the center to its participants. This is for drugs not covered by Medicaid.

15. Medical Supplies—cost of participant-specific items of medical supplies such as catheters, syringes and sterile dressings.

16. Medical Waste Disposal—cost of medical waste disposal including storage containers and disposal costs.

17. Recreational Supplies, DC—cost of items used in the recreational activities of the center.

18. Other Supplies, DC—cost of items used in the direct care of participants which are not participant-specific such as prep supplies, alcohol pads, betadine solution in bulk, tongue depressors, cotton balls, thermometers, blood pressure cuffs and under-pads and diapers (reusable and disposable).

19. Allocated Costs, Hospital Based—the amount of costs that have been allocated through the step-down process from a hospital or state institution as direct care costs when those costs include allocated overhead.

20. Miscellaneous, DC—costs incurred in providing direct care services that cannot be assigned to any other direct care line item on the cost report.

21. Total Direct Care Costs—sum of the above line items.

B. Care Related (CR) Costs

1. Salaries—gross salaries for care related supervisory staff including supervisors or directors over nursing, social service, and activities/recreation.

2. Salaries, Dietary—gross salaries of kitchen personnel including dietary supervisors, cooks, helpers, and dishwashers.

3. Payroll Taxes—cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for care related employees.

4. Group Insurance, CR—cost of employer's contribution to employee health, life, accident, and disability insurance for care related employees.

5. Pensions, CR—cost of employer's contribution to employee pensions for care related employees.

6. Uniform Allowance, CR—employer's cost of uniform allowance and/or uniforms for care related employees.

7. Worker's Comp, CR—cost of worker's compensation insurance for care related employees.

8. Contract, Dietary—cost of dietary services, and personnel hired through contract that are not employees of the center.

9. Consultant Fees, Activities—fees paid to activities personnel, not on the center's payroll, for providing advisory, and educational services to the center.

10. Consultant Fees, Nursing—fees paid to nursing personnel, not on the center's payroll, for providing advisory, and educational services to the center.

11. Consultant Fees, Pharmacy—fees paid to a registered pharmacist, not on the center's payroll, for providing advisory, and educational services to the center.

12. Consultant Fees, Social Worker—fees paid to a social worker, not on the center's payroll, for providing advisory, and educational services to the center.

13. Consultant Fees, Therapists—fees paid to a licensed therapist, not on the center's payroll, for providing advisory, and educational services to the center.

14. Food, Raw—cost of food products used to provide meals and snacks to participants. Hospital based facilities must allocate food based on the number of meals served.

15. Food, Supplements—cost of food products given in addition to normal meals and snacks under a doctor's orders. Hospital based facilities must allocate food-supplements based on the number of meals served.

16. Supplies, CR—the costs of supplies used for rendering care related services to the participants of the center. All personal care related items such as shampoo and soap administered by all staff must be included on this line.

17. Allocated Costs, Hospital Based—the amount of costs that have been allocated through the step-down process from a hospital or state institution as care related costs when those costs include allocated overhead.

18. Miscellaneous, CR—costs incurred in providing care related care services that cannot be assigned to any other care related line item on the cost report.

19. Total Care Related Costs—the sum of the care related cost line items.

C. Administrative and Operating Costs (AOC)

1. Salaries, Administrator—gross salary of administrators excluding owners. Hospital based centers must attach a schedule of the administrator's salary before allocation, the allocation method, and the amount allocated to the nursing center.

2. Salaries, Assistant Administrator—gross salary of assistant administrators excluding owners.

3. Salaries, Housekeeping—gross salaries of housekeeping personnel including housekeeping supervisors, maids, and janitors.

4. Salaries, Laundry—gross salaries of laundry personnel.

5. Salaries, Maintenance—gross salaries of personnel involved in operating and maintaining the physical plant, including maintenance personnel or plant engineers.

6. Salaries, Other Administrative—gross salaries of other administrative personnel including bookkeepers, receptionists, administrative assistants, and other office and clerical personnel.

7. Salaries, Owner or Owner/Administrator—gross salaries of all owners of the center that are paid through the center.

8. Payroll Taxes—cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for administrative and operating employees.

9. Group Insurance, AOC—cost of employer's contribution to employee health, life, accident, and disability insurance for administrative, and operating employees.

10. Pensions, AOC—cost of employer's contribution to employee pensions for administration, and operating employees.

11. Uniform Allowance, AOC—employer's cost of uniform allowance and/or uniforms for administration and operating employees.

12. Worker's Compensation, AOC—cost of worker's compensation insurance for administration and operating employees.

13. Contract, Housekeeping—cost of housekeeping services and personnel hired through contract that are not employees of the center.

14. Contract, Laundry—cost of laundry services and personnel hired through contract that are not employees of the center.

15. Contract, Maintenance—cost of maintenance services and persons hired through contract that are not employees of the center.

16. Consultant Fees, Dietician—fees paid to consulting registered dietitians.

17. Accounting Fees—fees incurred for the preparation of the cost report, audits of financial records, bookkeeping, tax return preparation of the adult day health care center and other related services excluding personal tax planning and personal tax return preparation.

18. Amortization Expense, Non-Capital—costs incurred for legal and other expenses when organizing a corporation must be amortized over a period of 60 months. Amortization of costs attributable to the negotiation and settlement of the sale or purchase of any capital asset on or after July 18, 1984, whether by acquisition or merger, for which any payment has previously been made are non-allowable costs. If allowable cost is reported on this line, an amortization schedule must be submitted with the cost report.

19. Bank Service Charges—fees paid to banks for service charges, excluding penalties and insufficient funds charges.

20. Dietary Supplies—costs of consumable items such as soap, detergent, napkins, paper cups, straws, etc., used in the dietary department.

21. Dues—dues to one organization are allowable.

22. Educational Seminars and Training—the registration cost for attending educational seminars and training by employees of the center and costs incurred in the provision of in-house training for center staff, excluding owners or administrative personnel.

23. Housekeeping Supplies—cost of consumable housekeeping items including waxes, cleaners, soap, brooms and lavatory supplies.

24. Insurance, Professional Liability and Other—includes the costs of insuring the center against injury and malpractice claims.

25. Interest expense, non-capital interest paid on short term borrowing for center operations.

26. Laundry Supplies—cost of consumable goods used in the laundry including soap, detergent, starch and bleach.

27. Legal Fees—only actual and reasonable attorney fees incurred for non-litigation legal services related to participant care are allowed.

28. Linen Supplies—cost of sheets, blankets, pillows, and gowns.

29. Management Fees and Home Office Costs—the cost of purchased management services or home office costs incurred that are allocable to the provider. Costs for related management/home office must also be reported on a separate cost report that includes an allocation schedule.

30. Office Supplies and Subscriptions—cost of consumable goods used in the business office such as:

a. pencils, paper and computer supplies;

b. cost of printing forms and stationery including, but not limited to, nursing and medical forms, accounting and census forms, charge tickets, center letterhead and billing forms;

c. cost of subscribing to newspapers, magazines and periodicals.

31. Postage—cost of postage, including stamps, metered postage, freight charges, and courier services.

32. Repairs and Maintenance—supplies and services, including electricians, plumbers, extended service agreements, etc., used to repair and maintain the center building, furniture and equipment except vehicles. This includes computer software maintenance.

33. Taxes and Licenses—the cost of taxes and licenses paid that are not included on any other line of the cost report. This includes tags for vehicles, licenses for center staff (including nurse aide re-certifications) and buildings.

34. Telephone and Communications—cost of telephone services, internet and fax services.

35. Travel—cost of travel (airfare, lodging, meals, etc.) by the administrator and other authorized personnel to attend professional and continuing educational seminars and meetings or to conduct center business. Commuting expenses and travel allowances are not allowable.

36. Utilities—cost of water, sewer, gas, electric, cable TV and garbage collection services.

37. Allocated Costs, Hospital Based—costs that have been allocated through the step-down process from a hospital as administrative and operating costs.

38. Advertising—costs of employment advertising and soliciting bids. Costs related to promotional advertising are not allowable.

39. Maintenance Supplies—supplies used to repair and maintain the center building, furniture and equipment except vehicles.

40. Miscellaneous—costs incurred in providing center services that cannot be assigned to any other line item on the cost report. Examples of miscellaneous expenses are small equipment purchases, all employees' physicals and shots, nominal gifts to all employees, such as a turkey or ham at Christmas, and flowers purchased for the enjoyment of the

participants. Items reported on this line must be specifically identified.

41. Total administrative and operating costs.

D. Property and Equipment

1. Amortization Expense, Capital—legal and other costs incurred when financing the center must be amortized over the life of the mortgage. Amortization of goodwill is not an allowable cost. Amortization of costs attributable to the negotiation or settlement of the sale or purchase of any capital asset on or after July 18, 1984, whether by acquisition or merger, for which any payment has previously been made are non-allowable costs. If allowable cost is reported on this line, an amortization schedule must be submitted with the cost report.

2. Depreciation—depreciation on the center's buildings, furniture, equipment, leasehold improvements, and land improvements.

3. Interest Expense, Capital—interest paid or accrued on notes, mortgages, and other loans, the proceeds of which were used to purchase the center's land, buildings and/or furniture, and equipment, excluding vehicles.

4. Property Insurance—cost of fire and casualty insurance on center buildings, and equipment, excluding vehicles. HCBS providers that share owned or leased space with other programs, Medicaid or private, should allocate building costs such as property insurance, property taxes, depreciation, etc. based on documented square footage used by each program.

5. Property Taxes—taxes levied on the center's buildings and equipment. HCBS providers that share owned or leased space with other programs, Medicaid or private, should allocate building costs such as property insurance, property taxes, depreciation, etc. based on documented square footage used by each program.

6. Rent, Building—cost of leasing the center's real property.

7. Rent, Furniture and Equipment—cost of leasing the center's furniture and equipment, excluding vehicles.

8. Allocated Costs, Hospital Based—costs that have been allocated through the step-down process from a hospital or state institution as property costs when those costs include allocated overhead.

9. Miscellaneous, Property—any capital costs related to the center that cannot be assigned to any other property and equipment line item on the cost report.

10. Total property and equipment.

E. Transportation Costs

1. Salaries, Drivers—gross salaries of personnel involved in transporting participants to and from the center.

2. Payroll Taxes, Transportation—the cost of the employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for drivers.

3. Employee Benefits, Transportation—the cost of group insurance, pensions, uniform allowances, and other employee benefits related to drivers.

4. Workers' Compensation, Transportation—the cost of workers' compensation insurance for drivers.

5. Non-Emergency Medical Transportation—the cost of purchased non-emergency medical transportation services including, but not limited to:

- a. payments to employees for use of their personal vehicle(s);
- b. ambulance companies; and
- c. other transportation companies for transporting participants of the center.

6. Interest Expenses, Vehicles—interest paid or accrued on loans used to purchase vehicles.

7. Property Insurance, Vehicles—the cost of vehicle insurance.

8. Vehicle Expenses—vehicle maintenance and supplies, including gas and oil.

9. Lease, Automotive—the cost of leasing vehicles used for participant care. A mileage log must be maintained. If a leased vehicle is used for both participant care and personal purposes, cost must be allocated based on the mileage log.

10. Total Transportation Costs.

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, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:1116 (August 2021).

§715. Allowable Costs

EDITOR'S NOTE: The provisions of this Section were previously located in LAC 50:XXI.2907.

A. Allowable costs include those costs incurred by providers to conform to state licensure and federal certification standards. General cost principles are applied during the desk review and audit process to determine allowable costs.

1. These general cost principles include determining whether the cost is:

- a. ordinary, necessary, and related to the delivery of care;
- b. what a prudent and cost conscious business person would pay for the specific goods or services in the open market or in an arm's length transaction; and
- c. for goods or services actually provided to the center.

B. Through the desk review and/or audit process, adjustments and/or disallowances may be made to a provider's reported costs. The Medicare Provider Reimbursement Manual is the final authority for allowable costs unless the Department has set a more restrictive policy.

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, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:1119 (August 2021).

§717. Non-allowable Costs

EDITOR'S NOTE: The provisions of this Section were previously located in LAC 50:XXI.2909.

A. Costs that are not based on the reasonable cost of services covered under Medicare and are not related to the care of participants are considered non-allowable costs.

B. Reasonable cost does not include the following:

- 1. costs not related to participant care;
- 2. costs specifically not reimbursed under the program;
- 3. costs that flow from the provision of luxury items or services (items or services substantially in excess or more

expensive than those generally considered necessary for the provision of the care);

4. costs that are found to be substantially out of line with other centers that are similar in size, scope of services, and other relevant factors;

5. costs exceeding what a prudent and cost-conscious buyer would incur to purchase the goods or services.

C. General non-allowable costs:

- 1. services for which Medicaid participants are charged a fee;
- 2. depreciation of non-participant care assets;
- 3. services that are reimbursable by other state or federally funded programs;
- 4. goods or services unrelated to participant care;
- 5. unreasonable costs.

D. Specific non-allowable costs (this is not an all-inclusive listing):

1. advertising—costs of advertising to the general public that seeks to increase participant utilization of the ADHC center;

2. bad debts—accounts receivable that are written off as not collectible;

3. contributions—amounts donated to charitable or other organizations;

4. courtesy allowances;

5. director's fees;

6. educational costs for participants;

7. gifts;

8. goodwill or interest (debt service) on goodwill;

9. costs of income producing items such as fund raising costs, promotional advertising, or public relations costs, and other income producing items;

10. income taxes, state, and federal taxes on net income levied or expected to be levied by the federal or state government;

11. insurance, officers—cost of insurance on officers, and key employees of the center when the insurance is not provided to all employees;

12. judgments or settlements of any kind;

13. lobbying costs or political contributions, either directly or through a trade organization;

14. non-participant entertainment;

15. non-Medicaid related care costs—costs allocated to portions of a center that are not licensed as the reporting ADHC or are not certified to participate in Title XIX;

16. officers' life insurance with the center or owner as beneficiary;

17. payments to the parent organization or other related party;

18. penalties and sanctions—penalties and sanctions assessed by the Centers for Medicare and Medicaid Services, LDH, the Internal Revenue Service or the state Tax Commission;

19. insufficient funds charges;

20. personal comfort items; and

21. personal use of vehicles.

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, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:1119 (August 2021).

§719. Audits

EDITOR'S NOTE: The provisions of this Section were previously located in LAC 50:XXI.2911.

A. Each provider shall file an annual center cost report and, if applicable, a central office cost report.

B. The provider shall be subject to financial and compliance audits.

C. All providers who elect to participate in the Medicaid program shall be subject to audit by state or federal regulators or their designees. Audit selection shall be at the discretion of the department.

1. The department conducts desk reviews of all of the cost reports received and also conducts on-site audits of provider cost reports.

2. The records necessary to verify information submitted to the department on Medicaid cost reports, including related-party transactions, and other business activities engaged in by the provider, must be accessible to the department's audit staff.

D. In addition to the adjustments made during desk reviews and on-site audits, the department may exclude or adjust certain expenses in the cost report data base in order to base rates on the reasonable and necessary costs that an economical and efficient provider must incur.

E. The center shall retain such records or files as required by the department and shall have them available for inspection for five years from the date of service or until all audit exceptions are resolved, whichever period is longer.

F. If a center's audit results in repeat findings and adjustments, the department may:

1. withhold provider's payments until the center submits documentation that the non-compliance has been resolved;

2. exclude the provider's cost from the database used for rate setting purposes; and

3. impose civil monetary penalties until the center submits documentation that the non-compliance has been resolved.

G. If the department's auditors determine that a center's financial and/or census records are unauditible, the provider's payments may be withheld until the center submits auditable records. The provider shall be responsible for costs incurred by the department's auditors when additional services or procedures are performed to complete the audit.

H. Provider payments may also be withheld under the following conditions:

1. a center fails to submit corrective action plans in response to financial and compliance audit findings within 15 days after receiving the notification letter from the department; or

2. a center fails to respond satisfactorily to the department's request for information within 15 days after receiving the department's notification letter.

I. The provider shall cooperate with the audit process by:

1. promptly providing all documents needed for review;

2. providing adequate space for uninterrupted review of records;

3. making persons responsible for center records and cost report preparation available during the audit;

4. arranging for all pertinent personnel to attend the closing conference;

5. insuring that complete information is maintained in participant's records;

6. developing a plan of correction for areas of noncompliance with state and federal regulations immediately after the exit conference time limit of 30 calendar days.

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, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:1120 (August 2021).

§721. Exclusions from the Database

EDITOR'S NOTE: The provisions of this Section were previously located in LAC 50:XXI.2913.

A. The following providers shall be excluded from the database used to calculate the rates:

1. providers with disclaimed audits; and

2. providers with cost reports for periods other than a 12-month period.

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, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:1120 (August 2021).

§723. Provider Reimbursement

A. Cost Determination Definitions

Base Rate—calculated in accordance with §723.B.5, plus any base rate adjustments granted in accordance with §723.B.7 which are in effect at the time of calculation of new rates or adjustments.

Index Factor—computed by dividing the value of the index for December of the year preceding the rate year by the value of the index one year earlier (December of the second preceding year).

Indices—

a. *CPI, All Items*—the Consumer Price Index for All Urban Consumers-South Region (all items line) as published by the United States Department of Labor.

b. *CPI, Medical Services*—the Consumer Price Index for All Urban Consumers-South Region (medical services line) as published by the United States Department of Labor.

Rate Component—the rate is the summation of the following:

- a. direct care;
- b. care related costs;
- c. administrative and operating costs;
- d. property costs; and
- e. transportation costs.

B. Rate Determination

1. The base rate is calculated based on the most recent audited or desk reviewed cost for all ADHC providers filing acceptable full year cost reports. The rates are based on cost components appropriate for an economic and efficient ADHC providing quality service. The participant per quarter

hour rates represent the best judgment of the state to provide reasonable and adequate reimbursement required to cover the costs of economic and efficient ADHC.

2. For rate periods between rebasing, the rates will be trended forward using the index factor contingent upon appropriation by the legislature.

3. The median costs for each component are multiplied in accordance with §723.B.4 then by the appropriate index factors for each successive year to determine base rate components. For subsequent years, the components thus computed become the base rate components to be multiplied by the appropriate index factors, unless they are adjusted as provided in §723.B.6 below. Application of an inflationary adjustment to reimbursement rates in non-rebasing years shall apply only when the state legislature allocates funds for this purpose. The inflationary adjustment shall be made prorating allocated funds based on the weight of the rate components.

4. The inflated median shall be increased to establish the base rate median component as follows.

a. The inflated direct care median shall be multiplied times 115 percent to establish the direct care base rate component.

b. The inflated care related median shall be multiplied times 105 percent to establish the care related base rate component.

c. The administrative and operating median shall be multiplied times 105 percent to establish the administrative and operating base rate component.

5. At least every three years, audited and desk reviewed cost report items will be compared to the rate components calculated for the cost report year to insure that the rates remain reasonably related to costs.

6. Formulae. Each median cost component shall be calculated as follows.

a. Direct Care Cost Component. Direct care allowable quarter hour costs from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward by dividing the value of the consumer price index-medical services (south region) index for December of the year preceding the rate year by the value of the index for the December of the year preceding the cost report year. The direct care rate component shall be set at 115 percent of the inflated median.

b. Care Related Cost Component. Care related allowable quarter hour costs from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward by the value of the consumer price index-all items (south region) index for December of the year preceding the rate year by the value of the index for the December of the year preceding the cost report year. The care related rate component shall be set at 105 percent of the inflated median.

c. Administrative and Operating Cost Component. Administrative and operating allowable quarter hour cost from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost of the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward by dividing the value of the CPI-all items (south region) index for December of the year preceding the base rate year by the value of the index for the December of the year preceding the cost report year. The administrative and operating rate component shall be set at 105 percent of the inflated median.

d. Property Cost Component. The property allowable quarter hour costs from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. This will be the rate component. Inflation will not be added to property costs.

e. Transportation Cost Component. The transportation allowable quarter hour costs from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, will be calculated on a provider by provider basis. Should a provider not have filed an acceptable full year cost report, the provider's transportation cost will be reimbursed as follows.

i. New provider, as described in §723.E.1, will be reimbursed in an amount equal to the statewide allowable quarter hour median transportation costs.

(a). In order to calculate the statewide allowable quarter hour median transportation costs, all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. This will be the rate component. Inflation will not be added to transportation costs.

ii. Providers that have gone through a change of ownership (CHOW), as described in §723.E.2, will be reimbursed for transportation costs based upon the previous owner's specific allowable quarter hour transportation costs for the period of time between the effective date of the CHOW and the first succeeding base year in which the new owner could possibly file an allowable 12-month cost report. Thereafter, the new owner's data will be used to determine the provider's rate following the procedures specified in this Rule.

iii. Providers that have been issued an audit disclaimer, or have a non-filer status, as described in §723.E.3, will be reimbursed for transportation costs at a rate equal to the lowest allowable quarter hour transportation cost (excluding providers with no transportation costs) in the state as of the most recent audited and/or desk reviewed rate database.

iv. For rate periods between rebasing years, if a provider discontinues transportation services and reported no

transportation costs on the most recently audited or desk reviewed cost report, no center specific transportation rate will be added to the center's total rate for the rate year.

7. Budgetary Constraint Rate Adjustment. Effective for the rate period July 1, 2011 to July 1, 2012, the allowable quarter hour rate components for direct care, care related, administrative and operating, property, and transportation shall be reduced by 10.8563 percent.

8. Interim Adjustments to Rates. If an unanticipated change in conditions occurs that affects the cost of at least 50 percent of the enrolled ADHC providers by an average of 5 percent or more, the rate may be changed. The department will determine whether or not the rates should be changed when requested to do so by 25 percent or more of the enrolled providers, or an organization representing at least 25 percent of the enrolled providers. The burden of proof as to the extent and cost effect of the unanticipated change will rest with the entities requesting the change. The department may initiate a rate change without a request to do so. Changes to the rates may be temporary adjustments or base rate adjustments as described below.

a. Temporary Adjustments. Temporary adjustments do not affect the base rate used to calculate new rates.

i. Changes Reflected in the Economic Indices. Temporary adjustments may be made when changes which will eventually be reflected in the economic indices, such as a change in the minimum wage, a change in FICA or a utility rate change, occur after the end of the period covered by the indices (i.e., after the December preceding the rate calculation). Temporary adjustments are effective only until the next annual base rate calculation.

ii. Lump Sum Adjustments. Lump sum adjustments may be made when the event causing the adjustment requires a substantial financial outlay, such as a change in certification standards mandating additional equipment or furnishings. Such adjustments shall be subject to the bureau's review and approval of costs prior to reimbursement.

b. Base Rate Adjustment. A base rate adjustment will result in a new base rate component value that will be used to calculate the new rate for the next fiscal year. A base rate adjustment may be made when the event causing the adjustment is not one that would be reflected in the indices.

9. Provider Specific Adjustment. When services required by these provisions are not made available to the participant by the provider, the department may adjust the prospective payment rate of that specific provider by an amount that is proportional to the cost of providing the service. This adjustment to the rate will be retroactive to the date that is determined by the department that the provider last provided the service and shall remain in effect until the department validates, and accepts in writing, an affidavit that the provider is then providing the service and will continue to provide that service.

C. Cost Settlement. The direct care cost component shall be subject to cost settlement. The direct care floor shall be equal to 70 percent of the median direct care rate component trended forward for direct care services (plus 70 percent of any direct care incentive added to the rate). The Medicaid Program will recover the difference between the direct care floor and the actual direct care amount expended. If a provider receives an audit disclaimer, the cost settlement for

that year will be based on the difference between the direct care floor and the lowest direct care per diem of all centers in the most recent audited and/or desk reviewed database. If the lowest direct care per diem of all centers in the most recent audited and/or desk reviewed database is lower than 50 percent of the direct care rate paid for that year, 50 percent of the direct care rate paid will be used as the provider's direct care per diem for settlement purposes.

D. Support Coordination Services Reimbursement. Support coordination services previously provided by ADHC providers and included in the rate, including the interRAI Home Care assessment, the social assessment, the nursing assessment, the plan of care (POC) and home visits are no longer the responsibility of the ADHC provider. Support coordination services shall be provided as a separate service covered in the waiver programs. As a result of the change in responsibilities, the rate paid to ADHC providers was adjusted accordingly.

E. New Centers, Changes of Ownership of Existing Centers, and Existing Centers with Disclaimer or Non-Filer Status.

1. New centers are those entities whose beds have not previously been certified to participate, or otherwise have participated, in the Medicaid program. New centers will be reimbursed in accordance with this Rule and receiving the direct care, care related, administrative and operating, property rate components as determined in §723.B.1-6. These new centers will also receive the state-wide average transportation rate component, as calculated in §723.B.6.e.i.(a), effective the preceding July 1.

2. A change of ownership exists if the beds of the new owner have previously been certified to participate, or otherwise have participated, in the Medicaid program under the previous owner's provider agreement. Rates paid to centers that have undergone a change in ownership will be based upon the rate paid to the previous owner for all rate components. Thereafter, the new owner's data will be used to determine the center's rate following the procedures in this Rule.

3. Existing providers that have been issued an audit disclaimer, or are a provider who has failed to file a complete cost report in accordance with §711, will be reimbursed based upon the statewide allowable quarter hour median costs for the direct care, care related, administrative and operating, and property rate components as determined in §723.B.1-7. No inflation or median adjustment factor will be included in these components. The transportation component will be reimbursed as described in §723.B.6.e.iii.

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, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:1120 (August 2021).

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers

Subpart 3. Adult Day Health Care

Chapter 29. Reimbursement

§2901. General Provisions

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 Human Resources, Office of Family Security, LR 11:626 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1154 (September 1997), repromulgated LR 30:2041 (September 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 32:2257 (December 2006), LR 34:2164 (October 2008), repromulgated LR 34:2569 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2625 (September 2011), LR 39:2497 (September 2013), repealed by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:1122 (August 2021).

§2903. Cost Reporting

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 Aging and Adult Services, LR 34:2164 (October 2008), repromulgated LR 34:2569 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2626 (September 2011), LR 41:379 (February 2015), repealed by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:1123 (August 2021).

§2905. Cost Categories Included in the Cost Report

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 Aging and Adult Services, LR 34:2166 (October 2008), repromulgated LR 34:2571 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2626 (September 2011), amended LR 41:381 (February 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 43:324 (February 2017), repealed by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:1123 (August 2021).

§2907. Allowable Costs

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, the Office of Aging and Adult Services, LR 34:2168 (October 2008), repromulgated LR 34:2573 (December 2008), repealed by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:1123 (August 2021).

§2909. Non-allowable Costs

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, the Office of Aging and Adult Services, LR 34:2169 (October 2008), repromulgated LR 34:2573 (December

2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 41:382 (February 2015), repealed by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:1123 (August 2021).

§2911. Audits

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, the Office of Aging and Adult Services, LR 34:2169 (October 2008), repromulgated LR 34:2574 (December 2008), repealed by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:1123 (August 2021).

§2913. Exclusions from the Database

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, the Office of Aging and Adult Services, LR 34:2170 (October 2008), repromulgated LR 34:2574 (December 2008), repealed by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:1123 (August 2021).

§2915. Provider Reimbursement

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, the Office of Aging and Adult Services, LR 34:2170 (October 2008), repromulgated LR 34:2575 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2157 (July 2011), LR 37:2627 (September 2011), repromulgated LR 38:1594 (July 2012), amended LR 39:507 (March 2013), LR 41:382 (February 2015), repealed by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:1123 (August 2021).

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

2108#033

RULE

Department of Health Bureau of Health Services Financing

Home Health Program
Durable Medical Equipment

The Department of Health, Bureau of Health Services Financing has repealed the following uncodified rules in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act:

Register Date	Title	Register Volume, Number	Page Number
October 20, 1984	Kangaroo Pump	Vol. 10, No. 10	802
June 20, 2004	Durable Medical Equipment Program HIPAA Implementation	Vol. 30, No. 6	1210

This Rule is promulgated in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

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

2108#034

RULE

Department of Health Bureau of Health Services Financing

Intermediate Care Facilities for
Persons with Intellectual Disabilities
Reimbursement Methodology
Direct Care Floor Recoupment
(LAC 50:VII.32901)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:VII.32901 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 VII. Long Term Care

Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities

Chapter 329. Reimbursement Methodology

Subchapter A. Non-State Facilities

§32901. Cost Reports

A. - B.2. ...

C. Direct Care Floor

1. - 4. ...

5. Upon completion of desk reviews or audits, facilities will be notified by the bureau of any changes in amounts due based on audit or desk review adjustments.

a. Direct care floor recoupment as a result of a facility not meeting the required direct care per diem floor is considered effective 30 days from the issuance of the original notice of determination. Should an informal reconsideration be requested, the recoupment will be considered effective 30 days from the issuance of the results of an informal hearing. The filing of a timely and adequate notice of an administrative appeal does not suspend or delay the imposition of a recoupment(s).

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 31:1592 (July 2005), repromulgated LR 31:2252 (September 2005), amended LR 33:461 (March 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1446 (August 2018), LR 46:28 (January 2020), LR 47:1124 (August 2021).

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

2108#035

RULE

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

Targeted Case Management
(LAC 50:XV.Chapters 101-117)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have amended LAC 50:XV.Chapters 101-113 and 117, and repealed Chapter 115 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 XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 101. General Provisions

§10101. Program Description

A. This Subpart 7 governs the provision of case management services to targeted population groups and certain home and community based services waiver groups. The primary objective of case management is the attainment of the personal outcomes identified in the recipient's comprehensive plan of care. All case management agencies shall be required to incorporate personal outcome measures in the development of comprehensive plans of care and to implement procedures for self-evaluation of the agency. All case management agencies shall comply with the policies contained in this Subpart 7. Case management is defined as services provided to individuals to assist them in gaining access to the full range of needed services including:

1. - 4. ...

B. The department utilizes a broker model of case management in which recipients are referred to other agencies for the specific services they need. These services are determined by individualized planning with the recipient's family or legal guardian and other persons/professionals deemed appropriate. Services are

provided in accordance with a written comprehensive plan of care which includes measurable person-centered outcomes.

C. Recipient Freedom of Choice. Recipients have the right to select the provider of their case management services from among those available agencies enrolled to participate in the program. If the recipient fails to respond the department shall automatically assign them to an available provider. Recipients who are auto-assigned may change once, after 30 days but before 45 days of auto assignment, to an available provider.

D. Recipients shall be linked to a case management agency for a six-month period before they can transfer to another agency unless there is good cause for the transfer. Approval of good cause shall be made by the LDH case management administrator. Good cause is determined to exist under the following circumstances:

1. the recipient moves to another LDH region; or
2. ...

E. Recipients who are age 25 and under and require ventilator assisted care may receive their case management services through the Children's Hospital Ventilator Assisted Care Program.

F. Monitoring. The Department of Health and the Department of Health and Human Services have the authority to monitor and audit all case management agencies in order to determine continued compliance with the rules, policies, and procedures governing case management services.

G. 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 Human Resources, Office of Family Security, LR 12:834 (December 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 19:648 (May 1993), LR 23:732 (June 1997), repealed and promulgated LR 25:1251 (July 1999), repromulgated for inclusion in LAC, LR 30:1036 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1124 (August 2021).

Chapter 103. Core Elements

§10301. Services

A. - A.1. ...

2. Case Management Assessment. Assessment is the process of gathering and integrating formal and informal information regarding a recipient's goals, strengths, and needs to assist in the development of a person centered comprehensive plan of care. The purpose of the assessment is to assess support needs of the recipient for the provision of supports. The assessment shall be performed in the recipient's home or another location that the recipient's family or legal guardian chooses.

3. Comprehensive Plan of Care Development. The comprehensive plan of care (CPOC) is a written plan based upon assessment data (which may be multidisciplinary), observations and other sources of information which reflect the recipient's needs, capacities and priorities. The CPOC attempts to identify the supports required and the resources available to meet these needs.

a. The CPOC shall be developed through a collaborative process involving the recipient, family or legal guardian, case manager, other support systems, appropriate professionals, and service providers. It shall be developed in the presence of the recipient; therefore, it cannot be completed prior to a meeting with the recipient. The recipient, family or legal guardian, case manager, support system and appropriate professional personnel shall be directly involved and agree to assume specific functions and responsibilities.

b. The CPOC shall be completed and submitted for approval within 60 calendar days of the referral for case management services for initial CPOCs.

4. Case Management Linkage. Linkage is assignment of the case management agency (CMA) to an individual. The CMA is responsible for the arranging of services agreed upon with the recipient and identified in the CPOC. Upon the request of the recipient or responsible party, attempts shall be made to meet service needs with informal resources as much as possible.

5. Case Management Follow-Up/Monitoring. Follow-up/monitoring is the mechanism used by the case manager to assure the appropriateness of the CPOC. Through follow-up/monitoring activity, the case manager not only determines the effectiveness of the CPOC in meeting the recipient's needs, but identifies when changes in the recipient's status necessitate a revision in the CPOC. The purpose of follow-up/monitoring contacts is to determine:

- a. if supports are being delivered as planned;
- b. if supports are effective and adequate to meet the recipient's needs; and
- c. whether the recipient is satisfied with the supports.

6. Case Management Reassessment. Reassessment is the process by which the baseline assessment is reviewed and information is gathered for evaluating and revising the overall CPOC. At least every quarter, a complete review of the CPOC shall be performed to assure that the goals and services are appropriate to the recipient's needs as identified in the assessment/reassessment process. A reassessment is also required when a major change occurs in the status of the recipient and/or his family or legal guardian.

7. Case Management Transition/Closure

a. Provided that the recipient has satisfied the requirements of linkage under §10301.A.4, discharge from a case management agency shall occur when the recipient:

i. - iv. ...

b. The closure process shall ease the transition to other services or care systems. The agency shall not retaliate in any way against the recipient for terminating services or transferring to another agency for case management services.

B. In addition to the provision of the core elements, a minimum of one home visit per quarter is required for all recipients of optional targeted and waiver case management services with the exception of individuals participating in either the Children's Choice Waiver or the Supports Waiver. The Children's Choice Waiver requires an in-home visit within six to nine months of the start of a plan of care. Additionally, an in-home visit is required for the annual planning meeting. For Supports Waiver, the in-home visit is required once a year. The remaining quarterly visit may

occur at the vocational agency's location. The agency shall ensure that more frequent home visits are performed if indicated in the recipient's CPOC. The purpose of the home visit, if it is determined necessary, is to:

1. - 3. ...

C. The case management agency shall monitor service providers quarterly through telephone monitoring, on-site observation of service visits and review of the service providers' records. The agency shall also ensure that the service provider and recipient are given a copy of the recipient's most current CPOC and any subsequent updates.

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 Human Resources, Office of Family Security, LR 12:834 (December 1986) amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 19:648 (May 1993), LR 23:732 (June 1997), repealed and promulgated LR 25:1251 (July 1999), repromulgated LR 30:1036 (May 2004), amended by the Department of Health, Bureau of Health Services Financing, and the Office for Citizens with Developmental Disabilities, LR 47:1125 (August 2021).

Chapter 105. Provider Participation

§10501. Participation Requirements

A. In order to participate as a case management services provider in the Medicaid Program, an agency shall comply with:

1. ...
2. provider enrollment;
3. ...
4. the specific terms of individual performance agreements.

B. The participation of case management agencies providing service to targeted and waiver populations shall be limited contingent on the approval of a 1915(b)(4) waiver by the Centers for Medicare and Medicaid Service (CMS).

C. The following are enrollment requirements applicable to all case management agencies, regardless of the targeted or waiver group served. Failure to comply with these requirements may result in sanctions and/or recoupment and disenrollment. The agency shall:

1. demonstrate direct experience in successfully serving the target population and shall have demonstrated knowledge of available community services and methods for accessing them including:

a. the maintenance of a current file containing community resources available to the target population and established linkages with those resources;

b. demonstrating knowledge of the eligibility requirements and application procedures for federal, state, and local government assistance programs which are applicable to the target population served;

c. the employ of sufficient number of case manager and supervisory staff to comply with the staff coverage, staffing qualifications and maximum caseload size requirements described in §§10503, Provider Responsibilities and 10701, Reimbursement.

2. demonstrate administrative capacity and financial resources to provide all core elements of case management services and ensure effective service delivery in accordance with LDH licensing and programmatic requirements;

3. submit a yearly audit of case management costs only and have no outstanding or unresolved audit disclaimer(s) with LDH;

4. assure that all agency staff is employed in accordance with Internal Revenue Service (IRS) and Department of Labor regulations. The subcontracting of individual case managers and/or supervisors is prohibited. However, those agencies who have Medicaid contracts/performance agreements for case management services may subcontract with another licensed case management agency for case manager and/or supervisory staff if prior approval has been obtained from the department;

5. assure that all new staff satisfactorily completes an orientation and training program in the first 90 days of employment. All case managers shall attend all training mandated by the department. Each case manager and supervisor shall satisfactorily complete case management related training annually to meet the minimum training requirements;

6. submit to the local governing entity (LGE) an agency quality assurance plan (QAP) for approval within 90 days of enrollment. Six months following approval of the QAP and annually thereafter, the agency shall submit an agency self-evaluation in accordance with departmental guidelines;

7. document and maintain recipient records in accordance with federal and state regulations governing confidentiality and licensing requirements;

8. assure the recipient's right to elect to receive or terminate case management services (except for recipients in any OCDD waiver). Assure that each recipient is offered freedom of choice in the selection of an available case management agency (per agency policy);

9. assure that the agency and case managers shall not provide case management and Medicaid reimbursed direct services to the same recipient(s) unless by an affiliate agency with a separate board of directors;

10. with the recipient's permission, agree to maintain regular contact, share relevant information and coordinate medical services with the recipient's qualified licensed physician or other licensed health care practitioner who is acting within the scope of practice of his/her respective licensing board(s) and/or certification(s);

11. demonstrate the capacity to participate in the department's electronic data gathering system(s). All requirements for data submittal shall be followed and participation is required for all enrolled case management agencies. The software is the property of the department;

12. complete management reports; and

13. assure that all current and potential employees, contractors and other agents and affiliates have not been excluded from participation in any federal health care program by checking the Department of Health and Human Services' Office of Inspector General website and the LDH Adverse Actions website upon hire and monthly thereafter. Potential employees must also have a satisfactory response to a criminal background check as required by the EarlySteps program.

D. - D.12. 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 Human Resources, Office of Family Security, LR 12:834 (December 1986) amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:732 (June 1997) repealed and promulgated LR 25:1251 (July 1999), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 29:38 (January 2003), repromulgated for inclusion in LAC, LR 30:1037 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 34:663 (April 2008), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1126 (August 2021).

§10503. Provider Responsibilities

A. In order to be reimbursed by the Medicaid Program, an enrolled provider of targeted or waiver case management service shall comply with all of the requirements listed in this §10503.

B. Case management agencies shall maintain sufficient staff to serve recipients within the mandated caseload size of 35 with a supervisor to staff ratio of no more than eight case managers per supervisor. Agencies have the option to submit a written request to OCDD if they would like to exceed the 35 recipient maximum caseload per case manager on a time-limited basis. All exceptions to the maximum caseload size or full-time employment of staff requirements shall be prior authorized by the OCDD State Office Waiver Director/designee. All case managers shall be employed by the agency at least 40 hours per week and work at least 50 percent of the time during normal business hours (8 a.m. to 5 p.m., Monday through Friday). Case management supervisors shall be full-time employees and shall be continuously available to case managers. The agency shall have a written policy to ensure service coverage for all recipients during the normal absences of case managers and supervisors or prior to the filling of vacated staff positions.

C. The agency shall maintain a toll-free telephone number to ensure that recipients have access to case management services 24 hours a day, seven days a week. Recipients shall be able to reach an actual person in case of an emergency, not a recording.

D. ...

1. Each case management agency shall have a written job description and consultation plan that describes how the nurse consultant shall participate in the comprehensive plan of care (CPOC) development for medically complex individuals and others as indicated by the high risk indicators.

2. ...

3. The nurse consultant shall be available to the case management agency at least four hours per week.

E. Records. All agency records shall be maintained in an accessible, standardized order and format at the LDH enrolled office site. The agency shall have sufficient space, facilities, and supplies to ensure effective record keeping.

1. Administrative and recipient records shall be maintained in a manner to ensure confidentiality and security against loss, tampering, destruction, or unauthorized use.

2. The case management agency shall retain its records for the longer of the following time frames:

- a. six years from the date of the last payment; or
- b. until the records are audited and all audit questions are answered.

3. Agency records shall be available for review by the appropriate state and federal personnel at all reasonable times.

F. - F.3. 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 Human Resources, Office of Family Security, LR 12:834 (December 1986) amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:732 (June 1997) repealed and promulgated LR 25:1251 (July 1999), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 29:38 (January 2003), repromulgated for inclusion in LAC, LR 30:1038 (May 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1127 (August 2021).

§10505. Staff Education and Experience

A. Each Medicaid-enrolled agency shall ensure that all staff providing case management services meet the qualifications required in this §10701 prior to assuming any full caseload responsibilities.

B. Case managers hired or promoted on or after the effective date of this rule revision shall meet the following criteria for education and experience qualifications:

1. a bachelor's degree or master's degree in social work from a program accredited by the Council on Social Work Education; or

2. a currently licensed registered nurse (RN); or

3. a bachelor's or master's degree in a human service related field which includes psychology education, counseling, social services, sociology, philosophy, family and consumer sciences, criminal justice, rehabilitation services, child development, substance abuse, gerontology, and vocational rehabilitation; or

a. Repealed.

4. a bachelor's degree in liberal arts or general studies with a concentration of at least 16 hours in one of the fields listed in accordance with §10505.B.3.

C. Case management supervisors hired or promoted on or after the effective date of this rule revision, shall meet the following criteria for education and experience:

1. a bachelor's or master's degree in social work from a program accredited by the Council on Social Work Education and two years of paid post degree experience in providing support coordination services; or

2. a currently licensed registered nurse with at least two years of paid nursing experience; or

3. a bachelor's or master's degree in a human service related field which includes psychology, education, counseling, social services, sociology, philosophy, family and consumer sciences, criminal justice, rehabilitation services, child development, substance abuse, gerontology, and vocational rehabilitation and two years of paid post degree experience in providing support coordination services; or

4. a bachelor's degree in liberal arts or general studies with a concentration of at least 16 hours in one of the fields listed in §10505.C.3 and two years of paid post degree experience in providing support coordination services.

a. Repealed.

D. Nurse Consultant. The nurse consultant shall meet the following educational qualifications:

1. - 2. ...

E. - E.2.e. 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 Human Resources, Office of Family Security, LR 12:834 (December 1986) amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:732 (June 1997) repealed and promulgated LR 25:1251 (July 1999), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 29:38 (January 2003), repromulgated for inclusion in LAC, LR 30:1038 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 34:663 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1700, 1701 (September 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1127 (August 2021).

§10507. Staff Training

A. Training for case managers and supervisors shall be provided or arranged for by the case management agency. Agencies shall send the appropriate staff to all training mandated by LDH.

B. Training for New Staff. A minimum of 16 hours of orientation shall be provided to all staff, volunteers, and students within one week of employment. A minimum of eight hours of the orientation training shall address the target population including, but not limited to, specific service needs, available resources and other topics. In addition to the required 16 hours of orientation, all new employees who have no documentation of previous training shall receive a minimum of 16 hours of training during the first 90 calendar days of employment related to the target population and the skills and techniques needed to provide case management to that population.

C. Annual Training. Case managers and supervisors shall satisfactorily complete a minimum of 20 hours of case management-related training annually which may include updates on subjects covered in orientation and initial training. The 16 hours of orientation training required for new employees are not included in the annual training requirement of at least 20 hours.

D. Documentation. All training required in Subsections B and C above shall be evidenced by written documentation and provided to the department upon request.

E. - E.3. ...

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 Human Resources, Office of Family Security, LR 12:834 (December 1986) amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:732 (June 1997), repealed and promulgated (LR 25:1251 (July 1999), amended LR 26:2796 (December 2000), LR 26:2797 (December 2000), amended by the Department of Health

and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 29:39 (January 2003), repromulgated LR 30:1039 (May 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1128 (August 2021).

Chapter 107. Reimbursement

§10701. Reimbursement

A. Reimbursement for case management services for the Infant and Toddler Program (EarlySteps):

1. ...

2. All services shall be prior authorized.

B. - B.2. ...

C. Effective for dates of service on or after July 1, 2012, the reimbursement rate for case management services provided to the following targeted populations shall be reduced by 1.5 percent of the rates on file as of June 30, 2012:

1. participants in the Early and Periodic Screening, Diagnosis, and Treatment Program; and

2. individuals with developmental disabilities who participate in the New Opportunities Waiver.

D. Effective for dates of service on or after July 1, 2014, case management services provided to participants in the New Opportunities Waiver shall be reimbursed at a flat rate for each approved unit of service.

1. The standard unit of service is equivalent to one month and covers both service provision and administrative (overhead) costs.

a. Service provision includes the core elements in:

i. §10301 of this Chapter;

ii. the case management manual; and

iii. performance agreements.

2. All services shall be prior authorized.

E. Effective for dates of service on or after April 1, 2018, case management services provided to participants in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program shall be reimbursed at a flat rate for each approved unit of service. The standard of service is equivalent to one month.

E.1. - L. 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 30:1040 (May 2004), amended LR 31:2032 (August 2005), LR 35:73 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1903 (September 2009), LR 36:1783 (August 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:97 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3302 (December 2013), LR 40:1700, 1701 (September 2014), LR 41:1490 (August 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:63 (January 2018), LR 47:1128 (August 2021).

§10703. Cost Reports

A. Case management agencies shall provide annual cost reports based on the state fiscal year, July 1 through June 30. Completed reports are due within 90 calendar days after the end of each state fiscal year or by September 28 of each calendar year.

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 35:73 (January 2009), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1128 (August 2021).

Chapter 109. Infants and Toddlers

§10901. Introduction

A. This Chapter authorizes federal financial participation in the funding of optional targeted case management service for title XIX eligible infants and toddlers who are ages birth through 2 inclusive (0-36 months) who have a developmental delay or established medical condition associated with developmental delay according to the definition contained in part C of the Individuals with Disabilities Education Act, Sec.635(a)(1) [20 USC 1435 (a)(1)] and as further defined in Title 34 of the *Code of Federal Regulations*, Part 303, Section 21 (infant or toddler with a disability).

B. - B.4. ...

C. Definitions

* * *

Individualized Family Service Plan (IFSP)—a written plan that is developed jointly by the family and service providers which identifies the necessary services to enhance the development of the child as well as the family’s capacity to meet the needs of their child. The IFSP shall be based on the multidisciplinary evaluation and assessment of the child and the family’s identification of their strengths and needs. The initial IFSP shall be developed within 45 days following the referral to the regional system point of entry office with periodic reviews conducted at least every six months and an annual evaluation to review and revise the IFSP as appropriate.

Multidisciplinary Evaluation (MDE)—the involvement of two or more disciplines or professions in the provision of integrated and coordinated diagnostic procedures to determine a child’s eligibility for early intervention services. The evaluation shall include all major developmental areas including cognitive development, physical development including:

- a. ...
- b. hearing and communication development;
- c. social-emotional development;
- d. - f. ...

Parent—the term parent/legal guardian when used throughout this Subpart specifically in reference to parents or legal guardians of infants and toddlers aged birth through 2 inclusive (0-36 months) and having a developmental delay or an established medical condition associated with developmental delay refers to the definition of parent according to the Individuals with Disabilities Act, Part C and its accompanying regulations for Early Intervention Programs for Infants and Toddlers with Disabilities and therefore means the following:

- a. a biological or adoptive parent of a child;

b. a foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;

c. a guardian generally authorized to act as the child’s parent or authorized to make early intervention, educational, health, or developmental decisions for the child (but not the State if the child is a ward of the State);

d. an individual acting in the place of a biological or adoptive parent (including grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare; or

e. a surrogate parent who has been appointed in accordance with 34 CFR 303.422 or with the Individuals with Disabilities Education Act, Sec. 639(a)(5) [20 USC 1439(a)(5)].

NOTE: When more than one party is qualified under the definition contained in this Subsection to act as the parent, the biological or adoptive parent must be presumed to be the parent for purposes of Part C of the Individuals with Disabilities Education Act, when attempting to act as the parent under this definition, unless the biological or adoptive does not have legal authority to make educational or early intervention services decisions for the child. If a judicial decree or order identifies a specific person or persons under this subsection to act as the parent of a child to make educational or early intervention service decisions on behalf of the child, then the person or persons must be determined to be the parent for purposes of Part C of the Individuals with Disabilities Education Act, except that if an early intervention services (EIS) provider or a public agency provides any services to a child or any family member of that child, that EIS provider or public agency may not act as a parent for that child.

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 18:849 (August 1992), amended LR 20:18 (January 1994), repromulgated for inclusion in LAC, LR 30:1040 (May 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1129 (August 2021).

§10903. Staff Qualifications

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 18:849 (August 1992), amended LR 20:18 (January 1994), repromulgated for inclusion in LAC, LR 30:1040 (May 2004), repealed by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1129 (August 2021).

§10905. Staff Training

A. The provider shall ensure that Medicaid-funded family service coordination services for eligible beneficiaries are provided by qualified individuals who meet the following training requirements:

1. satisfactory completion of at least 16 hours of orientation prior to performing any family service coordination tasks and an additional 24 hours of related

training during the first 90 days of employment. The 16 hours of orientation cover the following subjects:

Agency Specific Training—Eight Hours	
1 hour	Child identification abuse reporting law, emergency and safety procedures
3 hours	Facility personnel policy
4 hours	Orientation to agency policy, including billing and documentation
EarlySteps Specific Training—Eight Hours	
1 hour	Components of the EarlySteps system
1 1/2 hours	Orientation to family needs and participation
2 hours	Interagency agreement/focus and team building
1 hour	Early intervention services (definition and resources)
1 hour	Child search and family service coordinator roles and responsibilities
1 1/2 hours	Multidisciplinary evaluation (MDE) and individualized Family service plan (IFSP) overview.

2. The 24 hours of training to be completed within the first 90 days shall cover the following advanced subjects:

a. state structure for EarlySteps, child search and early intervention service programs;

b. - j. ...

B. In-service training specific to EarlySteps is to be arranged and coordinated by the regional infant and toddler coordinator and specific training content shall be approved by a subcommittee of the state Interagency Coordinating Council, including members from at least the Medicaid agency and the Department of Education. Advanced training in specific subjects (i.e., multidisciplinary evaluations and individualized family service plans) shall be completed by the new family service coordinator prior to assuming those duties.

C. The provider shall ensure that each family service coordinator has completed the required orientation and advanced training during the first 90 days of employment and at least 20 hours of approved in-service education in family service coordination and related areas annually.

D. The provider shall ensure that family service coordinators are supervised by qualified individuals who meet the following licensure, education, experience, training, and other requirements:

1. satisfactorily completion of at least the 20 hours of family service coordination and related orientation required of family service coordinators during the first 90 days of employment before assuming supervision of any family service coordination;

2. supervisors shall also complete 20 hours of in-service training each year on such subjects as:

a. - c. ...

E. The provider shall sign a notarized letter of assurance that the requirements of Louisiana Medicaid are met.

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 18:849 (August 1992), amended LR 19:648 (May 1993), LR 20:18 (January 1994), repromulgated for inclusion in LAC, LR 30:1040 (May 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1129 (August 2021).

Chapter 113. Early and Periodic Screening, Diagnosis and Treatment

§11301. Introduction

A. This Early and Periodic Screening, Diagnosis and Treatment (EPSDT) targeted population shall consist of recipients who are between the ages of 0 and 21 years old, on the Request for Services Registry, and meet the specified eligibility criteria. The point of entry for targeted EPSDT case management services shall be the state Medicaid data contractor for EPSDT case management services. However, for those recipients under 3 years of age, case management services shall continue to be provided through EarlySteps, for eligible children.

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 26:2797 (December 2000), repromulgated for inclusion in LAC, LR 30:1042 (May 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1130 (August 2021).

§11303. Recipient Qualifications

A. In order to be eligible to receive case management services, the EPSDT recipient shall be between the age of 0 and 21 and meet one of the following criteria:

1. placement on the Request for Services Registry and determined to be eligible for OCDD services through the statement of approval process; or

2. for those who do not meet eligibility, or who are not undergoing eligibility determination, may still receive case management services if they meet the definition of a person with special needs.

a. *Special Needs*—a documented, established medical condition, as determined by a licensed physician or other qualified licensed health care practitioner in accordance with §10501.C.10, that has a high probability of resulting in a developmental delay or that gives rise to a need for multiple medical, social, educational, and other services. In the case of a hearing impairment, the determination of special needs must be made by a licensed audiologist or physician or other qualified licensed health care practitioner in accordance with §10501.C.10.

3. Documentation that substantiates that the EPSDT recipient meets the definition of special needs for case management services includes, but is not limited to:

a. ...

b. receipt of regular services from one or more physicians or other qualified licensed health care practitioner in accordance with §10501.C.10; or

c. ...

d. a report by the recipient's physician or other qualified licensed health care practitioner in accordance with §10501.C.10 of multiple health or family issues that impact the recipient's ongoing care; or

e. a determination of developmental delay based upon:

i. ...

ii. the Brigance Screens;

iii. - v. ...

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 26:2797 (December 2000) repromulgated for inclusion in LAC, LR 30:1042 (May 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1130 (August 2021).

Chapter 115. Foster Care and Family Support Worker Services

§11501. Introduction

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 41:1723 (September 2015), repealed by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1131 (August 2021).

§11503. Covered 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 41:1723 (September 2015), repealed by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1131 (August 2021).

§11505. Reimbursement

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 41:1724 (September 2015), repealed by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1131 (August 2021).

Chapter 117. Individuals with Intellectual Disabilities

§11701. Introduction

A. The targeted population for case management services shall consist of individuals with intellectual disabilities who are participants in the New Opportunities Waiver.

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 16:312 (April 1990), amended LR 23:732 (June 1997), repealed and promulgated LR 25:1251 (July 1999), repromulgated for inclusion in LAC, LR 30:1043 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 34:664 (April 2008), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1131 (August 2021).

§11703. Electronic Visit Verification

A. An electronic visit verification (EVV) system shall be used for verifying in-home or face-to-face visit requirements for case management services.

1. Case management providers identified by the department shall use the (EVV) system designated by the department;

2. Reimbursement for services may be withheld or denied if a provider:

a. fails to use the EVV system; or

b. uses the system not in compliance with Medicaid's policies and procedures for EVV.

3. Requirements for proper use of the EVV system are outlined in the respective program's guidelines.

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, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1131 (August 2021).

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

2108#036

RULE

Department of Health Physical Therapy Board

Licensing and Certification (LAC 46:LIV.Chapters 1-3)

The Louisiana Physical Therapy board, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:2405, has amended Professional and Occupational Standards: Physical Therapy Board, LAC 46:LIV.115, 121, 123, 145, 147, 151, 153, 155, 157, 159, 169, 171,175, 180, 181, 183, 185, 187, 194, 195, 199, 303, 309, 311, 319, 325, 331, 333, 337, 341, 345, 357, 387, 392, 396 and 397.

The changes to the language found in Louisiana Administrative Code (LAC) 46:LIV.115, 121, 123, 145.B, 153, 155.A, 169.A, 180.F, 185, 187.E.6 and 7, 195, 309, 319, 333, 337 341.A.6, 341.D, 345.B, 357, 387C.1, 392, 396 and 397.A do not have substantial changes to any application of these rules.

The board voted to change license application requirements, renewal exemptions and types of license application rules. Most of the changes do not change operations, but the board voted on some licensure application changes that will improve board operations and efficiencies in board processes. First, to add a requirement for applicants to complete the physical therapy minimum data set [Louisiana Administrative Code (LAC) 46:LIV.151, 181 and 187.B. and E]. Pursuant to R.S. 37:2405.B.(15), the board has promulgated rules for the physical therapy minimum data set. The implementation requires technical changes to the application form to include a survey link and changes to the application form were made prior to the 2021 renewal cycle. Second, the language changes to the application requirement for a signature on application (LAC 46:LIV.151.M) will allow for the board to move toward completely electronic licensing applications. Finally, for reinstatement applications it will no longer be required that applicants submit verification of license from all states where they had previously held a license, the letters of character required must now be from a licensed PT or PTA in good standing, and those who are applying for a license

after being out of the profession for four years or more have less restrictive requirements to return to the practice.

Substantial continuing education requirements, which includes the licensure renewal requirements for continuing education can all be completed online. Secondly, the continuing education requirements for dry needling coursework training have been reduced to 25 hours from 50 hours of training. The purpose for this is that most of the training taught in dry needling continuing education is taught in entry-level physical therapy academic coursework. Continuing education course content requirements have been updated to reflect what is acceptable by the board in policy, as well as technical changes to the language of rule. Finally, the continuing education audit non-compliance rule has changed to allow licensees a period of 30 days to get in compliance with the requirements in rule, rather than automatically lapsing the licensee's license due to non-compliance.

Other substantial changes to Rule include changes to supervision requirements and reducing other practice restrictions on licensees. The board has reduced the qualifications for a supervisor to supervise a foreign-trained provisional licensed individual. Furthermore, physical therapist assistants who are licensed by the board do not need to have limitations on supervising PTAs and no longer need one year of work experience before working in home health and the education settings.

These amendments are in response to the decision made by the majority of members at the board meetings held March 10, 2021. The basis and rationale for the rules are to comply with R.S. 37:2405, as well as, R.S. 37:3651, R.S. 37:2405(B)(15), and R.S. 37:2951. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIV. Physical Therapy Examiners

Subpart 1. Licensing and Certification

Chapter 1. Physical Therapists and Physical Therapist Assistants

Subchapter A. Board Organization

§115. Applicable Laws and Rules

A. Board procedures and operations shall adhere to the Administrative Procedures Act, R.S. 49:950 and following; the Open Meetings Law, R.S. 42:11 and following; the Public Records Act, R.S. 44:1 and following; Code of Governmental Ethics, R.S. 42:1101 and other state and federal laws to which board activities are subject.

B. As an active member of the PT Compact, the Board adopts the PT Compact Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A (4) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3032 (October 2011), amended LR 47:1132 (August 2021).

§121. Declaratory Statements

[Formerly §351]

A. ...

1. A request for a declaratory statement is made in the form of a letter to the board. The letter shall include, at minimum:

- a. the name and address of the requester;
- b. specific reference to the statute or rule and regulation to which the request relates;
- c. a concise statement of the manner in which the requester is aggrieved by the rule or statute or by its potential application to his concern.

2. The letter shall be considered by the board within a reasonable period of time taking into consideration the complexity of the issues raised and the board's meeting schedule.

3. The declaratory statement of the board in response to the letter shall be in writing and shall be made available on the board website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:392 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3033 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2170 (December 2018), LR 47:1132 (August 2021).

Subchapter B. General Provisions

§123. Definitions

[Formerly §§103, 113, 119, 303 and 305]

Editor's Note: This Section was amended utilizing information from the Sections enumerated. The Historical Note reflects prior action for those enumerated Sections. A comprehensive revision of the Louisiana Physical Therapy Board book (LAC 46:LIV) was effective via the board's October 2011 Rule in the *Louisiana Register*.

A. ...

* * *

Client—recipient of services, information, advice, education and/or recommendations for activities related to wellness and preventive services including conditioning, injury prevention, reduction of stress, or promotion of fitness.

* * *

Clinical Supervisor—a licensed PT or PTA in good standing and selected with approval of the board who directly supervises a CAPTE graduate pending examination holding a provisional license in the clinical environment. A clinical supervisor may directly supervise a foreign-educated physical therapist or foreign-educated physical therapist assistant while completing the period of supervised clinical practice requirements of §331.

* * *

Confidentiality—Except for the reporting requirements of R.S. 37:2425, all records of a PT or PTA who has successfully completed or is actively participating in the non-disciplinary alternative program (CRPTP) set forth herein at §357 shall not be subject to public disclosure, and shall not be subject to discovery in legal proceedings except as required by federal and state confidentiality laws and regulations, or order of a Court. However, the records of those participating in the CRPTP will be addressed with their employer as well as with members of the Board and those serving on committees of the Board, as necessary. The records of a PT or PTA who fails to comply with the program agreement or who leaves the program without enrolling in an alternative program in the state to which the

practitioner moves, or who subsequently violates the Louisiana Physical Therapy Act or the board rules, shall not be deemed confidential except for those records protected by federal and state confidentiality laws and regulations.

Dry Needling—a physical intervention which utilizes filiform needles for the treatment of neuromuscular pain and functional movement deficits. Dry Needling is based upon Western medical concepts and does not rely upon the meridians utilized in acupuncture and other Eastern practices. A physical therapy evaluation will indicate the location, intensity and persistence of neuromuscular pain or functional deficiencies in a physical therapy patient and the propriety for utilization of dry needling as a treatment intervention. Dry needling does not include the stimulation of auricular points.

Patient—the recipient of physical therapy services pursuant to a plan of care, treatment plan or program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2407(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744, 745, 748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:662, 666 (July 1991), LR 19:208 (February 1993), LR 21:394 (April 1995), LR 21:1243 (November 1995), LR 24:39, 40 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:1908 (September 2008), amended by the Physical Therapy Board, LR 37:3033 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2170 (December 2018), LR 45:1206 (September 2019), LR 47:1132 (August 2021).

Subchapter E. Licensure by Reciprocity

§145. Qualifications for Licensure by Reciprocity [Formerly §121]

A. ...

B. Licensure by endorsement for members of the military, their spouses and dependents

1. Applications for licensure received from members of the military, their spouses, or dependents, as defined by R.S. 37:3651, will be evaluated and processed in accordance with the applicable section of R.S. 37:3651.

C. Graduates of Approved Schools of Physical Therapy or Physical Therapist Assisting

1. An applicant who possesses and meets all of the qualifications and requirements specified by R.S. 37:2409 and R.S. 37:2411, as interpreted by §§129-139 of this Chapter, but who has taken the board approved licensing exam in another jurisdiction, shall nonetheless be eligible for licensure by reciprocity in accordance with R.S. 37:2412 if the following requirements are satisfied:

a. the applicant possesses, as of the time the application is filed and at the time the board passes upon such application, a current, unrestricted license in good standing or its equivalent issued by another jurisdiction;

b. the applicant has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice physical therapy in this state at the time the act was committed;

c. the jurisdiction from whence the applicant comes accords a similar licensing privilege to individuals licensed as PTs and PTAs in Louisiana; and

d. the requirements for licensure in the other jurisdiction were, at the date of licensing therein, substantially equal to the requirements for licensure in Louisiana, specifically §129, as set forth now or at the time of licensure in the other jurisdiction.

D. Foreign-Educated Physical Therapist (FEPT) or Foreign-Educated Physical Therapist Assistant (FEPTA)

1. An FEPT or FEPTA is eligible for licensure by reciprocity as a PT or PTA in accordance with R.S. 37:2412 if the following requirements are satisfied:

a. the applicant possesses, as of the time the application is filed and at the time the board passes upon such application, a current, unrestricted license in good standing or its equivalent issued by another jurisdiction;

b. the applicant has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice physical therapy in this state at the time the act was committed;

c. the jurisdiction from whence the applicant comes accords a similar licensing privilege to individuals licensed as PTs and PTAs in Louisiana; and

d. the requirements for licensure in the other jurisdiction were, at the date of licensing therein, substantially equal to the requirements for licensure of foreign-educated PT and PTAs in Louisiana, specifically §137, as set forth now or at the time of licensure in the other jurisdiction.

2. An FEPT or FEPTA who meets the requirements of §145.C.1 and who has engaged in the practice of physical therapy for a minimum of 20 hours per week for at least for at least one year in another jurisdiction, may be eligible for licensure by reciprocity as a PT or PTA without completing the period of supervised clinical practice as set forth in §137.C, at the discretion of the board. Such request shall be made in writing and submitted with license application and acceptable documentation of clinical experience.

3. In accordance with R.S. 37:2410(6) and R.S. 37:2411.1(6), the board may, in its discretion, mandate completion of a board approved self-assessment tool, various education activities, or supervised practice prior to issuance of a license by reciprocity to a foreign-educated PT or PTA.

E. To be eligible for licensure under Subsections C. and D. of this Section, applicants shall have met the continuing education requirements contained in the Practice Act and/or board rules for the 24 months preceding their application for the jurisdiction where they are currently licensed and practicing physical therapy.

F. An applicant for reciprocity who has a current, unrestricted license in good standing or its equivalent issued by another jurisdiction, but has not engaged in the practice of physical therapy in any jurisdiction or country for a period of four or more years may be subject to these additional requirements:

1. licensee may be subject to a three-month period of supervised clinical practice;

a. if a three-month period of supervised clinical practice is required, a supervision agreement must be approved by the executive director before a provisional license will be issued. The supervision agreement shall be in force for the entire three-month supervisory period. This licensee may only practice in those facilities and under the supervision of the PT named in the approved supervision agreement. Any change in practice site or supervisor must be submitted in a revised supervision agreement prior to the change taking place. At the end of the supervisory period, the supervising PT of record shall report to the board the satisfactory or unsatisfactory completion of the supervision period. If an unsatisfactory supervision period is reported by the supervising PT of record, the board, in its discretion, may require an additional three-month supervisory period; and

2. completion of remedial courses which may be prescribed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2412 and (4) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 19:208 (February 1993), LR 34:1906 (September 2008), amended by the Physical Therapy Board, LR 37:3039 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2175 (December 2018), LR 47:1133 (August 2021).

§147. Temporary Reciprocal Provisional License [Formerly §151]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with La R.S. 37:2410 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), LR 26:1445 (July 2000), amended by the Physical Therapy Board, LR 37:3040 (October 2011), repealed LR 47:1134 (August 2021).

Subchapter F. License Application

§151. Requirements [Formerly §125]

A. - B.5. ...

6. completion of the Physical Therapy Minimum Data Set (PT MDS) survey

C. ...

D. An applicant must pass the Louisiana jurisprudence exam.

E. In addition to any other requirements established by regulation, the board may require an applicant, as a condition for eligibility for licensure:

E.1. - L. ...

M. Every applicant shall personally complete, electronically sign, and date his application for licensure and oath.

N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2413 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy

Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 19:208 (February 1993), LR 26:1444 (July 2000), amended by the Physical Therapy Board, LR 37:3040 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 42:1299 (August 2016), LR 44:2176 (December 2018), LR 47:1134 (August 2021).

§153. Effect of Application [Formerly §129]

A. - D. ...

E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with La R.S. 37:2413 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3041 (October 2011), LR 47:1134 (August 2021).

Subchapter G. Examination

§155. Designation of Examination [Formerly §131]

A. The examination approved by the board pursuant to R.S. 37:2414 shall be standardized and nationally accepted.

AUTHORITY NOTE: Promulgated in accordance with La R.S. 37:2414 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 26:1445 (July 2000) amended by the Physical Therapy Board, LR 37:3041 (October 2011), LR 47:1134 (August 2021).

§157. Eligibility for Examination [Formerly §133]

A. An applicant must have graduated from a CAPTE accredited program or be enrolled in the final semester of a CAPTE accredited program in order to be eligible to sit for the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2414 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3042 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2176 (December 2018), LR 47:1134 (August 2021).

§159. Dates, Places of Examination [Formerly §135]

A. The applicant will be notified of his eligibility to schedule the examination with an approved testing service.

AUTHORITY NOTE: Promulgated in accordance with La R.S. 37:2414 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 23:1445 (July 2000), amended by the Physical Therapy Board, LR 37:3042 (October 2011), LR 47:1134 (August 2021).

§169. Passing Score [Formerly §145]

A. The board adopts a criterion-referenced passing point of the NPTE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A. (1) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 21:1243 (November 1995), amended by the Physical Therapy Board, LR 37:3043 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 47:1134 (August 2021).

§171. Restriction, Limitation on Examinations, Additional Requirements [Formerly §147, 153 and 155]

A. ...

B. An applicant who has failed the examination shall be subject to the testing limits set by the exam vendor selected by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(A)(1) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387, 388 (May 1989), LR 17:664 (July 1991), LR 19:208 (February 1993), LR 26:1446 (July 2000), LR 34:1907 (September 2008), amended by the Physical Therapy Board, LR 37:3043 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2177 (December 2018), LR 47:1135 (August 2021).

Subchapter I. License Issuance, Termination, Renewal, Reinstatement

§175. Issuance of License [Formerly §161]

A. ...

B. Except for applicants seeking licensure pursuant to §139, a license issued pursuant to examination shall be issued within seven days following the satisfaction of all requirements of §§129 and 151. A license issued pursuant to reciprocity under §145 shall be issued within seven days following satisfaction of all requirements of §145.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2415(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:664 (July 1991), LR 26:1446 (July 2000), amended by the Physical Therapy Board, LR 37:3044 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2178 (December 2018), LR 47:1135 (August 2021).

§180. Inactive License

A. - D.2. ...

a. licensee may be subject to a three-month period of supervised clinical practice;

i. if a three-month period of supervised clinical practice is required, a supervision agreement must be approved by the executive director before a provisional license will be issued. The supervision agreement shall be in force for the entire three-month supervisory period. This licensee may only practice in those facilities and under the supervision of the PT named in the approved supervision agreement. Any change in practice site or supervisor must be submitted in a revised supervision agreement prior to the

change taking place. At the end of the supervisory period, the supervising PT of record shall report to the board the satisfactory or unsatisfactory completion of the supervision period. If an unsatisfactory supervision period is reported by the supervising PT of record, the board, in its discretion, may require an additional three-month supervisory period; and

D.2.b. - E. ...

F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2415(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health, Physical Therapy Board, LR 44:2178 (December 2018), amended LR 47:1135 (August 2021).

§181. Renewal of License [Formerly §165]

A. Licensees shall be notified by the board of license renewal deadlines. Standard procedure for license renewal, completion of the Physical Therapy Minimum Data Set (PT MDS) survey and the payment of required fees is by online application through the board website. Upon written request, a renewal application shall be mailed to the licensee. Failure to receive notification of license renewal deadlines shall not be a defense for failure to timely renew a license.

B. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2417 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:664 (July 1991), amended by the Physical Therapy Board, LR 37:3044 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 42:1300 (August 2016), LR 44:2179 (December 2018), LR 47:1135 (August 2021).

§183. Restrictions on License Renewal; Restoration Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2417 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3045 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2179 (December 2018), repealed LR 47:1135 (August 2021).

§185. Reinstatement of Suspended or Revoked License [Formerly §349]

A. The board may, upon favorable vote by a majority of the board members present and voting, reinstate or revoke a suspended license.

B. - D.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3045 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2179 (December 2018), LR 47:1135 (August 2021).

§187. Reinstatement of Lapsed License [Formerly §167]

A. - B.4. ...

5. completion of the Physical Therapy Minimum Data Set (PT MDS) survey.

C. - E.5. ...

6. two letters of character recommendation from currently licensed physical therapists and/or physical therapist assistants in good standing; and

7. completion of the Physical Therapy Minimum Data Set (PT MDS) survey.

F. - G. ...

1. licensee may be subject to a three-month period of supervised clinical practice;

a. if a three-month period of supervised clinical practice is required, a supervision agreement must be approved by the executive director before a provisional license will be issued to complete the three-month period of supervised clinical practice. The supervision agreement shall be in force for the entire three-month supervisory period. The licensee may only practice in those facilities and under the supervision of the PT named in the approved supervision agreement. Any change in practice site or supervisor must be submitted in a revised supervision agreement prior to the change taking place. At the end of the supervisory period, the supervising physical therapist shall report to the board the satisfactory or unsatisfactory completion of the supervision period. If an unsatisfactory supervision period is reported by the supervising physical therapist, the board, in its discretion, may require an additional three-month supervisory period; and

2. completion of remedial courses which may be prescribed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 28:1979 (September 2002), LR 34:1907 (September 2008), amended by the Physical Therapy Board, LR 37:3045 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 42:1300 (August 2016), LR 44:2179 (December 2018), LR 47:1135 (August 2021).

Subchapter J. Continuing Education

§194. Biennial Requirements [Formerly §169]

A. ...

B. The types of approved courses or activities and requirement for each are:

1. jurisprudence—a minimum of two contact hours. Passage of the jurisprudence examination, which may be taken online, or attendance at a traditional board-sponsored Jurisprudence course, either of which fulfills the two-hour Jurisprudence requirement;

2. ...

3. clinical and/or administrative—a minimum of 26 contact hours of continuing education, or activities described in §195.

B.4. - C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.B (7) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospital, Board of Physical Therapy Examiners, LR 15:388 (May 1989), amended LR 17:664 (July 1991), LR 19:208 (February 1993), LR 21:394 (April 1995), LR 21:1243 (November 1995), LR 16:1446 (July 2000), LR 28:1980 (September 2002), LR 34:1907 (September 2008), amended by the Physical Therapy Board, LR 37:3046 (October 2011), LR 47:1136 (August 2021).

§195. Content Criteria [Formerly §169]

A. Program content must be easily recognizable as pertinent to the physical therapy profession. It shall contain evidence-led information related to the practice of physical therapy or clinical outcomes. Course or activity content shall address physical therapy competence and practice and shall be designed to meet one of the following goals:

1. ...

2. allow the licensee to enhance his knowledge and skills; and/or

3. facilitate personal contribution to the advancement of the profession.

B. The minimum requirement for continuing education contact hours shall be no less than one hour.

C. Continuing education hours may be attained through the following additional activities:

1. teaching an approved clinical/preventive course or activity. A licensee may receive two hours of credit for each contact hour approved for the course or activity, not to exceed 10 hours. This credit will be given only for the first time the course is presented, during the renewal period;

2. ten hours of credit for an initial certification by the American Board of Physical Therapy Specialties;

3. one hour of credit for every two hours spent in an approved post-professional clinical residency or fellowship, not to exceed 10 hours of credit;

4. coursework in a postgraduate physical therapy curriculum, transitional DPT program, or an accredited college or university that meets content criteria may be accepted. Courses will be credited for each satisfactorily completed hour resulting in a grade of B or higher. One semester hour shall be equal to 10 contact hours.

5. teaching in a CAPTE-accredited program. One semester hour shall be equal to 10 contact hours. Credit earned shall not exceed 10 hours.

6. six hours of credit for completing a board-approved self-assessment tool.

7. licensees serving in elected or appointed positions of national or state physical therapy organizations may obtain a maximum of five contact hours for serving in that role.

8. a maximum of five hours of credit for clinical instructors serving as the primary clinical instructor for PT and PTA students or provisional licensees or serving as a mentor to a resident or fellow. One hour of credit may be earned per 120 hours of clinical instruction or residency or fellowship during the renewal period. Proof of clinical instruction or mentorship shall be documented on a form provided by the board and shall be signed by two of the following:

a. clinical instructor or mentor;

b. student or mentee;

c. site coordinator of clinical education;

d. director of clinical education; or

e. program coordinator of the residency or fellowship.

9. a maximum of five-hours credit during the renewal period for publication of scientific papers, abstracts, textbook chapters and poster or platform presentations at conferences relating to PT. Textbook chapter credit will be given only for the year of publication.

D. Board policy regarding submission of materials to demonstrate completion will be available on the board website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(B)(7) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospital, Board of Physical Therapy Examiners, LR 15:388 (May 1989), amended LR 17:664 (July 1991), LR 19:208 (February 1993), LR 21:394 (April 1995), LR 21:1243 (November 1995), LR 16:1446 (July 2000), LR 28:1980 (September 2002), LR 34:1907 (September 2008), amended by the Physical Therapy Board, LR 37:3047 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 42:1300 (August 2016), LR 44:2179 (December 2018), LR 47:1136 (August 2021).

§199. Noncompliance and Reinstatement [Formerly §175]

A. ...

B. Notice. The board shall send written notice of noncompliance to a licensee requesting that the licensee furnish to the board within 30 days of receipt of the notice, the following:

B.1. - C. ...

1. satisfactorily explains the non-compliance, his license may be determined to be in compliance with the CE Audit upon payment of an administrative fee; or

2. does not successfully establish compliance or acceptable exemption from compliance with continuing educational requirements, he may be subject to disciplinary action and may be required to take the licensing examination and pay the fees for examination. Passage of the examination fulfills the continuing education requirements for the year the noncompliance occurred, but shall not be applicable for subsequent reporting periods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.B (7) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:665 (July 1991), amended by the Physical Therapy Board, LR 37:3048 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 47:1137 (August 2021).

Subpart 2. Practice

Chapter 3. Practice

Subchapter A. General Provisions

§303. Professional Standards

[Formerly §§307 and 315]

Editor's Note: This Section was amended utilizing information from the Sections enumerated. The Historical Note reflects prior action for those enumerated Sections. A comprehensive revision of the Louisiana Physical Therapy Board book (LAC 46:LIV) was effective via the board's October 2011 Rule in the *Louisiana Register*.

A. - C. ...

D. Repealed.

E. A PTA may act as a clinical instructor for a PTA student, a supervisor of a PTA CAPTE provisional licensee pending examination, or a supervisor of a foreign-educated PTA (FEPTA) provisional licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), LR 21:395 (April 1995), LR 24:40 (January 1998), LR 26:1447 (July 2000), LR 34:1909, 1910 (September 2008), amended by the Physical Therapy Board,

LR 37:3048 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2180 (December 2018), LR 47:1137 (August 2021).

§309. Early Childhood Services

A. - B. ...

C. Evaluation and reevaluation will be conducted in accordance with federal mandates under Part C of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1436, or when warranted by a change in the child's condition, and include reexamination of the child.

D. In the provision of services for children ages 3 through 22 in the school setting:

1. the PT conducts appropriate screenings, evaluations, and assessments to determine if the student has a gross motor delay or a medical condition that affects gross motor functioning in the educational setting.

2. Subject to the provisions of this Section, the PT shall implement physical therapy services in accordance with the recommendations accepted by the Individualized Education Program (IEP) Team.

3. Evaluation and reevaluation in the educational setting will be conducted in accordance with federal mandates under Part B of the Individuals with Disabilities Education Act (IDEA), 20 U.S. Code Subchapter II, Rule 1414, or when warranted by a change in the child's condition and include reexamination of the child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3049 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 47:1137 (August 2021).

§311. Treatment with Dry Needling

A. ...

B. Dry needling is a physical therapy treatment which requires specialized physical therapy education and training for the utilization of such techniques. Prior to utilizing dry needling techniques in patient treatment, a PT shall have successfully completed a board-approved course of study consisting of no fewer than 25 hours of in-person, hands-on instruction in intramuscular dry needling treatment and safety. Online and other distance learning courses will not satisfy this requirement. Practicing dry needling without compliance with this requirement constitutes unprofessional conduct and subjects a licensee to appropriate discipline by the board.

C. - E. ...

F. PT students who have met the requirements of paragraph B. above may practice dry needling under the continuous supervision of a PT who has successfully completed the dry needling training requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A (8) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3049 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2180 (December 2018), LR 45:1206 (September 2019), LR 47:1137 (August 2021).

§319. Use of Telehealth in the practice of Physical Therapy

A. ...

B. Individuals who are licensed physical therapists and physical therapist assistants in good standing in Louisiana may provide physical therapy via telehealth to a patient in an

originating site as defined in R.S. 40:1223.3 within the jurisdiction of Louisiana and shall follow all requirements for standard of practice and documentation as provided in the Practice Act and board rules. The standard of care for telehealth services shall be substantially equivalent to the standard of care for services delivered in person.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(A)(8) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health, Physical Therapy Board, LR 44:2180 (December 2018), LR 47:1137 (August 2021).

Subchapter B. Prohibitions

§325. Exemptions

[Formerly §309]

A. - C. ...

D. A physical therapist or physical therapist assistant licensed in a jurisdiction of the United States or credentialed in another country contracted or employed to provide physical therapy to patients/clients affiliated with or employed by established athletic teams, athletic organizations or performing arts companies temporarily practicing, competing or performing in the jurisdiction for no more than 60 days in a calendar year.

E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Examiners, LR 24:40 (January 1998), LR 34:1909 (September 2008), amended by the Physical Therapy Board, LR 37:3051 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2181 (December 2018), LR 47:1138 (August 2021).

Subchapter C. Supervised Practice

§331. Supervised Clinical Practice of Foreign-Educated Physical Therapist Provisional Licensees and Foreign-Educated Physical Therapist Assistant Provisional Licensees **[Formerly §§317 and 319]**

Editor's Note: This Section was amended utilizing information from the Sections enumerated. The Historical Note reflects prior action for those enumerated Sections. A comprehensive revision of the Louisiana Physical Therapy Board book (LAC 46:LIV) was effective via the board's October 2011 Rule in the *Louisiana Register*.

A. A clinical supervisor is subject to ratio restrictions pursuant to R.S. 37:2418(F)(2)(a).

B. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2410(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:667 (July 1991), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), amended by the Physical Therapy Board, LR 37:3051 (October 2011), amended by the Department of Health, Physical Therapy, LR 44:2182 (December 2018), LR 47:1138 (August 2021).

§333. Physical Therapist Responsibilities; Supervision of Physical Therapist Assistants **[Formerly §321]**

A. - B.2.c. ...

d. be readily accessible by telecommunication device and available to the patient by the next scheduled treatment session upon request of the patient or PTA; and

B.2.e. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418(F) and Act 139 of 2010.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:1910 (September 2008), amended by the Physical Therapy Board, LR 37:3052 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2183 (December 2018), LR 47:1138 (August 2021).

§337. Clinical Instruction of Student PTs and PTAs **[Formerly §321]**

A. A clinical instructor shall provide on-premises supervision to a PT student in all practice settings. A clinical instructor shall provide continuous supervision to a PTA student in all practice settings. A PTA may act as a clinical instructor for a PTA student in all practice settings provided that the PT supervisor of the PTA is available by telecommunication device.

B. A PTA can be a clinical instructor for the PTA student.

C. PT students may perform an initial physical therapy evaluation and create the plan of care on each patient, treat and reassess patients, and write discharge summaries under the supervision of a clinical instructor or Supervising PT of Record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418(F) and Act 139 of 2010.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:1910 (September 2008), amended by the Physical Therapy Board, LR 37:3053 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2183 (December 2018), LR 45:1206 (September 2019), LR 47:1138 (August 2021).

§341. Documentation Standards **[Formerly §323]**

A. - A.5. ...

6. Patient care conference is the documentation of the meeting held between a PTA who is providing patient care and the PT supervising that care to discuss the status of patients. This conference shall be conducted where the PT and PTA are both physically present at the same time and place, or through live telecommunication conducted in accordance with all standards required by federal and state laws governing privacy and security of a patient's protected health information. The patient care conference shall be

signed and dated by the PT and PTA and shall be entered in the patient treatment record within five days of the conference, documenting treatment recommendations and decisions made.

A.7. - C. ...

D. Forms of electronic signatures, established pursuant to written policies and mechanisms to assure that only the author can authenticate his own entry, are acceptable.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(A)(1) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), LR 21:395 (April 1995), LR 26:1447 (July 2000), LR 28:1981 (September 2002), LR 34:1911 (September 2008), amended by the Physical Therapy Board, LR 37:3053 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2183 (December 2018), LR 47:1138 (August 2021).

Subchapter D. Disciplinary Proceedings

§345. Unprofessional Conduct

[Formerly §327]

A. The board shall deem a violation any charge of conduct which fails to conform to the Practice Act, and board rules to carry out the provisions of the Act, and shall take appropriate action where violations are found. The rules of this Chapter complement the board's authority to deny, suspend, revoke or take such other action against a licensee, or Compact Privilege holder as it deems appropriate.

B. - B.1f. ...

g. causing, or permitting another person to cause, physical or emotional injury to the patient, or depriving the patient of his individual dignity;

h. abandoning a patient without documenting the transfer of care or by inappropriately terminating the patient/practitioner relationship; or

i. providing services as a PTA without the knowledge or supervision of a PT.

2. - 8. ...

9. utilizing dry needling techniques in patient treatment without first obtaining appropriate specialized training and education as required by §311.

B.10. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospital, Board of Physical Therapy Examiners, LR 15:389 (May 1989), amended LR 19:208 (February 1993), LR 28:1981 (September 2002), LR 34:1911 (September 2008), amended by the Physical Therapy Board, LR 37:3054 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2184 (December 2018), LR 47:1139 (August 2021).

§357. Admission to the Confidential Recovering

Physical Therapy Program (CRPTP)

A. Participation in CRPTP may be voluntary, non-punitive, confidential, as defined by §123, and in place of formal disciplinary proceedings for eligible persons who meet the following admission criteria:

A.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3056

(October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2186 (December 2018), LR 47:1139 (August 2021).

§387. Formal Hearings

[Formerly §337]

A. - C. ...

1. The board has received or originated a complaint alleging that a licensee or applicant has acted in violation of the Practice Act or board rules.

2. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:205(B)(10) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 15:391 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3060 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2188 (December 2018), LR 47:1139 (August 2021).

§392. Order of Hearing

[Formerly §337]

A. - A.9. ...

10. motions may be made before, during, or after a hearing. All motions shall be made at an appropriate time, according to the nature of the request. Motions made before a hearing or after the hearing pursuant to §396, shall be in writing. Those made during the course of the hearing may be made orally since they become part of the record of the proceeding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(B)(10) and Act 535 of 2009.

HISTORICAL NOTE: promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:391 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3062 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2188 (December 2018), LR 47:1139 (August 2021).

Subchapter E. Post-Adjudication Remedies

§396. Reconsideration of Decisions

[Formerly §337]

A. A petition by a party seeking reconsideration or rehearing must be in proper form and filed within ten days after notification of the board's decision. The petition shall set forth the grounds for the rehearing, which shall include one or more of the following:

1. the board's decision is clearly contrary to the law and evidence;

2. there is newly discovered evidence by the party since the hearing which is important to the issues and which the party could not have discovered with due diligence before or during the hearing;

3. there is a showing that issues not previously considered ought to be examined in order to dispose of the case properly; or

4. it would be in the public interest to review and further consider the issues and the evidence.

B. The board's decision to grant or deny a requested reconsideration of its decision is final and not subject to review or appeal.

C. The board shall reconsider a matter when ordered to do so when the case is remanded for reconsideration or rehearing by a court to which the board's decision has been appealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.B (10) and Act 535 of 2009.

HISTORICAL NOTE: promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:391 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3062 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 47:1139 (August 2021).

**§397. Judicial Review of Adjudication
[Formerly §345]**

A. Any respondent whose license has been revoked, suspended, denied or otherwise sanctioned by the board has the right to have the proceedings of the board reviewed by the state district court having jurisdiction over the board, provided that such petition for judicial review is filed within 30 days from mailing of the notice of the decision of the board. If judicial review is granted, the board's decision is enforceable in the interim unless the court orders a stay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.B (10) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 15:392 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3063 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 47:1140 (August 2021).

Charlotte Martin
Executive Director

2108#014

RULE

**Department of Natural Resources
Office of Conservation**

Pipeline Safety

(LAC 43:XIII:Chapters 3-61 and LAC 33:V.Chapter 304)

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

Part XIII. Office of Conservation—Pipeline Safety

**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]**

**§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 \$122,000 or more, including loss to the operator and others, or both, but excluding the cost of gas lost. For adjustments for inflation observed in calendar year 2021 onwards, changes to the reporting threshold will be posted on PHMSA's website. These changes will be determined in accordance with the procedures in Chapter 4, Appendix A to Subpart 2.

iii. unintentional estimated gas loss of three million cubic feet or more;

* * *

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), LR. 47:1140 (August 2021).

**§311. Distribution System: Annual Report
[49 CFR 191.11]**

A. ...

B. Not required. The annual report requirement in this Section does not apply to a master meter system, a petroleum gas system that serves fewer than 100 customers from a single source, or an individual service line directly connected to a production pipeline or a gathering line other than a regulated gathering line as determined in § 507. [49 CFR 191.11(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 9:219 (April 1983), amended LR 10:511 (July 1984), LR 11:255 (March 1985), LR 30:1222 (June 2004), LR 38:111 (January 2012), LR. 47:1140 (August 2021).

**§312. Distribution Systems: Mechanical Fitting
Failure Reports [49 CFR 191.12]**

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 38:111 (January 2012), repealed LR. 47:1140 (August 2021).

**§322. National and Louisiana 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)]

1. Each operator of a Special Class System must file an online OR-1 Submission (Operator Registration) for Pipeline Safety at <http://www.sonris.com>. Each Special Class System operator must validate the OR-1 annually by January 1 each year.

B. - 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), LR. 47:1140 (August 2021).

Chapter 4. Appendix A [49 CFR Part 191]

§401. Appendix A to Subpart 2—Procedure for Determining Reporting Threshold

A. Procedure for Determining Reporting Threshold

I. Property Damage Threshold Formula

A. Each year after calendar year 2021, the Administrator will publish a notice on PHMSA’s website announcing the updates to the property damage threshold criterion that will take effect on July 1 of that year and will remain in effect until the June 30 of the next year. The property damage threshold used in the definition of an Incident at §303 shall be determined in accordance with the following formula:

$$T_r = T_p \times \frac{CPI_r}{CPI_p}$$

Where:

Tr is the revised damage threshold, Tp is the previous damage threshold, CPIr is the average Consumer Price Indices for all Urban Consumers (CPI-U) published by the Bureau of Labor Statistics each month during the most recent complete calendar year, and CPIp is the average CPI-U for the calendar year used to establish the previous property damage criteria.

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 47:1141 (August 2021).

Subpart 3. Transportation of Natural Gas or Other Gas by Pipeline: Minimum Safety Standards [49 CFR Part 192]

Chapter 5. General [49 CFR Part 192 Subpart A]

§507. What Documents are Incorporated by Reference Partly or Wholly in this Part? [49 CFR 192.7]

A. Certain material is incorporated by reference into this Subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. The materials listed in this Section have the full force of law. All approved material is available for inspection at Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue S.E., Washington, D.C. 20590, 202-366-4046 <https://www.phmsa.dot.gov/pipeline/regs>, and is available from the sources listed in the remaining Subsections of this Section. It is also available for inspection at 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/federalregister/cfr/ibr-locations.html. [49 CFR 192.7(a)]

1 - 2. ...

Source and Name of Referenced Material	Approved for Title 43 Reference
B. American Petroleum Institute (API), 200 Massachusetts Ave N.W., Suite 1100, Washington, D.C. 20001, and phone: 202-682-8000, Web site: https://www.api.org/ .	
1. - 8. ...	
9. API Standard 1104, “Welding of Pipelines and Related Facilities,” 20th edition, October 2005, including errata/addendum (July 2007) and errata 2 (2008), (API Std 1104),	§§1305.A; 1307.A; 1309.C; 1321.C; Item II, 5103.
B.10 – D.2 ...	
E. ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428, phone: (610) 832-9585, Web site: http://astm.org	
1 - 10. ...	
11. (ASTM D2513-12ae1). ASTM D2513-18a, “Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fittings,” approved August 1, 2018, (ASTM D2513),	§5103, Item 1
12 - 19. ...	
20. ASTM F2620-19, “Standard Practice for Heat Fusion Joining of Polyethylene Pipe and Fittings,” approved February 1, 2019, (ASTM F2620),	§§1511.C; 1515.B
E.21 - K.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, 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 45:68 (January 2019), LR 46:1578 (November 2020), LR 47:1141 (August 2021).

Chapter 9. Pipe Design [49 CFR Part 192 Subpart C] §921. Design of Plastic Pipe [49 CFR 192.121]

A. Design Pressure. The design pressure for plastic pipe is 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. - C.1.c. ...

2. For PE 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(c)(2)]

C.2.a. - C.2.b. ...

c. the pipe has a nominal size (IPS or CTS) of 24 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 Table 1 to this Subparagraph C.2.d : [49 CFR 192.121(c)(2)(iv)]

Table 1 to Subparagraph C.2.d PE Pipe: Minimum Wall Thickness and SDR Values		
Pipe Size (inches)	Minimum Wall Thickness	Corresponding SDR (values)
1/2" CTS	0.090	7
1/2" IPS	0.090	9.3
3/4" CTS	0.090	9.7
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
16	.762	21
18	.857	21
20	.952	21
22	1.048	21
24	1.143	21

D. - D.2.c. ...

d. the minimum wall thickness for a given outside diameter is not less than that listed in Table 2 to Subparagraph D.2.d . [49 CFR 192.121(d)(2)(iv)]

Table 2 to Suparagraph D.2.d PE Pipe: Minimum Wall Thickness and SDR Values		
Pipe Size (inches)	Minimum Wall Thickness	Corresponding SDR (values)
1/2" CTS	0.090	7.0
1/2" IPS	0.090	9.3
3/4" CTS	0.090	9.7
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

E. - E.1.c. ...

d. the minimum wall thickness for a given outside diameter is not less than that listed in Table 3 to Subparagraph E.1.d [49 CFR 192.121(e)(1)(iv)]

Table 3 to Subparagraph E.1.d PE Pipe: Minimum Wall Thickness and SDR Values		
Pipe Size (inches)	Minimum Wall Thickness	Corresponding SDR (values)
1/2" CTS	0.090	7
1/2" IPS	0.090	9.3
3/4" CTS	0.090	9.7
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. – F.2. ... (will lose chart after 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, 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), LR 46:1582 (November 2020), LR. 47:1141 (August 2021).

**Chapter 11. Design of Pipeline Components
[49 CFR Part 192 Subpart D]**

**§1113. Components Fabricated by Welding
[49 CFR 192.153]**

A. ...

B. Each prefabricated unit that uses plate and longitudinal seams must be designed, constructed, and tested in accordance with section 1 of the ASME BPVC (*Rules for Construction of Pressure Vessels*) as defined in either Section VIII, Division 1 or Section VIII, Division 2; incorporated by reference, see §507), except for the following: [49 CFR 192.153(b)]

B.1. - D. ...

E. The test requirements for a prefabricated unit or pressure vessel, defined for this Subsection as components with a design pressure established in accordance with Subsection A or Subsection B of this Section are as follows. [49 CFR 192.153(e)]

1. prefabricated unit or pressure vessel installed after July 14, 2004 is not subject to the strength testing requirements at §2305.B provided the component has been tested in accordance with Subsection A or Subsection B of this Section and with a test factor of at least 1.3 times MAOP. [49 CFR 192.153(e)(1)]

2. A prefabricated unit or pressure vessel must be tested for a duration specified as follows: [49 CFR 192.153(e)(2)]

a. A prefabricated unit or pressure vessel installed after July 14, 2004, but before October 1, 2021 is exempt from §§2305.C and D and 2307.C provided it has been

tested for a duration consistent with the ASME BPVC requirements referenced in Subsection A or B of this Section. [49 CFR 192.153(e)(2)(i)]

b. Consider the information gained from past design, operations, and maintenance. [49 CFR 192.153(e)(2)(ii)]

3. For any prefabricated unit or pressure vessel permanently or temporarily installed on a pipeline facility, an operator must either: [49 CFR 192.153(e)(3)]

a. Test the prefabricated unit or pressure vessel in accordance with this Section and Chapter 23 of this Subpart after it has been placed on its support structure at its final installation location. The test may be performed before or after it has been tied-in to the pipeline. Test records that meet §2317.A must be kept for the operational life of the prefabricated unit or pressure vessel; or [49 CFR 192.153(e)(3)(i)]

b. For a prefabricated unit or pressure vessel that is pressure tested prior to installation or where a manufacturer's pressure test is used in accordance with Subsection E of this Section, inspect the prefabricated unit or pressure vessel after it has been placed on its support structure at its final installation location and confirm that the prefabricated unit or pressure vessel was not damaged during any prior operation, transportation, or installation into the pipeline. The inspection procedure and documented inspection must include visual inspection for vessel damage, including, at a minimum, inlets, outlets, and lifting locations. Injurious defects that are an integrity threat may include dents, gouges, bending, corrosion, and cracking. This inspection must be performed prior to operation but may be performed either before or after it has been tied-in to the pipeline. If injurious defects that are an integrity threat are found, the prefabricated unit or pressure vessel must be either non-destructively tested, re-pressure tested, or remediated in accordance with applicable Subpart 3 (Part 192) requirements for a fabricated unit or with the applicable ASME BPVC requirements referenced in Subsections A or B of this Section. Test, inspection, and repair records for the fabricated unit or pressure vessel must be kept for the operational life of the component. Test records must meet the requirements in §2317.A. [49 CFR 192.153(e)(3)(ii)]

4. An initial pressure test from the prefabricated unit or pressure vessel manufacturer may be used to meet the requirements of this Section with the following conditions: [49 CFR 192.153(e)(4)]

a. The prefabricated unit or pressure vessel is newly-manufactured and installed on or after October 1, 2021, except as provided in Subparagraph E.4.b of this Section. [49 CFR 192.153(e)(4)(i)]

b. An initial pressure test from the fabricated unit or pressure vessel manufacturer or other prior test of a new or existing prefabricated unit or pressure vessel may be used for a component that is temporarily installed in a pipeline facility in order to complete a testing, integrity assessment, repair, odorization, or emergency response-related task, including noise or pollution abatement. The temporary component must be promptly removed after that task is completed. If operational and environmental constraints require leaving a temporary prefabricated unit or pressure vessel under this Subsection in place for longer than 30 days, the operator must notify PHMSA and State or local pipeline

safety authorities, as applicable, in accordance with § 518. [49 CFR 192.153(e)(4)(ii)]

c. The manufacturer's pressure test must meet the minimum requirements of this Subpart; and [49 CFR 192.153(e)(4)(iii)]

d. The operator inspects and remediates the prefabricated unit or pressure vessel after installation in accordance with Subparagraph E.3.b of this Section. [49 CFR 192.153(e)(4)(iv)]

5. An existing prefabricated unit or pressure vessel that is temporarily removed from a pipeline facility to complete a testing, integrity assessment, repair, odorization, or emergency response-related task, including noise or pollution abatement, and then re-installed at the same location must be inspected in accordance with Subparagraph E.3.b of this Section; however, a new pressure test is not required provided no damage or threats to the operational integrity of the prefabricated unit or pressure vessel were identified during the inspection and the MAOP of the pipeline is not increased. [49 CFR 192.153(e)(5)]

6. Except as provided in Subparagraphs E.4.b and Paragraph E.5 of this Section, on or after October 1, 2021, an existing prefabricated unit or pressure vessel relocated and operated at a different location must meet the requirements of this Subpart and the following: [49 CFR 192.153(e)(6)]

a. The prefabricated unit or pressure vessel must be designed and constructed in accordance with the requirements of this Subpart at the time the vessel is returned to operational service at the new location; and [49 CFR 192.153(e)(6)(i)]

b. The prefabricated unit or pressure vessel must be pressure tested by the operator in accordance with the testing and inspection requirements of this Subpart applicable to newly installed prefabricated units and pressure vessels. [49 CFR 192.153(e)(6)(ii)]

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 10:516 (July 1984), LR 20:444 (April 1994), LR 27:1539 (September 2001), LR 30:1234 (June 2004), LR 44:1037 (June 2018), LR. 47:1142 (August 2021).

Chapter 13. Welding of Steel in Pipelines [49 CFR

Part 192 Subpart E]

§1309. Limitations on Welders [49 CFR 192.229]

A. ...

B. A welder or welding operator may not weld with a particular welding process unless, within the preceding 6 calendar months, the welder or welding operator was engaged in welding with that process. Alternatively, welders or welding operators may demonstrate they have engaged in a specific welding process if they have performed a weld with that process that was tested and found acceptable under section 6, 9, 12, or Appendix A of API Std 1104 (incorporated by reference, *see* §507) within the preceding 7 1/2 months. [49 CFR 192.229(b)]

C. - D.2.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 9:229 (April 1983), amended LR 10:521 (July 1984), LR 24:1309 (July 1998), LR

27:1541 (September 2001), LR 30:1241 (June 2004), LR 31:683 (March 2005), LR 33:479 (March 2007), LR 44:1038 (June 2018), LR. 47:1143 (August 2021).

Chapter 15. Joining of Materials Other Than by Welding
[49 CFR Part 192 Subpart F]

§1511. Plastic Pipe

A. - 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), or an alternative written procedure that has been demonstrated to provide an equivalent or superior level of safety and has been proven by test or experience to produce strong gastight joints, and the following. [49 CFR 192.281(c)]

C.1 - 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), LR. 47:1144 (August 2021).

§1513. Plastic Pipe: Qualifying Joining Procedures
[49 CFR 192.283]

A. - 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 less than 25 percent or failure initiates outside the joint area, the procedure qualifies for use. [49 CFR 192.283(a)(3)].

B. - 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 9:231 (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), LR. 47:1144 (August 2021).

§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, and for PE heat fusion joints (except for electrofusion joints) visually inspected in accordance with ASTM F2620-12 (incorporated by reference, see §507) or a written procedure that has been demonstrated to provide an equivalent or superior level of safety, applicable to the type of joint and material being tested; [49 CFR 192.285(b)(2)(i)]

B.2.b. - 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), LR. 47:1144 (August 2021).

Chapter 17. General Construction Requirements for Transmission Lines and Mains
[49 CFR Part 192 Subpart G]

§1725. Underground Clearance [49 CFR 192.325]

A. Each transmission line must be installed with at least 12 inches (305 millimeters) of clearance from any other underground structure not associated with the transmission line. If this clearance cannot be attained, the transmission line must be protected from damage that might result from the proximity of the other structure. [49 CFR 192.325(a)]

B. Each main must be installed with enough clearance from any other underground structure to allow proper maintenance and to protect against damage that might result from proximity to other structures. [49 CFR 192.325(b)]

C. In addition to meeting the requirements of Subsections A or B of this Section, each plastic transmission line or main must be installed with sufficient clearance, or must be insulated, from any source of heat so as to prevent the heat from impairing the serviceability of the pipe. [49 CFR 192.325(c)]

D. Each pipe-type or bottle type holder must be installed with a minimum clearance from any other holder as prescribed in §1135.B. [49 CFR 192.325(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 9:233 (April 1983), amended LR 10:525 (July 1984), LR 20:446 (April 1994), LR 27:1542 (September 2001), LR 30:1247 (June 2004), LR. 47:1144 (August 2021).

§1729. 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), amended LR. 47:1144 (August 2021).

Chapter 21. Requirements for Corrosion Control
[49 CFR Part 192 Subpart I]

§2117. External Corrosion Control: Monitoring
[49 CFR 192.465]

A. ...

B. Cathodic protection rectifiers and impressed current power sources must be periodically inspected as follows: [49 CFR 192.465(b)]

1. Each cathodic protection rectifier or impressed current power source must be inspected 6 times each calendar year, but with intervals not exceeding 2 1/2 months

between inspections, to ensure adequate amperage and voltage levels needed to provide cathodic protection are maintained. This may be done either through remote measurement or through an onsite inspection of the rectifier. [49 CFR 192.465(b)(1)]

2. After January 1, 2022, each remotely inspected rectifier must be physically inspected for continued safe and reliable operation at least once each calendar year, but with intervals not exceeding 15 months. [49 CFR 192.465(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, LR 9:236 (April 1983), amended LR 10:528 (July 1984), LR 27:1545 (September 2001), LR 30:1253 (June 2004), LR 38:116 (January 2012), LR. 47:1144 (August 2021).

§2133. Atmospheric Corrosion Control: Monitoring [49 CFR 192.481]

A. Each operator must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows. [49 CFR 192.481(a)]

If the pipeline is located:	Then the frequency of inspection is:
Onshore other than a service line	At least once every 3 calendar years, but with intervals not exceeding 39 months.
Onshore service line	At least once every 5 calendar years, but with intervals not exceeding 63 months, except as provided in Subsection D of this Section.
Offshore	At least once each calendar year, but with intervals not exceeding 15 months.

B. - C. ...

D. If atmospheric corrosion is found on a service line during the most recent inspection, then the next inspection of that pipeline or portion of pipeline must be within 3 calendar years, but with intervals not exceeding 39 months. [49 CFR 192.481(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 9:237 (April 1983), amended LR 10:529 (July 1984), LR 30:1255 (June 2004), LR 47:1145 (August 2021).

§2143. Corrosion Control Records [49 CFR 192.491]

A. - B. ...

C. Each operator shall maintain a record of each test, survey, or inspection required by this Section in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist. These records must be retained for at least five years with the following exceptions: [49 CFR 192.491(c)]

1. Operators must retain records related to §§ 2117.A and E and 2127.B for as long as the pipeline remains in service. [49 CFR 192.491(c)(1)]

2. Operators must retain records of the two most recent atmospheric corrosion inspections for each distribution service line that is being inspected under the interval in §2133.A. [49 CFR 192.491(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, LR 9:237 (April 1983), amended LR 10:530 (July 1984), LR 24:1311 (July 1998), LR 30:1256 (June 2004), LR. 47:1145 (August 2021).

Chapter 23. Test Requirements [49 CFR Part 192 Subpart J]

§2307. Test Requirements for Pipelines to Operate at a Hoop Stress Less Than 30 Percent of SMYS and At or Above 100 psi (689 kPa) Gauge [49 CFR 192.507]

A. - A.3. ...

4. For fabricated units and short sections of pipe, for which a post installation test is impractical, a pre-installation hydrostatic pressure test must be conducted in accordance with the requirements of this Section. [49 CFR 192.507(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 27:1545 (September 2001), LR 30:1257 (June 2004), LR. 47:1145 (August 2021).

Chapter 27. Operations [49 CFR Part 192 Subpart L]

§2719. What is the Maximum Allowable Operating Pressure for Steel or Plastic Pipelines? [49 CFR 192.619]

A. - A.2.a. ...

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)]

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.

²For a component with a design pressure established in accordance with §1113.A or B installed after July 14, 2004, the factor is 1.3.

A.3. - 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), LR 47:1145 (August 2021).

Chapter 29. Maintenance

[49 CFR Part 192 Subpart M]

§2912. Analysis of Predicted Failure Pressure

[49 CFR 192.712]

A. - E.2.a.iii. ...

iv. 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(e)(2)(i)(D)]

v. 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(e)(2)(i)(E)]

E.2.b. - 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), LR 47:1146 (August 2021).

§2940. Pressure Regulating, Limiting, and Overpressure Protection—Individual Service Lines Directly Connected to Regulated Gathering or Transmission Pipelines

[49 CFR 192.740]

A. This Section applies, except as provided in Subsection C of this Section, to any service line directly connected to a transmission pipeline or regulated gathering pipeline as determined in § 507 that is not operated as part of a distribution system. [49 CFR 192.740(a)]

B. - B.4. ...

C. This Section does not apply to equipment installed on: [49 CFR 192.740(c)]

1. a service line that only serves engines that power irrigation pumps; [49 CFR 192.740(c)(1)]

2. a service line included in a distribution integrity management plan meeting the requirements of Chapter 35 of this Subpart; or [49 CFR 192.740(c)(2)]

3. a service line directly connected to either a production or gathering pipeline other than a regulated gathering line as determined in §508 of this Subpart. [49 CFR 192.740(c)(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, Pipeline Division, LR 44:1042 (June 2018), LR 46:1597 (November 2020), LR 47:1146 (August 2021).

Chapter 35. Gas Distribution Pipeline Integrity Management (IM)

[49 CFR Part 192 Subpart P]

§3503. What do the Regulations in this Chapter Cover?

[49 CFR 192.1003]

A. General. Unless exempted in Subsection B of this Section this Chapter prescribes minimum requirements for an IM program for any gas distribution pipeline covered under this Subpart, including liquefied petroleum gas systems. A gas distribution operator must follow the requirements in this Chapter. [49 CFR 192.1003(a)]

B. Exceptions. This subpart does not apply to: [49 CFR 192.1003(b)]

1. Individual service lines directly connected to a production line or a gathering line other than a regulated onshore gathering line as determined in § 507; [49 CFR 192.1003(b)(1)]

2. Individual service lines directly connected to either a transmission or regulated gathering pipeline and maintained in accordance with §2940.A and B; and [49 CFR 192.1003(b)(2)]

3. Master meter systems. [49 CFR 192.1003(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 38:123 (January 2012), amended LR 44:1044 (June 2018), LR 47:1146 (August 2021).

§3505. What must a Gas Distribution Operator (other than a Small LPG Operator) do to Implement this Chapter? [49 CFR 192.1005]

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 38:123 (January 2012), repromulgated LR 47:1146 (August 2021).

§3507. What are the Required Elements of an Integrity Management Plan? [49 CFR 192.1007]

A. - A.1.e. ...

2. Identify Threats. The operator must consider the following categories of threats to each gas distribution pipeline: corrosion (including atmospheric corrosion), natural forces, excavation damage, other outside force damage, material, or welds, equipment failure, incorrect operations, and other concerns that could threaten the integrity of its pipeline. An operator must consider reasonably available information to identify existing and potential threats. Sources of data may include, but are not limited to, incident and leak history, corrosion control records, continuing surveillance records, patrolling records, maintenance history, and excavation damage experience. [49 CFR 192.1007(b)]

3. - 7. ...

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 38:123 (January 2012), amended LR. 47:1146 (August 2021).

§3509. What must an operator report when compression couplings fail? [49 CFR 192.1009]

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 38:124 (January 2012), repealed LR. 47:1147 (August 2021).

§3515. What must a Small LPG operator do to Implement this Chapter? [49 CFR 192.1015]

A. General. No later than August 2, 2011 a small LPG operator must develop and implement an IM program that includes a written IM plan as specified in Subsection B of this Section. The IM program for these pipelines should reflect the relative simplicity of these types of pipelines. [49 CFR 192.1015(a)]

B. - C.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 38:124 (January 2012), LR. 47:1147 (August 2021).

Chapter 51. Appendices

§5103. Appendix B—Qualification of Pipe

I. Listed Pipe Specifications

A. Listed Pipe Specifications

1. API Spec 5L—Steel pipe, “API Specification for Line Pipe” (incorporated by reference, see § 507).
2. ASTM A53/A53M—Steel pipe, “Standard Specification for Pipe, Steel Black and Hot-Dipped, Zinc-Coated, Welded and Seamless” (incorporated by reference, see § 507).
3. ASTM A106/A-106M—Steel pipe, “Standard Specification for Seamless Carbon Steel Pipe for High Temperature Service” (incorporated by reference, see § 507).
4. ASTM A333/A333M—Steel pipe, “Standard Specification for Seamless and Welded Steel Pipe for Low Temperature Service” (incorporated by reference, see § 507).
5. ASTM A381—Steel pipe, “Standard Specification for Metal-Arc-Welded Steel Pipe for Use with High-Pressure Transmission Systems” (incorporated by reference, see § 507).
6. ASTM A671/A671M—Steel pipe, “Standard Specification for Electric-Fusion- Welded Pipe for Atmospheric and Lower Temperatures” (incorporated by reference, see § 507).
7. 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).
8. 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).
9. ASTM D2513—Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fittings” (incorporated by reference, see § 507).
10. 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).
11. ASTM F2785-12 “Standard Specification for Polyamide 12 Gas Pressure Pipe, Tubing, and Fittings” (PA-12) (incorporated by reference, see § 507).
12. ASTM F2817-10 “Standard Specification for Poly (Vinyl Chloride) (PVC) Gas Pressure Pipe and Fittings for Maintenance or Repair” (incorporated by reference, see § 507).
13. 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

1. ASME B16.40-2008 “Manually Operated Thermoplastic Gas Shutoffs and Valves in Gas Distribution Systems” (incorporated by reference, see § 507).
2. ASTM D2513—Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fittings” (incorporated by reference, see § 507).
3. 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).
4. ASTM F2785-12 “Standard Specification for Polyamide 12 Gas Pressure Pipe, Tubing, and Fittings” (PA-12) (incorporated by reference, see § 507).
5. ASTM F2945-12a “Standard Specification for Polyamide 11 Gas Pressure Pipe, Tubing, and Fittings” (PA-11) (incorporated by reference, see § 507).
6. ASTM F1055-98 (2006) “Standard Specification for Electrofusion Type Polyethylene Fittings for Outside Diameter Controlled Polyethylene Pipe and Tubing” (incorporated by reference, see § 507).
7. 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).
8. 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).
9. 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).
10. 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).
11. 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).
12. 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).
13. 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. Steel Pipe of Unknown or Unlisted Specification

A. Bending properties. For pipe 2 inches (51 millimeters) or less in diameter, a length of pipe must be cold bent through at least 90 degrees around a cylindrical mandrel that has a diameter 12 times the diameter of the pipe, without developing cracks at any portion and without opening the longitudinal weld.

For pipe more than 2 inches (51 millimeters) in diameter, the pipe must meet the requirements of the flattening tests set forth in ASTM A53, except that the number of tests must be at least equal to the minimum required in Paragraph II.D of this appendix to determine yield strength.

B. Weldability. A girth weld must be made in the pipe by a welder who is qualified under Chapter 13 of this Subpart. The weld must be made under the most severe conditions under which welding will be allowed in the field and by means of the same procedure that will be used in the field. On pipe more than 4 inches (102 millimeters) in diameter, at least one test weld must be made for each 100 lengths of pipe. On pipe 4 inches (102 millimeters) or less in diameter, at least one test weld must be made for each 400 lengths of pipe. The weld must be tested in accordance with API Standard 1104 (incorporated by reference, see §507). If the requirements of API Standard 1104 cannot be met, weldability may be established by making chemical tests for carbon and manganese, and proceeding in accordance with Section IX of the ASME Boiler and Pressure Vessel Code (IBR, see §507).

The same number of chemical tests must be made as are required for testing a girth weld.

C. Inspection. The pipe must be cleaned enough to permit adequate inspection. It must be visually inspected to ensure that it is reasonably round and straight and there are no defects which might impair the strength or tightness of the pipe.

D. Tensile properties. If the tensile properties of the pipe are not known, the minimum yield strength may be taken as 24,000 p.s.i. (165 MPa) or less, or the tensile properties may be established by performing tensile test as set forth in API Specification 5L (incorporated by reference, see §507).

Number of Tensile Tests-All Sizes	
10 lengths or less	1 set of tests for each length.
11 to 100 lengths	1 set of tests for each 5 lengths, but not less than 10 tests.
Over 100 lengths	1 set of tests for each 10 lengths, but not less than 20 tests.

If the yield-tensile ratio, based on the properties determined by those tests, exceeds 0.85, the pipe may be used only as provided in §705.C5(c).

III. - 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), LR. 47:1147 (August 2021).

Subpart 4. Drug and Alcohol Testing

Chapter 61. General [Part 199—Subpart A]

§6103. Definitions [49 CFR 199.3]

Prohibited Drug—any of the substances specified in 49 CFR part 40.

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, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:533 (June 1990), amended LR 18:852 (August 1992), LR 21:826, 829 (August 1995), LR 24:1306 (July 1998), LR 27:1554 (September 2001), LR 30:1292 (June 2004), LR 33:488 (March 2007), LR. 47:1148 (August 2021).

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Wastes and Hazardous Materials

Subpart 3. Natural Resources

Chapter 304. Transportation of Hazardous Liquids by

Pipeline—Operation and Maintenance

[49 CFR Part 195 Subpart F]

§30416. Pipeline Assessments

[49 CFR 195.416]

A. - 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), repromulgated LR. 47:1148 (August 2021).

Richard P. Ieyoub
Commissioner

2108#004

RULE

**Department of Transportation and Development
Offshore Terminal Authority**

**Offshore Terminal Facilities Air Emissions
Recordkeeping and Reporting
(LAC 70:VII.303)**

Under the authority of R.S. 34:3101, et seq., the Offshore Terminal Authority has issued the following Order regarding Offshore Terminal Facilities Air Emissions Recordkeeping and Reporting, 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. This Order requires that offshore terminal facilities within the jurisdiction of the Authority maintain records pertaining to certain air emissions information and annually report such information to the Authority pursuant to the recently amended Superport Environmental Protection Plan.

Pursuant to the authority granted by Louisiana Revised Statutes 34:3101 et seq., and particularly R.S. 34:3109(A)(4), 3113, and 3115(2), I hereby make the following findings and order:

1. The Superport Environmental Protection Plan (Protection Plan) is a rule and regulation of the Offshore Terminal Authority. The Protection Plan establishes the steps to be followed to ensure the protection of the environment throughout all phases of the Authority's development program, and it is applicable to all offshore terminal facilities within the jurisdiction of the Authority.

2. On April 20, 2021, the Authority amended the Protection Plan to establish certain operational and monitoring plans for offshore operations to assure adequate protection of Louisiana's onshore air quality laws. The amendment was developed in consultation with the Department of Environmental Quality and the Department of Transportation and Development.

3. As amended, Section 7 of Chapter 5 of the Protection Plan:

a. requires, in subsection (j)(2), that the Authority ensure that offshore terminal facilities' operations are conducted in a manner that minimizes or prevents any significant adverse environmental effects;

b. requires, in subsection (j)(2)(b)(1), that in considering the effect on air quality of a project or activity, the Authority examine whether the project or activity has a significant effect on onshore air quality in the state of

Louisiana through consideration of compliance with applicable National Ambient Air Quality Standards (NAAQS) through air quality modeling based on the project or activity's location, projected operations, and potential emission rates;

c. authorizes, in subsection (m), the Authority to issue orders requiring an owner or operator to submit or make available reports and records that the Authority may reasonably require to assure compliance with the Protection Plan; and

d. requires, in subsection (m)(1), that the owner or operator establish and maintain records of operating parameters necessary to estimate actual air emissions in each calendar year and submit a report to the Authority by March 31 of the following calendar year on those emissions and a comparison to modeled potential emissions, which have been demonstrated to comply with the NAAQS.

4. This Order is issued pursuant to subsection (m) of Section 7 of Chapter 5 of the Protection Plan.

5. This Order is issued as a rule, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., applicable to all offshore terminal facilities within the jurisdiction of the Authority.

6. LOOP, LLC (Louisiana Offshore Oil Port) currently operates the United States' only offshore deepwater oil port. The LOOP facility is an offshore terminal facility located in the Gulf of Mexico off the coast of Louisiana within the jurisdiction of the Authority and is thus subject to the provisions of the Protection Plan and this Order. This Rule is hereby adopted on the day of promulgation.

Title 70

TRANSPORTATION

Part VII. Offshore Terminal Authority

§303. Air Emissions Recordkeeping and Reporting

A. ...

B. The owner or operator of an offshore terminal facility shall:

1. establish and maintain records of operating parameters necessary to estimate actual air emissions in each calendar year;

2. submit a report to the Authority within 45 calendar days of publication of this Rule, stating the 2020 estimate of actual annual air emissions and a comparison to modeled potential emissions, which have been demonstrated to comply with the NAAQS;

3. submit a report to the Authority no later than March 31, 2022, stating the 2021 estimate of actual annual air emissions and a comparison to modeled potential emissions, which have been demonstrated to comply with the NAAQS; and

4. submit a report no later than March 31 of each year thereafter, stating the estimate of actual annual air emissions of the preceding calendar year and a comparison to modeled potential emissions, which have been demonstrated to comply with the NAAQS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3113.

HISTORICAL NOTE: Promulgated by the Offshore Terminal Authority (January 1974), amended (October 1975), amended (August 1976), LR 47:490 (April 2021), amended LR 47:1149 (August 2021).

Joseph G. Hollins
Executive Director

2108#005

Notices of Intent

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs and Criminal Investigations Division**

Medical Use of Byproduct Material

(LAC 33:XV.102, 328, 331, 613, 706, 708, 710, 712, 718, 719, 732, 735, 739, 741, 742, 743, 744, 745, 747, 750, 762, 763, 777, 915, 1510, and 1520) (RP069ft)

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 gives notice that rulemaking procedures have been initiated to amend the Radiation Protection regulations, LAC 33:XV.102, 328, 331, 613, 706, 708, 710, 712, 718, 719, 732, 735, 739, 741, 742, 743, 744, 745, 747, 750, 762, 763, 777, 915, 1510, and 1520 (Log #RP069ft).

This Rule is identical to federal regulations found in 10 CFR 30, 32, and 35, which are applicable in Louisiana. For more information regarding the federal requirement, contact Deidra Johnson at (225) 219-3985. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule updates the regulations pertaining to the medical use of byproduct material. This Rule was promulgated by the Nuclear Regulatory Commission (NRC) as RATS IDs 2018-1 and 2020-2. This Rule will update the state regulations to be compatible with changes in the federal regulations. The changes in the state regulations are category B, C, and H&S requirements for the state of Louisiana to remain an NRC agreement state. The basis and rationale for this Rule are to mirror the federal regulations and maintain an adequate agreement state program. 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.

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

Chapter 1. General Provisions

§102. Definitions and Abbreviations

A. As used in these regulations, these terms have the definitions set forth below. Additional definitions used only in a certain chapter may be found in that Chapter.

* * *

Associate Radiation Safety Officer—an individual who:

a. meets the requirements in LAC 33:XV.763.A and M; and

b. is currently identified as an associate radiation safety officer for the types of use of byproduct material for which the individual has been assigned duties and tasks by the radiation safety officer on:

- i. a specific medical use license issued by the NRC or an agreement state; or
- ii. a medical use permit issued by a NRC master material licensee.

* * *

Ophthalmic Physicist—an individual who:

a. meets the requirements in LAC 33:XV.719.N.1.b and 763.M; and

b. is identified as an ophthalmic physicist on a:

i. specific medical use license issued by the NRC or an agreement state;

ii. permit issued by a NRC or agreement state broad scope medical use licensee;

iii. medical use permit issued by a NRC master material licensee; or

iv. permit issued by a NRC master material licensee broad scope medical use permittee.

* * *

Preceptor—an individual who provides, directs, or verifies the training and experience required for an individual to become an authorized user, an authorized medical physicist, an authorized nuclear pharmacist, a radiation safety officer, or an associate radiation safety officer.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 19:1421 (November 1993), LR 20:650 (June 1994), LR 22:967 (October 1996), LR 24:2089 (November 1998), repromulgated LR 24:2242 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2563 (November 2000), LR 26:2767 (December 2000), LR 30:1171, 1188 (June 2004), amended by the Office of Environmental Assessment, LR 31:44 (January 2005), LR 31:1064 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:811 (May 2006), LR 32:1853 (October 2006), LR 33:1016 (June 2007), LR 33:2175 (October 2007), LR 34:982 (June 2008), LR 36:1771 (August 2010), amended by the Office of the Secretary, Legal Division, LR 38:2748 (November 2012), LR 40:283 (February 2014), LR 40:1338 (July 2014), LR 40:1926 (October 2014), LR 41:1276 (July 2015), LR 41:2321 (November 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:2137 (December 2018), LR 45:1752 (December 2019), LR 47:

Chapter 3. Licensing of Byproduct Material

Subchapter D. Specific Licenses

§328. Special Requirements for Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices that Contain Byproduct Material

A. - J.1.b.v. ...

c. the applicant submits to the Office of Environmental Compliance information on the radionuclide, the chemical and physical form, the maximum activity per vial, syringe, generator, or other container of the radioactive

drug; and the shielding provided by the packaging to show it is appropriate for the safe handling and storage of the radioactive drugs by medical use licensees; and

d. the applicant commits to the following labeling requirements:

i. the label is affixed to each transport radiation shield, whether it is constructed of lead, glass, plastic, or other material, of a radioactive drug to be transferred for commercial distribution. The label shall include the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL," the name of the radioactive drug or its abbreviation, and the quantity of radioactivity at a specified date and time. For radioactive drugs with a half-life greater than 100 days, the time may be omitted; and

ii. a label is affixed to each syringe, vial, or other container used to hold a radioactive drug to be transferred for commercial distribution. The label shall include the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL" and an identifier that ensures that the syringe, vial, or other container can be correlated with the information on the transport radiation shield label.

2. - 2.e....

i. a copy of each individual's certification by a specialty board whose certification process has been recognized by the department, the NRC, or agreement state as specified in LAC 33:XV.763.K;

2.e.ii. - 3.b. ...

4. A licensee shall satisfy the labeling requirements in Subparagraph J.1.d. of this Section.

5. Nothing in this Section relieves the licensee from complying with applicable FDA, other federal, and state requirements governing radioactive drugs.

K. - M.4.g....

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 24:2092 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2569 (November 2000), LR 26:2768 (December 2000), LR 27:1228 (August 2001), LR 30:1664 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2526 (October 2005), LR 33:2179 (October 2007), LR 36:1771 (August 2010), amended by the Office of the Secretary, Legal Division, LR 38:2746 (November 2012), LR 40:286 (February 2014), LR 40:1341 (July 2014), LR 41:1278 (July 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:2137 (December 2018), LR 47:

§331. Specific Terms and Conditions of Licenses

A. ...

B. No license issued or granted in accordance with these regulations and no right to possess or utilize radioactive material granted by any license issued pursuant to this Chapter shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person unless the department shall, after securing full information, find that the transfer is in accordance with the provisions of the act and shall give its consent in writing.

1. ...

C. Each person licensed by the administrative authority in accordance with these regulations shall confine his use and possession of the byproduct material to the locations and purposes authorized in the license. Except as otherwise provided in the license, a license issued in accordance with these regulations shall carry with it the right to receive, acquire, own, and possess byproduct material. Preparation for shipment and transport of byproduct material shall be in accordance with the provisions of Chapter 15.

D. - F. ...

G. Each licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators or rubidium-82 from strontium-82/rubidium-82 generators shall:

1. test the generator eluates for molybdenum-99 breakthrough or strontium-82 and strontium-85 contamination, respectively, in accordance with LAC 33:XV.732;

2. record the results of each test and retain each record for three years after the record is made; and

3. report the results of any test that exceeds the permissible concentration listed in LAC 33:XV.732.A at the time of generator elution, in accordance with LAC 33:XV.732.D and E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2571 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2527 (October 2005), LR 33:2180 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:1928 (October 2014), LR 41:2132 (October 2015), LR 47:

Chapter 6. X-Rays in the Healing Arts §613. Notifications, Reports, and Records of Medical Events

A. - C.

D. All reports, notifications, and records shall be in accordance with LAC 33:XV.712.D, E, and G.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1064 (May 2005), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:751 (June 2019), LR 45:1758 (December 2019), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

Chapter 7. Use of Radionuclides in the Healing Arts §706. Radiation Safety Officer

A. A licensee's management shall appoint a radiation safety officer, who agrees, in writing, to be responsible for implementing the radiation protection program. The licensee, through the radiation safety officer, shall ensure that radiation safety activities are being performed in accordance with licensee-approved procedures and regulatory requirements. A licensee's management may appoint, in writing, one or more associate radiation safety

officers to support the radiation safety officer. The radiation safety officer, with written agreement of the licensee's management, shall assign the specific duties and tasks to each associate radiation safety officer. These duties and tasks are restricted to the types of use for which the associate radiation safety officer is listed on a license. The radiation safety officer may delegate duties and tasks to the associate radiation safety officer but shall not delegate the authority or responsibilities for implementing the radiation protection program.

B. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2588 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:813 (May 2006), LR 47:

§708. Statement of Authorities and Responsibilities

A. A licensee shall provide sufficient authority, organizational freedom, time, resources, and management prerogative to the radiation safety officer and the radiation safety committee to:

1. ...
2. initiate, recommend, or provide corrective actions;
3. stop unsafe operations; and
4. verify implementation of corrective actions.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§710. Report and Notification of a Dose to an Embryo/Fetus or a Nursing Child

A. A licensee shall report any dose to an embryo/fetus that is greater than 50 mSv (5 rem) dose equivalent that is a result of an administration of byproduct material or radiation from byproduct material to a pregnant individual unless the dose to the embryo/fetus was specifically approved, in advance, by the authorized user.

B. A licensee shall report any dose to a nursing child that is a result of an administration of byproduct material to a breast-feeding individual that:

B.1. - F.1.a. ...

b. the identification number or if no other identification number is available, the social security number of the individual who is the subject of the event; and

F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 30:1174 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2185 (October 2007), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§712. Notifications, Reports, and Records of Medical Events

A. A licensee shall report any event as a medical event, except for an event that results from patient intervention, in which the administration of byproduct material or radiation from byproduct material, except permanent implant brachytherapy, results in:

1. a dose that differs from the prescribed dose, or the dose that would have resulted from the prescribed dosage, by more than 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin, and:

1.a. - 2....

a. an administration of a wrong radioactive drug containing byproduct material or the wrong radionuclide for a brachytherapy procedure;

b. an administration of a radioactive drug containing byproduct material by the wrong route of administration;

c. - e. ...

3. a dose to the skin or an organ or tissue other than the treatment site that exceeds by:

a. 0.5 Sv (50 rem) or more the expected dose to that site from the procedure if the administration had been given in accordance with the written directive prepared or revised before administration; and

b. 50 percent or more the expected dose to that site from the procedure if the administration had been given in accordance with the written directive prepared or revised before administration.

B. For permanent implant brachytherapy, the administration of byproduct material or radiation from byproduct material (excluding sources that were implanted in the correct site but migrated outside the treatment site) that results in:

1. the total source strength administered differing by 20 percent or more from the total source strength documented in the post-implantation portion of the written directive;

2. the total source strength administered outside of the treatment site exceeding 20 percent of the total source strength documented in the post-implantation portion of the written directive; or

3. an administration that includes any of the following:

a. the wrong radionuclide;

b. the wrong individual or human research subject;

c. sealed source(s) implanted directly into a location discontinuous from the treatment site, as documented in the post-implantation portion of the written directive; or

d. a leaking sealed source resulting in a dose that exceeds 0.5 Sv (50 rem) to an organ or tissue.

C. A licensee shall report any event resulting from intervention of a patient or human research subject in which the administration of byproduct material or radiation from byproduct material results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician.

D. The following notifications are required for a medical event.

1. The licensee shall notify the Office of Environmental Compliance by telephone at (225) 765-0160 in the manner provided in LAC 33:I.3923 no later than the next calendar day after discovery of the medical event.

2. The licensee shall submit a written report to the Office of Environmental Compliance using the procedures provided in LAC 33:I.3925.B and C within 15 days after discovery of the medical event.

a. The written report shall include:

- i. the licensee's name;
- ii. the name of the prescribing physician;
- iii. a brief description of the event;
- iv. why the event occurred;
- v. the effect, if any, on the individual(s) who received the administration;
- vi. what actions, if any, have been taken or are planned to prevent recurrence; and
- vii. certification that the licensee notified the individual (or the individual's responsible relative or guardian), and if not, why not.

b. The report may not contain the individual's name or any other information that could lead to identification of the individual.

3. The licensee shall notify the referring physician and also notify the individual who is the subject of the medical event no later than 24 hours after its discovery, unless the referring physician personally informs the licensee either that he or she will inform the individual or that, based on medical judgement, telling the individual would be harmful. The licensee is not required to notify the individual without first consulting the referring physician. If the referring physician or the affected individual cannot be reached within 24 hours, the licensee shall notify the individual as soon as possible thereafter. The licensee may not delay any appropriate medical care for the individual, including any necessary remedial care as a result of the medical event, because of any delay in notification. To meet the requirements of this Paragraph, the notification to the individual who is the subject of the medical event may be made instead to that individual's responsible relative or guardian. If a verbal notification is made, the licensee shall inform the individual, or appropriate responsible relative or guardian, that a written description of the event can be obtained from the licensee upon request. The licensee shall provide such a written description if requested.

E. Each licensee shall retain a record of each medical event for five years. The record shall contain the names of all individuals involved (including the prescribing physician, allied health personnel, the individual affected by the medical event, and the individual's referring physician), the individual's driver's license or state identification number and the issuing state, a brief description of the medical event, why it occurred, the effect on the individual, what improvements are needed to prevent recurrence, and the actions taken to prevent recurrence.

F. Aside from the notification requirement, nothing in this Section affects any rights or duties of licensees and physicians in relation to each other, the individual, or the individual's responsible relatives or guardians.

G. A licensee shall:

1. annotate a copy of the report provided to the department with:

a. the name of the individual who is the subject of the event; and

b. the identification number or if no other identification number is available, the social security number of the individual who is the subject of the event; and

2. provide a copy of the annotated report to the referring physician, if other than the licensee, no later than 15 days after the discovery of the event.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2102 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2588 (November 2000), LR 30:1174 (June 2004), LR 30:1679 (August 2004), amended by the Office of Environmental Assessment, LR 30:2804 (December 2004), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§718. Authorization for Calibration, Transmission, and Reference Sources

A. Any person authorized by LAC 33:XV.702 for medical use of byproduct material may receive, possess, and use the following byproduct material for check, calibration, transmission, and reference use:

1. sealed sources manufactured and distributed by persons specifically licensed in accordance with Chapter 3 of these regulations or equivalent provisions of the U.S. NRC, an agreement state, or a licensing state, and that do not exceed 30 millicuries (1.11 GBq) each;

2. sealed sources redistributed by a licensee authorized to redistribute the sealed sources manufactured and distributed by a person licensed under LAC 33:XV.328.L or equivalent agreement state regulations, providing the redistributed sealed sources are in the original packaging and shielding and are accompanied by the manufacturer's approved instructions and do not exceed 30 mCi (1.11 GBq) each;

3. any byproduct material with a half-life of 120 days or less in individual amounts not to exceed 15 millicuries (0.56 GBq);

4. any byproduct material with a half-life greater than 120 days in individual amounts not to exceed the smaller of 200 microcuries (7.4 MBq) or 1000 times the quantities in LAC 33:XV.499.Appendix C; or

5. technetium-99m in amounts as needed.

B. Byproduct material in sealed sources authorized by this provision shall not be:

1. used for *medical use* as defined in LAC 33:XV.102 except in accordance with the requirements in LAC 33:XV.739; or

2. combined (i.e., bundled or aggregated) to create an activity greater than the maximum activity of any single sealed source authorized under this Section.

C. A licensee using calibration, transmission, and reference sources in accordance with the requirements in Subsections A or B of this Section need not list these sources on a specific medical use license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§719. Requirements for Possession of Sealed Sources and Brachytherapy Sources

A. - K. ...

L. A licensee shall mathematically correct the outputs or activities determined in Subsection J of this Section for physical decay at intervals consistent with 1 percent physical decay.

M. ...

N. Strontium-90 Sources for Ophthalmic Treatments.

1. Licensees who use strontium-90 for ophthalmic treatments shall ensure that certain activities as specified in Paragraph N.2 of this Section are performed by either:

- a. an authorized medical physicist; or
- b. an individual who:
 - i. is identified as an ophthalmic physicist on a specific medical use license issued by the NRC or an agreement state; permit issued by an NRC or agreement state broad scope medical use licensee; medical use permit issued by an NRC master material licensee; or permit issued by an NRC master material licensee broad scope medical use permittee;
 - ii. holds a master's or doctor's degree in physics, medical physics, other physical sciences, engineering, or applied mathematics from an accredited college or university;
 - iii. has successfully completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of a medical physicist; and
 - iv. has documented training in:
 - (a). the creation, modification, and completion of written directives;
 - (b). procedures for administrations requiring a written directive; and
 - (c). performing the calibration measurements of brachytherapy sources as detailed in LAC 33:XV.719.J.

2. The individuals who are identified in Paragraph N.1 of this Section shall:

- a. calculate the activity of each strontium-90 source that is used to determine the treatment times for ophthalmic treatments. The decay shall be based on the activity determined under LAC 33:XV.719.J; and
- b. assist the licensee in developing, implementing, and maintaining written procedures to provide high confidence that the administration is in accordance with the written directive. These procedures shall:
 - i. include the frequencies that the individual meeting the requirements in Paragraph N.1 of this Section will observe treatments;
 - ii. review the treatment methodology;
 - iii. calculate treatment time for the prescribed dose; and
 - iv. review records to verify that the administrations were in accordance with the written directives.

3. Licensees shall retain a record of the activity of each strontium-90 source for the life of the source in accordance with LAC 33:XV.744.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), LR 30:1176 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2533 (October 2005), LR 33:2185 (October 2007), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§732. Permissible Molybdenum-99, Strontium-82, and Strontium-85 Concentrations

A. - C. ...

D. The licensee shall notify the Office of Environmental Compliance by telephone at (225) 765-0160 and the distributor of the generator within seven calendar days after discovery that an eluate exceeded the permissible concentration specified in LAC 33:XV.732.A at the time of generator elution. The telephone report to the department shall include:

1. the manufacturer;
2. model number, and serial number (or lot number) of the generator;
3. the results of the measurement;
4. the date of the measurement;
5. whether dosages were administered to patients or human research subjects;
6. when the distributor was notified; and
7. the action taken.

E. By an appropriate method listed in LAC 33:I.3923, the licensee shall submit a written report to the Office of Environmental Compliance within 30 calendar days after discovery of an eluate exceeding the permissible concentration at the time of generator elution.

1. The written report shall include:
 - a. the action taken by the licensee;
 - b. the patient dose assessment;
 - c. the methodology used to make this dose assessment if the eluate was administered to patients or human research subjects;
 - d. the probable cause and an assessment of failure in the licensee's equipment, procedures, or training that contributed to the excessive readings if an error occurred in the licensee's breakthrough determination; and
 - e. the information in the telephone report as required by Subsection D of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), amended by the Office of the Secretary, Legal Division, LR 40:291 (February 2014), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§735. Use of Radiopharmaceuticals for Therapy

A. - B.2. ...

C. A licensee may use any unsealed byproduct material identified in 763.E.1.b.i.(b).(vii) prepared for medical use and for which a written directive is required that is:

1. obtained from:

a. a manufacturer or preparer licensed under LAC 33:XV.328.J or equivalent agreement state requirements; or

b. a PET radioactive drug producer licensed in accordance with LAC 33:XV.324.D.1 or equivalent NRC or agreement state requirements; or

2. excluding production of PET radionuclides, prepared by:

a. an authorized nuclear pharmacist;

b. a physician who is an authorized user and who meets the requirements specified in LAC 33:XV.763.D or E.1; or

c. an individual under the supervision, as specified in LAC 33:XV.709, of the authorized nuclear pharmacist in Subparagraph C.2.a of this Section or the physician who is an authorized user in Subparagraph C.2.b of this Section; or

3. obtained from and prepared by a NRC or agreement state licensee, for use in research in accordance with an Investigational New Drug (IND) protocol accepted by FDA; or

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2104 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1178 (June 2004), amended by the Office of the Secretary, Legal Division, LR 40:292 (February 2014), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§739. Use of Sealed Sources and Medical Devices for Diagnosis

A. A licensee shall use only sealed sources that are not in medical devices for diagnostic medical uses if the sealed sources are approved in the Sealed Source and Device Registry for diagnostic medicine. The sealed sources may be used for diagnostic medical uses that are not explicitly listed in the Sealed Source and Device Registry but shall be used in accordance with the radiation safety conditions and limitations described in the Sealed Source and Device Registry.

B. A licensee shall only use medical devices containing sealed sources for diagnostic medical uses if both the sealed sources and medical devices are approved in the Sealed Source and Device Registry for diagnostic medical uses. The diagnostic medical devices may be used for diagnostic medical uses that are not explicitly listed in the Sealed Source and Device Registry but shall be used in accordance with the radiation safety conditions and limitations described in the Sealed Source and Device Registry.

C. Sealed sources and devices for diagnostic medical uses may be used in research in accordance with an active Investigational Device Exemption (IDE) application accepted by the U.S. Food and Drug Administration provided the requirements of LAC 33:XV.713.A.1 are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1178 (June 2004), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§741. Use of Sources for Brachytherapy

A. - B. ...

1. as approved in the Sealed Source and Device Registry for manual brachytherapy medical use. The manual brachytherapy sources may be used for manual brachytherapy uses that are not explicitly listed in the Sealed Source and Device Registry, but shall be used in accordance with the radiation safety conditions and limitations described in the Sealed Source and Device Registry; or

2. in research to deliver therapeutic doses for medical use in accordance with an active Investigational Device Exemption (IDE) application accepted by the FDA, provided the requirements of LAC 33:XV.713.A.1 are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1178 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:813 (May 2006), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§742. Safety Instructions

A. The licensee shall provide oral and written radiation safety instruction to all personnel caring for a patient or human research subject receiving brachytherapy and cannot be released under LAC 33:XV.725. Refresher training shall be provided at intervals not to exceed one year.

B. - B.4.a. ...

b. visitation authorized in accordance with LAC 33:XV.421.F;

5. - 6. ...

C. A licensee shall maintain a record of individuals receiving instruction required by Subsection A of this Section, a description of the instruction, the date of instruction, and the name of the individual who gave the instruction for three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2105 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1179 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:813 (May 2006), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§743. Safety Precautions

A. - B. ...

1. dislodged from the patient; and

B.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2105 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1179 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:814 (May 2006), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§744. Brachytherapy Records

A. - A.1. ...

2. As soon as possible after removing sources from a patient or a human research subject, the licensee shall return brachytherapy sources to an area of storage from the area of use, and immediately count or otherwise verify the number returned to ensure that all sources taken from the storage area have been returned.

3. A licensee shall maintain a record of brachytherapy source accountability required by Paragraphs 1 and 2 of this Section for three years.

a. For temporary implants, the record shall include:

i. the number and activity of sources removed from storage, the time and date they were removed from storage, the name of the individual who removed them from storage, and the location of use; and

ii. the number and activity of sources returned to storage, the time and date they were returned to storage, and the name of the individual who returned them to storage.

b. For permanent implants, the record shall include:

i. the number and activity of sources removed from storage, the date they were removed from storage, and the name of the individual who removed them from storage;

ii. the number and activity of sources not implanted, the date they were returned to storage, and the name of the individual who returned them to storage; and

iii. the number and activity of sources permanently implanted in the patient or human research subject.

B. - C.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2106 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1179 (June 2004), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§745. Surveys After Source Implant and Removal

A. ...

B. Immediately after removing the last temporary implant source from a patient or human research subject, the licensee shall perform a radiation survey of the patient or human research subject with a radiation detection survey instrument to confirm that all sources have been removed.

C. ...

D. A licensee shall maintain a record of patient or human research subject surveys that demonstrates compliance with Subsections A, B, and C of this Section for three years. Each record shall include the date and results of the survey, the survey instrument used, and the name of the individual who made the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2106 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1180 (June 2004), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§747. Use of Sealed Sources in Teletherapy Units, Remote Afterloader Units, and Gamma Stereotactic Radiosurgery Units

A. - A.2. ...

B. A licensee shall use teletherapy units, photon-emitting remote afterloader units, or gamma stereotactic radiosurgery units:

1. approved in the Sealed Source and Device Registry to deliver a therapeutic dose for medical use. These devices may be used for therapeutic medical treatments that are not explicitly provided for in the Sealed Source and Device Registry, but shall be used in accordance with radiation safety conditions and limitations described in the Sealed Source and Device Registry; or

2. in research in accordance with an active Investigational Device Exemption (IDE) application accepted by the FDA provided the requirements of LAC 33:XV.713.A.1 are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1180 (June 2004), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§750. Safety Procedures and Instructions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

A. - C.2. ...

D. Prior to the first use for patient treatment of a new unit or an existing unit with a manufacturer upgrade that affects the operation and safety of the unit, a licensee shall:

1. ensure that vendor operational and safety training is provided to all individuals who will operate the unit. The vendor operational and safety training shall be provided by the device manufacturer or by an individual certified by the device manufacturer to provide the operational and safety training; and

2. provide operational and safety instructions, initially and at least annually, to all individuals who operate the unit, as appropriate to the individual's assigned duties. The instructions shall include instructions in:

a. the procedures identified in Paragraph A.4 of this Section; and

b. the operating procedures for the unit.

E. ...

F. A licensee shall maintain a record of individuals receiving instruction required by Subsection D of this Section, a description of the instruction, the date of instruction, the name(s) of the attendee(s), and the name of the individual who gave the instruction for three years.

G. A licensee shall retain a copy of the procedures required by Paragraphs A.4 and D.2 of this Section until the

licensee no longer possesses the remote afterloader, teletherapy unit, or gamma stereotactic radiosurgery unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2106 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1180 (June 2004), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§762. Full Inspection Servicing for Teletherapy and Gamma Stereotactic Radiosurgery Units

A. A licensee shall have each teletherapy unit and gamma stereotactic radiosurgery unit fully inspected and serviced during each source replacement or at intervals not to exceed five years, whichever comes first, to ensure proper functioning of the source exposure mechanism and other safety components.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000), LR 30:1186 (June 2004), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§763. Training

A. Training for a Radiation Safety Officer and Associate Radiation Safety Officer. Except as provided in Subsection B of this Section, the licensee shall require an individual fulfilling the responsibilities of the radiation safety officer or an individual assigned duties and tasks as an associate radiation safety officer as provided in LAC 33:XV.706 to be an individual:

1. who is certified by a specialty board whose certification process has been recognized by the NRC or an agreement state, and who meets the requirements in Paragraph A.4 of this Section. The names of board certifications that have been recognized by the NRC or an agreement state are posted on the NRC's Medical Uses Licensee Toolkit web page. To have its certification process recognized, a specialty board shall require all candidates for certification to:

a. - b. ...

i. hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;

ii. - ii.(a). ...

(b) in clinical nuclear medicine facilities providing diagnostic or therapeutic services under the direction of physicians who meet the requirements for authorized users in Subsection B or D, or Paragraph E.1 of this Section; and

1.b.iii. - 2.a.v. ...

b. one year of full-time radiation safety experience under the supervision of the individual identified as the radiation safety officer on a NRC or agreement state license or permit issued by a NRC master material licensee that authorizes similar type(s) of use(s) of byproduct material. An

associate radiation safety officer may provide supervision for those areas for which the associate radiation safety officer is authorized on a NRC or an agreement state license or permit issued by a NRC master material licensee. The full-time radiation safety experience shall involve the following:

i. - vi. ...

vii. disposing of byproduct material; and

c. this individual shall obtain a written attestation, signed by a preceptor radiation safety officer or associate radiation safety officer who has experience with the radiation safety aspects of similar types of use of byproduct material for which the individual is seeking approval as a radiation safety officer or an associate radiation safety officer. The written attestation shall state that the individual has satisfactorily completed the requirements in Paragraphs A.2 and A.4 of this Section, and is able to independently fulfill the radiation safety-related duties as a radiation safety officer or as an associate radiation safety officer for a medical use license; or

3. ...

a. is a medical physicist who has been certified by a specialty board whose certification process has been recognized by the NRC or an agreement state in accordance with Subsection J of this Section, has experience with the radiation safety aspects of similar types of use of byproduct material for which the licensee is seeking the approval of the individual as radiation safety officer or an associate radiation safety officer, and who meets the requirements in Paragraph A.4 of this Section; or

b. is an authorized user, authorized medical physicist, or authorized nuclear pharmacist identified on a NRC or an agreement state license, or a permit issued by a NRC or an agreement state licensee of broad scope, or a permit issued by the NRC master material license broad scope permittee, has experience with the radiation safety aspects of similar types of use of byproduct material for which the licensee seeks the approval of the individual as the radiation safety officer or associate radiation safety officer, and meets the requirements in Paragraph 4 of this Section; or

c. has experience with the radiation safety aspects of the types of use of byproduct material for which the individual is seeking simultaneous approval both as the radiation safety officer and the authorized user on the same new medical use license or new medical use permit issued by a NRC master material license. The individual shall also meet the requirements in Paragraph A.4 of this Section.

4. The individual shall have training in the radiation safety, regulatory issues, and emergency procedures for the types of use for which a licensee seeks approval. This training requirement may be satisfied by completing training that is supervised by a radiation safety officer, an associate radiation safety officer, authorized medical physicist, authorized nuclear pharmacist, or authorized user, as appropriate, who is authorized for the type(s) of use for which the licensee is seeking approval.

B. ...

1. An individual identified on an agreement state or a NRC license or a permit issued by a NRC or an agreement state broad scope licensee or master material license permit or by a master material license permittee of broad scope as a radiation safety officer, a teletherapy or medical physicist, an

authorized medical physicist, a nuclear pharmacist, or an authorized nuclear pharmacist on or before January 14, 2019, need not comply with the training requirements of Subsections A, J, or K of this Section, respectively, except the radiation safety officers and authorized medical physicists identified in this Paragraph shall meet the training requirements in Paragraphs A.4 or J.3 of this Section as appropriate, for any material or uses for which they were not authorized prior to this date.

2. Any individual certified by the American Board of Health Physics in Comprehensive Health Physics; American Board of Radiology; American Board of Nuclear Medicine; American Board of Science in Nuclear Medicine; Board of Pharmaceutical Specialties in Nuclear Pharmacy; American Board of Medical Physics in radiation oncology physics; Royal College of Physicians and Surgeons of Canada in nuclear medicine; American Osteopathic Board of Radiology; or American Osteopathic Board of Nuclear Medicine on or before October 24, 2005, need not comply with the training requirements of Subsection A of this Section to be identified as a radiation safety officer or as an associate radiation safety officer on a NRC or an agreement state license or NRC master material license permit for those materials and uses that these individuals performed on or before October 24, 2005.

3. Any individual certified by the American Board of Radiology in therapeutic radiological physics, Roentgen ray and gamma ray physics, X-ray and radium physics, or radiological physics, or certified by the American Board of Medical Physics in radiation oncology physics, on or before October 24, 2005, need not comply with the training requirements for an authorized medical physicist described in Subsection J of this Section, for those materials and uses that these individuals performed on or before October 24, 2005.

4. A radiation safety officer, a medical physicist, or a nuclear pharmacist, who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses or in the practice of nuclear pharmacy at a government agency or federally-recognized Indian tribe before November 30, 2007, or at any other location of use before August 8, 2009, or an earlier date as noticed by the NRC, need not comply with the training requirements of Subsections A, J, or K of this Section, respectively, when performing the same uses. A nuclear pharmacist, who prepared only radioactive drugs containing accelerator-produced radioactive materials, or a medical physicist, who used only accelerator-produced radioactive materials, at the locations and during the time period identified in this Paragraph, qualifies as an authorized nuclear pharmacist or an authorized medical physicist, respectively, for those materials and uses performed before these dates, for purposes of this Chapter.

5. Physicians, dentists, or podiatrists identified as authorized users for the medical use of byproduct material on a license issued by the NRC or agreement state, a permit issued by a NRC master material licensee, a permit issued by a NRC or an agreement state broad scope licensee, or a permit issued by a commission master material license broad scope permittee on or before January 14, 2019, who perform only those medical uses for which they were authorized on

or before that date need not comply with the training requirements of this Chapter.

6. Physicians, dentists, or podiatrists not identified as authorized users for the medical use of byproduct material on a license issued by the NRC or agreement state, a permit issued by a NRC master material licensee, a permit issued by a NRC or an agreement state broad scope licensee, or a permit issued by a NRC master material license of broad scope on or before October 24, 2005, need not comply with the training requirements of this Chapter for those materials and uses that these individuals performed on or before October 24, 2005, as follows:

a. for uses authorized under LAC 33:XV.729 or 731, or oral administration of sodium iodide I-131 requiring a written directive for imaging and localization purposes, a physician who was certified on or before October 24, 2005, in nuclear medicine by the American Board of Nuclear Medicine; diagnostic radiology by the American Board of Radiology; diagnostic radiology or radiology by the American Osteopathic Board of Radiology; nuclear medicine by the Royal College of Physicians and Surgeons of Canada; or American Osteopathic Board of Nuclear Medicine in nuclear medicine;

b. for uses authorized under LAC 33:XV.735.C, a physician who was certified on or before October 24, 2005, by the American Board of Nuclear Medicine; the American Board of Radiology in radiology, therapeutic radiology, or radiation oncology; nuclear medicine by the Royal College of Physicians and Surgeons of Canada; or the American Osteopathic Board of Radiology after 1984;

c. for uses authorized under LAC 33:XV.741, a physician who was certified on or before October 24, 2005, in radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology; radiation oncology by the American Osteopathic Board of Radiology; radiology, with specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; and

d. for uses authorized under LAC 33:XV.739, a physician who was certified on or before October 24, 2005, in radiology, diagnostic radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology; nuclear medicine by the American Board of Nuclear Medicine; diagnostic radiology or radiology by the American Osteopathic Board of Radiology; or nuclear medicine by the Royal College of Physicians and Surgeons of Canada.

7. Physicians, dentists, or podiatrists who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses performed at a government agency or federally-recognized Indian tribe before November 30, 2007, or at all other locations of use before August 8, 2009, or an earlier date as noticed by the NRC, need not comply with the training requirements of this Chapter when performing the same medical uses. A physician, dentist, or podiatrist who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses at the locations and time period identified in this Paragraph, qualifies as an authorized user for those materials and uses performed before these dates, for purposes of this Chapter.

8. Individuals who need not comply with training requirements as described in this Section may serve as preceptors for, and supervisors of, applicants seeking authorizations on Agreement State or NRC licenses for the same uses for which these individuals are authorized.

C. ...

1. who is certified by a medical specialty board whose certification process has been recognized by the NRC or an agreement state. The names of board certifications that have been recognized by the NRC or an agreement state are posted on the NRC's Medical Uses Licensees Toolkit web page. To have its certification process recognized, a specialty board shall require all candidates for certification to:

a. complete 60 hours of training and experience in basic radionuclide handling techniques and radiation safety applicable to the medical use of unsealed byproduct material for uptake, dilution, and excretion studies as described in Clauses C.3.a.i-ii of this Section; and

b. ...

2. who is an authorized user under Subsection D or Paragraph E.1 of this Section, or equivalent agreement state requirements, or NRC requirements; or

3. ...

a. has completed 60 hours of training and experience, including a minimum of eight hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed byproduct material for uptake, dilution, and excretion studies. The training and experience shall include:

i. - ii.(f). ...

b. has obtained written attestation that the individual has satisfactorily completed the requirements in Subparagraph C.3.a of this Section and is able to independently fulfill the radiation safety-related duties as an authorized user for the medical uses authorized in LAC 33:XV.729. The attestation shall be obtained from either:

i. a preceptor authorized user who meets the requirements in Subsections B, C, D, or Paragraph E.1 of this Section, or equivalent NRC or agreement state requirements; or

ii. a residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in Subsections B, C, D, or Paragraph E.1 of this Section, or equivalent NRC or agreement state requirements, and concurs with the attestation provided by the residency program director. The residency training program shall be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and shall include training and experience specified in Subparagraph C.3.a of this Section.

D. ...

1. who is certified by a medical specialty board whose certification process has been recognized by the NRC or an agreement state. The names of board certifications that have been recognized by the NRC or an agreement state are posted on the NRC's Medical Uses Licensee Toolkit web page. To have its certification process recognized, a specialty board shall require all candidates for certification to:

1.a. - 3....

a. has completed 700 hours of training and experience, including a minimum of 80 hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed byproduct material for imaging and localization studies. The training and experience shall include, at a minimum:

i. - i.(e). ...

ii. work experience, under the supervision of an authorized user, who meets the requirements in this Subsection, Subsection B, or Subclause D.3.a.ii.(g) and Paragraph E.1 of this Section, or equivalent agreement state requirements, or NRC requirements. An authorized nuclear pharmacist who meets the requirements in Subsections B or K of this Section may provide the supervised work experience for Subclause D.3.a.ii.(g) of this Section. Work experience shall involve:

(a). - (g). ...

b. has obtained written attestation that the individual has satisfactorily completed the requirements in Subparagraph D.3.a of this Section and is able to independently fulfill the radiation safety-related duties as an authorized user for the medical uses authorized in LAC 33:XV.729 and LAC 33:XV.731.H. The attestation shall be obtained from either:

i. a preceptor authorized user who meets the requirements in this Subsection, Subsection B, or Paragraph E.1 and Subclause D.3.a.ii.(g) of this Section, NRC or equivalent agreement state requirements; or

ii. a residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Subsection, Subsection B, or Paragraph E.1 and Subclause D.3.a.ii.(g), or equivalent NRC or agreement state requirements, and concurs with the attestation provided by the residency program director. The residency training program shall be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and shall include training and experience specified in Subparagraph D.3.a of this Section.

E. - E.1. ...

a. who is certified by a medical specialty board whose certification process has been recognized by the NRC or an agreement state, and who meets the requirements in Division E.1.b.i.(b).(vii) of this Section. The names of board certifications that have been recognized by the NRC or an agreement state are posted on the NRC's Medical Uses Licensee Toolkit web page. To be recognized, a specialty board shall require all candidates for certification to:

i. successfully complete residency training in a radiation therapy or nuclear medicine training program or a program in a related medical specialty. These residency training programs shall include 700 hours of training and experience as described in Subclause E.1.b.i.(a) through Division E.1.b.i.(b).(v) of this Section. Eligible training programs shall be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education, the Royal College of Physicians and

Surgeons of Canada, or the Council on Postdoctoral Training of the American Osteopathic Association; and

a.ii. – b. ...

i. has completed 700 hours of training and experience, including a minimum of 200 hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed byproduct material requiring a written directive. The training and experience shall include:

(a). - (a).(v). ...

(b). work experience, under the supervision of an authorized user who meets the requirements in this Paragraph, Subsection B of this Section, or equivalent agreement state requirements or NRC requirements. A supervising authorized user, who meets the requirements in Subparagraph E.1.b of this Section, shall also have experience in administering dosages in the same dosage category or categories (i.e., Division E.1.b.i.(b).(vii) of this Section) as the individual requesting authorized user status. The work experience shall involve:

(i). - (vi). ...

(vii). administering dosages of radioactive drugs to patients or human research subjects from the three categories in this Division. Radioactive drugs containing radionuclides in categories not included in this Division are regulated elsewhere in this Chapter. This work experience shall involve a minimum of three cases in each of the following categories for which the individual is requesting authorized user status:

[a]. - [b]. ...

[c]. parenteral administration of any radioactive drug that contains a radionuclide that is primarily used for its electron emission, beta radiation characteristics, alpha radiation characteristics, or photon energy of less than 150 keV, for which a written directive is required; and

ii. has obtained written attestation that the individual has satisfactorily completed the requirements in Clause E.1.b.i of this Section, and is able to independently fulfill the radiation safety-related duties as an authorized user for the medical uses authorized in LAC 33:XV.735.C for which the individual is requesting authorized user status. The attestation shall be obtained from either:

(a). a preceptor authorized user who meets the requirements in this Paragraph, Subsection B of this Section, equivalent agreement state requirements, or NRC requirements and has experience in administering dosages in the same dosage category or categories as the individual requesting authorized user status; or

(b). a residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Paragraph, Subsection B of this Section, equivalent agreement state requirements, or NRC requirements, has experience in administering dosages in the same dosage category or categories as the individual requesting authorized user status, and concurs with the attestation provided by the residency program director. The residency training program shall be approved by the Residency

Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and shall include training and experience specified in Clause E.1.b.i of this Section.

2. ...

a. who is certified by a medical specialty board whose certification process includes all of the requirements in Clauses E.2.c.i and ii of this Section and whose certification process has been recognized by the NRC or an agreement state. The names of board certifications that have been recognized by the NRC or an agreement state are posted on the NRC's Medical Uses Licensee Toolkit web page; or

b. - c. ...

i. has successfully completed 80 hours of classroom and laboratory training, applicable to the medical use of sodium iodide I-131 for procedures requiring a written directive. The training shall include:

(a). - (e). ...

ii. has work experience, under the supervision of an authorized user who meets the requirements in this Paragraph, Subsection B of this Section, or Paragraphs E.1 or E.3 of this Section, or equivalent agreement state requirements or NRC requirements. A supervising authorized user who meets the requirements in Subparagraph E.1.b of this Section shall also have experience in administering dosages as specified in Subdivision E.1.b.i.(b).(vii).[a] or [b] of this Section. The work experience shall involve:

(a). - (f). ...

iii. has obtained written attestation that the individual has satisfactorily completed the requirements in Clauses E.2.c.i and ii of this Section, and is able to independently fulfill the radiation safety-related duties as an authorized user for oral administration of less than or equal to 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131 for medical uses authorized in LAC 33:XV.735.C. The attestation shall be obtained from either:

(a). a preceptor authorized user who meets the requirements in this Paragraph, Subsection B of this Section, Paragraphs E.1 or E.3 of this Section, equivalent NRC or agreement state requirements, and has experience in administering dosages as specified in Subdivision E.1.b.i.(b).(vii).[a] or [b] of this Section; or

(b). a residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Paragraph, Subsection B of this Section, Paragraphs E.1 or E.3 of this Section, or equivalent NRC or agreement state requirements, has experience in administering dosages as specified in Subdivision E.1.b.i.(b).(vii).[a] or [b] of this Section, and concurs with the attestation provided by the residency program director. The residency training program shall be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American

Osteopathic Association and shall include training and experience specified in Clauses E.2.c.i and ii of this Section.

3. ...

a. who is certified by a medical specialty board whose certification process includes all of the requirements in Clauses E.3.c.i and ii of this Section, and whose certification process has been recognized by the NRC or an agreement state. The names of board certifications that have been recognized by the NRC or an agreement state are posted on the NRC's Medical Uses Licensee Toolkit web page; or

b. - c. ...

i. has successfully completed 80 hours of classroom and laboratory training, applicable to the medical use of sodium iodide I-131 for procedures requiring a written directive. The training shall include:

(a). - (e). ...

ii. has work experience, under the supervision of an authorized user who meets the requirements in this Paragraph of this Section, Subsection B of this Section, Paragraph E.1 of this Section, or equivalent agreement state requirements or NRC requirements. A supervising authorized user who meets the requirements in Subparagraph E.1.b of this Section shall also have experience in administering dosages as specified in Subdivision E.1.b.i.(b).(vii).[b] of this Section. The work experience shall involve:

(a). - (f). ...

iii. has obtained written attestation that the individual has satisfactorily completed the requirements in Clauses E.3.c.i and ii of this Section, and is able to independently fulfill the radiation safety-related duties as an authorized user for oral administration of greater than 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131 for medical uses authorized in LAC 33:XV.735.C. The attestation shall be obtained from either:

(a). a preceptor authorized user who meets the requirements in this Paragraph, Subsection B of this Section, Paragraphs E.1 of this Section, equivalent NRC or agreement state requirements, and has experience in administering dosages as specified in Subdivision E.1.b.i.(b).(vii).[b] of this Section; or

(b). a residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Paragraph, Subsection B of this Section, Paragraphs E.1 of this Section, or equivalent NRC or agreement state requirements, has experience in administering dosages as specified in Subdivision E.1.b.i.(b).(vii).[b] of this Section, and concurs with the attestation provided by the residency program director. The residency training program shall be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and shall include training and experience specified in Clauses E.3.c.i and ii of this Section.

4. ...

a. who is an authorized user in accordance with Paragraph E.1 of this Section for uses listed in Subdivision

E.1.b.i.(b).(vii).[c] of this Section, or equivalent agreement state requirements or NRC requirements; or

b. who is an authorized user in accordance with Subsections F or I of this Section, or equivalent agreement state requirements, NRC requirements, and who meets the requirements in Subparagraph E.4.d of this Section; or

c. who is certified by a medical specialty board whose certification process has been recognized by the NRC or an agreement state in accordance with Subsections F or I of this Section, and who meets the requirements in Subparagraph E.4.d of this Section; or

d. ...

i. has successfully completed 80 hours of classroom and laboratory training, applicable to parenteral administrations listed in Subdivision E.1.b.i.(b).(vii).[c]. The training shall include:

(a). - (e). ...

ii. has work experience, under the supervision of an authorized user who meets the requirements in this Paragraph, Subsection B, or Paragraph E.1 of this Section, or equivalent agreement state requirements, or NRC requirements in the parenteral administration listed in Subdivision E.1.b.i.(b).(vii).[c]. A supervising authorized user who meets the requirements in this Paragraph, Paragraph E.1 of this Section, or equivalent NRC or agreement state requirements, shall have experience in administering dosages in the same category or categories as the individual requesting authorized user status. The work experience shall involve:

(a). - (e). ...

(f). administering dosages to patients or human research subjects, that include at least three cases of the parenteral administrations as specified in Subdivision E.1.b.i.(b).(vii).[c]; and

iii. has obtained written attestation that the individual has satisfactorily completed the requirements in Clauses E.4.d.i and ii of this Section, and is able to independently fulfill the radiation safety-related duties as an authorized user for the parenteral administration of unsealed byproduct material requiring a written directive. The attestation shall be obtained from either:

(a). a preceptor authorized user who meets the requirements in this Paragraph, Subsection B of this Section, Paragraph E.1 of this Section, or equivalent NRC or agreement state requirements. A preceptor authorized user who meets the requirements in this Paragraph, Paragraph E.1 of this Section, or equivalent NRC or agreement state requirements, shall have experience in administering dosages in the same category or categories as the individual requesting authorized user status; or

(b). a residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Paragraph, Subsection B of this Section, Paragraph E.1 of this Section, or equivalent NRC or agreement state requirements, has experience in administering dosages in the same dosage category or categories as the individual requesting authorized user status, and concurs with the attestation provided by the residency program director. The residency training program shall be approved by the Residency Review Committee of the Accreditation Council

for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and shall include training and experience specified in Clauses 4.d.i and ii of this Section.

F. Training for Use of Manual Brachytherapy Sources. Except as provided in Subsection B of this Section, the licensee shall require the authorized user of a manual brachytherapy source for the uses authorized in LAC 33:XV.741.B to be a physician:

1. who is certified by a medical specialty board whose certification process has been recognized by the NRC or an agreement state. The names of board certifications that have been recognized by the NRC or an agreement state are posted on the NRC's Medical Uses Licensee toolkit web page. To have its certification process recognized, a specialty board shall require all candidates for certification to:

a. successfully complete a minimum of three years of residency training in a radiation oncology program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association; and

1.b. - 2.a.i.(d). ...

ii. 500 hours of work experience under the supervision of an authorized user who meets the requirements in this Subsection, Subsection B of this Section or equivalent agreement state requirements or NRC requirements at a medical facility authorized to use byproduct materials in accordance with LAC 33:XV.741.B, involving:

(a). - (f). ...

b. has completed three years of supervised clinical experience in radiation oncology under an authorized user who meets the requirements in this Subsection, Subsection B of this Section or equivalent agreement state requirements, or NRC requirements as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required in Subparagraph F.2.a.ii of this Section; and

c. has obtained written attestation that the individual has satisfactorily completed the requirements in Subparagraphs F.2.a and b of this Section, and is able to independently fulfill the radiation safety-related duties as an authorized user of manual brachytherapy sources for the medical uses authorized in LAC 33:XV.741.B. The attestation shall be obtained from either:

i. a preceptor authorized user who meets the requirements in this Subsection, Subsection B of this Section, or equivalent NRC or agreement state requirements; or

ii. a residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Subsection, Subsection B of this Section or equivalent NRC or agreement state requirements, and concurs with the

attestation provided by the residency program director. The residency training program shall be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and shall include training and experience specified in Subparagraphs 2.a and b of this Section.

G. - G.2. ...

a. has completed 24 hours of classroom and laboratory training applicable to the medical use of strontium-90 for ophthalmic radiotherapy. The training shall include:

i. - iv. ...

b. supervised clinical training in ophthalmic radiotherapy under the supervision of an authorized user at a medical institution, clinic, or private practice that includes the use of strontium-90 for the ophthalmic treatment of five individuals. This supervised clinical training shall involve:

i. - iv. ...

c. has obtained written attestation, signed by a preceptor authorized user who meets the requirements in Subsections B or F and G of this Section, or equivalent agreement state requirements, or NRC requirements that the individual has satisfactorily completed the requirements in Subparagraphs G.2.a and b of this Section and is able to independently fulfill the radiation safety-related duties as an authorized user of strontium-90 for ophthalmic use.

H. Training for Use of Sealed Sources and Medical Devices for Diagnosis. Except as provided in Subsection B of this Section, the licensee shall require the authorized user of a diagnostic sealed source or a device authorized in LAC 33:XV.739 to be a physician, dentist, or podiatrist:

1. who is certified by a specialty board whose certification process includes all of the requirements in Paragraphs H.3 and 4 of this Section and whose certification has been recognized by the NRC or an agreement state. The names of board certifications that have been recognized by the NRC or an agreement state will be posted on the NRC's Medical Uses Licensee Toolkit web page; or

2. who is an authorized user for uses listed in LAC 33:XV.731.H, or equivalent NRC or agreement state requirements; or

3. who has completed eight hours of classroom and laboratory training in basic radionuclide handling techniques specifically applicable to the use of the device. The training shall include:

a. radiation physics and instrumentation;

b. radiation protection;

c. mathematics pertaining to the use and measurement of radioactivity; and

d. radiation biology; and

4. who has completed training in the use of the device for the uses requested.

I. ...

1. who is certified by a medical specialty board whose certification process has been recognized by the NRC or an agreement state, and who meets the requirements in Paragraph I.3 of this Section. The names of board certifications that have been recognized by the NRC or an agreement state are posted on the NRC's Medical Uses Toolkit web page. To have its certification process

recognized, a specialty board shall require all candidates for certification to:

a. successfully complete a minimum of three years of residency training in a radiation therapy program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association; and

1.b. - 2.a.i.(d). ...

ii. 500 hours of work experience under the supervision of an authorized user who meets the requirements in this Subsection, or Subsection B of this Section or equivalent agreement state requirements or NRC requirements at a medical facility that is authorized to use byproduct materials in LAC 33:XV.747 involving:

(a). - (f). ...

b. has completed three years of supervised clinical experience in radiation therapy under an authorized user who meets the requirements in this Subsection, or Subsection B of this Section or equivalent agreement state requirements, or NRC requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required in Clause I.2.a.ii of this Section; and

c. has obtained written attestation that the individual has satisfactorily completed the requirements in Subparagraphs I.2.a and b and Paragraph I.3 of this Section, and is able to independently fulfill the radiation safety-related duties as an authorized user of each type of therapeutic medical unit for which the individual is requesting authorized user status. The attestation shall be obtained from either:

i. a preceptor authorized user who meets the requirements in this Subsection or Subsection B of this Section or equivalent agreement state requirements or NRC requirements for the type(s) of therapeutic medical unit for which the individual is requesting authorized user status; or

ii. a residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Subsection, Subsection B of this Section, or equivalent NRC or agreement state requirements, for the type(s) of therapeutic medical unit for which the individual is requesting authorized user status, and concurs with the attestation provided by the residency program director. The residency training program shall be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and shall include training and experience specified in Subparagraphs 2.a and b of this Section.

3. who has received training in device operation, safety procedures, and clinical use for the type(s) of use for which authorization is sought. This training requirement may

be satisfied by satisfactory completion of a training program provided by the vendor for new users or by receiving training supervised by an authorized user or authorized medical physicist, as appropriate, who is authorized for the type(s) of use for which the individual is seeking authorization.

J. ...

1. who is certified by a specialty board whose certification process has been recognized by the NRC or an agreement state, and who meets the requirements in Paragraph J.3 of this Section. The names of board certifications that have been recognized by the NRC or an agreement state are posted on the NRC's Medical Uses Licensee Toolkit web page. To have its certification process recognized, a specialty board shall require all candidates for certification to:

a. hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;

b. ...

i. under the supervision of a medical physicist who is certified in medical physics by a specialty board whose certification process has been recognized under this Section by the NRC or an agreement state; or

ii. in clinical radiation facilities providing high-energy, external beam therapy (photons and electrons with energies greater than or equal to 1 million electron volts) and brachytherapy services under the direction of physicians who meet the requirements for an authorized user in Subsection B, F or I of this Section; and

1.c. - 2....

a. holds a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university, and has completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of an individual who meets the requirements for an authorized medical physicist for the type(s) of use for which the individual is seeking authorization. This training and work experience shall be conducted in clinical radiation facilities that provide high-energy, external beam therapy (photons and electrons with energies greater than or equal to 1 million electron volts) and brachytherapy services, and shall include:

i. - iv. ...

b. has obtained written attestation that the individual has satisfactorily completed the requirements in Subparagraph J.2.a and Paragraph J.3 of this Section, and is able to independently fulfill the radiation safety-related duties as an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status. The written attestation shall be signed by a preceptor authorized medical physicist who meets the requirements in this Subsection, Subsection B of this Section or equivalent agreement state requirements or NRC requirements for an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status; and

3. who has training for the type(s) of use for which authorization is sought that includes hands-on device

operation, safety procedures, clinical use, and the operation of a treatment planning system. This training requirement may be satisfied by satisfactorily completing either a training program provided by the vendor or by training supervised by an authorized medical physicist authorized for the type(s) of use for which the individual is seeking authorization.

K. ...

1. who is certified by a specialty board whose certification process has been recognized by the NRC or an agreement state, and who meets the requirements in Subparagraph K. 2.b of this Section. The names of board certifications that have been recognized by the NRC or an agreement state are posted on the NRC's Medical Uses Licensee Toolkit web page. To have its certification process recognized, a specialty board shall require all candidates for certification to:

1.a. - 2.a.ii.(e). ...

b. has obtained written attestation, signed by a preceptor authorized nuclear pharmacist, that the individual has satisfactorily completed the requirements in Subparagraph K.2.a, of this Section and is able to independently fulfill the radiation safety-related duties as an authorized nuclear pharmacist.

L. - M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2106 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000), LR 30:1186 (June 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:814 (May 2006), LR 34:983 (June 2008), LR 34:2121 (October 2008), LR 36:1772 (August 2010), amended by the Office of the Secretary, Legal Division, LR 38:2748 (November 2012), LR 40:1342 (July 2014), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:2138 (December 2018), LR 45:1179 (September 2019), LR 47:

§777. Written Directives

A. A written directive shall be dated and signed by an authorized user before the administration of I-131 sodium iodide greater than 1.11 megabecquerels (MBq) (30 microcuries (μCi)), any therapeutic dosage of unsealed byproduct material, or any therapeutic dose of radiation from byproduct material. If, because of the emergent nature of the patient's condition, a delay in order to provide a written directive would jeopardize the patient's health, an oral directive is acceptable. The information contained in the oral directive shall be documented as soon as possible in writing in the patient's record. A written directive shall be prepared within 48 hours of the oral directive.

B. - B.1. ...

2. for an administration of a therapeutic dosage of unsealed byproduct material other than sodium iodide I-131:

2.a. - 5.d. ...

e. the total dose;

6. for permanent implant brachytherapy:

a. before implantation:

i. the treatment site;

ii. the radionuclide; and

iii. the total source strength; and

b. after implantation but before the patient leaves the post-treatment recovery area:

i. the treatment site;

ii. the number of sources implanted;

iii. the total source strength implanted; and

iv. the date; or

7. for all other brachytherapy, including low, medium, and pulsed dose-rate remote afterloaders:

a. before implantation:

i. the treatment site;

ii. the radionuclide; and

iii. the dose; and

b. after implantation but before completion of the procedure:

i. the radionuclide;

ii. the treatment site;

iii. the number of sources;

iv. the total source strength and exposure time (or the total dose); and

v. the date.

C. A written revision to an existing written directive may be made if the revision is dated and signed by an authorized user before the administration of:

1. the dosage of unsealed byproduct material;

2. the brachytherapy dose;

3. the gamma stereotactic radiosurgery dose;

4. the teletherapy dose; or

5. the next fractional dose.

D. If, because of the patient's condition, a delay in order to provide a written revision to an existing written directive would jeopardize the patient's health, an oral revision to an existing written directive is acceptable. The oral revision shall be documented as soon as possible in the patient's record. A revised written directive shall be signed by the authorized user within 48 hours of the oral revision.

E. The licensee shall retain a copy of each written directive as required by this Section for three years.

F. For any administration requiring a written directive, the licensee shall develop, implement, and maintain written procedures to provide high confidence that:

1. the patient's or human research subject's identity is verified before each administration; and

2. each administration is in accordance with the written directive.

G. At a minimum, the procedures required by Subsection F of this Section shall address the following items that are applicable to the licensee's use of byproduct material:

1. verifying the identity of the patient or human research subject;

2. verifying that the administration is in accordance with the treatment plan, if applicable, and the written directive;

3. checking both manual and computer-generated dose calculations;

4. verifying that any computer-generated dose calculations are correctly transferred into the consoles of therapeutic medical units authorized by LAC 33:XV.747;

5. determining if a medical event, as described in LAC 33:XV.712, has occurred; and

6. determining, for permanent implant brachytherapy, within 60 calendar days from the date the implant was performed, the total source strength administered outside of the treatment site compared to the total source strength documented in the post-implantation portion of the written directive, unless a written justification of patient unavailability is documented.

H. The licensee shall retain a copy of the procedures required under Subsection F of this Section for the duration of the license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 21:554 (June 1995), LR 24:2110 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2591 (November 2000), LR 30:1187 (June 2004), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

Chapter 9. Radiation Safety Requirements for Particle Accelerators

Subchapter B. Radiation Safety Requirements for the Use of Particle Accelerators

§915. Notifications, Reports, and Records of Medical Events

A. - B. ...

C. All reports, notifications, and records shall be in accordance with LAC 33:XV.712.D, E, and G.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1065 (May 2005), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

Chapter 15. Transportation of Radioactive Material

§1510. General License: Use of Foreign Approved Package

A. - D.1....

2. complies with the terms and conditions of the certificate and revalidation and with the applicable requirements of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104.B and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1268 (June 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:2108 (October 2008), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:1183 (September 2019), LR 47:

§1520. Quality Assurance

A. - A.3....

4. A program for transport container inspection and maintenance limited to radiographic exposure devices, source changers, or packages transporting these devices, and meeting the requirements of LAC 33:XV.547.B or equivalent NRC or other agreement state requirement, is deemed to satisfy the requirements of LAC 33:XV.1508 and LAC 33:XV.1520.A.

B. - J.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104.B and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:2112 (October 2008), repromulgated LR 34:2393 (November 2008), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:1184 (September 2019), LR 47:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This Rule has no known impact on small business as described in R.S. 49:978.1 - 978.8.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Hearing

A public hearing will be held via Zoom on September 28, 2021, at 1:30 p.m. Interested persons are invited to attend and submit oral comments via PC, Mac, Linux, iOS or Android at <https://deqlouisiana.zoom.us/j/9373792954> or by telephone by dialing 636-651-3182 using the conference code 725573. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by RP069ft. Such comments must be received no later than September 28, 2021, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to DEQ.Reg.Dev.Comments@la.gov. The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of RP069ft. This regulation is available on the Internet at <https://www.deq.louisiana.gov/page/monthly-regulation-changes-2021%20>.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Baratavia Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Courtney J. Burdette
General Counsel

2108#022

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs and Criminal Investigations Division**

Regulation and Licensing of Naturally Occurring
Radioactive Material (NORM)
(LAC 33:XV.Chapter 14) (RP067)

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 gives notice that rulemaking procedures have been initiated to amend the Radiation Protection regulations, LAC 33:XV.1403, 1404, 1407, 1408, 1409, 1410, 1411, 1412, 1416, 1417, 1418, 1420, 1421, and 1499 (RP067).

This Rule updates the regulations pertaining to Naturally Occurring Radioactive Materials (NORM). These proposed changes to the state regulations are necessary to clarify some misunderstandings and misinterpretations of the previous NORM regulations. A section on specific licenses has been added and a section on types of general licenses was moved. Notification procedures have also been clarified and a new section pertaining to acceptable surface contamination levels for NORM has been added. The basis and rationale for this Rule are to enable the state to more consistently and fairly apply the NORM regulations across the entire NORM regulated community. 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.

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

**Chapter 14. Regulation and Licensing of Naturally
Occurring Radioactive Material (NORM)**

§1403. Definitions

A. ...

* * *

Decontamination— the cleaning process of removing or reducing residual radioactivity from equipment, buildings, structures, and land owned, possessed, or controlled by other persons to a level that permits release of equipment, buildings, structures, and land for unrestricted use or termination of license.

* * *

Equipment—any apparatus associated with the potential for or actual enhancement of NORM. Examples include, but are not limited to, tubular goods, piping, vessels, wellheads, separators, and condensers. *Equipment* does not include biodegradable material.

* * *

Nonhazardous Oilfield Waste (NOW)—a type of exploration and production waste; solid material produced from oil and gas related activities that contain exempt quantities of hazardous components according to the Resource Conservation and Recovery Act (RCRA).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Nuclear Energy Division, LR 15:736 (September 1989), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:604 (June 1992), LR 21:24 (January 1995), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§1404. Exemptions

A. - A.2. ...

B. Equipment, which contains NORM, is exempt from the requirements of these regulations, except LAC 33:XV.1409, if the maximum radiation exposure level does not exceed 50 microroentgens per hour at any accessible point.

C. Except as provided in LAC 33:XV.1408, 1409, and 1417, land is exempt from the requirements of this Chapter if it contains material at concentrations less than the limits specified below, in samples averaged over any 100 square meters with no single noncomposited sample to exceed 60 picocuries per gram of soil:

C.1. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Nuclear Energy Division, LR 15:736 (September 1989), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:605 (June 1992), LR 21:25 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2599 (November 2000), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§1407. Surveys

A. - C. ...

D. Any survey submitted to the department shall include the qualifications of the individual performing the survey. Individuals performing and documenting the surveys shall demonstrate understanding of the subjects outlined in LAC 33:XV.1499.Appendix A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 21:26 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2599 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2536 (October 2005), LR 33:2188 (October 2007), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§1408. General License

A. - A.6. ...

a. A general licensee is authorized to store NORM waste in a container for 90 days from the date of generation. After such time, the NORM waste shall be transferred to an authorized facility for purposes of treatment, storage, or disposal.

b. To store NORM waste in a container for up to 365 days from generation, a general licensee shall first submit a written NORM waste management plan to the Office of Environmental Compliance and receive authorization from the department. The general licensee may store NORM waste in containers up to 365 days from

generation under the written NORM waste management plan while waiting for department determination.

A.7. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 21:26 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2599 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2536 (October 2005), LR 33:2188 (October 2007), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§1409. General Licenses: Pipe Yards, Storage Yards, or Production Equipment Yards

A. A general license is hereby issued for pipe yards or storage yards or production equipment yards to receive, possess, process, and clean tubular goods or equipment that are contaminated with scale or residue but do not exceed 50 microrentgens per hour, provided:

1. the department is notified at least 90 days prior to receipt of tubular goods or equipment that are contaminated with scale or residue but do not exceed 50 microrentgens per hour;

2. a program is developed and submitted to the Office of Environmental Compliance for approval to screen incoming shipments to ensure that the 50-microrentgens-per-hour limit is not exceeded for individual pieces of tubular goods or equipment;

3. a program is developed and submitted to the Office of Environmental Compliance for approval to ensure worker protection, as outlined in LAC 33:XV.1499.Appendix B;

4. a program is developed and submitted to the Office of Environmental Compliance for approval to control soil contamination;

5. a program is developed and submitted to the Office of Environmental Compliance for approval to prevent release of NORM contamination beyond the site boundary;

6. a program is developed and submitted to the Office of Environmental Compliance for approval for surveying and decontamination to ensure that soil contamination is not allowed to exceed 200 picocuries per gram of radium-226 or radium-228 or an exposure rate of 50 microrentgens per hour at one meter from the soil at any time;

7. a plan for cleanup is submitted to the Office of Environmental Compliance within 180 days of the discovery of NORM contaminated soil in excess of the limit in Paragraph A.6 of this Section. The plan shall include a schedule for cleanup that is to be approved by the department. The general licensee may include in this plan an application to the department for a one time authorization to perform this cleanup or use a specific licensee; and

8. before releasing the property for unrestricted use, the soil is decontaminated to a level not to exceed 5 picocuries per gram above background of radium-226 or radium-228 unless other limits are approved by the department.

B. A specific license pursuant to LAC 33:XV.1410 is required for the decontamination of tubular goods or equipment that exceed the 50 microrentgens per hour limit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Nuclear Energy Division, LR 15:736 (September 1989), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:605 (June 1992), LR 21:26 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2599 (November 2000), LR 30:1189 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2536 (October 2005), LR 33:2189 (October 2007), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§1410. Specific Licenses

A. Unless otherwise exempted in accordance with LAC 33:XV.1404, persons receiving NORM waste from other persons for storage, disposal, or processing, or persons who process NORM for other persons at temporary job sites shall be specifically licensed in accordance with the requirements of this Section.

B. Persons conducting deliberate operations to decontaminate the following shall be specifically licensed in accordance with the requirements of this Section:

1. buildings and structures owned, possessed, or controlled by other persons and contaminated with NORM in excess of the levels set forth in LAC 33:XV.1421; or

2. equipment or land owned, possessed, or controlled by other persons and not otherwise exempted under the provisions of LAC 33:XV.1404.

C. Filing Application for Specific Licenses

1. Applications for specific licenses shall be filed on forms DRC-11 and DRC-13.

2. The department may at any time after the filing of the original application, and before the expiration of the license, require further information in order to determine whether the application should be granted or denied, or whether a license should be modified or revoked.

3. Each application shall be signed by the applicant or licensee, or a person duly authorized to act for and on the licensee's behalf.

4. A license application may include a request for a license authorizing one or more activities.

5. Applications and documents submitted to the department may be made available for public inspection. The department may, however, withhold any document or part thereof from public inspection when a written request for confidentiality is submitted and granted in accordance with LAC 33:I.Chapter 5.

6. Each application for a specific license shall be accompanied by the fee prescribed in LAC 33:XV.2599.

D. Requirements for the Issuance of Specific Licenses

1. A license application will be approved if the department determines that:

a. the applicant is qualified by reason of training and experience to handle the material or waste in question for the purpose requested, according to this Section, and in a manner that minimizes danger to public health and safety, property, or the environment;

b. the applicant's proposed buildings, structures, equipment, and procedures are adequate to minimize danger to public health and safety, property, or the environment;

c. the issuance of the license will not adversely affect the health and safety of the public;

d. the applicant has met the financial security requirements of LAC 33:XV.1420;

e. the applicant satisfies any applicable special requirements in Sections D.2 and D.3.

2. An application for a specific license to decontaminate equipment or land not otherwise exempted under the provisions of LAC 33:XV.1404 or buildings and structures contaminated with NORM in excess of the levels set forth in LAC 33:XV.1421, as applicable, will be approved if:

a. the applicant satisfies the requirements specified in LAC 33:XV.1410.D.1; and

b. the applicant has adequately addressed the following items in the application:

i. procedures and equipment for monitoring and protection of workers;

ii. an evaluation of the radiation levels and concentrations of contamination expected during normal operations;

iii. operating and emergency procedures; and

iv. a method of managing the NORM waste removed from contaminated equipment, buildings, structures, and land for disposal or storage.

3. An application for a specific license for persons who receive NORM waste from other persons for processing or disposal, or persons who process NORM for other persons at temporary job sites in accordance with LAC 33:XV.1410.A will be approved if:

a. the applicant satisfies the requirements specified in LAC 33:XV.1410.D.1; and

b. the applicant has adequately addressed the following items in the application:

i. procedures and equipment for monitoring and protection of workers;

ii. an evaluation of the radiation levels and concentrations of contamination expected during normal operations; and

iii. operating and emergency procedures; and

c. additionally, the applicant has adequately addressed the following items in the application if the applicant is a disposal facility:

i. the identity and activity of the radioisotopes received;

ii. the results of groundwater and stormwater analytical testing;

iii. procedures for safely receiving the waste and on-site storage of the waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§1411. Protection of Workers during Operations

A. Each person subject to the general license requirements in LAC 33:XV.1408 or 1409 or a specific license shall conduct operations in compliance with each of the standards for radiation protection set forth in LAC 33:XV.Chapters 4 and 10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Nuclear Energy Division, LR 15:737 (September 1989), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:606 (June 1992), LR 21:27 (January

1995), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§1412. Treatment, Transfer, and Disposal

A. Each person subject to the general license requirements in LAC 33:XV.1408 or 1409 or subject to a specific license shall manage, treat or dispose of wastes containing NORM in accordance with:

A.1. - D....

E. Notifications

1. Prior to receipt of NORM waste, the disposal facility shall verify that the generator of the waste is registered with the department and has a NORM general license number.

2. If the generator of the waste is not registered with the department, the generator shall submit a Form RPD-36 to the department within three business days.

3. The disposal facility shall notify the department within three business days if a shipment is rejected for elevated activity levels.

a. The disposal facility shall not return the waste to the generator if the generator is not a registered NORM general licensee.

b. If the generator is not registered with the department as a NORM general licensee, the waste facility shall request department approval to temporarily store the waste on-site for less than 90 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:606 (June 1992), amended LR 21:27 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2600 (November 2000), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§1416. Inspections of Storage Tanks Containing NORM Waste

A. As part of an inspection program the licensee shall develop a schedule and procedure for assessing the condition of each tank containing NORM waste. The schedule and procedure shall be adequate to detect cracks, leaks, corrosion, and erosion that may lead to cracks, leaks, or wall thinning to less than the required thickness. Procedures for emptying a tank to allow entry, procedures for personnel protection, and inspection of the interior shall be established when necessary to detect corrosion or erosion of the tank sides and bottom. The frequency of these assessments shall be based on the material of construction of the tank, type of corrosion or erosion protection used, rate of corrosion or erosion observed during previous inspections, and the characteristics of the waste being treated or stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:607 (June 1992), amended LR 21:28 (January 1995), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§1417. Release for Unrestricted Use

A. ...

1. For general or specific licensees that have an area or soil with contamination above the limits of LAC 33:XV.1404 and soil decontamination shall be performed,

the decontamination of soil shall be to 5 picocuries per gram above background of radium-226 or radium-228.

2. For general or specific licensees who have equipment with a maximum exposure level above that specified in LAC 33:XV.1404, equipment decontamination shall be performed to reduce the exposure levels below those specified in LAC 33:XV.1404 and ensure that the equipment is free of loose contamination.

3. ...

B. If closure activities involve construction with a subsurface impact to a depth greater than three feet, prior approval by the Office of Environmental Compliance shall be attached as part of the application addressing the certification of the groundwater quality. All pits, ponds, and lagoons shall comply with departmental regulations and/or policies dealing with groundwater quality.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:607 (June 1992), amended LR 21:28 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2600 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2537 (October 2005), LR 33:2189 (October 2007), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§1418. NORM Manifests

A. ...

B. The manifest form shall be obtained from the department and shall consist of, at a minimum, the number of copies that will provide the licensee, each transporter, and the operator of the designated facility with one copy each for their records with the remaining copies to be returned to the licensee and the other appropriate parties.

C. ...

1. A licensee who transports, or offers for transportation, NORM waste and NORM contaminated equipment to a facility specifically licensed for treatment, decontamination, storage, or disposal shall prepare and sign sufficient copies of a manifest before transporting the NORM off-site.

2. A licensee shall designate on the manifest one facility which is permitted to handle the NORM described on the manifest.

3. If the transporter is unable to deliver the NORM to the designated facility, the licensee shall either designate another facility or instruct the transporter to return the NORM.

4. Licensees shall provide a statement concerning the nature of the material and general guidelines for an emergency situation involving this waste to accompany the manifest on shipments and loads.

5. ...

6. Before initiating a shipment, licensees shall obtain written confirmation of the acceptability of the NORM or NORM waste from the operation of the specifically licensed commercial treatment, decontamination, storage, or disposal facility. The confirmation shall be maintained by the affected licensees as part of their manifest records.

7. The licensee receiving a shipment is required to report to the Office of Environmental Compliance and to the

licensee initiating the shipment any irregularities between the NORM actually received by the designated facility and the NORM described on the manifest, or any other irregularities, within 15 days. If the designated facility or receiving licensee is outside the state of Louisiana, the generating or originating licensee shall report the irregularities to the department.

D. Required Information

1. The manifest shall contain all of the following information prior to leaving the licensee's site:

a. - f. ...

2. The certification that appears on the manifest shall be read, signed, and dated by the licensee as follows:

"I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport according to applicable international and national government regulations."

E. ...

1. The licensee shall:

a. - c. ...

2. The licensee shall give the transporter the remaining copies of the manifest.

3. The licensee shall receive the fully signed copy of the manifest from the designated facility within 45 days from the delivery to the initial transporter. In the event the licensee does not receive the signed manifest timely, the licensee shall:

E.3.a. - F.1. ...

2. Before transporting the NORM, the transporter shall sign and date each copy of the manifest acknowledging acceptance of the NORM from the licensee or previous transporter and return a signed copy to the licensee or previous transporter.

F.3. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:608 (June 1992), amended LR 21:28 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2600 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2537 (October 2005), LR 33:2189 (October 2007), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§1420. Financial Security Requirements for NORM Treaters or Storers

A. ...

1. name the department as beneficiary with a bond issued by a fidelity or surety company authorized to do business in Louisiana, a personal bond secured by such collateral as the department deems satisfactory, a cash bond, a liability endorsement, or a letter of credit. The amount of the bond, liability endorsement, or letter of credit shall be equal to or greater than the amount of the security required. Any security shall be available in Louisiana and subject to judicial process and execution in the event required for the purposes set forth in this Section, and be continuous for the term of the license;

A.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation

Protection, Radiation Protection Division, LR 18:609 (June 1992), amended LR 21:30 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2601 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2537 (October 2005), LR 33:2189 (October 2007), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§1421. Acceptable Surface Contamination Levels for NORM

A. The following table is to be used in determining compliance with LAC 33:XV.332 and 1408.

	Average ^{bef}	Maximum ^{bdf}	Removable ^{beef}
NORM	5,000 dpm/ 100 cm ²	15,000 dpm/ 100 cm ²	1,000 dpm/ 100 cm ²

^a Surfaces suspected of being contaminated with alpha and beta emitting naturally occurring radionuclides shall be surveyed with detectors that respond to alpha and beta radiation. The same method shall be employed when evaluating wipe samples for removable contamination.

^b As used in this table, dpm (disintegrations per minute) means the rate of emission by naturally occurring radioactive material as determined by using a ratemeter or scaler and detector appropriate for the type and energy of emissions being monitored. The detector shall be capable of responding to alpha, beta, and/or gamma radiations.

^c Measurements of average contamination level shall not be averaged over more than 1 m². For objects of less surface area, the average shall be derived for each object.

^d The maximum contamination level applies to an area of not more than 100 cm².

^e The amount of removable radioactive material per 100 cm² of surface area shall be determined by wiping that area with dry filter or soft absorbent paper, applying moderate pressure, and assessing the amount of radioactive material on the wipe with an appropriate instrument of known efficiency. When removable contamination on objects of less surface area is determined, the pertinent levels should be reduced proportionally and the entire surface shall be wiped.

^f All surveys and efficiency determinations shall be made with the detector's active surface no greater than one centimeter from the surface being surveyed, wipe being analyzed, or check source being used. A scaler shall be used when evaluating wipe samples and count times shall be sufficient to detect 10 percent of the applicable limit with 95 percent confidence that the activity would be detected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

§1499. Appendices A, B, and C

Appendix A

Subjects to be Included in Training Courses for Individuals Performing NORM Surveys

The following outline describes the subjects that individuals shall demonstrate competence in prior to being approved as a NORM surveyor.

I. - III. ...

Appendix B

Detailed development of the following shall be included in the required worker protection plan:

I. - VI. ...

VII. Other operational procedures.

For operations that have the potential to produce NORM contaminated dusts (i.e., cutting, grinding, sand-blasting, welding, drilling, polishing, or handling soil) or when loose contamination is suspected, the following additional precautions shall be taken:

- I. ...
- II. Safety glasses shall be worn for eye protection.
- III. ...
- IV. Ground covers shall be utilized to the extent possible to contain contaminants and facilitate cleanup.
- V. ...

In addition to the general requirements given above, there may be industrial operations such as vessel entry, dismantling of equipment, refurbishing of equipment, or transportation, which may require additional precautionary procedures which shall be included in the worker protection procedures submitted to the department.

Appendix C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:609 (June 1992), amended LR 21:30 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2601 (November 2000), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This Rule has no known impact on small business as described in R.S. 49:978.1 - 978.8.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by RP067. Such comments must be received no later than October 5, 2021, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or by fax (225) 219-4068 or by e-mail to DEQ.Reg.Dev.Comments@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of RP067. These proposed regulations are available on the Internet at <https://www.deq.louisiana.gov/page/monthly-regulation-changes-2021%20>.

Public Hearing

A public hearing will be held via Zoom on September 28, 2021, at 1:30 p.m. Interested persons are invited to attend and submit oral comments via PC, Mac, Linux, iOS or

Android at <https://deqlouisiana.zoom.us/j/9373792954> or by telephone by dialing 636-651-3182 using the conference code 725573. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Courtney J. Burdette
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation and Licensing of Naturally Occurring Radioactive Material (NORM)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units. This proposed rule change amends and updates the current regulation and licensing of Naturally Occurring Radioactive Material (NORM).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There may be a minimal increase in state revenue collections and no increase in local government revenue collections due to a few new license application fees being collected. The amount of increase in state revenue collections is indeterminable at this time.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There may be a nominal cost created for NORM waste generators and/or disposal facilities to the extent the provisions of the proposed rule change require licensure where none existed previously. The volume of such transactions cannot be estimated at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule change will have no impact on competition and employment in the public and private sectors.

Courtney J. Burdette
General Counsel
2108#021

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Board of Architectural Examiners

Adoption and Amendment of Rules (LAC 46:I.2303)

Notice is hereby given that the Board of Architectural Examiners, in accordance with the provisions of R.S. 49:950 et seq., and through the authority granted in R.S. 37:144(C), proposes to amend LAC 46:I.2303 pertaining to adoption and amendment of rules.

R.S. 49:953(C)(1) provides that interested persons may petition an agency requesting the adoption, amendment, or repeal of a rule, and state agencies shall provide by rule the form for petitions and the procedure for their submission, consideration, and disposition. The board seeks to comply with this statute by amending LAC 46:I.2303 and adopting Subsections B-F, the form for petitions requesting the adoption, amendment, or repeal of a rule and the procedure for their submission, consideration, and disposition.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 23. Application of Rules

§2303. Adoption and Amendment of Rules

A. ...

B. An interested person may petition the board requesting the adoption, amendment, or repeal of a rule. The petition shall be sent to the board at the board's office. The petition shall be titled "Petition for Rule-Making," and it shall include the following information:

1. the name, telephone number, physical address, and any email address of the person submitting the petition;

2. a citation to any rule for which a change or repeal is requested;

3. a draft of any proposed new rule or amended rule;

4. an explanation of why the new rule, amendment, or repeal is being requested and a detailed statement as to the effects of the new rule, amendment, or repeal upon the board's procedures and upon persons regulated by the board; and

5. any other information that the person submitting the petition considers relevant.

C. In its consideration of the petition, the board may request further information from the person or persons requesting the adoption, amendment, or repeal of a rule.

D. The board shall decide whether to grant or deny a petition for rule-making within 90 days of its receipt of the petition. In making its decision, the board shall consider the information submitted with the petition and any other relevant information.

E. If the board denies a rule-making petition, it shall send written notice of its denial to the person who submitted the petition. The notice shall state in writing the reasons for the denial.

F. If the board grants a rule-making petition, it shall initiate rule-making proceedings within 90 days of its receipt of the petition, and it shall send written notice that rule-making proceedings have been initiated to the person who submitted the petition.

G. The board will presume that its current rules are valid unless this presumption is rebutted by persuasive evidence is offered in the petition for the declaratory ruling. When the board determines that a rule is invalid, the board shall initiate rule-making proceedings, sending written notice of the proceedings to the person who submitted the petition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:577 (April 2003), amended LR 47:

Family Impact Statement

The proposed rules are not anticipated to have an impact on family formation, stability, or autonomy as described in R.S. 40:972.

Poverty Impact Statement

The proposed rules are not anticipated to have an 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

The proposed rules are not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed rules are 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

Interested persons may submit written comments on the proposed rules to Katherine E. Hillegas, Executive Director, Board of Architectural Examiners, 9625 Fenway Avenue, Suite B, Baton Rouge, LA 70809. All comments must be submitted by 4:30 p.m., September 9, 2021.

Katherine E. Hillegas
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Adoption and Amendment of Rules

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

R.S. 49:953(C)(1) provides that interested persons may petition an agency requesting the adoption, amendment, or repeal of a rule, and state agencies shall provide by rule the form for petitions and the procedure for their submission, consideration, and disposition. The Board seeks to comply with this statute by amending existing LAC 46:I.2303 and adopting Paragraphs B-F to provide by rule the form for petitions requesting the adoption, amendment, or repeal of a rule and the procedure for their submission, consideration, and disposition. Although the board has never had a specific rule setting forth the form for petitions requesting the adoption, amendment, or repeal of a rule or the procedure for their submission, consideration, and disposition, the board has always allowed any interested person to request the adoption amendment, or repeal of a rule, and the board has followed in substance the procedures set forth in proposed Paragraphs B-F in considering their submission, consideration, and disposition. Accordingly, implementing the proposed rule will not increase the board's workload, and the proposed rule will have no effect on costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No costs will be charged to a person filing a petition requesting the adoption, amendment, or repeal of a rule, and no revenues related to such petitions will be collected by the board. Accordingly, the proposed rule will have no effect on the revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs or economic benefits to architects or any other directly affected persons, small businesses, or non-governmental groups related to the adoption of the proposed rule. The board has always allowed any interested person, including small businesses, to request the adoption, amendment, or repeal of a rule, although it had no specific rule requiring it to do so, and the board has in substance followed the procedures set forth in Paragraphs B-F thereof for their submission, consideration, and disposition.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition or employment associated with adoption of the proposed rule. The board has always allowed any interested person to request the adoption, amendment, or repeal of a rule, although it had no specific rule requiring it to do so, and the board has in substance followed the procedures set forth in Paragraphs B-F thereof for their submission, consideration, and disposition.

Kathy E. Hillegas
Executive Director
2108#024

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Board of Architectural Examiners

Declaratory Orders and Rulings (LAC 46:I.2305)

Notice is hereby given that the Board of Architectural Examiners, in accordance with the provisions of R.S. 49:950 et seq., and through the authority granted in R.S. 37:144(C), proposes to adopt LAC 46:I.2305 pertaining to declaratory orders and rulings.

R.S. 49:962 provides that state agencies shall provide by rule for the filing and prompt disposition of petitions for declaratory orders and rulings as to the applicability of any statutory provision or of any rule or order of the agency. The board seeks to comply with this statute by adopting the proposed Rule, which provides by rule for the filing and prompt disposition of petitions for declaratory orders and rulings as to the applicability of any statutory provision or of any rule or order of the agency.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 23. Application of Rules §2305. Declaratory Orders and Rulings

A. The board may issue, upon request, a declaratory order or ruling as to the applicability of any statutory provision or of any rule or order of the board. Declaratory orders and rulings shall have the same status as board decisions or orders in disciplinary and enforcement proceedings.

B. A request for a declaratory order or ruling shall be made in the form of a written petition to the board on a form provided by the board. To be considered, the form must be completed in full.

C. A petition properly made shall be considered by the board.

D. In its consideration of the petition, the board may request further information from the person or persons

who filed the petition. Any such request for further information must be answered promptly and fully.

E. The declaratory order or ruling of the board on said petition shall be in writing and mailed to the petitioner at the last address furnished to the board.

F. If the request for declaratory order or ruling concerns or is related to pending or anticipated litigation, administrative action, or other adjudication, the board may defer issuing a declaratory order or ruling until the litigation, administrative action, or other adjudication is final.

G. The board will presume that its current rules are valid unless this presumption is rebutted by persuasive evidence offered by the petitioner for the declaratory ruling. When the board determines that a rule is invalid, the board shall initiate rule-making proceedings, sending written notice of the proceedings to the person who submitted the petition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 47:

Family Impact Statement

The proposed Rules are not anticipated to have an impact on family formation, stability, or autonomy as described in R.S. 40:972.

Poverty Impact Statement

The proposed Rules are not anticipated to have an 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

The proposed Rules are not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rules are 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

Interested persons may submit written comments about the proposed Rules to Katherine E. Hillegas, Executive Director, Board of Architectural Examiners, 9625 Fenway Avenue, Suite B, Baton Rouge, LA 70809. All comments must be submitted by 4:30 p.m., September 9, 2021.

Katherine E. Hillegas
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Declaratory Orders and Rulings

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

R.S. 49:962 provides that state agencies shall provide by rule for the filing and prompt disposition of petitions for declaratory orders and rulings as to the applicability of any statutory provision or of any rule or order of the agency. The Board seeks to comply with this statute by adopting the proposed rule. Although the board has never had a specific rule requiring it to handle petitions for declaratory orders or rulings, the board has long answered all questions concerning the applicability of any statutory provision or of any rule or order

which it has received. Accordingly, implementing the proposed rule will not increase the board's workload, and the proposed rule will have no effect on costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No costs will be charged to a person filing for declaratory order or ruling, and no revenues related to such petitions will be collected by the board. Accordingly, the proposed rule will have no effect on the revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs or economic benefits to architects or any other directly affected persons, small businesses, or non-governmental groups related to the adoption of the proposed rule. The board has long answered all questions concerning the applicability of any statutory provision or of any rule or order which it has received, although it had no specific rule requiring it to do so.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition or employment associated with adoption of the proposed rule. The board has long answered all questions concerning the applicability of any statutory provision or of any rule or order which it has received, although it had no specific rule requiring it to do so.

Kathy E. Hillegas
Executive Director
2108#023

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Board of Architectural Examiners

Members of the Military and Spouses and
Dependents of Members of the Military (LAC 46:I.1109)

Notice is hereby given that the Board of Architectural Examiners, in accordance with the provisions of R.S. 49:950 et seq., and through the authority granted in R.S. 37:144(C), proposes to amend LAC 46:I.1109 pertaining to Members of the Military and Spouses and Dependents of Members of the Military.

Act No. 200 of 2020 amended R.S. 37:3651 which pertains to licensure for members of the military, their spouses and dependents. This Act requires professional licensing boards to adopt rules implementing its provisions, and in Subsection B the board seeks to comply with this statute by amending LAC 46:I.1109, its current rule pertaining to military-trained architects and architect spouses of military personnel. Subsection B requires the board to issue a license to a military member, including United States Department of Defense civilian employee who has been assigned to duty in Louisiana, or an applicant who is married to or is a dependent of a member of the military or a United States Department of Defense civilian employee, if the member receives military orders for a change of station to a military installation or assignment located in this state or if the member has established this state as his state of legal residence as reflected in the member's military record, if he meets certain requirements. Subsection A adopts the path to

licensure for military personnel contained in the 2021 *NCARB Model Law and Regulations*. The requirements outlined in Subsection A reflect programs that are accepted by all architecture licensing boards in the United States.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 11. Licenses

§1109. Members of the Military and Spouses and Dependents of Members of the Military

A. Except as provided in §1109.B below, members of the military and their spouse and dependents shall meet all of the requirements for obtaining licensure set forth in this Section.

1. In evaluating qualifications, the board may, prior to reaching its decision, require the applicant to substantiate the applicant's qualifications.

2. To obtain an initial license, members of the military and their spouse and dependents shall be of good character as verified to the board by an applicant's employers or by honorable discharge evidenced by a copy of military discharge document (DD 214).

3. To obtain an initial license, members of the military and their spouse and dependents shall complete an Approved Education Program, or its equivalent, as described herein.

4. An Approved Educational Program is a degree accredited by the National Architectural Accrediting Board (NAAB) or education deemed equivalent by the board to the *NCARB Education Standard* pursuant to Subparagraph b below. At a minimum, the criteria for determining such compliance with the education requirement shall include:

a. an original certified transcript from an Approved Educational Program transmitted through NCARB; or

b. as an alternate to satisfying the Approved Educational Program requirement, the board may consider

i. any other architectural curriculum that has not been accredited by NAAB, but that has been evaluated and found to be an equivalent standard based on NCARB Alternatives to Education Requirement as identified in the August 2021 *NCARB Certification Guidelines*, such version being incorporated herein by reference; or

ii. demonstration of successful completion of an Education Evaluation Services for Architects (EESA) review. The board may also consider an applicant's combination of education and experience that has been evaluated and found to be equivalent to the January 2021 *NCARB Education Standard*, such version being incorporated by reference.

5. To obtain an initial license, members of the military and their spouse and dependents shall complete the Approved Experience Program administered by NCARB (AXP). In lieu of completing AXP, the board may accept professional training while in active duty as it deems acceptable and in keeping with the experience requirements set forth by NCARB.

6. To obtain an initial license, members of the military and their spouse and dependents shall pass the Architectural Registration Examination administered by NCARB.

B. R.S. 37:3651 enacts special rules for obtaining licensure applicable to certain members of the military and

their spouses and dependents who satisfy the following qualifications. Pursuant to such statute:

1. a member of the military, including a United States Department of Defense civilian employee who has been assigned to duty in Louisiana, or an applicant who is married to or is a dependent of a member of the military or United States Department of Defense civilian employee, if the member or United States Department of Defense civilian receives military orders for a change in station to a military installation or assignment located in this state or if the member of United States Department of Defense civilian has established this state as his state of legal residence as reflected in the member's or United States Department of Defense civilian's military record who demonstrates all of the following conditions to the satisfaction of the board shall be issued a license, permit pending normal license, or registration to practice architecture in Louisiana:

a. the applicant holds a current and valid occupational license in architecture;

b. the applicant has held the occupational license in the other state for at least one year;

c. the applicant has passed an examination, or met any education, training, or experience standards as required by the board in the other state;

d. the applicant is held in good standing by the board in the other state;

e. the applicant does not have a disqualifying criminal record as determined by the board;

f. the applicant has not had an occupational license revoked by a board in another state because of negligence or intentional misconduct related to the applicant's work in architecture;

g. the applicant did not surrender an occupational license because of negligence or intentional misconduct related to the person's work in architecture in another state;

h. the applicant does not have a complaint, allegation, or investigation pending before a board in another state which relates to unprofessional conduct of an alleged crime; if the applicant has a complaint, allegation, or investigation pending, the board shall not issue or deny a license to the applicant until the complaint, allegation, or investigation is resolved, or the applicant otherwise satisfies his criteria for licensure to the satisfaction of the board;

i. the applicant pays all applicable fees in this state; and

j. the applicant simultaneously applies for a permanent license; if the applicant fails to qualify for a permanent license once the permanent application is vetted, the permit automatically terminates;

2. a member of the military, or an applicant who is married to or is a dependent of a member of the military, or United States Department of Defense civilian employee who has been assigned duty in Louisiana, who demonstrates all of the following conditions to the satisfaction of the board shall be granted a license, permit pending normal license, or registration to practice architecture in Louisiana provided:

a. the applicant worked in a state that does not use an occupational license or government certification to regulate the practice of architecture;

b. the applicant worked at least three years in the lawful occupation; and

c. the applicant satisfies the requirements of Subparagraphs B.1.f.-j of this Section;

3. a member of the military or a United States Department of Defense civilian employee who has been assigned duty in Louisiana, or an applicant who is married to or is a dependent of a member of the military or United States Department of Defense civilian employee, shall be issued a license, permit pending normal license, or registration based on holding a private certification and work experience in another state, provided the applicant demonstrates *all* of the following conditions to the satisfaction of the board:

a. the applicant worked in a state that does not use an occupational license or government certification to regulate the practice of architecture;

b. the applicant worked for at least two years in the occupation privately certified;

c. the applicant holds a current and valid private certification in the lawful occupation;

d. the private certification organization holds the applicant in good standing; and

e. the applicant satisfies the requirements of Subparagraphs B.1.f.-j of this Section;

4. to wholly or partially satisfy the education, training, or experience requirements for architectural licensure, an applicant must present clear and convincing evidence of comparable education, training, or experience as a member of the United States armed forces or any national guard or other reserve component. The board will determine whether the evidence of education, training, or experience is in fact comparable;

5. for purposes of this rule, *military* and *dependent* shall have the meanings set forth in R.S. 37:3651(N) and (O), such meanings incorporated herein by reference;

6. this Section shall not apply to any applicant receiving a dishonorable discharge or a military spouse whose spouse received a dishonorable discharge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 47:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, or autonomy as described in R.S. 40:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an 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

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

Interested persons may submit written comments to Katherine E. Hillegas, Executive Director, Board of Architectural Examiners, 9625 Fenway Avenue, Suite B,

Baton Rouge, LA 70809. All comments must be submitted no later than 4:30 p.m., September 9, 2021.

Katherine E. Hillegas
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Members of the Military and Spouses and Dependents of Members of the Military

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

In 2013, as mandated by Act No. 276 of 2012, the board adopted LAC46:I.1109 which provides a path for obtaining a license to practice architecture in Louisiana for members of the military and military spouses who satisfy certain conditions. In the approximately eight (8) years since, one person only has sought to avail himself of this path. The proposed rule, mandated by Act No. 200 of 2020, modifies the conditions for obtaining a license for members of the military and military spouses, and it makes this path available to United States Department of Defense civilian employees assigned to duty in Louisiana, their spouses and dependents. In a typical year, the board issues initial licenses to approximately 200 individual applicants, and it renews the licenses of approximately 3,300 individual applicants. Accordingly, even if the proposed rule increases the number of persons who seek to avail themselves of the path to licensure contained in the proposed rule, the board estimates that implementing the proposed rule can be handled by existing staff, and it will have no impact on costs / savings to the board or other state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No costs will be charged to a person filing an application for licensure under the proposed rule, and no revenues related to such applications will be collected. Accordingly, the proposed rule will not yield any revenues, and it will have no effect on the revenue collections of the board or other state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

By providing an alternate path to licensure to practice architecture in Louisiana, the proposed rule may provide an economic benefit to those members of the military and United States Department of Defense civilian employees assigned to duty in Louisiana, and to spouses married to or a dependent of a member of the military or a United States Department of Defense civilian employee assigned to duty in Louisiana, who successfully apply for licensure under this alternate path. Although the board recognizes that those benefits to a particular applicant may be substantial, the board has insufficient information and is unable to quantify those benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The board estimates that, at most, a handful of persons may annually obtain a license to practice architecture under the proposed rule. Currently, and for the last few years, approximately 3,300 architects are and have practiced architecture in Louisiana. Accordingly, the board estimates that the effect, if any, of this handful of new architects upon the marketplace and upon competition and employment will likely be none.

Kathy Hillegas
Executive Director
2108#025

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Racing Commission

Colors (LAC 35:VII.Chapter 85)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, notice is hereby given that the Racing Commission proposes to amend LAC 35:VII.8501, 8509, and 8511.

The proposed amendment to §8501 specifies the requirements for owners to provide racing colors for thoroughbred horses and the consequences for not following those requirements. The proposed amendment to §8509 adds the exception that owners can request approval from the stewards to run with a trainer's racing colors. The proposed amendment to §8511 adds to the list of people and entities responsible for ensuring that the correct racing colors are worn and consequences for failing to follow the requirements.

Title 35 HORSE RACING

Part VII. Equipment and Colors

Chapter 85. Colors

§8501. Supplied and Registered

A. Owners of horses must provide themselves with suitable racing colors which must be registered with the racing secretary, except at tracks where colors are furnished by the association.

B. Owners of thoroughbred horses must provide themselves with suitable racing colors which must be registered with the racing secretary and their racing colors may not be furnished by an association.

C. On dates where an owner of thoroughbred horses has multiple horses entered on the same race card, the owner must provide colors for each horse entered.

D. Failure of an owner of thoroughbred horses to provide themselves with colors and/or register them with the racing secretary is a finable offense. The fine for such failure shall be \$100.00 for a first offense, with increasing fines for subsequent offenses. However, an owner shall not be fined the first time each meet that they fail to provide themselves with colors and/or register them with the racing secretary, and it shall not count as an offense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:147 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:442 (December 1976), amended LR 3:38 (January 1977), LR 4:283 (August 1978), amended by Office of the Governor, Division of Administration, Racing Commission, LR 47:

§8509. Exceptions

A. Exceptions to the above may be allowed by the commission upon request and approval.

B. Owners may request approval from the stewards to run in the colors of the trainer of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:147 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:443 (December 1976), amended LR 3:39

(January 1977), LR 4:283 (August 1978), amended by Office of the Governor, Division of Administration, Racing Commission, LR 47:

§8511. Responsibility for Wearing Correct Colors

A. The clerk of scales, the valet serving a jockey, the colors custodian, and the jockey room custodian shall all be present on the association premises at their customary station during racing and shall all be jointly responsible for having the correct colors and cap on each rider when leaving the jockey room for the paddock.

B. Each association shall implement and maintain a system of receipts and accounting for the custody, control, and return of colors to the rightful owner.

C. If an owner has provided colors and the association fails to place the correct colors on any horse running in a race, the association, the clerk of scales, the valet serving a jockey, the colors custodian, and the jockey room custodian are all subject to a separate fine for each incident.

D. If the association cannot locate colors registered with the racing secretary, the association shall reimburse the owner \$150.00 for each set of missing silks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:147 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 2:443 (December 1976), amended LR 3:39 (January 1977), LR 4:283 (August 1978), amended by Office of the Governor, Division of Administration, Racing Commission, LR 47:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Poverty Impact Statement

This proposed Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This proposed Rule has no known measurable impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4:30 p.m. Monday - Friday, and interested parties may submit oral or written comments, data, views, or arguments relative to this proposed rule for a period up to 20 days (exclusive of weekends and state holidays) from the date of this publication to Brett Bonin, Assistant Attorney General, 320 North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana 70119-5100.

Charles A. Gardiner III
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Colors

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated direct material effect on state or local governmental units as a result of the proposed administrative rule. The proposed amendment to the rule specifies the requirements for owners to provide racing colors

for thoroughbred horses and the consequences for not following those requirements. The proposed amendment to the rule also adds the exception that owners can request approval from the stewards to run with a trainer's racing colors. The proposed amendment to the rule also adds to the list of people and entities responsible for ensuring that the correct racing colors are worn and consequences for failing to follow the requirements.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units as a result of the proposed administrative rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Owners, racing associations, clerks of scales, valets, colors custodians, and jockey room custodians will be impacted by the proposed administrative rule in that it allows for penalties of fines associated with not properly displaying registered racing colors. This may have an economic impact to directly affected persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment as a result of the proposed administrative rule change.

Charles A. Gardiner III
Executive Director
2108#017

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Racing Commission**

Charles A. Gardiner III
Executive Director

**Declaring a Horse Ineligible to be Claimed at Time of Entry
(LAC 35:XI.9902)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, notice is hereby given that the Racing Commission proposes to adopt LAC 35:XI.9902.

The proposed Rule specifies who may declare a horse ineligible to be claimed at the time of entry and establishes the qualifying factors of horses that can be declared ineligible to be claimed.

Title 35

HORSE RACING

Part XI. Claiming Rules and Engagements

Chapter 99. Claiming Rule

§9902. Declaring a Horse Ineligible to be Claimed at Time of Entry

A. At the time of entry, the owner, trainer, or authorized agent may declare a horse ineligible to be claimed provided: The horse has been laid off and has not started in a race for a minimum of 120 days and is entered for a claiming price equal to or greater than the price at which the horse last started. For counting purposes, the day following the horse's last race will count as day one. The horse is eligible to start on day 121.

B. Failure to declare the horse ineligible to be claimed at the time of entry may not be remedied.

C. A horse that enters a claiming race and is declared ineligible to be claimed in such race, cannot consider that

race for eligibility in any starter type race or optional claiming race.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, and 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 47:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Poverty Impact Statement

This proposed Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This proposed Rule has no known measurable impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4:30 p.m. Monday - Friday, and interested parties may submit oral or written comments, data, views, or arguments relative to this proposed rule for a period up to 20 days (exclusive of weekends and state holidays) from the date of this publication to Brett Bonin, Assistant Attorney General, 320 North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana 70119-5100.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Declaring a Horse Ineligible
to be Claimed at Time of Entry**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated direct material effect on state or local governmental units as a result of the proposed administrative rule. The proposed Rule specifies who may declare a horse ineligible to be claimed at the time of entry and establishes the qualifying factors of horses that can be declared ineligible to be claimed.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units as a result of the proposed administrative rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs or economic benefits to directly affected persons, small businesses, or non-governmental groups. The proposed Rule clarifies when an owner, trainer, or authorized agent may declare their horse ineligible to be claimed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment as a result of the proposed administrative rule change.

Charles A. Gardiner III
Executive Director
2108#018

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Racing Commission

Permitted Medications in Quarter Horses (LAC 35:I.1506)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, notice is hereby given that the Racing Commission proposes to amend LAC 35:I.1506.

The proposed amendment adds Albuterol as a prohibited substance in horses participating in quarter horse races.

Title 35

HORSE RACING

Part I. General Provisions

Chapter 15. Permitted Medication

§1506. Permitted Medications in Quarter Horses

A. Any racehorse participating in a quarter horse race shall comply with the medication rules set forth herein, specifically LAC 35:I.Chapter 15 and LAC 35:I.Chapter 17, however the following exception(s) shall apply.

1. Clenbuterol is a prohibited substance in quarter horses and other breeds racing with quarter horses. There is no applicable withdrawal guideline for such horses.

2. Albuterol is a prohibited substance in quarter horses and other breeds racing with quarter horses. There is no applicable withdrawal guideline for such horses.

B. Any quarter horse reported positive for Clenbuterol and/or Albuterol by the commission's laboratory and following a written ruling by the Stewards shall be placed on the Stewards List and is not eligible to be entered in a race for a period of 60 days from the race date of the positive.

C. Penalties assessed pursuant to Subsection B are in addition to any set forth in LAC 35:I.1797.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 45:247 (February 2019), amended LR 46:182 (February 2020), LR 47:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Poverty Impact Statement

This proposed Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This proposed Rule has no known measurable impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4:30 p.m. Monday - Friday, and interested parties may submit oral or written comments, data, views, or arguments relative to this proposed rule for a period up to 20 days (exclusive of weekends and state holidays) from the date of this publication to Brett Bonin, Assistant Attorney General, 320

North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana
70119-5100.

Charles A. Gardiner III
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Permitted Medications in Quarter Horses

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated direct material effect on state or local governmental units as a result of the proposed administrative rule. The proposed amendment to the rule adds Albuterol as a prohibited substance in horses participating in quarter horse races.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units as a result of the proposed administrative rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Trainers, veterinarians, and owners will be impacted by the proposed administrative rule in that it adds the penalties associated with the prohibited medication Albuterol when a quarter horse is found to be positive following a horse race. The horse will be placed on a Stewards' List and will be ineligible to race for a period of 60 days from the date of the positive. This may have an economic impact to directly affected persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment as a result of the proposed administrative rule change.

Charles A. Gardiner III
Executive Director
2108#016

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Racing Commission

Protective Helmets and Safety Vests (LAC 35:I.309)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, notice is hereby given that the Racing Commission proposes to amend LAC 35:I.309.

The proposed amendment updates the people who need to wear protective helmets and safety vests. The proposed amendment also specifies the authorities who can impose fines and suspensions for non-compliance.

Title 35

HORSE RACING

Part I. General Provisions

Chapter 3. General Rules

§309. Protective Helmets and Safety Vests

A. All persons mounted on horseback are compelled to wear protective helmets recommended by the stewards and

approved by the commission, and a safety vest designed to provide shock-absorbing protection to the upper body, as evidenced by a label with a rating of five, by the British Equestrian Trade Association. This shall also apply to association outriders, pony riders in post parade, and assistant starters. Anyone failing to comply with this requirement may be fined or suspended at the discretion of the stewards and/or commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:423 (December 1976), amended LR 3:19 (January 1977), LR 4:271 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 33:844 (May 2007), LR 47:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Poverty Impact Statement

This proposed Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This proposed Rule has no known measurable impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4:30 p.m. Monday - Friday, and interested parties may submit oral or written comments, data, views, or arguments relative to this proposed Rule for a period up to 20 days (exclusive of weekends and state holidays) from the date of this publication to Brett Bonin, Assistant Attorney General, 320 North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana 70119-5100.

Charles A. Gardiner III
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Protective Helmets and Safety Vests

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated direct material effect on state or local governmental units as a result of the proposed administrative rule. The proposed amendment to the rule updates the people who need to wear protective helmets and safety vests. It also specifies the authorities who can impose fines and suspensions for non-compliance.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units as a result of the proposed administrative rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Jockeys, association riders, pony riders, and assistant starters will be impacted by the proposed administrative rule in

that it allows for penalties of fines and suspensions associated with not wearing the recommended protective helmets and safety vests at the discretion of the Stewards and Racing Commission. This may have an economic impact to directly affected persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment as a result of the proposed administrative rule change.

Charles A. Gardiner III
Executive Director
2108#015

Alan M Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Laboratory and Radiology Services
Reimbursement Methodology
(LAC 50:XIX.4301 and 4334)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XIX.4301 and §4334 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 reimbursement for laboratory and radiology services in order to align the reimbursement methodology for new laboratory and radiology services added to the Medicaid fee schedule with U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requirements and the CMS-approved State Plan Amendment.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIX. Other Healthcare Services

Subpart 3. Laboratory and Radiology Services

Chapter 43. Reimbursement

§4301. Laboratory Services Reimbursement Methodology

A. - B. ...

C. For newly added laboratory services, the Medicaid fee shall be set at 75 percent of the current year's Medicare allowable fee.

1. In the absence of a Medicare fee, the fee shall be set at the Medicaid fee for a similar service or the Medicaid fee for other states. In the absence of a similar service or a Medicaid fee for other states, the fee shall be set at the cost of performing the service.

C.2. - I. ...

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 47:251 (February 2021), LR 47:

§4334. Radiology Services Reimbursement Methodology

A. - B. ...

C. For newly added radiology services, the Medicaid fee shall be set at 75 percent of the current year's Louisiana Region 99 Medicare allowable fee.

1. In the absence of a Medicare fee, the fee shall be set at the Medicaid fee for a similar service or the Medicaid fee for other states. In the absence of a similar service or a Medicaid fee for other states, the fee shall be set at the cost of performing the service.

D. - I. ...

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 47:252 (February 2021), 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, no direct or indirect cost to the provider 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 Michael Boutte, Bureau of Health Services Financing, P.O.

Box 91030, Baton Rouge, LA 70821—9030. Mr. Boutte is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on September 29, 2021.

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 September 9, 2021. 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 September 29, 2021 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 September 9, 2021. 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 Reimbursement Methodology

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 21-22. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 21-22 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 21-22. It is anticipated that \$324 will be collected in FY 21-22 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 OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing reimbursement for laboratory and radiology services in order to align the reimbursement methodology for new laboratory and radiology services added to the Medicaid fee schedule with U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requirements and the CMS-approved State Plan Amendment. Although the methodology for newly added laboratory and radiology services is being specified more fully in the administrative rule, the resulting fee is not anticipated to be materially higher or lower than it would have been otherwise; therefore,

implementation of this proposed rule is not anticipated to result in costs or benefits to providers of these services in FY 21-22, FY 22-23, and FY 23-24.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.c

Michael Boutte
Interim Medicaid Executive Director
2108#031

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Medical Transportation Program
(LAC 50:XXVII.Chapters 5 and 7)

The Department of Health, Bureau of Health Services Financing proposes to repeal and replace the provisions of LAC 50:XXVII.Chapter 5 and adopt Chapter 7 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 Procedures Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the Medical Transportation Program in order to repeal and replace Chapter 5 governing non-emergency medical transportation in its entirety and relocate the non-emergency ambulance transportation provisions to Chapter 7 to ensure that the *Louisiana Administrative Code* reflects current managed care and fee-for-service practices.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 5. Non-Emergency Medical Transportation

Subchapter A. General Provisions

§501. Introduction

A. Non-emergency medical transportation (NEMT) is provided to Medicaid beneficiaries to and/or from a medically necessary Medicaid covered service. NEMT is intended to provide transportation only after all reasonable means of free transportation have been explored and found to be unavailable.

NOTE: Non-emergency ambulance transportation (NEAT) is a form of NEMT; NEAT provisions are located in LAC 50:XXVII.Chapter 7.

B. Medicaid covered transportation is available to Medicaid beneficiaries when:

1. the beneficiary is enrolled in a Medicaid benefit program that explicitly includes transportation services; and
2. the beneficiary or their representative has stated that they have no other means of transportation.

C. This Chapter applies to the fee-for-service and managed care programs for the provision of NEMT to and/or from medically necessary Medicaid covered services.

1. Managed care entities may utilize fully credentialed NEMT providers within their networks to transport managed care enrollees to non-Medicaid covered services when

approved by the department as a value-added benefit at the managed care entity's expense.

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, Bureau of Health Services Financing, LR 47:

§503. Prior Approval and Scheduling

A. The department or its designee will review and approve or deny the transportation requests, prior to scheduling, for beneficiary eligibility and verification of the following:

1. that the originating or destination address belongs to a healthcare provider or facility; or
2. that the service is a prior authorized Medicaid covered service performed in the community.

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, Bureau of Health Services Financing, LR 47:

§505. Requirements for Coverage

A. Payment shall only be authorized for the least costly means of transportation available. The least costly means of transportation shall be determined by the department or its designee and considered the beneficiary's choice of transportation, the level of service required to safely transport the beneficiary (e.g., ambulatory, wheelchair, transfer), and the following hierarchy:

1. public providers;
2. gas reimbursement providers who are enrolled in the Medicaid Program;
3. non-profit providers who are enrolled in the Medicaid Program; and
4. profit providers enrolled in the Medicaid Program.

B. Beneficiaries shall be allowed a choice of transportation profit providers as long as it remains the least costly means of transportation.

C. Beneficiaries are encouraged to utilize healthcare providers of their choice in the community in which they reside when the beneficiary requires Medicaid reimbursed transportation services.

1. Beneficiaries may seek medically necessary services in another state when it is the nearest option available.

2. In the managed care program, transportation will only be approved to and/or from a healthcare provider within the department's geographic access standards, unless granted an extension by the department or its designee.

D. Beneficiaries and healthcare providers should give advance notice when requesting transportation.

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, Bureau of Health Services Financing, LR 47:

Subchapter B. Beneficiary Participation

§511. General Provisions

A. Beneficiaries shall participate in securing transportation at a low cost and shall agree to use public transportation or solicit transportation from family and friends as an alternative to costlier means of transport.

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, Bureau of Health Services Financing, LR 47:

Subchapter C. Provider Responsibilities

§517. Provider Enrollment

A. All NEMT providers must comply with all applicable federal, state, and local laws and regulations, including, but not limited to, those pertaining to enrollment and participation in the Medicaid Program.

B. Non-emergency medical transportation profit providers shall have a minimum liability insurance coverage of \$25,000 per person, \$50,000 per accident and \$25,000 property damage policy.

1. The liability policy shall cover:

- a. any autos, hired autos, and non-owned autos; or
- b. scheduled autos, hired autos, and non-owned autos.

2. Statements of insurance coverage from the agent writing the policy are not acceptable. Proof must include the dates of coverage and a 30-day cancellation notification clause. Proof of renewal must be received by the department or its designee no later than 48 hours prior to the end date of coverage. The policy must provide that the 30-day cancellation notification be issued to the department or its designee.

3. Upon notice of cancellation or expiration of the coverage, the department or its designee will suspend the provider's Medicaid enrollment, effective on the date of cancellation or expiration.

C. As a condition of reimbursement for transporting Medicaid beneficiaries to and/or from healthcare services, gas reimbursement providers must maintain a current valid vehicle registration, the state minimum automobile liability insurance coverage, and a current valid driver's license. Proof of compliance with these requirements must be submitted to the department or its designee during the enrollment process. Gas reimbursement providers are allowed to transport up to five specified Medicaid beneficiaries or all members of one household. Individuals transporting more than five Medicaid beneficiaries or all members of one household shall be considered profit providers and shall be enrolled as such and comply with all profit provider requirements.

D. A provider must agree to cover the entire parish or parishes for which he or she provides non-emergency medical transportation services.

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, Bureau of Health Services Financing, LR 47:

Subchapter D. Reimbursement

§523. General Provisions

A. Reimbursement for NEMT services shall be based upon the current fee schedule.

B. Reimbursement will not be made for any additional person(s) who must accompany the beneficiary to the medical provider.

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, Bureau of Health Services Financing, LR 47:

Chapter 7. Non-Emergency Ambulance Transportation

§701. Introduction

A. Non-emergency ambulance transportation (NEAT) is ground or air ambulance transportation provided to Medicaid

beneficiaries to and/or from a medically necessary Medicaid covered service when the beneficiary's condition is such that use of any other method of transportation is contraindicated or would make the beneficiary susceptible to injury.

B. Medicaid covered transportation is available to Medicaid beneficiaries when:

1. the beneficiary is enrolled in a Medicaid benefit program that explicitly includes transportation services; and

2. the beneficiary or their representative has stated that they have no other means of transportation.

C. This Chapter applies to the fee for service and managed care programs for the provision of NEAT to and/or from medically necessary Medicaid covered services.

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, Bureau of Health Services Financing, LR 47:

§703. Provider Responsibilities

A. All ambulance providers must be licensed by the Department of Health, Bureau of Emergency Medical Services.

B. All NEAT providers must comply with all applicable federal, state, local laws, and regulations, including, but not limited to, those pertaining to enrollment and participation in the Medicaid Program.

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, Bureau of Health Services Financing, LR 47:

§705. Prior Approval and Scheduling

A. The department or its designee must review and approve or deny the transportation requests, prior to scheduling, for beneficiary eligibility and verification of the following:

1. that the originating or destination address belongs to a healthcare provider or facility; and

2. that a completed certification of ambulance transportation form is received for the date of service.

B. Out-of-state NEAT and non-emergency air ambulance services may require additional approval.

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, Bureau of Health Services Financing, LR 47:

§707. Reimbursement

A. Reimbursement for NEAT services shall be based upon the current Medicaid fee schedule.

B. Reimbursement for NEAT claims shall be allowed only when accompanied by the certification of ambulance transportation form justifying the need for ambulance services.

C. Reimbursement will not be made for any additional person(s) who must accompany the beneficiary to the medical provider.

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, 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 staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider 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 Michael Boutte, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Mr. Boutte is responsible for responding to this proposed Rule. The deadline for submitting written comments is at close of business, 4:30 p.m., on September 29, 2021.

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 September 9, 2021. 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 September 29, 2021 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 September 9, 2021. 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: Medical Transportation Program

- 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 21-22. It is anticipated that \$1,296 (\$648 SGF and \$648 FED) will be expended in FY 21-22 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 21-22. It is anticipated that \$648 will be collected in FY 21-22 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 OR NONGOVERNMENTAL GROUPS (Summary)
This proposed rule amends the provisions governing the Medical Transportation Program in order to repeal and replace Chapter 5 governing non-emergency medical transportation in its entirety and relocate the non-emergency ambulance transportation provisions to Chapter 7 to ensure that the Louisiana Administrative Code reflects current managed care and fee-for-service practices. It is anticipated that implementation of this proposed Rule will not result in any cost or benefits to NEMT providers in FY 21-22, FY 22-23, and FY 23-24, as it aligns the language in the administrative rule with current practices.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This rule has no known effect on competition and employment.

Michael Boutte
Interim Medicaid Executive Director
2108#032

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 117—Submission of Contact
Information for Risk-Bearing Entities
(LAC 37:XIII.Chapter 175)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 and 22:11 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to promulgate Regulation 117—Submission of Contact Information for Risk-Bearing Entities. Regulation 117:

- (1) establishes a procedure for the submission of required contact information for risk-bearing entities;
- (2) sets a specific date and method for the submission of the annual filing to inform the commissioner of the contact information required pursuant to R.S. 22:41.2;

(3) establishes the procedure and time limitation to notify the commissioner of a change in the contact information that was provided with the annual filing; and

(4) provides for penalties for the failure to timely make the annual filing or to submit a notice of change in the contact information to the commissioner.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 175. Regulation Number 117— Submission of Contact Information for Risk Bearing Entities

§17501. Purpose

A. The purpose of this regulation is to establish a procedure for the submission of required contact information for risk-bearing entities, to set a specific date and method for submission of the annual filing of the contact information, to establish the procedure and time limitation to notify the commissioner of a change in the contact information that was provided with the annual filing, and to provide for penalties for the failure to timely make the annual filing or to submit a notice of change in the contact information to the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2E, 22:11, 22:18, 22:41.2, 22:337(A)(5), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§17503. Definitions

A. The following terms when used in this Chapter shall have the following meanings:

Commissioner—the Louisiana Commissioner of Insurance.

Department—the Louisiana Department of Insurance.

Risk-Bearing Entity—any entity included in R.S. 22:48.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2E, 22:11, 22:18, 22:41.2, 22:337(A)(5), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§17505. Required Contacts

A. The following shall be required contacts for each risk-bearing entity:

1. an individual responsible for the receipt of and response to consumer complaints filed with the department;

2. an individual responsible for the receipt of rules, regulations or other directives from the commissioner;

3. an individual responsible for the receipt of and response to inquiries from the department regarding the financial condition of the entity;

4. an individual responsible for the receipt of and response to inquiries from the department regarding tax payments;

5. an individual responsible for the receipt of and response to inquiries from the department regarding data security and data breaches;

6. an individual responsible for the receipt of and response to inquiries from the department in the event of a catastrophe or disaster;

7. an individual responsible for the receipt of and response to inquiries from the department regarding market conduct issues.

B. The risk-bearing entity may designate more than one individual to meet any one of the requirements of this section.

C. The risk-bearing entity may designate one individual as its primary contact to satisfy any one or more of the required contact requirements.

D. If the phone number provided is a general phone number of the risk-bearing entity, the contact information submitted shall include the extension of the individual.

E. The commissioner may provide additional contact types for which a risk-bearing entity may submit contact information to facilitate communication with the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2E, 22:11, 22:18, 22:41.2, 22:337(A)(5), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§17507. Annual Notification of Contact Information

A. No later than March 1st annually, every risk-bearing entity conducting business in Louisiana shall provide notice to the commissioner that sets forth the name, mailing address, phone number, and electronic mail address for each required contact as set forth above in §17505.

B. This notice shall be made electronically using the department's industry access system or any subsequent program provided by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2E, 22:11, 22:18, 22:41.2, 22:337(A)(5), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§17509. Notice of Change of Contact Information

A. Every risk-bearing entity shall notify the commissioner within 30 days of any change in the contact information that was provided with the annual filing.

B. The notification of change may be made by using the department's Industry Access System or through an electronic filing of a uniform notification created by the National Association of Insurance Commissioners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2E, 22:11, 22:18, 22:41.2, 22:337(A)(5), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§17511. Violations

A. Failure to provide notice to the commissioner of the required contact information on or before March 1st or to provide a notification of change to the commissioner within 30 days of any change in the contact information may be determined by the commissioner to be a violation of R.S. 22:41.2 and may result in or subject a risk-bearing entity to penalties pursuant to R.S. 22:18 or 22:337(A)(5).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2E, 22:11, 22:18, 22:41.2, 22:337(A)(5), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended regulation should have no impact upon the rights and authority of parents regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Jennifer Land, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632. Comments will be accepted through the close of business, 4:30 p.m., September 10, 2021.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 117—Submission of Contact Information for Risk-Bearing Entities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will have no cost to state agencies and local governmental units. The proposed rule is promulgated to establish a procedure for the submission of required contact information for risk-bearing entities, and to set a specific date and method for the submission of the annual filing to inform the commissioner of the contact information required pursuant to R.S. 22:41.2.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule establishes a procedure for the submission of required contact information for risk-bearing entities. Failure to provide notice to the commissioner of the required contact information on or before March 1st, or failure to provide a notification of change to the commissioner within

30 days of any change, may be determined a violation and may result in penalties pursuant to R.S. 22:18 or 22:337(A)(5).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact upon competition and employment in the state.

Denise Gardner
Chief of Staff
2108#019

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Water Well Registration
(LAC 56:I.117 and 119)

The Department of Natural Resources, Office of Conservation proposes to amend LAC 56 I.117.A., B., E., M. and LAC 56 I.119.A., B., C.6., C.8. 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 proposed amendment clarifies the existing water well requirements and provides instructions on how to submit the electronic registration forms to the agency in LAC 56 I.117.A., B., E., M. and LAC 56 I.119.A., B., C.6., C.8.

Title 56

PUBLIC WORKS

Part I. Water Wells

Chapter 1. Registering Water Wells

§117. Water Well Registration (Long Form)

A. The Water Well Registration Long Form (DNR-GW-1) and detailed instructions for properly completing and distributing the form are available by contacting department staff at (225) 342-8244 or by accessing the department's website at www.dnr.louisiana.gov/gwater. A copy is to be mailed, or delivered by an Office of Conservation approved electronic delivery system, by the water well contractor within 30 days after the well has been completed. If by mail, send to:

Department of Natural Resources
Office of Conservation
P.O. Box 94275
Baton Rouge, LA 70804-9275

B. A copy of the form is to be retained by the water well contractor for their files, and another copy is to be given to the well owner immediately upon completion of the work. The commissioner will consider and encourages the electronic submission of registration, data or reports required under this section.

C - D.2 ...

E. Well Location. List the parish where the well is located, including the nearest town, city, physical address, etc., and give directions to the well site. The location of the well should be described in detail and as accurately as possible so that the well can be easily located by the department's staff or field inspector. Please include a detailed map or sketch on the back of the original form, or provide a legible attachment to the original form, showing location of well with reference to roads, railroads, buildings, etc. Use an (X) to indicate location of the well. Show location of nearest

existing well(s), if any nearby, by marking (Os), and approximate distance between wells. If submitting the registration form by an Office of Conservation approved electronic delivery system, follow the instructions on the electronic form for including a detailed location map. Determine the well's Global Positioning System (GPS) location and record the GPS longitude and latitude coordinates onto the form.

F - L. ...

M. Driller's Log. Give a description of the materials encountered and depth as detailed in the form instructions. If space on front of the form is insufficient, continue driller's log on reverse side of original form or attach a copy of the driller's log to the original form to be transmitted to the department. If submitting the registration form by an Office of Conservation approved electronic delivery system, follow the instructions on the electronic form for including the Driller's Log information.

1 - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3098-38:3098.8.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:249 (May 1975), amended LR 11:971 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended by the Department of Natural Resources, Office of Conservation, LR 37:907 (March 2011), LR 47:

§119. Water Well Registration (Short Form)

A. The Water Well Registration Short Form (DNR-GW-1S) and detailed instructions for properly completing and distributing the form are available by contacting department staff at (225) 342-8244 or by accessing the department's website at www.dnr.louisiana.gov/gwater. A copy is to be mailed, or delivered by an Office of Conservation approved electronic delivery system, by the water well contractor within 30 days after the well has been completed. If by mail, send to:

Department of Natural Resources
Office of Conservation
P.O. Box 94275
Baton Rouge, LA 70804-9275

B. A copy of the form shall be retained by the water well contractor for their files and another copy shall be given to the well owner immediately upon completion of the work. The commissioner will consider and encourages the electronic submission of registration, data or reports required under this section.

C. - C.5. ...

6. Well Location. List the parish where the well is located, including the nearest town, city, physical address, etc., and give directions to the well site. The location of the well should be described in detail and as accurately as possible so that the well can be easily located by the department's staff or field inspector. Please include a detailed map or sketch on the back of the original form, or provide a legible attachment to the original form, showing the location of the well with reference to roads, railroads, buildings, etc. Use an (X) to indicate location of the well. Show location of nearest existing well(s), if any nearby, by making (Os) and approximate distance between wells. If submitting the registration form by an Office of Conservation approved electronic delivery system, follow the instructions on the

electronic form for including a detailed location map. Determine the well's Global Positioning System (GPS) location and record the GPS longitude and latitude coordinates onto the form. For rig-supply wells, attach a "registered" permit plat (see §105.I) and for monitoring wells, complete spaces provided for the section, township and range (see §105.J).

7. ...

8. Driller's Log. List in the space provided a description of the materials encountered and depth as detailed in the form instructions. If space on front of the form is insufficient, continue driller's log on reverse side of original form or attach a copy of the driller's log to the original form to be transmitted to the department. If submitting the registration form by an Office of Conservation approved electronic delivery system, follow the instructions on the electronic form for including the Driller's Log information.

C.9. - E. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3098-38:3098.8.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 1:249 (May 1975), amended LR 11:974 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended by the Department of Natural Resources, Office of Conservation, LR 37:908 (March 2011), LR 47:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested parties will be afforded the opportunity to submit data, views, or arguments, in writing. Written comments will be accepted by hand delivery or USPS only, until 4:30 p.m., September 10, 2021 at Office of Conservation, Executive Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; or Office of Conservation, Environmental Division, 617 North Third Street, Room 847-D, Baton Rouge, LA 70802. All inquiries should be directed to Timothy Schroeder at the above addresses.

Richard P. Ieyoub
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Water Well Registration

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated direct material effect on state or local governmental expenditures as a result of the proposed rule change. The proposed rule change provides instructions and

clarifications on submitting water well registration forms through the Office of Conservation approved electronic delivery system.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The primary group impacted by these rule changes will be water well drillers. There are no anticipated cost increases associated with the proposed amendment and all required documentation will be provided on existing paperwork.

The proposed regulatory amendment clarifies the language in the water well registration requirements for electronic form deliverables.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on water well driller competition and employment.

John Adams
Assistant Commissioner
2108#044

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Office of Alcohol and Tobacco Control

Direct Delivery of Alcohol—Third Party Service Permit (LAC 55:VII.807)

In accordance with the provisions of the Administrative Procedure Act, R.S. 26:792, the Department of Revenue, Office of Alcohol and Tobacco Control (ATC), proposes to amend LAC 55:VII, Subpart 3, Beer and Liquor, Chapter 8, §807, relative to the regulation of retailers contracting with a third party for the direct delivery of alcohol. The basis and rationale for the intended action is to protect both retailers and third parties who are acting in good faith. This proposed Rule is promulgated in accordance with the authority delegated in R.S. 26:307(E) and R.S. 26:308(E) that allow the commissioner to promulgate rules related to the requirements and qualifications for delivery of alcoholic beverages.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Subpart 1. Beer and Liquor

Chapter 8. Direct Delivery of Alcohol

§807. Third Party Alcohol Delivery Service Permit

A. - I.1.c. ...

2. A retailer may enter into a contract with a third party for a fixed fee for services, but the fee shall not be based on a percentage of the total receipt as required in R.S. 26:308(E).

J. - J.2. ...

3. The retailer is responsible for ensuring that the price of the alcoholic beverage product on the third party application is the same as the price the product is advertised and sold at retail by retail dealer. A contract with a third party shall not dictate the price the retailer sets for the alcoholic beverage product. The retailer and the third party

shall comply with the requirements of R.S. 26:150, R.S. 26:153 (C)(3) and R.S. 26:308(C)(12)(b).

4. If the retailer gives good faith notice to the third party of a price discrepancy between the beverage product on the third party application and the product as advertised and sold at retail by retail dealer, the third party is responsible for correcting the error on the third party application within a reasonable time. Good faith compliance with statutory regulation is required as a condition of continued good standing and approval of a class D-T third party alcohol delivery permit.

5. The third party delivery company must notify the retailer in writing that the retailer is prohibited from profit sharing with the third party and is prohibited from paying a percentage of the total receipts for alcoholic beverages as a requirement of any contract with the third party. The retailer and the third party shall comply with the requirements of R.S. 51:411, R.S. 51:1402, and R.S. 51:1405.

K. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:307 and R.S. 26:308.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 40:83 (January 2021), amended 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

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 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 June 10, 2021, to Heather M. Royer, Office of Alcohol and Tobacco Control, 7979 Independence Blvd., Suite 101, Baton Rouge, Louisiana 70806.

Linda Pham
Attorney Supervisor

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Direct Delivery of Alcohol
Third Party Service Permit**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed amendment will not result in significant costs or savings to state or local governmental units. The proposed

rules outline standards and requirements for retailers and third party direct delivery permit holders to contract with one another for the sale of alcoholic beverages through the application owned and operated by the third party.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed amendment will not affect revenue collections for state or local entities. The proposed rules only outline further requirements associated with third party direct delivery of alcohol.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The proposed amendment will affect firms choosing to participate in third party direct delivery of alcohol services to the extent that the retailer and the third party delivery permit holder must be in compliance with the new regulations. The proposed rules will require that the retailer's store price dictate the price of the alcoholic beverages sold on the third party application. Third party delivery permit holders will no longer be able to markup the price of alcoholic beverages on the application. Therefore, the total cost to third party delivery permit holders is unknown and dependent on current practices.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The ability for retailers to contract with third party delivery permit holders for the sale of alcoholic beverages to consumers may result in a competition and employment benefit to retailers and third parties choosing to offer this service. The scope of the benefit is unknown and dependent upon consumer behavior.

Linda Pham
Attorney Supervisor
2108#013

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Consolidated Filer Sales Tax Returns, Form R-1029—
Electronic Filing and Payment Requirement
(LAC 61.III.1547 and 1548)

Under the authority of R.S. 47:1511, 47:1519, 47:1520 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, through this Notice of Intent, proposes to adopt rules to require electronic filing and payment requirements for consolidated filers who are filing the Louisiana Sales Tax Return, Form R-1029.

R.S. 47:1519(B)(1) authorizes the secretary to require payments by electronic funds transfer, and R.S. 47:1520(A)(2) grants the secretary the discretion to require electronic filing of tax returns or reports by administrative rule promulgated with legislative oversight in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. The purpose of this regulation is to require consolidated filers to electronically file all sales tax returns and electronically submit all related sales and use tax payments. Recent legislative changes have required more specific tracking of sales tax revenues. Requiring consolidated filers to file returns and make payments electronically allows for targeted tracking while maintaining convenience for consolidated filers.

Title 61

REVENUE AND TAXATION

Part III. Administrative and Miscellaneous Provisions

Chapter 15. Mandatory Electronic Filing of Tax Returns and Payment

§1547. Consolidated Filers – Electronic Filing Requirements

A. Definitions

Consolidated Filer—taxpayers approved, according to LAC 61:I.4351.A.1.a, to file consolidated sales tax returns to report sales from multiple locations on one consolidated monthly return

B. For tax periods beginning on or after December 1, 2021, consolidated filers shall be required to file the Form R-1029, Louisiana Sales Tax Return, electronically.

C. Consolidated filers may not file paper versions of any required returns.

D.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, LR 47:

§1548. Consolidated Filers - Electronic Payment Required

A. R.S. 47:1519(B)(1) allows the secretary to require consolidated filers to pay sales and use tax by electronic funds transfer.

B. Effective for all taxable periods beginning on or after December 1, 2021, all payments by any consolidated filer shall be electronically transferred to the department on or before the twentieth day following the close of the reporting period using the electronic format provided.

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(E).

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 consolidated filer 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(E), 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, consolidated filers 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 consolidated filer can prove payment by electronic funds transfer would create an undue hardship, the secretary may 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR 47:

Family Impact Statement

The proposed adoption of this 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 a local government to perform this function.

Poverty Impact Statement

The proposed Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Impact Statement

The proposed Rule has no known measurable impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

The proposed Rule has no known or foreseeable effect on:

1. The staffing levels requirements or qualifications required to provide the same level of service.
2. The total direct and indirect effect on the cost to the provider to provide the same level of service.
3. The overall effect on the ability of the provider to provide the same level of service.

Public Comments

All interested persons may submit written data, views, arguments or comments regarding this proposed Rule to Mia Strong at P.O. Box 44098, Baton Rouge, LA 70804. Written comments will be accepted until 4:30 p.m., Wednesday, September 29, 2021.

Public Hearing

A public hearing will be held on Thursday, September 30, 2021 at 2 p.m. in the Griffon Room, located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Kimberly J. Lewis
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Consolidated Filer Sales Tax Returns, Form R-1029—Electronic Filing and Payment Requirement

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules require electronic filing of Form R-1029, *Louisiana Sales Tax Return*, for sales tax reported by consolidated filers. The proposed rules require taxpayers who

file consolidated tax returns to submit returns and payments electronically. The proposed rules also provide for the assessment and waiver of penalties for non-compliance.

Implementation of the proposed rules will result in \$30,000 in additional costs associated with the development and testing of the reporting schedule. Computer system acceptance of the required electronic return is already in place. Accounting for non-compliance penalties will not result in material additional costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules may increase self-generated revenue and state general fund collections from penalties by an indeterminable amount beginning FY 2022. Beginning July 1, 2022, penalties and fees, except compensatory fees, levied by the Department will accrue to the state general fund per R.S. 47:1608, rather than to self-generated revenue for the department.

A modest and temporary increase in revenue from penalties may occur as the proposed rules are implemented, although the department cannot predict non-compliant behavior. For returns that are currently required to be filed electronically, the department has collected the following amounts in penalties; \$7,000 in FY 2017, \$1,000 in FY 2018, \$6,000 in FY 2019, and \$45,000 in FY 2020. However, any actual collections in penalties are dependent upon non-compliant behavior associated with the filing types included in the proposed rules. Therefore, any increase in revenue is indeterminable.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The department does not have the information necessary to determine the additional costs to comply with the proposed rules, but these costs are expected to be minimal. Online access and activity by businesses have become standard practice. To the extent non-compliance penalties are collected, affected taxpayers will incur penalty costs. The department cannot estimate the additional penalty amount as it is dependent upon taxpayer violations and liabilities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules are not anticipated to affect competition or employment.

Kimberly J. Lewis
Secretary
2108#042

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Mandatory Electronic Filing of Consumable Hemp Products Tax Returns and Payment of Tax (LAC 61.III.1535 and 1536)

Under the authority of R.S. 47:1511, 47:1519, 47:1520, and 47:1695, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, gives notice that rulemaking procedures have been initiated to amend LAC 61.III.1535 and 1536, regarding mandatory electronic filing and payment requirements for the Industrial Hemp-Derived CBD Tax Return. Act 336 of the 2021 Regular Session (“Act 336”) changed the name of the tax to Consumable Hemp Products Tax and expanded its applicability.

R.S. 47:1519(B)(1) authorizes the secretary to require payments by electronic funds transfer, and R.S. 47:1520(A)(2) authorizes the secretary the discretion to require electronic filing of tax returns or reports by administrative rule promulgated with legislative oversight in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. The purpose of this amendment is to revise the terminology in the regulation consistent with the changes to the tax statutes made by Act 336.

Title 61

REVENUE AND TAXATION

Part III. Administrative and Miscellaneous Provisions Chapter 15. Mandatory Electronic Filing of Tax Returns and Payment

§1535. Industrial Hemp-Derived CBD and Consumable Hemp Products Tax Return—Electronic Filing Requirements

A.1. For tax periods beginning on or after January 1, 2020 and before August 1, 201, every industrial hemp-derived CBD retailer shall be required to file the Industrial Hemp-Derived CBD Tax return electronically with the Department of Revenue using the electronic format prescribed by the department.

2. For tax periods beginning on or after August 1, 2021, every consumable hemp products retailer shall be required to file the Consumable Hemp Products Tax return electronically with the Department of Revenue using the electronic format prescribed by the department.

B. - C.2. ...

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 45:1810 (December 2019), amended by the Department of Revenue, Policy Services Division, LR 47:

§1536. Industrial Hemp-Derived CBD and Consumable Hemp Products Tax—Electronic Payment Required

A. R.S. 47:1519(B)(1) allows the secretary to require payment of tax by electronic funds transfer.

B.1. Effective for all taxable periods beginning on or after January 1, 2020 and before August 1, 2021, all payments by an industrial hemp-derived CBD retailer 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.

2. Effective for all taxable periods beginning on or after August 1, 2021, all payments by a consumable hemp products retailer 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. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, 47:1519, 47:1520 and 47:1695.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 45:1810 (December 2019), amended by the Department of Revenue, Policy Services Division, LR 47:

Family Impact Statement

The proposed adoption of this 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 a local government to perform this function.

Poverty Impact Statement

The proposed rule has no known impact on poverty as described in R.S. 49:973.

Small Business Impact Analysis

The proposed rule has no known measurable impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

The proposed rule has no known or foreseeable effect on:

1. The staffing levels requirements or qualifications required to provide the same level of service.
2. The total direct and indirect effect on the cost to the provider to provide the same level of service.
3. The overall effect on the ability of the provider to provide the same level of service.

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., September 21, 2021.

Public Hearing

A public hearing will be held on September 22, 2021 at 8:30 a.m. in the LaBelle Room, located on the 1st floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana.

Kimberly J. Lewis
Secretary of Revenue

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Mandatory Electronic Filing of Consumable Hemp Products Tax Returns and Payment of Tax

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will not result in implementation costs or savings to state or local governmental units. The proposed rule amends the electronic filing and payment mandate for industrial hemp-derived CBD to update the name of the tax to Consumable Hemp Products for periods beginning on or after August 1, 2021, as a result of Act 336 of the 2021 Regular Session.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no direct impact on annual state or local revenue collections. The proposed rule updates the name of the tax to comply with recent legislative action as provided in Act 336 of the 2021 Regular Session.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will have a slight economic impact on the affected taxpayer by clarifying the proper name of the tax return and payments required to be filed electronically as a result of Act 336 of the 2021 Regular Session.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact upon competition and employment in the state.

Kimberly J. Lewis
Secretary
2108#040

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Workforce Commission Office of Workers' Compensation

Medical Treatment Guidelines (LAC 40:I.2201-2227)

The Louisiana Workforce Commission does hereby give notice of its intent to amend certain portions of the Medical Guidelines contained in the Louisiana Administrative Code, Title 40, Labor and Employment, Part I, Workers' Compensation Administration, Subpart 2, Medical Guidelines, Chapter 22 regarding Neurological and Neuromuscular Disorder. The purpose of this amendment is to update the medical treatment guidelines in accordance to a reoccurring maintenance schedule and add consistency throughout the guidelines. This Rule is promulgated by the authority vested in the director of the Office of Workers' Compensation found in R.S. 23:1291 and R.S. 23:1310.1(C).

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Subpart 2. Medical Guidelines

Chapter 22. Neurological and Neuromuscular

Disorder Medical Treatment Guidelines

Subchapter A. Carpal Tunnel Syndrome (CTS) Medical Treatment Guidelines

Editor's Note: Repealed.

§2201. Introduction

A. This document has been prepared by the Louisiana Workforce Commission, Office of Workers' Compensation (OWCA) and should be interpreted within the context of guidelines for physicians/providers treating individuals qualifying under Louisiana's Workers' Compensation Act as injured workers with CTS. Although the primary purpose of this document is advisory and educational, these guidelines are enforceable under the Louisiana Workers Compensation Act. All medical care, services, and treatment owed by the employer to the employee in accordance with the Louisiana Workers' Compensation Act shall mean care, services, and treatment in accordance with these guidelines. Medical care, services, and treatment that varies from these guidelines shall also be due by the employer when it is evidence, that a variance from these guidelines is reasonably required to cure or relieve the injured worker from the effects of the injury or occupational disease given the circumstances. Therefore, these guidelines are not relevant as evidence of a provider's legal standard of professional care. To properly utilize this

document, the reader should not skip nor overlook any sections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1736 (June 2011), amended LR 47:

§2203. General Guideline Principles

A. The principles summarized in this section are key to the intended implementation of all Office of Workers' Compensation medical treatment guidelines and critical to the reader's application of the guidelines in this document.

1. Application of Guidelines. The OWCA provides procedures to implement medical treatment guidelines and to foster communication to resolve disputes among the provider, payer, and patient through the Workers' Compensation Act.

2. Education. Education of the patient and family, as well as the employer, insurer, policy makers and the community should be the primary emphasis in the treatment of workers' compensation injuries. Currently, practitioners often think of education last, after medications, manual therapy, and surgery. Practitioners must implement strategies to educate patients, employers, insurance systems, policy makers, and the community as a whole. An education-based paradigm should always start with inexpensive communication providing reassuring and evidence-based information to the patient. More in-depth education is currently a component of treatment regimens which employ functional, restorative, preventive and rehabilitative programs. No treatment plan is complete without addressing issues of individual and/or group patient education as a means of facilitating self-management of symptoms and prevention. Facilitation through language interpretation, when necessary, is a priority and part of the medical care treatment protocol.

3. Informed Decision Making. Providers should implement informed decision making as a crucial element of a successful treatment plan. Patients, with the assistance of their health care practitioner, should identify their personal and professional functional goals of treatment at the first visit when a workers' compensation injury allows functional improvement. Progress towards the individual's identified functional goals should be addressed by all members of the health care team at subsequent visits and throughout the established treatment plan when a chronic pain condition allows attainment of functional goals. Injured workers may not reach functional goals to return to work and therefore they will require a significantly different plan. Nurse case managers, physical therapists, and other members of the health care team play an integral role in informed decision-making and achievement of functional goals. Patient education and informed decision-making should facilitate self-management of symptoms and prevention of further injury.

4. Treatment Parameter Duration. Time frames for specific interventions commence once treatments have been initiated, not on the date of injury. Obviously, duration will be impacted by patient adherence, as well as availability of services. Clinical judgment may substantiate the need to accelerate or decelerate the time frames discussed in this document. Such deviation shall be in accordance with La. R.S. 23:1203.1.

5. Active interventions emphasizing patient responsibility, such as therapeutic exercise and/or functional treatment, are generally emphasized over passive modalities, especially as treatment progresses. Generally, passive interventions are viewed as a means to facilitate progress in an active rehabilitation program with concomitant attainment of objective functional gains.

6. Active Therapeutic Exercise Program. Exercise program goals should incorporate patient strength, endurance, flexibility, coordination, and education. This includes functional application in vocational or community settings.

7. Positive Patient Response. Positive results are defined primarily as functional gains that can be objectively measured.

a. Objective functional gains include, but are not limited to, positional tolerances, range-of-motion (ROM), strength, and endurance, activities of daily living, ability to function at work, cognition, psychological behavior, and efficiency/velocity measures that can be quantified. Subjective reports of pain and function should be considered and given relative weight when the pain has anatomic and physiologic correlation. Anatomic correlation must be based on objective findings.

8. Re-Evaluation of Treatment Every Three to Four Weeks. If a given treatment or modality is not producing positive results within three to four weeks, the treatment should be either modified or discontinued. Reconsideration of diagnosis should also occur in the event of poor response to a seemingly rational intervention.

9. Surgical Interventions. Surgery should be contemplated within the context of expected functional outcome and not purely for the purpose of pain relief. The concept of "cure" with respect to surgical treatment by itself is generally a misnomer. All operative interventions must be based upon positive correlation of clinical findings, clinical course, and diagnostic tests. A comprehensive assimilation of these factors must lead to a specific diagnosis with positive identification of pathologic conditions.

10. Pharmacy-Louisiana Law and Regulation. All prescribing will be done in accordance with the laws of the state of Louisiana as they pertain respectively to each individual licensee, including, but not limited to: Louisiana State Board of Medical Examiners regulations governing medications used in the treatment of non-cancer-related chronic or intractable pain; Louisiana Board of Pharmacy Prescription Monitoring Program; Louisiana Department of Health and Hospitals licensing and certification standards for pain management clinics; other laws and regulations affecting the prescribing and dispensing of medications in the state of Louisiana.

11. Six Month-Time Frame. Injuries resulting in temporary total disability require maintenance treatment and may not attain return to work in six months.

12. Return to Work. Return to work is therapeutic, assuming the work is not likely to aggravate the basic problem or increase long-term pain. An injured worker's return-to-work status shall not be the sole cause to deny reasonable and medically necessary treatment under these guidelines. Two good practices are: early contact with injured workers and provide modified work positions for short-term injuries. The practitioner may provide specific

specific physical limitations and the patient should never be released to non-specific and vague descriptions such as “sedentary” or “light duty.” The following physical limitations should be considered and modified as recommended: lifting, pushing, pulling, crouching, walking, using stairs, bending at the waist, awkward and/or sustained postures, tolerance for sitting or standing, hot and cold environments, data entry and other repetitive motion tasks, sustained grip, tool usage and vibration factors. Even if there is residual chronic pain, return-to-work is not necessarily contraindicated. The practitioner should understand all of the physical demands of the patient’s job position before returning the patient to full duty and should request clarification of the patient’s job duties. Clarification should be obtained from the employer or, if necessary, from including, but not limited to, occupational health nurse, physical therapist, occupational therapist, vocational rehabilitation specialist, or an industrial hygienist chiropractor or another professional. American Medical Association clarifies “disability” as “activity limitations and/or participation restrictions in an individual with a health condition, disorder or disease” versus “impairment” as “a significant deviation, loss, or loss of use of any body structure or body function in an individual with a health condition, disorder or disease”.

13. Delayed Recovery. Within the discretion of the treating physician, strongly consider a psychological evaluation, if not previously provided, as well as initiating interdisciplinary rehabilitation treatment and vocational goal setting, for those patients who are failing to make expected progress 6 to 12 weeks after initiation of treatment of an injury. The OWCA recognizes that 3 to 10 percent of all industrially injured patients will not recover within the timelines outlined in this document despite optimal care. Such individuals may require treatments beyond the limits discussed within this document, but such treatment requires clear documentation by the authorized treating practitioner focusing on objective functional gains afforded by further treatment and impact upon prognosis.

14. Guideline Recommendations and Inclusion of Medical Evidence. Guidelines are recommendations based on available evidence and/or consensus recommendations. When possible, guideline recommendations will note the level of evidence supporting the treatment recommendation. When interpreting medical evidence statements in the guideline, the following apply to the strength of recommendation.

Strong	Level 1 Evidence	We Recommend
Moderate	Level 2 and Level 3 Evidence	We Suggest
Weak	Level 4 Evidence	Treatment is an Option
Inconclusive	Evidence is Either Insufficient or Conflicting	

a. Consensus guidelines are generated by a professional organization that the guidelines are intended to serve. A committee of specialists and experts are selected by the organization to create an unbiased, vetted recommendation for the treatment of specific issues within the realm of their expertise. All recommendations in the guideline are considered to represent reasonable care in appropriately selected cases, regardless of the level of evidence or consensus statement attached to it. Those

procedures considered inappropriate, unreasonable, or unnecessary are designated in the guideline as “not recommended.”

15. Treatment of Pre-Existing Conditions The conditions that preexisted the work injury/disease will need to be managed under two circumstances:

a. a pre-existing condition exacerbated by a work injury/disease should be treated until the patient has returned to their objectively verified prior level of functioning or Maximum Medical Improvement (MMI); and

b. a pre-existing condition not directly caused by a work injury/disease but which may prevent recovery from that injury should be treated until its objectively verified negative impact has been controlled. The focus of treatment should remain on the work injury/disease.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1736 (June 2011), amended by the Louisiana Workforce Commission, Office of Workers Compensation, LR 40:1158 (June 2014), LR 47:

§2209. Follow-Up Diagnostic Testing Procedures

A. - C. 6. ...

D. Special tests are generally well-accepted tests and are performed as part of a skilled assessment of the patients’ capacity to return to work, his/her strength capacities, and physical work demand classifications and tolerance.

1. - 1.c....

d. Frequency: one-time visit for the clinical interview. If psychometric testing is indicated as a part of the initial evaluation, time for such testing shall be allotted at least, six hours of professional time or whatever is deemed appropriate by the health care professional.

i. - iii.(a).

iv. Work Tolerance Screening: is a determination of an individual’s tolerance for performing a specific job as based on a job activity or task. It may include a test or procedure to specifically identify and quantify work-relevant cardiovascular, physical fitness and postural tolerance. It may also address ergonomic issues affecting the patient’s return-to-work potential. May be used when a full FCE is not indicated.

(a). Frequency: One time for evaluation. May monitor improvements in strength every three to four weeks up to a total of six evaluations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1740 (June 2011).

§2211. Therapeutic Procedures—Non-Operative

A. - G. ...

H. The following procedures are listed in alphabetical order.

1. - 12.c.iii. ...

13. ...

a. Manual Therapy Techniques are passive interventions in which the providers use his or her hands to administer skilled movements designed to modulate pain; increase joint range of motion; reduce/eliminate soft tissue swelling, inflammation, or restriction; induce relaxation; and

improve contractile and non-contractile tissue extensibility. These techniques are applied only after a thorough examination is performed to identify those for whom manual therapy would be contraindicated or for whom manual therapy must be applied with caution. Soft tissue mobilization/manipulation techniques are generally accepted and widely used adjunctive treatment modalities in the treatment of myofascial symptoms related to carpal tunnel syndrome. Mobilization and manipulation can include myofascial release therapy, muscle energy techniques, neural gliding, high velocity, low amplitude (HVLA) technique, osteopathic manipulation, joint mobilization and non-force techniques.

- i. Time to produce effect: two to six treatments
- ii. Frequency: one-to three times/week, decreasing over time
- iii. Optimum duration: four to six weeks
- iv. Maximum duration: eight to ten weeks

13.b. - 14. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1743 (June 2011), amended LR 47:

§2213. Therapeutic Procedures—Operative

A. Surgical Decompression is well-established, generally accepted, and widely used and includes open and endoscopic techniques. There is good evidence that surgery is more effective than splinting in producing long-term symptom relief and normalization of median nerve conduction velocity.

- 1. Endoscopic and open techniques can be used based on the experience and discretion of the surgeon.
- 2. - 3.b. ...
- 4. Surgery may be considered in cases where electrodiagnostic testing is normal. A second opinion from a hand surgeon is strongly recommended. The following criteria should be considered in deciding whether to proceed with surgery:
 - a. the patient experiences significant temporary relief following steroid injection into the carpal tunnel; or
 - b. the patient has failed 3 to 6 months of conservative treatment including work site change; and
 - c. psychosocial factors have been addressed through psychological screening requirements as defined “Adjunctive Testing” in this Section; and
 - d. the patient's signs and symptoms are specific for carpal tunnel syndrome
- 5. Suggested parameters for return-to-work are:

Time Frame	Activity Level
2 Days	Return to Work with Restrictions on utilizing the affected extremity
2-3 Weeks	Sedentary and non-repetitive work
4-6 Weeks	Case-by-case basis
6-12 Weeks	Heavy Labor, forceful and repetitive

NOTE: All return-to-work decisions are based upon clinical outcome.

B. - C. ...

D. Consideration for Repeat Surgery

- 1. - 1.d. ...
- 2. A second opinion by a hand surgeon or qualified surgeon in treating peripheral nerve disorders is required if

repeat surgery is contemplated. The decision to undertake repeat surgery must factor in all of the above possibilities. Results of surgery for recurrent carpal tunnel syndrome vary widely depending on the etiology of recurrent symptoms.

E. Post-Operative Treatment.

1. Considerations for post-operative therapy are:

a. - b. ...

c. Supervised Therapy Program: may be helpful in patients who do not show functional improvements post-operatively or in patients with heavy or repetitive job activities. The therapy program may include some of the generally accepted elements of soft tissue healing and return to function:

i. ...

ii. Return to function: Range of motion, therapeutic exercises and stretching exercises, strengthening, activity of daily living adaptations, joint protection instruction, posture/body mechanics education; worksite modifications may be indicated.

(a). Time to produce effect: two- to four weeks

(b). Frequency: two- to three times/week

(c). Optimum duration: four- to six weeks

(d). Maximum duration: eight weeks

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1748 (June 2011).

Subchapter B. Thoracic Outlet Syndrome

Editor's Note: Repealed.

§2215. Introduction

A. This document has been prepared by the Louisiana Workforce Commission, Office of Workers' Compensation (OWCA) and should be interpreted within the context of guidelines for physicians/providers treating individuals qualifying under Louisiana's Workers' Compensation Act as injured workers with upper extremity involvement. Although the primary purpose of this document is advisory and educational, these guidelines are enforceable under the Louisiana Workers Compensation Act. All medical care, services, and treatment owed by the employer to the employee in accordance with the Louisiana Workers' Compensation Act shall mean care, services, and treatment in accordance with these guidelines. Medical Care, services, and treatment that varies from these guidelines shall also be due by the employer when it is demonstrated to the medical director of the office by a preponderance of the scientific medical evidence, that a variance from these guidelines is reasonably required to cure or relieve the injured worker from the effects of the injury or occupational disease given the circumstances. Therefore, these guidelines are not relevant as evidence of a provider's legal standard of professional care. To properly utilize this document, the reader should not skip nor overlook any sections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1750 (June 2011).

§2217. General Guidelines Principles

A. The principles summarized in this section are key to the intended implementation of all Office of Workers'

Compensation medical treatment guidelines and critical to the reader's application of the guidelines in this document.

1. Application of Guidelines. The OWCA provides procedures to implement medical treatment guidelines and to foster communication to resolve disputes among the provider, payer, and patient through the ~~Office of Worker's~~ Compensation Act.

2. Education. Education of the patient and family, as well as the employer, insurer, policy makers and the community should be the primary emphasis in the treatment of workers' compensation injuries. Currently, practitioners often think of education last, after medications, manual therapy, and surgery. Practitioners must implement strategies to educate patients, employers, insurance systems, policy makers, and the community as a whole. An education-based paradigm should always start with inexpensive communication providing reassuring and evidence-based information to the patient. More in-depth education is currently a component of treatment regime ns which employ functional restorative, preventive and rehabilitative programs. No treatment plan is complete without addressing issues of individual and/or group patient education as a means of facilitating self-management of symptoms and prevention. Facilitation through language interpretation, when necessary, is a priority and part of the medical care treatment protocol.

3. Informed Decision Making. Providers should implement informed decision making as a crucial element of a successful treatment plan. Patients, with the assistance of their health care practitioner, should identify their personal and professional functional goals of treatment at the first visit when a chronic pain condition allows functional improvement. Progress towards the individual's identified functional goals should be addressed by all members of the health care team at subsequent visits and throughout the established treatment plan when a chronic pain condition allows attainment of functional goals. Injured workers may not reach functional goals to return to work and therefore they will require a significantly different plan. Nurse case managers, physical therapists, and other members of the health care team play an integral role in informed decision-making and achievement of functional goals. Patient education and informed decision-making should facilitate self-management of symptoms and prevention of further injury.

4. Treatment Parameter Duration. Time frames for specific interventions commence once treatments have been initiated, not on the date of injury. Obviously, duration will be impacted by patient adherence, as well as availability of services. Clinical judgment may substantiate the need to accelerate or decelerate the time frames discussed in this document. Such deviation shall be in accordance with La. R.S. 23:1203.1.

5. Active interventions emphasizing patient responsibility, such as therapeutic exercise and/or functional treatment, are generally emphasized over passive modalities, especially as treatment progresses. Generally, passive interventions are viewed as a means to facilitate progress in an active rehabilitation program with concomitant attainment of objective functional gains.

6. Active Therapeutic Exercise Program. Exercise program goals should incorporate patient strength,

endurance, flexibility, coordination, and education. This includes functional application in vocational or community settings.

7. Positive Patient Response. Positive results are defined primarily as functional gains that can be objectively measured.

a. Objective functional gains include, but are not limited to, positional tolerances, range-of-motion (ROM), strength, and endurance, activities of daily living, ability to function at work, cognition, psychological behavior, and efficiency/velocity measures that can be quantified. Subjective reports of pain and function should be considered and given relative weight when the pain has anatomic and physiologic correlation. Anatomic correlation must be based on objective findings.

8. Re-Evaluation of Treatment Every Three to Four Weeks. If a given treatment or modality is not producing positive results within three to four weeks, the treatment should be either modified or discontinued. Reconsideration of diagnosis should also occur in the event of poor response to a seemingly rational intervention.

9. Surgical Interventions. Surgery should be contemplated within the context of expected functional outcome and not purely for the purpose of pain relief. The concept of "cure" with respect to surgical treatment by itself is generally a misnomer. All operative interventions must be based upon positive correlation of clinical findings, clinical course, and diagnostic tests. A comprehensive assimilation of these factors must lead to a specific diagnosis with positive identification of pathologic conditions.

10. Pharmacy-Louisiana Law and Regulation. All prescribing will be done in accordance with the laws of the state of Louisiana as they pertain respectively to each individual licensee, including, but not limited to: Louisiana State Board of Medical Examiners regulations governing medications used in the treatment of non-cancer-related chronic or intractable pain; Louisiana Board of Pharmacy Prescription Monitoring Program; Louisiana Department of Health and Hospitals licensing and certification standards for pain management clinics; other laws and regulations affecting the prescribing and dispensing of medications in the state of Louisiana.

11. Six Month-Time Frame. Injuries resulting in temporary total disability require maintenance treatment and may not attain return to work in six months.

12. Return to Work. Return to work is therapeutic, assuming the work is not likely to aggravate the basic problem or increase long-term pain. An injured worker's return-to-work status shall not be the sole cause to deny reasonable and medically necessary treatment under these guidelines. Two good practices are: early contact with injured workers and provide modified work positions for short-term injuries. The practitioner may provide specific physical limitations and the patient should never be released to non-specific and vague descriptions such as sedentary or light duty. The following physical limitations should be considered and modified as recommended: lifting, pushing, pulling, crouching, walking, using stairs, bending at the waist, awkward and/or sustained postures, tolerance for sitting or standing, hot and cold environments, data entry and other repetitive motion tasks, sustained grip, tool usage and vibration factors. Even if there is residual chronic pain,

return-to-work is not necessarily contraindicated. The practitioner should understand all of the physical demands of the patient’s job position before returning the patient to full duty and should request clarification of the patient’s job duties. Clarification should be obtained from the employer or, if necessary, from including, but not limited to, occupational health nurse, physical therapist, occupational therapist, vocational rehabilitation specialist, an industrial hygienist, chiropractor or another professional. American Medical Association clarifies “disability” as “activity limitations and/or participation restrictions in an individual with a health condition, disorder or disease” versus “impairment” as “a significant deviation, loss, or loss of use of any body structure or body function in an individual with a health condition, disorder or disease”.

13. Delayed Recovery. Within the discretion of the treating physician, strongly consider a psychological evaluation, if not previously provided, as well as initiating interdisciplinary rehabilitation treatment and vocational goal setting, for those patients who are failing to make expected progress 6 to 12 weeks after initiation of treatment of an injury. The OWCA recognizes that 3 to 10 percent of all industrially injured patients will not recover within the timelines outlined in this document despite optimal care. Such individuals may require treatments beyond the limits discussed within this document, but such treatment requires clear documentation by the authorized treating practitioner focusing on objective functional gains afforded by further treatment and impact upon prognosis.

14. Guideline Recommendations and Inclusion of Medical Evidence. Guidelines are recommendations based on available evidence and/or consensus recommendations. When possible, guideline recommendations will note the level of evidence supporting the treatment recommendation. When interpreting medical evidence statements in the guideline, the following apply to the strength of recommendation.

Strong	Level 1 Evidence	We Recommend
Moderate	Level 2 and Level 3 Evidence	We Suggest
Weak	Level 4 Evidence	Treatment is an Option
Inconclusive	Evidence is Either Insufficient or Conflicting	

a. Consensus guidelines are generated by a professional organization that the guidelines are intended to serve. A committee of specialists and experts are selected by the organization to create an unbiased, vetted recommendation for the treatment of specific issues within the realm of their expertise. All recommendations in the guideline are considered to represent reasonable care in appropriately selected cases, regardless of the level of evidence or consensus statement attached to it. Those procedures considered inappropriate, unreasonable, or unnecessary are designated in the guideline as not recommended.

15. Treatment of Pre-Existing Conditions The conditions that preexisted the work injury/disease will need to be managed under two circumstances:

a. A pre-existing condition exacerbated by a work injury/disease should be treated until the patient has returned to their objectively verified prior level of functioning or Maximum Medical Improvement (MMI); and

b. A pre-existing condition not directly caused by a work injury/disease but which may prevent recovery from that injury should be treated until its objectively verified negative impact has been controlled. The focus of treatment should remain on the work injury/disease.

B. The remainder of this document should be interpreted within the parameters of these guideline principles that may lead to more optimal medical and functional outcomes for injured workers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1750 (June 2011), amended by the Louisiana Workforce Commission, Office of Workers Compensation, LR 40:1159 (June 2014), LR 47:

§2223. Follow-up Diagnostic Imaging and Testing Procedures

A. - E. ...

F. Personality/psychological/psychiatric/psychosocial evaluations are generally accepted and well-established diagnostic procedures with selective use in the acute TOS population and more widespread use in the sub-acute and chronic TOS population.

1. - 3. ...

4. The evaluation will determine the need for further psychosocial interventions, and in those cases, a Diagnostic Statistical Manual (DSM) of Mental Disorders diagnosis should be determined and documented. An individual with a PhD, PsyD, or Psychiatric MD/DO credentials should perform initial evaluations, which are generally completed within one to two hours. A professional fluent in the primary language of the patient is strongly preferred. When such a provider is not available, services of a professional language interpreter must be provided. When issues of chronic pain are identified, the evaluation should be more extensive and follow testing procedures as outlined in the OWCA’s Chronic Pain Disorder Medical Treatment Guidelines.

a. Frequency—one time visit for evaluation. If psychometric testing is indicated as a portion of the initial evaluation, time for such testing shall be allotted at least, six hours of professional time or whatever is deemed appropriate by the health care professional.

G. - G.5.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1753 (June 2011), amended LR 47:

Family Impact Statement

This amendment to Title 40 should have no impact on families.

Poverty Impact Statement

This amendment to Title 40 should have no impact on poverty or family income.

Provider Impact Statement

1. This Rule should have no impact on the staffing level of the Office of Workers' Compensation as adequate staff already exists to handle the procedural changes.

2. This Rule should create no additional cost to providers or payers.

3. This Rule should have no impact on ability of the provider to provide the same level of service that it currently provides.

Small Business Statement

This amendment to Title 40 should have no direct impact on small or local businesses.

Public Comments

All interested persons are invited to submit written comments or hearing request on the proposed Rule. Such comments or request should be sent to Sheral Kellar, OWC-Administration, 1001 North 23rd Street, Baton Rouge, LA 70802. Such comments should be received by 5 pm on September 10, 2021.

Ava Cates
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medical Treatment Guidelines

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will have no fiscal impact on state or local governmental units, other than the publication fees associated with the proposed rule change.

LA R.S. 23:1203.1 requires the Office of Workers' Compensation Administration (OWCA) assistant secretary, with the assistance of the medical advisory council, to review and update the medical treatment schedule a minimum of once every two years. In accordance with LA R.S. 23:1203.1, the proposed rule amends the medical guidelines for Neurological and Neuromuscular Disorder as contained in Title 40, Labor and Employment, Part I, Workers' Compensation Administration, Subpart 2, Medical Guidelines, Chapter 22.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed rule change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules update the medical guidelines for the treatment of injured workers. It is not anticipated that the proposed rules will result in a direct economic benefit. However, it is anticipated that the proposed rules will provide an indirect benefit to injured workers, employers, and insurers, by providing better medical treatment to injured workers; thus, facilitating their recovery and return to work.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change has no known effect on competition and employment.

Sheral Kellar
Assistant Secretary
2108#041

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Derelict Crab Trap Removal Program (LAC 76:VII.367)

Notice is hereby given 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 proposes to amend 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.

These abandoned crab traps can cause navigational hazards, user-group conflicts, and cause stress on the state blue crab stock by continuing to fish after being abandoned or displaced. Traps are often displaced or abandoned due to storm and tidal movements, theft, captured in another fisherman's gear, or from having the floats cut by propellers. The removal of these traps is necessary to keep Louisiana's coast pristine and to facilitate improvement in the blue crab stock.

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; Volume 46, Number 11*). The Wildlife and Fisheries Commission took action on August 5, 2021 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.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and final rule, including but not limited to, the filing of the Fiscal and Economic Impact statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery §367. Derelict Crab Trap Removal Program

A. The use of crab traps shall be prohibited for a 14-day period from 12:00 a.m. February 1, 2022 through 11:59 p.m. February 14, 2022 within portions of Terrebonne Parish as described below:

1. from a point originating at the intersection of the eastern shoreline of Bayou Dularge and the southern shoreline of Falgout Canal (29 degrees 24 minutes 42.57 seconds north latitude, 90 degrees 46 minutes 59.40 seconds west longitude); thence westerly along the southern shoreline of Falgout Canal to its intersection with Lake de

Cade (29 degrees 24 minutes 51.57 seconds north latitude, 90 degrees 49 minutes 55.05 seconds west longitude); thence southwesterly along the eastern and southern shorelines of Lake de Cade to the northern shoreline of Bayou de Cade; thence southwesterly along the northern shoreline of Bayou de Cade to its intersection with Lost Lake; thence westerly and southerly along the northern and western shorelines of Lost Lake to its intersection with the western shoreline of Rice Bayou; thence southerly along the western shoreline of Rice Bayou to its intersection with Blue Hammock Bayou (29 degrees 18 minutes 19.26 seconds north latitude, 91 degrees 05 minutes 05.33 seconds west longitude); thence westerly along the northern shore of Blue Hammock Bayou to Four League Bay (29 degrees 17 minutes 43.49 seconds north latitude, 91 degrees 07 minutes 26.81 seconds west longitude); thence southerly along the eastern shoreline of Four League Bay to the mouth of Oyster Bayou; thence southerly along the eastern shoreline of Oyster Bayou to a point along the inside-outside shrimp line as defined in LAC 76:VII.370 (29 degrees 13 minutes 17.52 seconds north latitude, 91 degrees 07 minutes 45.76 seconds west longitude); thence easterly along the inside-outside shrimp line to the eastern shoreline of Bayou Grand Caillou; thence northerly along the eastern shoreline of Bayou Grand Caillou to its intersection with the southern shoreline of the Tennessee Gas Pipeline (29 degrees 14 minutes 56.52 seconds north latitude, 90 degrees 48 minutes 17.97 seconds west longitude); thence northwesterly across Bayou Grand Caillou to the western shoreline of Bayou Grand Caillou (29 degrees 15 minutes 4.23 seconds north latitude, 90 degrees 48 minutes 27.57 seconds west longitude); thence northerly to the northern shoreline of the Tennessee Gas Pipeline Canal (29 degrees 15 minutes 5.55 seconds north latitude, 90 degrees 48 minutes 26.46 seconds west longitude); thence northwesterly along the northern shoreline of the Tennessee Gas Pipeline Canal to the eastern shore of Bayou Dularge (29 degrees 17 minutes 48.98 seconds north latitude, 90 degrees 52 minutes 23.57 seconds west longitude); thence northerly along the eastern shoreline of Bayou Dularge and terminating at its origin.

B. The use of crab traps shall be prohibited for a 14-day period from 12:00 a.m. February 1, 2022 through 11:59 p.m. February 14, 2022 within portions of Iberia, St. Mary, and Vermilion Parishes as described below:

1. originating from a point on the northern shoreline of the Gulf Intracoastal Waterway where it intersects the Acadiana Navigational Channel (29 degrees 50 minutes 37.17 seconds north latitude, 91 degrees 50 minutes 32.40 seconds west longitude); thence to a point on the southern shoreline of the Gulf Intracoastal Waterway (29 degrees 50 minutes 28.22 seconds north latitude, 91 degrees 50 minutes 35.30 seconds west longitude); thence southwesterly along the Acadiana Navigational Channel red buoy line to the red navigational marker number 12 on the Marsh Island shoreline near Southwest Pass (29 degrees 36 minutes 10.81 seconds north latitude, 92 degrees 00 minutes 17.16 seconds west longitude); thence easterly along the northern shoreline of Marsh Island to 29 degrees 33 minutes 51.30 seconds north latitude, 91 degrees 43 minutes 00 seconds west longitude; thence north along 91 degrees 43 minutes 00 seconds west longitude to the northern shoreline of West Cote Blanche Bay (29 degrees 44 minutes 21.17 seconds

north latitude, 91 degrees 43 minutes 00 seconds west longitude); thence westerly along the northern shoreline of West Cote Blanche Bay to its intersection with the Ivanhoe Canal (29 degrees 45 minutes 03.58 seconds north latitude, 91 degrees 44 minutes 15.16 seconds west longitude); thence northerly along the eastern shoreline of the Ivanhoe Canal to its intersection with the Gulf Intracoastal Waterway (29 degrees 45 minutes 45.92 seconds north latitude, 91 degrees 44 minutes 20.76 seconds west longitude); thence north to the northern shoreline of the Gulf Intracoastal Waterway (29 degrees 45 minutes 52.14 seconds north latitude, 91 degrees 44 minutes 23.78 seconds west longitude); thence westerly along the northern shoreline of the Gulf Intracoastal Waterway and terminating at the origin.

C. The use of crab traps shall be prohibited for a 14-day period from 12:00 a.m. February 7, 2022 through 11:59 p.m. February 20, 2022 within portions of Jefferson, Lafourche, and Plaquemines Parishes as described below:

1. from a point originating at the intersection of the Gulf Intracoastal Waterway and the northern shore of Hero Canal (29 degrees 48 minutes 12.73 seconds north latitude, 90 degrees 04 minutes 09.21 seconds west longitude); thence westerly to a point along the western shore of the Gulf Intracoastal Waterway at 29 degrees 48 minutes 15.14 seconds north latitude, 90 degrees 04 minutes 18.67 seconds west longitude; thence southerly along the western shore of the Gulf Intracoastal Waterway to a point opposite the western shore of Bayou Perot (29 degrees 40 minutes 56.67 seconds north latitude, 90 degrees 11 minutes 36.79 seconds west longitude); thence easterly to a point on the western shore of Bayou Perot at 29 degrees 40 minutes 50.66 seconds north latitude, 90 degrees 11 minutes 25.48 seconds west longitude; thence southerly along the western shore of Bayou Perot and Little Lake to Bay L'Ours; thence westerly and southerly around the shoreline of Bay L'Ours to Brusle Lake; thence southerly and easterly following the shoreline of Brusle Lake to a point on the southern shoreline of Bayou De Chene at 29 degrees 29 minutes 14.83 seconds north latitude, 90 degrees 12 minutes 02.02 seconds west longitude; thence easterly along the southern shoreline of Bayou De Chene to Round Lake (29 degrees 29 minutes 10.15 seconds north latitude, 90 degrees 11 minutes 38.40 seconds west longitude); thence southerly and easterly along the shoreline of Round Lake to a point on the western shoreline of East Fork Bayou L'Ours (29 degrees 28 minutes 52.30 seconds north latitude, 90 degrees 09 minutes 32.60 seconds west longitude); thence southerly along the western shoreline of East Fork Bayou L'Ours to a point at 29 degrees 27 minutes 35.00 seconds north latitude, 90 degrees 08 minutes 48.23 seconds west longitude; thence eastward along 29 degrees 27 minutes 35.00 seconds north latitude to the eastern shore of Wilkinson Canal (29 degrees 27 minutes 35.00 seconds north latitude, 89 degrees 57 minutes 04.11 seconds west longitude); thence northerly along the eastern shore of Wilkinson Canal to its termination; thence northerly to the western shore of the Mississippi River at 29 degrees 38 minutes 24.94 seconds north latitude, 89 degrees 57 minutes 01.21 seconds west longitude; thence northerly along the western shore of the Mississippi River to a point easterly of the northern shoreline of Hero Canal (29 degrees 47 minutes 09.60 seconds north latitude, 90 degrees 01 minutes 17.77 seconds west longitude); thence westerly to

the northern shore of Hero Canal; thence westerly along the northern shore of Hero Canal and terminating at the origin.

D. The use of crab traps shall be prohibited for a 6-day period from 12:00 a.m. February 18, 2022 through 11:59 p.m. February 23, 2022 within portions of Cameron Parish as described below:

1. from a point located where the north bound lane of Highway 27 intersects the northern shoreline of West Cove Canal at 29 degrees 52 minutes 00.52 seconds north latitude, 93 degrees 27 minutes 13.66 seconds west longitude; thence southwesterly along the north bound lane of Highway 27 to its intersection with the southern shoreline of West Cove Canal (29 degrees 52 minutes 00.17 seconds north latitude, 93 degrees 27 minutes 14.29 seconds west longitude); thence southeasterly along the southern shoreline of West Cove Canal to its intersection with the Calcasieu Lake – West Cove (henceforth known as West Cove) at 29 minutes 51 degrees 44.10 seconds north latitude, 93 degrees 26 minutes 36.26 seconds west longitude; thence southeasterly following the western and southern shorelines of West Cove to its intersection with the southern shoreline of the Calcasieu Pass West Fork (29 degrees 49 minutes 54.53 seconds north latitude, 93 degrees 23 minutes 15.81 seconds west longitude); thence southerly and easterly along southern shoreline of the Calcasieu Pass West Fork to its intersection with the Calcasieu Lake Ship Channel (29 degrees 49 minutes 13.82 seconds north latitude, 93 degrees 21 minutes 01.03 seconds west longitude); thence northerly to a point on the northern shoreline of the Calcasieu Lake West Fork (29 degrees 49 minutes 27.26 seconds north latitude, 93 degrees 20 minutes 59.79 seconds west longitude); thence northwesterly along the northern shoreline of the Calcasieu Lake West Fork to its intersection with West Cove (29 degrees 49 minutes 45.45 seconds north latitude, 93 degrees 22 minutes 56.75 seconds west longitude); thence easterly along the southern shoreline of West Cove to the eastern shoreline of West Cove; thence northerly along the eastern shoreline of West Cove to the northern shoreline of West Cove; thence westerly and southerly along the northern and western shorelines of West Cove to its intersection with the northern shoreline of West Cove Canal (29 degrees 51 minutes 46.11 seconds north latitude, 93 degrees 26 minutes 35.43 seconds west longitude); thence northwesterly along the northern shoreline of West Cove Canal and terminating at the 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 returned 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), amended LR 45:1815 (December 2019), LR 46:1613 (November 2020), LR 47:

Family Impact Statement

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S.49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Small Business Analysis

This proposed Rule has no known impact on small businesses as described in R.S. 49:965.2 through R.S. 49:965.8.

Public Comments

Interested persons may submit written comments relative to the proposed Rule to Mr. Peyton Cagle, Marine Fisheries Biologist DCL-B, Marine Fisheries Section, 1213 N. Lakeshore Dr., Lake Charles, LA 70611, or via email to pcagle@wlf.la.gov prior to October 5, 2021.

Jerri G. Smitko
Chair

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Derelict Crab Trap Removal Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs or savings to the LA Department of Wildlife & Fisheries (LDWF) or local governmental units as a result of the proposed rule change. The proposed rule change would prohibit the use of crab traps in portions of eight parishes at different periods in February 2022. The proposed rule would establish four area closures in February banning the local use of crab traps in parts of Terrebonne Parish (February 1 through February 14, 2022), portions of Iberia, St. Mary, and Vermilion parishes (February 1 through February 14, 2022), portions of Lafourche and Plaquemines parishes (February 7 through February 20, 2022), and parts of Cameron Parish (February 18 through February 23, 2022).

The proposed rule change would also mandate the removal of crab traps from the designated areas by trap owners prior to

the closures and authorizes LDWF or their designees, during the closure, to remove any crab traps within the closed area and transport them to designated disposal sites. LDWF will not incur additional costs in order to remove crab traps prior to these closures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is not anticipated to have any impact on the revenues of the state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Crab fishermen who utilize the areas proposed for closure will experience lost fishing time during the designated period and encounter additional costs to temporarily remove their traps. These crab fishermen must either move their traps to open fishing areas or remove their traps from the water for the duration of the closure. Traps that are not removed from waters in the closed areas within the allotted time may be destroyed, potentially creating an additional cost to replace the traps for noncompliant fishermen.

Local seafood dealers, processors and consumers may experience a slight decrease in the availability of fresh crabs during the closures, resulting in a slightly higher price for fresh crabs in the short term. However, the crab resource will not be lost or harmed in any way and will be available for harvest when the closed area is reopened.

The removal of abandoned crab traps should provide improved fishing and reduced fishing costs for recreational saltwater fishermen, commercial fishermen and individuals who operate vessels within the designated areas by reducing encounters with abandoned traps that often result in lost fishing time and damage to the vessel's lower unit or fishing gear. The removal of abandoned crab traps will reduce the mortality and injuries to crabs and by-catch that become ensnared and die in these traps, benefiting crab harvesters.

The overall impact of the proposed area closure is anticipated to be minimal because the closure would occur during the time of the year with the lowest harvests and adjacent waters will remain open for crab fishermen to continue to fish.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be a negligible effect on competition and employment as a result of the rule change, waters adjacent to the closure area will remain open for crab harvest and fishermen who fish during this time period are expected to relocate their traps to these areas.

Byran McClinton
Undersecretary
2108#029

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Health Office of Public Health Bureau of Family Health

MCH Block Grant

The Louisiana Department of Health (LDH) intends to apply for Title V Maternal and Child (MCH) Block Grant Federal Funding for FFY 2022 in accordance with Public Law 97-35 and the Omnibus Budget Reconciliation Act of 1981. The Office of Public Health, Bureau of Family Health is responsible for program administration of the grant.

The MCH Block Grant Application includes a five-year State Action Plan (FFY 2021-2025) that outlines the goals and planned activities to advance maternal and child health and systems of care for children and youth with special health care needs. Title V priorities are based on the results of a statewide needs assessment that was conducted during 2019-2020. The Title V State Action Plan will be reviewed and updated annually based on ongoing needs assessments and other relevant population and performance data.

Additional information may be gathered by contacting Liz Keenan at (504) 568-3521 or elizabeth.keenan@la.gov.

Kimberly L. Hood, JD, MPH
Assistant Secretary, OPH

2108#010

POTPOURRI

Department of Natural Resources Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Coastal States-Columbia Gas DV	Tigre Lagoon	L	Plan 8 sua; E Delcambre	004	130090
F. E. Hargraves & Sons DRL. Co. Inc.	Caddo Pine Island	S	Leibman	021	46617

Operator	Field	District	Well Name	Well Number	Serial Number
F. E. Hargraves & Sons DRL. Co. Inc.	Caddo Pine Island	S	Muslow A	003	174711
N & M Energy Resources Co., Inc.	Standard	M	Bruton	001	143120

Richard P. Ieyoub
Commissioner

2108#012

POTPOURRI

Department of Public Safety and Corrections Oil Spill Coordinator's Office

Notice of Settlement Agreement—Mooringsport Oil Spill

Action: Notice of Availability of a Settlement Agreement for Natural Resource Damages—LOSCO NRDA case file # LA2014_1013_1210 [Mooringsport]. The Settlement Agreement for Natural Resource Damages is available for public review and comment for 30 days.

Agencies: Oil Spill Coordinator's Office, Department of Public Safety and Corrections (LOSCO); Coastal Protection and Restoration Authority; Department of Environmental Quality; Department of Natural Resources; and Department of Wildlife and Fisheries (collectively, the "Trustees").

Authorities: The Oil Pollution Act of 1990 (OPA), 33 U.S.C. § 2701 et seq., and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPRA), R.S. 30:2451 et seq., are the principal federal and state statutes, respectively, authorizing designated federal and state agencies and tribal officials to act as natural resource trustees for the recovery of damages for injuries to trust resources and services resulting from an oil spill. OPA implementing regulations may be found at 15 C.F.R. Part 990 and OSPRA regulations at LAC 43:XXIX.

By letter dated March 27, 2017, and pursuant to 33 U.S.C. §2706(b)(3), the Governor of Louisiana designated the Trustees to act on behalf of the public under OPA. These same agencies serve as State Trustees under OSPRA according to R.S. 30:2451, et seq. and LAC 43:XXIX, Chapter 1, Section 101, et seq. Sunoco Pipeline L.P. ("Sunoco"), as the operator of the pipeline that discharged oil, and Mid-Valley Pipeline Company ("Mid-Valley"), as the owner of the pipeline that discharged oil, are liable according to 33 U.S.C. § 2702 and R.S. 30:2480 for natural resource damages resulting from the incident.

Summary of Incident: On October 13, 2014, the Trustees were notified of an unauthorized discharge of crude oil from the Mid-Valley Pipeline near Mooringsport, Louisiana in Caddo Parish (hereinafter the “Incident”). Approximately 4,500 barrels of crude oil were released and ultimately traveled into the Miller Branch Creek, Tete Bayou, and connecting waterways and wetlands. Sunoco, on behalf itself and Mid-Valley, and its oil spill response contractor(s) timely initiated, conducted, and participated in response actions that continued for several months to contain and remove the discharged crude oil. Natural resources within the area that provide services to the public were adversely impacted by the discharged oil and response actions, including wildlife, forest habitat, bayhead swamp, and aquatic/bayou habitat.

On August 20, 2017, the Trustees issued a Notice of Intent to Conduct Restoration Planning for this Incident. L.R. 43:1695 (August 2017). The Trustees and Sunoco, on behalf of itself and Mid-Valley, worked cooperatively to evaluate and quantify the nature and extent of injuries to natural resources and services, and to determine the need for, type of, and scale of appropriate restoration actions.

Purpose: Pursuant to LAC 43:XXIX, notice is hereby given that a document entitled, “Settlement Agreement for Mooringsport Oil Spill” is available for public review and comment. Sunoco, Mid-Valley and the Trustees propose to expedite restoration for this Incident and to resolve the liability of Sunoco and Mid-Valley for natural resource damages under Section 1002(a) and (b) of OPA, 33 U.S.C. § 2702(a) and (b), and Section 2480 of OSPRA, R.S. 30:2480. The mutual objectives of the parties in entering into the proposed Settlement Agreement are: (i) to provide funding to the Trustees to restore, replace, or acquire the equivalent of the natural resources injured, destroyed, or lost as a result of the Incident; (ii) to provide payment to the Trustees to reimburse the remaining unpaid natural resource damage assessment costs incurred by the Trustees; and (iii) to resolve the Trustees’ claims against Sunoco and Mid-Valley for natural resource damages under OPA and OSPRA as provided herein.

The Settlement Agreement is available to the public for a 30-day comment period, which will begin on the date of this public notice announcing availability of the document for public review. The Trustees invite the public to review the Settlement Agreement and submit comments to the address listed below. The Trustees will consider comments received during the public comment period on the Settlement

Agreement before finalizing the document. The Trustees are in the process of identifying and evaluating potential restoration projects that will appropriately address injuries to natural resources resulting from the Incident.

Public Participation: Interested members of the public are invited to view the Settlement Agreement at <http://www.losco.state.la.us> (look under Newsflash/current news for Mooringsport Oil Spill Settlement Agreement Available For Public Comment) or by requesting a copy of the document from Gina Muhs Saizan at the following address:

Gina Muhs Saizan
Louisiana Oil Spill Coordinator’s Office
Department of Public Safety and Corrections
P.O. Box 66614
Baton Rouge, LA 70896
(225) 925-6606
losco@la.gov

Public participation is encouraged. The Trustees have opened an Administrative Record (AR) pursuant to 15 C.F.R. §990.45 and LAC 43:XXIX.127 to document the basis for the Trustees’ decisions pertaining to injury assessment and selection of restoration alternatives. The AR can be found at <https://data.losco.org> under “Search Administrative Records”. Additional opportunities for input will include public review and comment on draft restoration planning documents that will identify the Trustees’ preferred restoration project(s) for this Incident. A restoration plan(s) will be finalized and released to the public identifying the selected restoration project(s) to be implemented by the Trustees. Public participation is consistent with state and federal laws and regulations, including Section 1006 of OPA, 33 U.S.C. § 2706; the OPA regulations, 15 C.F.R. Part 990; Section 2480 of OSPRA, R.S. 30:2480; and the OSPRA regulations, LAC 43:XXIX.

Comment Submittals: Comments to the Settlement Agreement must be submitted in writing or digitally to Gina Muhs Saizan on or before the end of the 30-day comment period.

For Further Information: Contact Gina Muhs Saizan at (225) 925-6606 or by email at Gina.Saizan@la.gov.

Samuel E. Jones
Oil Spill Coordinator

2108#038

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